



Journal of the Senate

Number 22

Thursday, June 4, 1987

CALL TO ORDER

The Senate was called to order by Senator W. D. Childers at 10:00 a.m. A quorum present—36:

Barron	Gordon	Kirkpatrick	Peterson
Beard	Grant	Kiser	Plummer
Brown	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Stuart
Childers, W. D.	Hill	Malchon	Thomas
Crawford	Hollingsworth	Margolis	Thurman
Deratany	Jenne	McPherson	Weinstein
Frank	Jennings	Meek	Weinstock
Girardeau	Johnson	Myers	Woodson

Excused: President Vogt; Senator Dudley; and periodically, members of the various conference committees

PRAYER

The following prayer was offered by the Rev. Sexton Hall, Pastor, Bethel Baptist Church, Havana:

Our Heavenly Father, we give thee thanks and praise because this is a day that thou hast given us. May we say with the Psalmist David, "This is the day which the Lord hath made; we will rejoice and be glad in it." (Psalm 118:24)

As recipients of thy divine love and tender mercies, help us to acknowledge thee in the affairs of this day. May we be conscious of the blessing of living in a country where we are free to worship God according to the dictates of our own conscience.

Let us not take for granted this land of the free and the home of the brave; but ever be grateful to thee for the hand of providence which made it all possible.

As we approach the day's agenda, we would beseech thee, Lord, for wisdom to make right decisions, and courage to stand upon our convictions. May the accomplishments of this session be that which will enhance sound government, and bring honor to thee. In Jesus' name we pray. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, June 4, 1987: CS for SB 950, CS for SB 2, CS for SB 463, CS for SB 935, CS for SB 829, CS for SB 743, SB 490, CS for SB 426, CS for SB 406, CS for SB 411, CS for SB 412, CS for SB 359, HB 428, CS for SB's 35, 437, 894 and 923, CS for HB 1467, HB 259, CS for SB 11, CS for SB 371, CS for SB 546, CS for SB 598, CS for SB 737, CS for SB 752, SB 768, CS for SB 808, SB 810, CS for SB 833, SB 1186, CS for SB's 1289, 771 and 84, CS for SB 893, CS for HB 619, CS for SB 764, CS for SB 988, CS for CS for SB 572, CS for CS for SB 501, CS for SB 930, CS for SB's 805, 1127 and 751, HB 1111, CS for SB's 270 and 386, CS for CS for SB 1081

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, June 4, 1987, to be taken up at 3:00 p.m. SB 1368, HB 441, HB 485, HB 678, HB 784, HB 890, HB 925, HB 951, HB 952, HB 591

Respectfully submitted,
Dempsey J. Barron, Chairman

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Scott, by two-thirds vote CS for SB's 174 and 98, CS for SB 652 and CS for SB's 1098 and 296 were withdrawn from the Committee on Appropriations.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has recalled from the Senate, reconsidered passage, further amended and passed as further amended HB 551 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Gonzalez-Quevedo—

HB 551—A bill to be entitled An act relating to aviation; amending s. 332.007, F.S.; eliminating a restriction on state fund participation in certain nonfederally funded public airport and aviation projects; authorizing certain expenditures when federal funds are not available; providing an effective date.

—was referred to the Committees on Transportation and Appropriations.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed as amended CS for HB 1144 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Commerce and Representative Meffert—

CS for HB 1144—A bill to be entitled An act relating to banking; amending s. 658.35, Florida Statutes, providing for the issuance of warrants by bank and trust companies to directors, officers, and employees in the same manner as is currently provided for stock options; providing for the value of such stock or warrant and providing for a limitation; providing an effective date.

—was referred to the Committee on Commerce.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 593 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 593—A bill to be entitled An act relating to counties and municipalities; creating the "Florida Governmental Cooperation Act"; requiring counties and municipalities to attempt to settle disputes before resorting to litigation, except in cases of immediate danger to the health, safety, or welfare of the public; providing penalties for failure to follow prescribed procedures; providing for tolling of statutes of limitations; providing for a public hearing prior to settlement; providing an effective date.

Amendment 1—On page 2, line 13, strike all of said line and insert a new subsection (4):

This act shall apply to any civil actions seeking only injunctive relief.

Amendment 2—On page 2, lines 23-27, strike all of said lines and insert:

Section 6. In any suit wherein the governing body of a county or municipality is a defendant all settlement authorizations and terms of the settlement shall be approved at a public meeting which meets the requirements of Sec. 286.011, Fla. Stat.

Amendment 3—On page 1, lines 1-12, strike all of said lines and insert: *A bill to be entitled An act relating to counties and municipalities; creating the "Florida Governmental Cooperation Act"; requiring counties and municipalities to attempt to settle disputes before resorting to litigation, except in cases of immediate danger to the health, safety, or welfare of the public or where injunctive relief is sought; providing penalties for failure to follow prescribed procedures; providing for tolling of statutes of limitations; providing for a public meeting prior to settlement; providing an effective date.*

On motions by Senator Stuart, the Senate refused to concur in the House amendments and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 100 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 100—A bill to be entitled An act relating to correctional education; amending s. 20.315, F.S.; providing for the Adult Services Program Office, the Youth Offender Program Office, and the Community Services Program Office of the Department of Corrections; amending s. 120.52, F.S.; redefining the term "educational unit" so as to make the Correctional Education School Authority subject to the Administrative Procedure Act; amending s. 232.2481, F.S.; providing that the Correctional Education School Authority is a district school board for specified purposes; providing an effective date.

Amendment 1—On page 1, line 19, strike everything after the enacting clause and insert:

Section 1. Subsections (8) and (13) of section 20.315, Florida Statutes, 1986 Supplement, are amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(8) PROGRAM OFFICES.—

(a) Program offices shall be designed to operate in a staff capacity to the Assistant Secretary for Programs. Each program office shall be headed by a program office director who is appointed by the secretary and reports directly to the Assistant Secretary for Programs. Program offices shall not have any line authority over regional operations. In no case shall the total professional staff of all of the program offices and the office of the Assistant Secretary for Programs exceed 200 persons. The Assistant Secretary for Programs shall delegate to the program offices the following responsibilities which shall include, but not be limited to:

1. Aiding in the identification of client needs.
2. Developing program policies.
3. Setting, monitoring, and controlling the quality of program standards.
4. Developing staff development, training, and technical assistance programs.
5. Developing state program plans and implementing directives, rules, and procedures for the secretary.
6. Other duties as assigned by the secretary.

(b) *The following program offices are established:*

1. *Adult Services Program Office.—The responsibilities of this office shall relate directly to the custody, care, treatment, and rehabilitation of adult offenders committed to the Department of Corrections.*

2. *Youth Offender Program Office.—The responsibilities of this office shall relate directly to the development of a comprehensive youthful offender program sufficient to meet the needs of youths committed to the Department of Corrections. This program shall include, but not be limited to, the custody, care, treatment, and rehabilitation of youthful offenders.*

3. *Community Services Program Office.—The responsibilities of this office shall relate directly to community supervision, intake, investigation, and initial classification of offenders.*

(c)(b) The Governor may appoint an advisory council for the purpose of acting as an advisory body to the program offices. Members shall serve staggered terms not to exceed 4 years, although they may be appointed to one subsequent term. Members shall receive no compensation, but shall be reimbursed for per diem and travel expenses in accordance with the provisions of s. 112.061.

(d)(e) The salary of a program office director shall be set at a level equal to that of a division director.

(13) DEPARTMENTAL BUDGETS.—

(a) The secretary shall develop and submit *biennially annually* to the Legislature a comprehensive departmental summary budget document which shall array regional budget requests along program lines. This summary document shall, for the purpose of legislative appropriation, consist of *nine four* distinct budget entities:

1. The Office of the Secretary and the Office of Management and Budget.
2. The Assistant Secretary for Programs and all program offices.
3. The Assistant Secretary for Operations and all regional *administration services*.
4. The Assistant Secretary for Health Services.
5. *Major Institutions.*
6. *Community Facilities and Road Prisons.*
7. *Probation and Parole Services.*
8. *Correctional Education School Authority.*

(b) To fulfill this responsibility, the secretary shall have the authority to review, amend, and approve the *biennial annual* budget requests of all departmental activities. Recommendations on departmental budget priorities shall be furnished to the secretary by the Assistant Secretary for Operations, the Assistant Secretary for Management and Budget, the Assistant Secretary for Programs, and the Assistant Secretary for Health Services. ~~In addition, the secretary, notwithstanding the provisions of ss. 216.292 and 216.351, may, whenever deemed necessary by reason of significantly changed conditions, transfer funds between the approved operating budgets of the regions. The total of such transfers may not exceed 5 percent of the operating budget of an individual region during any fiscal year.~~

(c) It is the responsibility of the Office of Management and Budget to promulgate the necessary budget timetables, formats, and data requirements for all departmental budget requests. This shall be done in accordance with statewide budget requirements of the Executive Office of the Governor.

(d) It is the responsibility of the regional director to develop a *biennial an annual* budget request to be reviewed, amended, and approved by the secretary. ~~Upon appropriation of an approved regional budget, the regional director shall be responsible for the execution of the operating budget during the fiscal year. Notwithstanding the provisions of ss. 216.292 and 216.351, whenever deemed necessary by reason of significantly changed conditions, the regional director may, subject to approval of the secretary, transfer funds between the various programs in the region. The total of such transfers may not exceed 10 percent of the approved operating budget of a region during any fiscal year.~~

Section 2. Subsection (5) is added to section 242.68, Florida Statutes, 1986 Supplement, to read:

242.68 Education for state prisoners; Correctional Education School Authority; Board of Correctional Education.—

(5) *The Correctional Education School Authority and the Board of Correctional Education are subject to the provisions of chapter 120, except that curricula established pursuant to this section shall not be a rule.*

Section 3. Section 232.2481, Florida Statutes, is amended to read:

232.2481 Graduation and promotion requirements for publicly operated schools.—

(1) Each state or local public agency, including the Department of Health and Rehabilitative Services, the Board of Regents, boards of

trustees of community colleges, the Correctional Education School Authority Department of Corrections, and the Board of Trustees of the Florida School for the Deaf and the Blind, which agency is authorized to operate educational programs for students at any level of grades kindergarten through 12 shall be subject to all applicable requirements of ss. 232.245, 232.246, 232.247, and 232.248. Within the content of these cited statutes each such state or local public agency shall be considered a "district school board."

(2) The Commissioner of Education shall establish procedures to extend the state-administered assessment program to school programs operated by such state or local public agencies in the same manner and to the same extent as such program is administered in each district school system.

Section 4. Effective January 1, 1988, section 944.701, Florida Statutes, is created to read:

944.701 Short title.—Sections 944.701 - 944.708 may be cited as the "Transition Assistance Program Act."

Section 5. Effective January 1, 1988, section 944.702, Florida Statutes, is created to read:

944.702 Legislative intent.—It is the intent of the Legislature to provide persons released from incarceration from the Department of Corrections with certain fundamental resources in the areas of employment, life skills training, job placement, and temporary housing, including access to as many support services as possible in order to appreciably increase the likelihood of the inmate's successful reentry into free society.

Section 6. Effective January 1, 1988, section 944.703, Florida Statutes, is created to read:

944.703 Eligible inmates.—Sections 944.701 - 944.708 shall apply to all inmates released from the custody of the department except those released from a work-release program or to another state. Those inmates with a detainer shall be eligible if the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be of short duration. The department shall confirm the detainer with the originating authority as soon as the inmate's pre-release orientation assignment date is identified.

Section 7. Effective January 1, 1988, section 944.704, Florida Statutes, is created to read:

944.704 Transition assistance coordinators; duties.—The department shall provide transition assistance coordinators at major institutions. Their duties shall include, but not be limited to:

- (1) *Coordinating inmate vocational assignment within the institution.*
- (2) *Coordinating delivery of Transition Assistance Program services at the institution.*
- (3) *Assisting in the development of each inmate's post-release employment plan.*
- (4) *Obtaining job placement information for transmittal to the Department of Labor and Employment Security.*
- (5) *Performing any other duties consistent with s. 242.68(2)(h)16., relating to the Board of Correctional Education.*

Section 8. Effective January 1, 1988, section 944.705, Florida Statutes, is created to read:

944.705 Pre-release orientation program.—

- (1) *At least 30 days prior to release from department custody, the department shall provide participation in a standardized pre-release orientation program to every eligible inmate.*
- (2) *The pre-release orientation shall consist of not less than 120 hours of classroom instruction in life and employment skills including, but not limited to:*
 - (a) *Job interviews.*
 - (b) *Consumer banking and credit.*
 - (c) *Housing and family economics.*

(d) *Community reentry concerns.*

(e) *Any other area appropriate to ensure the inmate's successful reentry into community life.*

(3) *The department shall conduct a needs assessment of every inmate to determine which, if any, basic support services the inmate needs after release.*

(4) *The department is authorized to contract with public or private entities for the provision of all or part of the services pursuant to this section.*

(5) *An inmate may receive less than 120 hours required in subsection (2) if released pursuant to s. 944.276 or s. 944.598.*

Section 9. Effective January 1, 1988, section 944.601, Florida Statutes, is renumbered as section 944.706, Florida Statutes, and amended to read:

944.706 944.601 Basic release assistance.—

(1) ~~*Prior to the release from commitment of any inmate, the department shall determine the releasee's postincarceration plans. Any inmate who is being released and is lacking either employment or a qualifying residence may shall be eligible for a release assistance stipend and contract release, except when being released from a work-release program, or to another state or to a detainer. Those inmates released to a detainer shall be eligible pursuant to s. 944.703. Selected inmates on work release who experience severe hardships may be considered for a release assistance stipend and contract release. Each contract release plan must meet departmental approval.*~~

(2) ~~*The department is authorized to contract with the Department of Health and Rehabilitative Services, the Salvation Army, and other public or private organizations in the various counties of the state for the provision of basic support services as the receiving agencies for contract releasees. The department shall contract with the Department of Labor and Employment Security for the provision of releasee job placement and disbursement of release assistance stipends.*~~

(3) ~~*The department shall advance the release date of a nonparole contract releasee by up to 30 days and shall forward to the Department of Labor and Employment Security a release assistance stipend of up to \$200 support agency designated in the contract an additional amount equal to that of the discharge gratuity for the purpose of motivating the releasee to participate in pre-release orientation, secure permanent employment and secure permanent residence. The Department of Labor and Employment Security receiving agency shall distribute the release assistance stipend to the releasee in accordance with the provisions terms of law and of the release contract. Violation of the terms of the contract may constitute grounds for the forfeiture of the release assistance stipend and termination of the contract.*~~

(4) ~~*For those releasees who demonstrate that job placement is not needed, the department may forward the releasee's release assistance stipend directly to a basic support service provider. If it has been determined that the releasee does not need basic support services, the department may disburse the release assistance stipend directly to the releasee.*~~

(5)(4) ~~*The department shall promulgate rules for the development, implementation, and termination of release contracts.*~~

Section 10. Effective January 1, 1988, section 944.707, Florida Statutes, is created to read:

944.707 Post-release special services; temporary housing; job placement services.—

- (1) *The department shall attempt to generate and provide to every eligible releasee, identified by the pre-release needs assessment, support services such as, but not limited to, substance abuse counseling, family counseling, and employment support programs. The department is authorized to select and contract with public or private organizations for the provision of these basic support services. Provider selection criteria shall include, but not be limited to:*
 - (a) *The depth and scope of services provided.*
 - (b) *The geographic area to be served.*

(c) *The number of inmates to be served and the cost of services per inmate.*

(d) *The individual provider's record of success in the provision of inmate services.*

(2) *The department shall provide up to 15 days' temporary housing to those releasees indicating need. The department is authorized to contract with the Salvation Army and any other public or private organization for the provision of temporary housing. In cases where the releasee demonstrates that undue hardship would result because of the unavailability of contract housing or because of family needs, the department may disburse temporary housing funds directly to the releasee in an amount not to exceed the equivalent of 15 days at a contract provider's facility.*

(3) *The department shall forward the following items to the Department of Labor and Employment Security Job Service Office located nearest to the inmate's intended residence:*

(a) *The job placement information obtained at pre-release orientation.*

(b) *The inmate's basic release assistance stipend.*

(c) *Referral information for the needed basic support service providers.*

(4)(a) *The Department of Labor and Employment Security shall distribute the information required in subsection (3) to each eligible releasee. The basic release assistance stipend shall be given to the releasee in three portions. One portion shall be given upon the releasee initially reporting to the Department of Labor and Employment Security Job Service Office. A second portion shall be given upon the releasee reporting to the Department of Labor and Employment Security Job Service Office for subsequent interview, if required. The remaining portion shall be disbursed to the releasee after obtaining employment, or after diligent efforts to become employed, and participation in the counseling portions of basic support services, if provided.*

(b) *The Department of Labor and Employment Security shall assign Job Service staff exclusively dedicated to releasee services at those offices identified by the Department of Corrections as having a high number of release contacts. Those offices having fewer number of release contacts shall have designated staff assigned to assist releasees. The Department of Labor and Employment Security shall provide appropriate training for staff assigned to assist releasees. Staff assigned to assist releasees shall use job placement information obtained at each releasee's pre-release orientation to attempt to secure suitable employment for the releasee prior to the releasee's arrival. Staff assigned to assist releasees shall act to maximize releasee placement opportunities in the Job Service Office service area.*

(c) *The Department of Labor and Employment Security shall provide to the Department of Corrections data relating to inmate placement, tracking, and market needs.*

Section 11. Effective January 1, 1988, section 944.708, Florida Statutes, is created to read:

944.708 *Rules.—The Department of Corrections and the Department of Labor and Employment Security shall promulgate rules to implement the provisions of ss. 944.701-944.707.*

Section 12. *Sections 944.701-944.708 are repealed October 1, 1990, and shall be reviewed by the Legislature prior to that date.*

Section 13. Except as otherwise provided herein, this act shall take effect upon becoming law.

Amendment 2—In the title, on page 1, lines 2-15, strike all of said lines and insert: An act relating to corrections; amending s. 20.315, F.S.; providing for the Adult Services Program Office, the Youth Offender Program Office, and the Community Services Program Office of the Department of Corrections; changing the number of budget entities within the Department of Corrections from four to eight; making the budget request process biennial rather than annual; removing certain authority of the secretary and regional directors to make certain budget transfers; amending s. 242.68, F.S.; providing that the Correctional Education School Authority and the Board of Correctional Education are subject to the Administrative Procedure Act; amending s. 232.2481, F.S.; providing that the Correctional Education School Authority is a district

school board for specified purposes; creating ss. 944.701-944.708, F.S.; creating the "Transition Assistance Program Act" to provide reentry to society facilitation for inmates released from incarceration by the Department of Corrections; providing legislative intent; providing inmate eligibility standards; providing transition assistance coordinators; establishing a pre-release orientation program; amending s. 944.601, F.S.; providing for release assistance stipends to be administered by the Department of Corrections and the Department of Labor and Employment Security; creating s. 944.707, F.S.; providing for post-release special services, including housing and job placement; directing the Department of Corrections and the Department of Labor and Employment Security; providing an effective date.

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

CS for SB 100 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—29

Beard	Gordon	Johnson	Ros-Lehtinen
Brown	Grant	Kiser	Stuart
Childers, D.	Grizzle	Langley	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crawford	Hill	Margolis	Weinstock
Deratany	Hollingsworth	McPherson	
Frank	Jenne	Myers	
Girardeau	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Peterson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 204 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 204—A bill to be entitled An act relating to sewage disposal; amending s. 403.086, F.S.; requiring advanced waste treatment for certain wastes discharged into specified bodies of water; redefining "advanced waste treatment" to specify the maximum levels of certain pollutants that may remain after treatment and the level of disinfection required; allowing the discharge of water that meets specific standards unless certain factors are demonstrated; providing for certain remedies; providing an effective date.

Amendment 1—On page 3, line 5, after the period (.) insert: *This paragraph shall not apply to facilities which were permitted by February 1, 1987 and which discharge secondary treated effluent, followed by water hyacinth treatment, to tributaries of tributaries of the named waters; or to facilities permitted to discharge to the non-tidally influenced portions of the Peace River.*

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

SB 204 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—31

Barron	Girardeau	Johnson	Plummer
Beard	Gordon	Langley	Ros-Lehtinen
Brown	Grant	Lehtinen	Scott
Childers, D.	Grizzle	Malchon	Stuart
Childers, W. D.	Hair	Margolis	Thurman
Crawford	Hill	McPherson	Weinstein
Deratany	Hollingsworth	Meek	Weinstock
Frank	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Peterson, Woodson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 287 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 287—A bill to be entitled An act relating to the Florida Residential Landlord and Tenant Act; amending s. 83.49, F.S.; providing that landlords of certain dwelling units shall not be required to post a bond with respect to deposit money or advance rent under certain circumstances; providing an alternative procedure for the posting of bond by certain landlords or agents; amending s. 83.59, F.S.; directing the court with respect to certain activities for the removal of a tenant to enter its judgment in a certain time period; creating s. 83.595, F.S.; providing for choice of remedies upon breach by tenant; providing for good faith duty on part of landlord to relet when electing to retake possession; providing a definition for good faith in attempting to relet the premises; creating s. 83.67, F.S.; providing prohibited practices by landlords; providing an effective date.

Amendment 1—On page 3, lines 9-19, strike all of said lines.

Amendment 2—On page 1 in the title, lines 9-13, strike “amending s. 83.59, F.S.; directing the court with respect to certain activities for the removal of a tenant to enter its judgment in a certain time period;”

Amendment 3—On page 2, lines 15-23, strike all of said lines and insert: interest. A

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

CS for SB 287 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—32

Barron	Grant	Kiser	Ros-Lehtinen
Beard	Grizzle	Langley	Scott
Brown	Hair	Malchon	Stuart
Childers, D.	Hill	Margolis	Thomas
Childers, W. D.	Hollingsworth	McPherson	Thurman
Frank	Jenne	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Plummer	Woodson

Nays—None

Vote after roll call:

Yea—Peterson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 744 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 744—A bill to be entitled An act relating to barbering; amending s. 476.114, F.S.; providing that certain persons who are licensed to practice barbering in other states are qualified to take the license examination in this state; amending s. 476.192, F.S.; increasing the maximum fees that the Barbers' Board may charge barbers, barbering instructors, and barbershops with respect to licensing; providing an effective date.

Amendment 1—On page 1, line 14, strike everything after the enact- ing clause and insert:

Section 1. Section 476.114, Florida Statutes, is amended to read:

~~476.114 Examination; prerequisites Qualifications of applicants for licenses as barbers.—~~

(1) A person desiring to be licensed as a barber shall apply to the department for licensure. Any person is qualified to receive a license to practice barbering who meets the following requirements:

(2) An applicant shall be entitled to take the licensure examination to practice barbering if the applicant:

- (a) Is at least 16 years of age; and
- (b) Pays the required application fee; and

(c)1. Holds an active valid license to practice barbering in another state, has held the license for at least 1 year and does not qualify for licensure by endorsement as provided for in s. 476.144(5); or

2.(b)1. Has received a minimum of 1,200 hours of training as estab- lished by the board, which shall include, but shall not be limited to, the equivalent of completion of services directly related to the practice of barbering at one of the following:

- a. A school of barbering approved by the department;
- b. A barbering program within the public school system; or
- c. A government-operated barbering program in this state. +or

~~2. Has met standards established by the board equivalent to 1,200 hours of training.~~

The board shall establish by rule procedures whereby ~~These standards shall include procedures for certification by the school or program may certify that of any such a person is qualified to qualify to take the required examination once only, after the completion of a minimum of 1,000 actual school hours. If the such person passes the examination, he shall have satisfied this requirement; but if he fails the examination, he shall not be qualified to take the examination again until the completion of the full requirements provided by this section.~~

~~(e) Has received a passing grade on an examination administered by the department.~~

(3)(2) An applicant who meets the requirements set forth in para- graphs (2)(c) and (d) for a license to practice as a barber who fails to pass the examination may ~~shall be entitled to take subsequent examinations as many times as necessary to pass, except that the board shall specify by rule reasonable timeframes for rescheduling the examination and shall adopt rules specifying additional training requirements for appli- cants who, after the third attempt, fail to pass the examination. the examination, upon completion of the requirements set forth in subpara- graph (1)(b)1., at the first administration for which the applicant can be scheduled. Prior to reexamination, the applicant must file the appropri- ate form and pay the reexamination required fee as required by rule.~~

~~(3) Upon an applicant passing the examination and paying the initial licensing fee, the department shall issue a license to practice barbering.~~

~~(4) The board shall adopt rules specifying procedures for the licens- ing of practitioners desiring to be licensed in this state who have been licensed and have practiced since January 1, 1980, in states which have licensing standards substantially similar to, equivalent to, or more strin- gent than the standards of this state.—~~

Section 2. Section 476.144, Florida Statutes, is amended to read:

476.144 Licensure Licenses.—

(1) The department shall license any applicant who the board certi- fies is qualified to practice barbering in this state.

(2) The board shall certify for licensure any applicant who satisfies the requirements of s. 476.114, and who passes the examination admin- istered by the department, achieving a passing grade as established by board rule.

(3) Upon an applicant passing the examination and paying the ini- tial licensing fee, the department shall issue a license. A barber's license shall be issued by the department to any applicant who passes the required examination, achieving a grade of not less than 75 percent, and who possesses the other qualifications required by law.

(4) The department shall keep a record relating to the issuance, refusal, and renewal of licenses. Such record shall contain the name, place of business, and residence of each licensed barber and the date and number of his license.

(5) The board shall adopt rules specifying procedures for the licen- sure by endorsement of practitioners desiring to be licensed in this state who hold a current active license in another state or country and who have met qualifications substantially similar to, equivalent to, or greater than the qualifications required of applicants from this state.

(6) A person may apply for a restricted license to practice barbering. The board shall adopt rules specifying procedures for an applicant to obtain a restricted license if the applicant:

(a) holds or has within the previous five years held an active valid license to practice barbering in another state;

(b) has practiced barbering for at least 15 years without any disciplinary action; and

(c) passes a practical examination administered by the department.

The restricted license shall limit the licensee's practice to those specific areas in which the applicant has demonstrated competence pursuant to rules adopted by the board.

Section 7. Paragraphs (a), (b), and (d) of subsection (1) of section 476.192, Florida Statutes, are amended to read:

476.192 Fees; disposition.—

(1) The board shall set by rule fees according to the following schedule:

(a) For barbers and barbering instructors, fees for original licensing, license renewal, and delinquent renewal shall not exceed \$50 \$25.

(b) For barbers and barbering instructors, fees for endorsement application, examination, and reexamination shall not exceed \$100 \$50.

(d) For barbershops, fees for license application, original licensing, license renewal, and delinquent renewal shall not exceed \$100 \$50.

Section 8. This act shall take effect October 1, 1987.

Amendment 2—On page 1 in the title, lines 2-10, strike all of said lines and insert: An act relating to barbering; amending s. 476.114, F.S.; revising provisions relating to qualifications of applicants for licensure as barbers; providing prerequisites for examination; providing for examination of persons licensed in another state; providing for additional training requirements for applicants who fail to pass the examination; amending s. 476.144, F.S.; revising provisions relating to licensure; revising provisions relating to licensure by endorsement of persons licensed in another state or country; providing for a restricted license; amending s. 476.192, F.S.; providing for fee increases; providing an effective date.

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

CS for SB 744 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

Beard	Grizzle	Lehtinen	Stuart
Brown	Hair	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Deratany	Jenne	McPherson	Weinstein
Frank	Jennings	Meek	Weinstock
Girardeau	Johnson	Myers	Woodson
Gordon	Kiser	Ros-Lehtinen	
Grant	Langley	Scott	

Nays—2

Childers, W. D. Hollingsworth

Vote after roll call:

Yea—Peterson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 600 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 600—A bill to be entitled An act relating to the "Unemployment Compensation Law"; amending s. 443.036, F.S., defining the term "employee leasing company" and redefining the term "employment"; amending s. 443.131, F.S., exempting employee leasing companies from certain provisions relating to contribution rates based on benefit experience; providing an effective date.

Amendment 1—On page 1, line 12, strike everything after the enacting clause and insert:

Section 1. Subsections (15) through (32) of section 443.036, Florida Statutes, 1986 Supplement, are renumbered as subsections (16) through (33) respectively, a new subsection (15) is added to said section, paragraphs (a) and (e) of present subsection (17) are amended and paragraph (n)22. is added to said subsection, to read:

443.036 Definitions.—As used in this chapter, unless the context clearly requires otherwise:

(15) **EMPLOYEE LEASING COMPANY**.—The term "employee leasing company" means an employing unit which for a fee places the employees of a client company onto its payroll and leases them to the client company on an ongoing basis as agreed to by the client and employee leasing company and which maintains the records required by s. 443.171(7) and, in addition, maintains a listing of the clients of the employee leasing company and of the employees, including their social security numbers, who have been assigned to work at each client company job site. The client list shall be provided to the division by June 30 and by December 31 of each year. For purposes of this subsection, "client" means a party who has contracted with an employee leasing company to provide a worker, or workers, to perform services for the client. Leased employees shall include employees subsequently placed on the payroll of the employee leasing company on behalf of the client.

(18)(17) **EMPLOYMENT**.—"Employment," subject to the other provisions of this chapter, means any service performed by an employee for the person employing him.

(a) Generally.—

1. The term "employment" includes any service performed prior to January 1, 1978, which was employment as defined in this subsection prior to such date and, subject to the other provisions of this subsection, service performed after December 31, 1977, including service in interstate commerce, by:

a. Any officer of a corporation.

b. Any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. However, whenever a company, hereafter referred to as "client," which would otherwise be designated as an employing unit has by contract, contracted with an employee leasing company to supply it with workers, those workers, shall, after December 31, 1986, be considered employees of the employee leasing company. The employee leasing company shall be permitted to lease corporate officers of the client to the client and such other workers where not prohibited by Internal Revenue Service regulations. Employees of the employee leasing company shall be reported under the employee leasing company's tax identification number and tax rate for work performed for the employee leasing company.

c. Any individual other than an individual who is an employee under sub-subparagraph a. or sub-subparagraph b., who performs services for remuneration for any person:

(I) As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or drycleaning services for his principal.

(II) As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged on a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

For purposes of sub-subparagraph c., the term "employment" includes services described in sub-subparagraphs (I) and (II) only if: The contract of service contemplates that substantially all of the services are to be performed personally by such individual; the individual does not have a substantial investment in facilities used in connection with the performance of the services, other than in facilities for transportation; and the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

2. Notwithstanding any other provisions of this subsection, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

3. If the services performed during one-half or more of any pay period by an employee for the person employing him constitute employment, all of the services of such employee for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an employee for the person employing him do not constitute employment, then none of the services of such employee for such period shall be deemed to be employment. This subparagraph shall not be applicable with respect to services performed in a pay period by an employee for the person employing him, when any of such service is excepted by subparagraph (n)7.

(e) Agricultural service.—The term “employment” includes service performed after December 31, 1977, by an individual in agricultural labor, as defined in subsection (1), when:

1. Such service is performed *before January 1, 1988*, for a person who:

a. During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$20,000 or more to individuals employed in agricultural labor.

b. For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor 10 or more individuals, regardless of whether they were employed at the same moment of time.

2. *Such service is performed after December 31, 1987*, for a person who:

a. *During any calendar quarter in either the current or the preceding calendar year paid remuneration in cash of \$10,000 or more to individuals employed in agricultural labor.*

b. *For some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor five or more individuals, regardless of whether they were employed at the same moment of time.*

3.2. Such service is performed in agricultural labor if performed after December 31, 1992 1987, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to ss. 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. Service performed in agricultural labor by an alien individual as described in this subparagraph shall not be considered employment if such service is performed prior to January 1, 1993 1988.

4.3. Such service is performed by any individual who is a member of a crew furnished by a crew leader to perform service in agricultural labor for any other person.

a. For the purposes of this subparagraph, a crew member shall be treated as an employee of the crew leader:

(I) If the crew leader holds a valid certificate of registration under the Migrant and Seasonal Agricultural Worker Protection Act of 1983 or if substantially all of the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment which is provided by the crew leader; and

(II) If such individual is not an employee of such other person within the meaning of paragraph (17)(a).

b. For the purposes of this subparagraph, in the case of an individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of the crew leader under sub-subparagraph a.:

(I) Such other person and not the crew leader shall be treated as the employer of such individual; and

(II) Such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his own behalf or on the behalf of such other person, for the service in agricultural labor performed for such other person.

(n) Exclusions generally.—The term “employment” does not include:

22. *Service which is performed by a nonresident alien individual for the period he is temporarily present in the United States as a nonimmigrant under subparagraph (F) or subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act, and which is performed to carry out the purpose specified in subparagraph (F) or subparagraph (J), as the case may be.*

Section 2. Paragraph (a) of subsection (2) of section 443.111, Florida Statutes, 1986 Supplement, is amended to read:

443.111 Payment of benefits.—

(2) WEEKLY BENEFIT AMOUNT.—

(a) An individual’s “weekly benefit amount” shall be an amount equal to one-half of his average weekly wage, but not less than \$10 or more than \$200 \$175. Such weekly benefit amount, if not a multiple of \$1, shall be rounded downward to the nearest full dollar amount. The provisions of this subsection apply only to benefit years beginning on and after October 1, 1987 ~~July 1, 1986~~. However, no individual currently eligible for benefits shall be determined ineligible pursuant to this section.

Section 3. Paragraph (g) of subsection (3) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—

(3) CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(g)1. For the purposes of this subsection, two or more employers who are parties to a transfer of business or the subject of a merger, consolidation, or other form of reorganization, effecting a change in legal identity or form, shall be deemed to be a single employer and shall be considered as one employer with a continuous employment record if the division finds that the successor employer continues to carry on the employing enterprises of the predecessor employer or employers and that the successor employer has paid all contributions required of and due from the predecessor employer or employers and has assumed liability for all contributions that may become due from the predecessor employer or employers. As used in this paragraph, the term “contributions” means all indebtedness to the division, including, but not limited to, interest, penalty, collection fee, and service fee. A successor that is already an employer has 30 days from the date of the official notification of liability by succession to accept the transfer of the predecessor’s or predecessors’ employment record or records. If the predecessor or predecessors have unpaid contributions or outstanding quarterly reports, the successor has 30 days from the date of the notice listing the total amount due to pay the total amount with certified funds. After the total indebtedness has been paid, the employment record or records of the predecessor or predecessors will be transferred to the successor.

2. Whether or not there is a transfer of employment record as contemplated in this paragraph, the predecessor shall in the event he again employs persons be treated as an employer without previous employment record or, if his coverage has been terminated as provided in s. 443.121, as a new employing unit.

3. The division may provide by rule for partial transfer of experience rating when an employer has transferred at any time an identifiable and segregable portion of his payrolls and business to a successor employing unit. As a condition of such partial transfer of experience, the rules shall require an application by the successor, agreement by the predecessor, and such evidence as the division may prescribe of the experience and payrolls attributable to the transferred portion up to the date of transfer. The rules shall provide that the successor employing unit, if not already an employer, shall become an employer as of the date of the transfer and that the experience of the transferred portion of the predecessor’s account shall be removed from the experience-rating record of the predecessor, and for each calendar year following the date of the transfer of the employment record on the books of the division, the division shall compute the rate of contribution payable by the successor on the basis of his experience, if any, combined with the experience of the portion of the record transferred. The rules may also provide what rates shall be payable by the predecessor and successor employers for the period between the date of the transfer of the employment record of the transferred unit on the books of the division and the first day of the next calendar year.

4. This paragraph shall not apply to the employee leasing company and client contractual agreement as defined in s. 443.036(15). The client shall, in the event of termination of the contractual agreement or failure by the employee leasing company to submit reports or pay contributions as required by the division, be treated as a new employer without previous employment record unless otherwise eligible for a rate computation.

Section 4. This act shall take effect October 1, 1987.

Amendment 2—On page 1, lines 1-9, strike all of said lines and insert: A bill to be entitled An act relating to unemployment compensation; amending s. 443.036, F.S.; defining the term "employee leasing company" and redefining the term "employment"; expanding coverage of agricultural workers; postponing coverage of alien agricultural workers; excluding from coverage certain nonimmigrant aliens present in the United States for educational purposes; amending s. 443.111, F.S.; increasing the individual maximum weekly benefit amount; amending s. 443.131, F.S., exempting employee leasing companies from certain provisions relating to contribution rates based on benefit experience; providing an effective date.

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

CS for SB 600 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

Beard	Girardeau	Kirkpatrick	Ros-Lehtinen
Brown	Grant	Kiser	Scott
Childers, D.	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thomas
Crawford	Hill	McPherson	Thurman
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	
Frank	Johnson	Plummer	

Nays—1

Hollingsworth

Vote after roll call:

Yea—Gordon, Peterson, Weinstein

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 232 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 232—A bill to be entitled An act relating to beverage law enforcement; amending s. 562.45, F.S.; authorizing counties and incorporated municipalities to enact ordinances regulating certain conduct at certain establishments licensed under the Beverage Law; providing an effective date.

Amendment 1—On page 1, lines 29-31, on page 2, lines 1-10, strike all of said lines and renumber subsequent sections.

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

SB 232 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—34

Beard	Frank	Hill	Kirkpatrick
Brown	Girardeau	Hollingsworth	Kiser
Childers, D.	Gordon	Jenne	Langley
Childers, W. D.	Grant	Jennings	Lehtinen
Crawford	Hair	Johnson	Malchon

Margolis	Peterson	Stuart	Weinstock
McPherson	Plummer	Thomas	Woodson
Meek	Ros-Lehtinen	Thurman	
Myers	Scott	Weinstein	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 939 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 939—A bill to be entitled An act relating to notes secured by a mortgage; amending s. 697.06, F.S.; prohibiting any charge, fee, or penalty for the prepayment of certain notes when the obligee has accelerated the maturity date of such note; providing an effective date.

Amendment 1—On page 1, line 18, through line 24, strike all of said lines and insert:

(2) An obligee who accelerates the maturity date of the principal and interest of a note secured by a mortgage due to a default of the maker may collect any charge, fee, or premium expressly provided for in the note in the event of such acceleration, provided that:

(a) The charge is directly related to damages which the obligee will suffer as a result of the acceleration,

(b) The acceleration is not caused by economic circumstances beyond the control of the maker,

(c) Such a charge shall be unenforceable if contained in a promissory note secured by a mortgage encumbering real property or a leasehold improved by 4 residential units or less

(d) The provisions of this subsection shall apply only to notes executed after July 1, 1987.

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

SB 939 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—34

Barron	Gordon	Kirkpatrick	Ros-Lehtinen
Beard	Grant	Kiser	Scott
Brown	Grizzle	Langley	Stuart
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crawford	Hollingsworth	McPherson	Weinstock
Crenshaw	Jenne	Meek	Woodson
Frank	Jennings	Myers	
Girardeau	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Peterson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 1193 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1193—A bill to be entitled An act relating to inspection and transportation of meats; amending s. 585.34, F.S.; authorizing the Department of Agriculture and Consumer Services to ban and remove from distribution channels certain foreign cold storage meats; amending s. 585.3401, F.S.; clarifying inspection provisions and providing bid specifications; creating s. 585.3402, F.S.; providing notice requirements for purveyors of foreign cold storage meat to the food service industry; providing a penalty; creating s. 585.3403, F.S.; providing criteria for identification of meat and meat products as "All American" or "Genuine Florida" products; providing severability; providing an effective date.

Amendment 1—On page 1, line 21 through page 5, line 3, strike everything after the enacting clause and insert:

Section 1. Subsection (14) of section 585.34, Florida Statutes, is amended to read:

585.34 Inspection and transportation of meats.—

(14) Inasmuch as it cannot be determined *with certainty* ~~certainly~~, by any *presently present* known method of inspection, whether meat is unwholesome unless the organs and other tissues of an animal are inspected when slaughtered, and as meat and products thereof from uninspected animals may be unfit for human food, the department shall seize and destroy for human food purposes any meat or meat food product that does not bear the "inspected and passed" stamp, brand, mark, or label, as provided by this law; except that nothing herein shall affect the transportation of dead and condemned carcasses of animals to rendering plants, nor the transportation of dressed carcasses of calves for inspection to points where inspection is maintained in accordance with the provisions of this article, nor meat or meat products to which a statement is attached in accordance with the provisions of this law.

Section 2. Section 585.3401, Florida Statutes, is amended to read:

585.3401 ~~Imported~~ Beef and pork; prohibition on purchase; *bid specifications*; penalty.—

(1) ~~No~~ Fresh or frozen beef or pork ~~imported from, or to be imported from, outside the United States and its dependencies~~ which has not been inspected by the United States Department of Agriculture or the Florida Department of Agriculture and Consumer Services, ~~or which will not be inspected by the United States Department of Agriculture or the Florida Department of Agriculture and Consumer Services and does not comply with standards set by the United States Department of Agriculture or the Florida Department of Agriculture and Consumer Services for fresh or frozen beef or pork produced in the United States,~~ shall *not* be purchased, or caused to be purchased, by any agency of the state or of any municipality, political subdivision, school district, or special district for consumption in this state or for distribution for consumption in this state. Bid invitations issued by any agency of the state or of any municipality, political subdivision, school district, or special district for the purchase of fresh or frozen beef or pork shall specify that only *domestic* beef or pork *inspected and passed by either the Florida Department of Agriculture and Consumer Services or the United States Department of Agriculture* ~~or imported beef or pork which complies with the provisions of this subsection~~ will be accepted. The supplier or vendor shall certify on the invoice that the fresh or frozen beef or pork or imported beef or pork supplied is either domestic or complies with the provisions of this subsection.

(2) *All bid invitations for purchase of fresh or frozen meats of any kind by any agency of the state or of any municipality, political subdivision, school district, or special district using state or local funds shall include the words: "All American" and "Genuine Florida" meats or meat products shall be granted preference as allowed by Section 287.082, Florida Statutes"*

(3)(2) Any person who knowingly violates or causes to be violated the provisions of this section shall be personally liable to the affected public agency for any funds spent in violation of the provisions of this section.

Section 3. Section 585.3403, Florida Statutes, is created to read:

585.3403 *All American and Genuine Florida meat or meat products.—Each slaughterhouse or meatpacking or processing plant in the state or other person vending any meat or meat product, the meat of which is entirely produced in the United States, may label such meat or meat product "All American," and any such vendor selling any such meat or meat product, the meat of which is entirely produced in the state, may label such meat or meat product "Genuine Florida."*

Section 4. *If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does 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 severable.*

Section 5. This act shall take effect October 1, 1987.

Amendment 2—On page 1, lines 1-17, strike everything before the enacting clause and insert: A bill to be entitled An act relating to

inspection and transportation of meats; amending s. 585.34, F.S., for grammatical purposes; amending s. 585.3401, F.S., clarifying inspection provisions and providing bid specifications; creating s. 585.3403, F.S., providing criteria for identification of meat and meat products as "All American" or "Genuine Florida" products; providing severability; providing an effective date.

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

CS for SB 1193 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—34

Beard	Gordon	Kirkpatrick	Ros-Lehtinen
Brown	Grant	Kiser	Scott
Childers, D.	Grizzle	Langley	Stuart
Childers, W. D.	Hair	Lehtinen	Thurman
Crawford	Hill	Malchon	Weinstein
Crenshaw	Hollingsworth	Margolis	Weinstock
Deratany	Jenne	Meek	Woodson
Frank	Jennings	Myers	
Girardeau	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Peterson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 541 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 541—A bill to be entitled An act relating to guardianship; amending ss. 744.441, 744.457, F.S.; authorizing a guardian, with prior court approval, to execute, exercise, or release specified powers that the ward might have if competent, to create certain trusts of property of the ward's estate for purposes of tax or estate planning, to renounce or disclaim any interest by succession or inter vivos transfer, or to convey or release a contingent or expectant interest in property, including marital property rights or a right of survivorship; authorizing a guardian with prior court approval to perform other acts authorized by law but not specified in s. 744.441, F.S.; providing that such authorization does not apply to acts which may be performed without court approval pursuant to s. 747.444, F.S.; providing an effective date.

Amendment 1—On page 2, lines 11-15, strike all of said lines

Amendment 2—On page 1, in the title, lines 13-15, strike all of said lines and insert: survivorship;

Amendment 3—On page 1, line 22, insert:

Section 1. Section 733.615, Florida Statutes, is amended to read:

733.615 Joint personal representatives; when joint action required.—(1) If two or more persons are appointed joint personal representatives, and *unless otherwise provided in subsection (1)*, or unless the will provides otherwise, the concurrence of all is required on all acts connected with the administration and distribution of the estate. This restriction does not apply when any joint personal representative receives and receipts for property due the estate, when the concurrence of all cannot readily be obtained in the time reasonably available for emergency action necessary to preserve the estate, or when a joint personal representative has been delegated to act for the others.

(2) *Any power vested in three or more joint personal representatives may be exercised by a majority, unless the will provides otherwise, but a joint personal representative who has not joined in exercising a power is not liable to the beneficiaries or to others for the consequences of the exercise, and a dissenting joint personal representative is not liable for the consequences of an act in which he joins at the direction of the majority of the joint personal representatives if he expressed his dissent in writing to any of his joint personal representatives at or before the time of the joinder. This subsection shall apply only to estates of decedents whose date of death is on or after October 1, 1988.*

(3) A person dealing with a joint personal representative without actual knowledge that joint personal representatives have been appointed or if advised by the joint personal representative with whom he deals that the joint personal representative has authority to act alone for any of the reasons mentioned in subsection (1), is as fully protected in dealing with that joint personal representative as if that joint personal representative possessed and properly exercised the power he purports to exercise.

(Renumber the subsequent sections.)

Amendment 4—On page 1, in the title, line 2, strike “guardianship;” and insert: probate and guardianship; amending s. 733.615, F.S., to provide for liability of joint personal representatives and protect persons dealing with a joint personal representative;

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

SB 541 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—37

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to HB 1114 and requests the Senate to recede.

John B. Phelps, Clerk

HB 1114—A bill to be entitled An act relating to the Escambia County Utilities Authority; amending section 4 of chapter 81-376, Laws of Florida, as amended; revising the manner in which certain vacancies in the governing board of the authority are to be filled; requiring that any person filling such vacancy be a resident of the district served; providing an effective date.

On motions by Senator Stuart, the Senate refused to recede from Senate Amendments 1 and 2 and again requested the House to concur. The action of the Senate was certified to the House.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendments 1 and 2 to HB 1115 and requests the Senate to recede.

John B. Phelps, Clerk

HB 1115—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending section 13 of chapter 80-579, Laws of Florida, as amended by chapter 83-501, Laws of Florida, relating to the Pensacola-Escambia Promotion and Development Commission; extending provisions relating to the funding of the commission by the city and county; providing an effective date.

On motions by Senator Stuart, the Senate refused to recede from Senate Amendments 1 and 2 and again requested the House to concur. The action of the Senate was certified to the House.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives returns HB 1479 as requested.

John B. Phelps, Clerk

HB 1479—A bill to be entitled An act relating to justifiable use of force; amending s. 776.05, F.S.; revising provisions relating to justifiable use of force by officers in making an arrest; amending subsection (5) of section 921.141, F.S.; by creating paragraph (j) providing the victim of the capital felony was a law enforcement officer engaged in the performance of his official duties; providing an effective date.

On motion by Senator Grant, the Senate reconsidered the vote by which HB 1479 passed June 2.

Senator Grant moved the following amendments which were adopted by two-thirds vote:

Amendment 1—On page 2, strike all of lines 11-19 and renumber subsequent section.

Amendment 2—In title, on page 1, strike all of lines 5-10 and insert: officers in making an arrest; providing an effective date.

HB 1479 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Gordon	Kiser	Plummer
Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Malchon	Scott
Childers, W. D.	Hair	Margolis	Thomas
Crawford	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Stuart

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1360 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1360—A bill to be entitled An act relating to Monroe County; amending chapter 67-1724, Laws of Florida, as amended, and chapter 73-555, Laws of Florida, as amended; expanding the powers and duties of the governing board of the Lower Florida Keys hospital district; authorizing bond issuance for acquisition and development of real property; deleting requirements that voting at bond elections be limited to freeholders and providing for issuance of bonds upon approval of a majority of the electors voting; deleting the cap on interest for interest-bearing bonds; authorizing the establishment of medical facilities or other health care related facilities in addition to hospitals; providing an effective date.

Amendment 1—On page 3, line 27, strike “district Court of Appeal” and insert: District Court of Appeal

Amendment 2—On page 6, lines 6 and 7, strike “qualified electors to participate in the election.” and insert: qualified electors eligible to participate in the election.

Amendment 3—On page 6, lines 16 and 17, strike “at such places the board may determine” and insert: at such places as the board may determine

Amendment 4—On page 6, lines 17 and 18, strike “shall be filed by resolution of the board” and insert: shall be fixed by resolution of the board

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

SB 1360 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—35

Beard	Grant	Kiser	Ros-Lehtinen
Brown	Grizzle	Langley	Scott
Childers, D.	Hair	Malchon	Stuart
Childers, W. D.	Hill	Margolis	Thomas
Crawford	Hollingsworth	McPherson	Thurman
Deratany	Jenne	Meek	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson
Gordon	Kirkpatrick	Plummer	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 24 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 24—A bill to be entitled An act relating to the Florida Commission on Veterans' Affairs; amending s. 292.04, F.S.; authorizing the commission to give testimony on matters pertaining to veterans' affairs; requiring state agencies to cooperate with the commission; clarifying the commission's method of soliciting action; authorizing the commission to promulgate uniform rules relating to veteran's preference; revising and readopting s. 292.04, F.S., relating to the commission and its duties, notwithstanding repeals scheduled pursuant to the Sundown Act; providing for future review and repeal of said section; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1), paragraphs (a) and (b) of subsection (2), and paragraphs (b) and (c) of subsection (3) of section 292.04, Florida Statutes, are amended to read:

292.04 Florida Commission on Veterans' Affairs.—

(1)

(b) Commissioners shall be veterans of a war in which the United States was or is a participant, and they shall have been separated from the Armed Forces of the United States under honorable conditions. Each member of the commission shall be a citizen of the state. Commissioners shall serve for terms of 4 years, ~~except that, of those commissioners initially appointed, four commissioners shall serve for terms of 2 years and five commissioners shall serve for terms of 4 years.~~ A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment. A member of the commission shall be eligible for reappointment.

(2)(a) The commission is assigned to the Executive Office of the Governor. The office shall cooperate fully with the commission in matters related to the specified authority, powers, duties, and responsibilities of the commission and shall endeavor to implement the recommendations of the commission concerning the Division of Veterans' Affairs. However, the commission, in the performance of its powers and duties under this section, shall not be subject to control, supervision, or direction by the Executive Office of the Governor. *The commission may appear before the Veterans Administration and congressional committees to provide testimony on matters pertaining to veterans' affairs.*

(b)1. ~~The commission As soon as practicable after appointment, the commissioners shall hold an organizational meeting and shall select a chairman, vice chairman, and secretary to serve for terms of 2 years. The commission may meet and exercise its powers at any place within the state. Meetings of the commission shall be held upon the call of the chairman, and such meetings shall be held no less frequently than semiannually. Members of the commission shall serve without compensation, but they shall be reimbursed for per diem and travel expenses in accordance with s. 112.061.~~

2. The commission shall have the authority to employ an executive director and such other personnel as may be necessary to carry out the provisions of this section. The executive director of the commission shall be a veteran as defined in s. 1.01(15).

(3)

(b) The commission shall work with the various veterans' organizations and their auxiliaries within the state and shall function as a liaison between such organizations and the state on matters pertaining to veterans and their organizations. *Each state agency shall cooperate fully with the commission in matters related to the specified authority, powers, duties, and responsibilities of the commission.*

(c) ~~If the commission determines~~ ~~Upon determination~~ that a proposed state or federal project would benefit all veterans within the state, it is the responsibility of the commission to *recommend legislation and initiate through the petition process a statewide effort by veterans to obtain such benefit.*

Section 2. *Notwithstanding the provisions of the Sundown Act or of any other provision of law which provides for review and repeal in accordance with s. 11.611, Florida Statutes, section 292.04, Florida Statutes, shall not stand repealed on October 1, 1987, and shall continue in full force and effect as amended herein.*

Section 3. *Section 292.04, Florida Statutes, is repealed on October 1, 1997, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.*

Section 4. Section 295.07, Florida Statutes, is amended to read:

295.07 Preference in appointment and retention.—The state and its political subdivisions shall give preference in appointment and retention in positions of employment, except those included under s. 110.205(2) and except comparable positions in the political subdivisions of the state, to:

(1) Those disabled veterans who have served on active duty in any branch of the Armed Forces of the United States; who have been separated therefrom under honorable conditions; and who have established the present existence of a service-connected disability which is compensable under public laws administered by the U.S. Veterans Administration, or who are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the U.S. Veterans Administration and the Department of Defense.

(2) The spouse of any person who has a total disability, permanent in nature, resulting from a service-connected disability and who, because of this disability, cannot qualify for employment, and the spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

(3) A veteran of any war who has served on active duty for 181 consecutive days or more, or who has served 180 consecutive days or more since January 31, 1955, and who was discharged or separated therefrom with an honorable discharge from the Armed Forces of the United States of America if any part of such active duty was performed during the wartime era. However, active duty for training shall not be allowable.

(4) The unmarried widow or widower of a veteran who died of a service-connected disability.

Section 5. Section 295.08, Florida Statutes, is amended to read:

295.08 Competitive examination systems preference points; professional and scientific services.—For those positions for which an examination is used to determine the qualifications for entrance into employment with the state or its political subdivisions, 10 points shall be added to the earned ratings of any person included under s. 295.07(1) or s. 295.07(2), and 5 points shall be added to the earned rating of any person included under s. 295.07(3) and (4), provided that such person has obtained a qualifying score on the examination for the position. The names of persons eligible for preference shall be entered on an appropriate register or list in accordance with their respective augmented ratings. However, except for classes of positions with Federal Government designations of professional or technician for which the lowest range of the salary is over \$9,000 per annum, the names of all persons qualified to receive a 10-point preference whose service-connected disabilities have been rated by the Veterans Administration or the Department of Defense to be 30 percent or more shall be placed at the top of the appropriate register or employment list, in accordance with their respective augmented ratings. ~~A veteran's 5-point preference shall expire 5 years from the date of honorable discharge or separation from the United States Armed Forces; however, the 10-point preference for a disabled veteran shall be permanent.~~ The respective augmented rating is the examination score or evaluated score in addition to the applicable veteran's preference points.

Section 6. Section 295.085, Florida Statutes, is amended to read:

295.085 *Positions where an examination is not utilized* ~~None~~~~competitive positions; preferences.—~~

(1) In all positions in which the appointment or employment of persons is not subject to a written examination ~~the career service system or other merit type system,~~ with the exception of those positions included under s. 110.205(2) and with the exception of comparable positions in the political subdivisions of the state, preference in appointment and employment shall be given by the state and its political subdivisions first to those persons included under s. 295.07(1) and (2), and second to those persons included under s. 295.07(3) and (4), provided such persons possess the minimum qualifications necessary to the discharge of the duties involved.

(2) *The Department of Administration shall be responsible for promulgating such rules or procedures as to ensure that those persons defined in s. 295.07 are given special consideration in the employing agency's selection and retention processes. These procedures shall include the award of point values as articulated in s. 295.08 if applicable, or where such point values are not relevant, shall include procedures to ensure those persons defined in s. 295.07 are given special consideration at each step of the employment selection process and are given special consideration in the retention of employees where layoffs are necessitated.*

Section 7. Section 295.101, Florida Statutes, is created to read:

295.101 *Employment preference; expiration.—A veteran's employment preference shall be deemed to have expired after an eligible person pursuant to s. 295.07 has applied and been employed by any state or any agency of a political subdivision of the state.*

Section 8. Section 295.11, Florida Statutes, 1986 Supplement, is amended to read:

(Substantial rewording of section. See s. 295.11, F.S., 1986 Supplement, for present text.)

295.11 *Investigation; administrative hearing for not employing preferred applicant.—*

(1) *The director of the Division of Veterans Affairs or his designated staff employee, hereinafter called "designee," shall, upon the written request of any person specified in s. 295.07, investigate any complaint filed with the division by such person when the person has made application with any state agency or any agency of a political subdivision of the state for a position of employment which was awarded to a non-veteran and the person feels himself aggrieved under the provisions of this law. Such investigation shall be accomplished within existing amounts appropriated to the division.*

(2) *Upon completion of the investigation, the division director shall furnish a copy of the investigative findings to the complainant and to the agency involved.*

(3) *When a satisfactory resolution to the complaint is not forthcoming, the division director or his designee shall, upon written request of the complainant and with advisory assistance from the Department of Administration, testify at the Public Employee Relations Commission hearing as to the investigative findings. The complainant, however, may be represented at the hearing by counsel of his choice at his expense.*

(4) *Jurisdiction to effectuate the purposes of ss. 295.07-295.09 shall vest with the Public Employees Relation Commission for appropriate administrative determination.*

Section 9. Subsection (1) of section 295.14, Florida Statutes, 1986 Supplement, is amended to read:

295.14 *Penalties.—*

(1) When the Public Employees Relations Commission, after a hearing on notice conducted according to rules promulgated by the commission, determines that a violation of s. 295.07, s. 295.08, s. 295.085(1), or s. 295.09(1)(a) or (b) has occurred and sustains the veteran seeking redress, the commission shall order the offending agency, employee, or officer of the state to comply with the provisions of s. 295.07, s. 295.08, s. 295.085(1), 295.09(1)(a) or (b); and, in the event of a violation of s. 295.09(1)(a) or (b) the commission may issue an order and to compensate such veteran for the loss of any wages incurred as a result of such viola-

tion, which order shall be conclusive on the agency, employee, or officer concerned. The action of the commission shall be in writing and shall be served on the parties concerned by certified mail with return receipt requested.

Section 10. Subsection (5) of section 292.05, Florida Statutes, is amended to read:

292.05 *Duties of Division of Veterans' Affairs.—*

(5) The division shall, on ~~January 1~~ ~~June 30~~ of each year, make an annual written report to the Governor of the state, the Speaker of the House of Representatives, and the President of the Senate, which report shall show the expenses incurred in veteran service work in the state; the number, nature, and kind of cases handled by the division and by county and city veteran service officers of the state; the amounts of benefits obtained for veterans; the names and addresses of all certified veteran service officers, including county and city veteran service officers; and such other information and recommendations as may appear to the division to be right and proper.

Section 11. Subsection (1) of section 295.01, Florida Statutes, is amended to read:

295.01 *Children of deceased or disabled veterans; education.—*

(1) It is hereby declared to be the policy of the state to provide educational opportunity at state expense for dependent children either of whose parents was a resident of the state at the time such parent entered the Armed Forces and died in that service or from injuries sustained or disease contracted during a period of wartime service as defined in s. 1.01(15), or has died since or may hereafter die from diseases or disability resulting from such war service, or has been determined by the Veterans Administration to have a service-connected 100-percent total and permanent disability rating for compensation, or has been determined to have a service-connected total and permanent disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services, or has been issued a valid identification card by the Division of Veterans' Affairs of the Department of Administration in accordance with the provisions of s. 295.17, when the parents of such children have been bona fide residents of the state for 5 years next preceding their application for the benefits hereof, and subject to the rules, restrictions, and limitations hereof.

Section 12. Subsection (1) of section 295.016, Florida Statutes, is amended to read:

295.016 *Children of servicemen who died or became disabled in Operation Eagle Claw.—*

(1) It is hereby declared to be a policy of the state to provide educational opportunity at state expense for the dependent children of any serviceman who died or suffered a service-connected 100-percent total and permanent disability rating for compensation, as determined by the Veterans Administration, or has been determined to have a service-connected total and permanent disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services, in the Iranian rescue mission known as Operation Eagle Claw, which serviceman was residing in the state on April 25, 1980. A certified copy of a death certificate, a valid identification card issued by the Division of Veterans' Affairs of the Department of Administration in accordance with the provisions of s. 295.17, or a letter certifying the service-connected 100-percent total and permanent disability rating for compensation from the Veterans Administration, or a letter certifying the service-connected total and permanent disability rating of 100 percent for retirement pay from any branch of the United States Armed Services shall be prima facie evidence of the fact that the dependent children of the serviceman are eligible for such benefits.

Section 13. Subsection (1) of section 295.017, Florida Statutes, 1986 Supplement, is amended to read:

295.017 *Children of servicemen who died or became disabled in the Lebanon and Grenada military arenas; educational opportunity.—*

(1) It is hereby declared to be the policy of the state to provide educational opportunity at state expense for the dependent children of any serviceman who died or suffered a service-connected 100-percent total and permanent disability rating for compensation, as determined by the Veterans Administration, or has been determined to have a service-connected total and permanent disability rating of 100 percent and is

in receipt of disability retirement pay from any branch of the United States Armed Services, while participating in a Multinational Peace Keeping Force in Lebanon during the period from September 17, 1982, through February 3, 1984, inclusive, or as a participant in Operation Urgent Fury in Grenada during the period from October 23, 1983, through November 2, 1983, inclusive, which serviceman was residing in the state during those periods of military action. A certified copy of a death certificate, a valid identification card issued in accordance with the provisions of s. 295.17, or a letter certifying the service-connected 100-percent total and permanent disability rating for compensation from the Veterans Administration, or a letter certifying the service-connected total and permanent disability rating of 100 percent for retirement pay from any branch of the United States Armed Services shall be prima facie evidence of the fact that the dependent children of the serviceman are eligible for such benefits.

Section 14. Paragraph (a) of subsection (1) of section 295.17, Florida Statutes, is amended to read:

295.17 Identification cards.—

(1)(a) The Division of Veterans' Affairs of the Department of Administration is empowered to issue an identification card to any veteran who is a permanent resident of the state and who has been adjudged by the Veterans Administration to have a ~~be~~ 100-percent, service-connected permanent and total disability rating for compensation permanently and totally disabled, or has been determined to have a service-connected total and permanent disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services, upon the written request of such veteran. Such card may be used by the veteran as proof of eligibility for any benefit provided by state law for 100-percent, service-connected permanently and totally disabled veterans, except those benefits provided by ss. 196.081, 196.091, and 196.24. The identification card shall bear a statement that it is unlawful for any person other than the veteran to whom it was issued to use the card.

Section 15. Subsection (7) of section 322.21, Florida Statutes, is amended to read:

322.21 License fees; procedure for handling and collecting fees.—

(7) Any veteran honorably discharged from the Armed Forces who has been issued a valid identification card by the Division of Veterans' Affairs of the Department of Administration, in accordance with the provisions of s. 295.17, or has been determined by the Veterans Administration to have a 100-percent total and permanent service-connected disability rating for compensation, or has been determined to have a service-connected total and permanent disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the United States Armed Services, and who is qualified to obtain an operator's or chauffeur's license under this chapter is exempt from all fees required by this section.

Section 16. Paragraph (b) of subsection (6) of section 372.57, Florida Statutes, 1986 Supplement, is amended to read:

372.57 Licenses and stamps; exemptions; fees.—No person, except as provided herein, shall take game, freshwater fish, or fur-bearing animals within this state without having first obtained a license or stamp and paid the license fee hereinafter set forth, unless such license is issued without fee as provided in s. 372.561. Such license or stamp shall authorize the person to whom it is issued to take game, freshwater fish, or fur-bearing animals in accordance with law and commission rules. Such license or stamp is not transferable, shall bear on its face in indelible ink the name of the person to whom it is issued, and shall be affixed to a license identification card issued by the commission, upon which the tax collector may affix his seal. Such license or stamp is not valid unless it bears the name of the person to whom it is issued and is so affixed. Such stamp or license shall be in the personal possession of the person to whom issued while taking game, freshwater fish, or fur-bearing animals. The failure of such person to exhibit such license or stamp to the commission or its wildlife officers, when such person is found taking game, freshwater fish, or fur-bearing animals, is a violation of law. The requirement that a license or stamp bear the name of the person to whom it is issued does not apply to the Florida waterfowl stamp provided for in paragraph (5)(a).

(6) The following shall be exempt only from the stamp requirements of this section: (a) Any resident age 65 and older who has obtained a permanent license issued pursuant to s. 372.561(5)(a).

(b) Any resident who is certified by the United States Veterans Administration, or any branch of the United States Armed Services, or by a licensed physician in this state to be totally and permanently disabled, or who holds a valid identification card issued under the provisions of s. 295.17, and who has obtained a permanent license issued pursuant to s. 372.561(5)(b).

Section 4. This act shall take effect October 1, 1987.

Amendment 2—On page 1, In the title, lines 1-15, strike all of said lines and insert: An act relating to veterans' affairs; amending s. 292.04, F.S.; modifying duties of the Florida Commission on Veterans' Affairs; authorizing the commission to give testimony on matters pertaining to veterans' affairs; requiring state agencies to cooperate with the commission; clarifying the commission's method of soliciting action; making technical changes; saving s. 292.04, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

Amendment 3—On page 4, line 27, insert:

Section 4. (1) An honorably discharged veteran who has wartime service as specified in s. 1.01(15), Florida Statutes, who has a service-connected disability rated at 30 percent or more by the Veterans Administration or the Armed Services of the United States and who is a legal resident of this state may be employed by a state agency in a competitive or noncompetitive position and is exempt from entrance examination requirements and hiring procedures administered by the Department of Administration as long as the veteran meets the minimum eligibility requirements for the particular position, or the veteran has been certified by vocational rehabilitation as an appropriate candidate for the position.

(2) A disable veteran employed under the provisions of subsection (1) shall be appointed for a probationary period of 1 year. At the end of such period, if the work of the veteran has been satisfactorily performed, the veteran will acquire permanent employment status and will be subject to the employment rules of the Department of Administration and the veteran's employing agency.

(Renumber subsequent section.)

Amendment 4—On page 1, line 19, in House Amendment 2, after "repeal;" insert: amending s. 295.07, F.S., relating to preference in appointment; providing clarifying language; amending s. 295.08, F.S., deleting language with respect to the expiration of certain veteran preference points; amending s. 295.085, F.S., providing clarifying language with respect to positions where an examination is not utilized; creating s. 295.101, F.S., providing for the expiration of employment preference; amending s. 295.11, F.S., relating to investigative and administrative hearings for not employing preferred applicants; amending s. 295.14, F.S., providing for penalties with respect to certain hearings before the Public Employees Relations Commission; amending s. 292.05, F.S.; revising the date for an annual report of the Division of Veterans' Affairs; amending ss. 295.01, 295.016, and 295.017, F.S.; providing educational opportunity at state expense for dependent children of certain veterans who died or suffered 100-percent disability and receive disability retirement pay from any branch of the United States Armed Services; amending s. 295.17, F.S.; providing identification cards for 100-percent disabled veterans receiving disability retirement pay from any branch of the United States Armed Services; amending s. 322.21, F.S.; exempting 100-percent disabled veterans receiving disability retirement pay from any branch of the United States Armed Services from certain license fees; amending s. 372.57, F.S.; exempting 100-percent disabled veterans receiving disability retirement pay from any branch of the United States Armed Services from purchase of stamps for certain hunting and recreational uses;

Amendment 5—On page 1, lines 2 and 3, strike "the Florida Commission on Veterans' Affairs" and insert: veterans

Amendment 6—On page 1, line 15, after the semicolon (;) insert: providing that certain disabled veterans may be hired by state agencies outside normal hiring procedures; providing for a probationary period and permanent employment status;

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

SB 24 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—34

Beard	Gordon	Kirkpatrick	Plummer
Brown	Grant	Kiser	Ros-Lehtinen
Childers, D.	Grizzle	Langley	Scott
Childers, W. D.	Hair	Malchon	Stuart
Crawford	Hill	Margolis	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Deratany	Jenne	Meek	Weinstein
Frank	Jennings	Myers	
Girardeau	Johnson	Peterson	

Nays—None

Vote after roll call:

Yeas—Weinstock, Woodson

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 792 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 792—A bill to be entitled An act relating to the enforcement of local government codes; amending s. 162.06, F.S.; revising the procedure to be followed by a code inspector when he finds a violation of a code; amending s. 162.09, F.S.; specifying factors that a code enforcement board must consider in setting a fine for a code violation; amending s. 162.12, F.S.; providing an additional method of serving notices under the Local Government Code Enforcement Boards Act; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 162.06, Florida Statutes, 1986 Supplement, are amended to read:

162.06 Enforcement procedure.—

(2) Except as provided in subsection (3), if a violation of the codes is found, the code inspector shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code inspector shall notify an enforcement board and request a hearing. The code enforcement board, through its clerical staff, shall schedule a hearing, and written notice of such hearing shall be hand delivered or mailed as provided in s. 162.12 by ~~this chapter~~ to said violator. *At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in s. 162.12.* If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may ~~shall~~ be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

(3) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

Section 2. Section 162.09, Florida Statutes, 1986 Supplement, is amended to read:

162.09 Administrative fines; liens.—

(1) An enforcement board, upon notification by the code inspector that an order of the enforcement board has not been complied with by the set time or, upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed \$250 for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order.

(2) *In determining the amount of the fine, if any, the enforcement board shall consider the following factors:*

- (a) *The gravity of the violation;*
- (b) *Any actions taken by the violator to correct the violation; and*

(c) *Any previous violations committed by the violator.*

(3) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After 6 months from the filing of any such lien which remains unpaid, the enforcement board may authorize the local governing body attorney to foreclose on the lien. No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

Section 3. Section 162.12, Florida Statutes, 1986 Supplement, is amended to read:

162.12 Notices.—

(1) All notices required by this act shall be *provided to the alleged violator* by certified mail, return receipt requested, or by hand delivery by the sheriff or other law enforcement officer, code inspector, or other person designated by the local governing body, or by *leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice.*

(2) *In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:*

(a)1. *Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.*

2. *Proof of publication shall be made as provided in ss. 50.041 and 50.051.*

(b)1. *If there is no newspaper of general circulation in the county where the code enforcement board is located, three copies of such notice shall be posted for at least 28 days in three different and conspicuous places in such county, one of which shall be at the front door of the courthouse in said county.*

2. *Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.*

(c) *Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under subsection (1).*

Evidence that an attempt has been made to hand deliver or mail notice as provided in subsection (1), together with proof of publication or posting as provided in subsection (2), shall be sufficient to show that the notice requirements of this chapter have been met, without regard to whether or not the alleged violator actually received such notice.

Section 4. This act shall take effect October 1, 1987.

Amendment 2—On page 1 in the title, lines 1-12, strike the entire title and insert: A bill to be entitled An act relating to the enforcement of local government codes; amending s. 162.06, F.S.; revising the procedure to be followed by a code inspector when he finds a violation of a code; amending s. 162.09, F.S.; specifying factors that a code enforcement board must consider in setting a fine for a code violation; amending s. 162.12, F.S.; providing an additional method of serving notices under the Local Government Code Enforcement Boards Act; providing an effective date.

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

SB 792 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—36

Beard	Gordon	Kirkpatrick	Plummer
Brown	Grant	Kiser	Ros-Lehtinen
Childers, D.	Grizzle	Langley	Scott
Childers, W. D.	Hair	Lehtinen	Stuart
Crawford	Hill	Malchon	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Deratany	Jenne	Meek	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 209 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 209—A bill to be entitled An act relating to election petition, including petitions for constitutional initiatives; creating s. 15.21, F.S.; requiring the Secretary of State to submit to the Attorney General revisions or amendments to the State Constitution proposed by initiative petition; creating s. 16.061, F.S.; requiring the Attorney General to request an advisory opinion of the justices of the Supreme Court; amending s. 99.097, F.S.; providing that persons or sponsors of a petition to have an issue placed on the ballot are exempt from paying the verification fee upon a showing that it will impose an undue burden; amending s. 100.371, F.S.; providing a deadline for submission of signatures to supervisors of elections; providing for the verification of signatures on initiative petitions; permitting compensation of persons soliciting signatures for initiative petitions; creating s. 100.372, F.S.; providing procedures for Supreme Court review of initiative petitions; amending s. 101.161, F.S.; requiring the Secretary of State to revise the ballot title and substance of a proposed revision or amendment to the State Constitution by initiative where necessary; providing for publication of a proposed revision or amendment to the State Constitution; providing an effective date.

Amendment 1—On page 2, line 3, through page 10, line 22, strike everything after the enacting clause and insert:

Section 1. Section 15.21, Florida Statutes, is created to read:

15.21 Initiative petitions.—The Secretary of State shall immediately submit an initiative petition to the Attorney General if the sponsor has:

- (a) Registered as a political committee pursuant to s. 106.03;
- (b) Submitted the ballot title, substance and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371 and 101.161; and
- (c) Obtained a letter from the Division of Elections confirming that the number of signatures required under s. 100.372, has been obtained and verified.

Section 2. Section 16.061, Florida Statutes, is created to read:

16.061 Initiative petitions.—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161. The petition may enumerate any specific factual issues which the Attorney General believes would require a judicial determination.

(2) A copy of the petition shall be provided to the Secretary of State and the principal officer of the sponsor.

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

Amendment 2—On page 1, in the title, lines 1-30, strike everything and insert: An act relating to initiative petitions; creating s. 15.21, F.S.; requiring the Secretary of State to submit to the Attorney General revisions or amendments to the State Constitution proposed by initiative petition; creating s. 16.061, F.S.; requiring the Attorney General to request an advisory opinion of the justices of the Supreme Court; providing an effective date.

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

Amendment 1—On page 1, lines 14-31, and on page 2, lines 1-11; strike all of said lines and insert:

Section 1. Section 15.21, Florida Statutes, is created to read:

15.21 Initiative petitions.—The Secretary of State shall immediately submit an initiative petition to the Attorney General if the sponsor has:

- (a) Registered as a political committee pursuant to s. 106.03;
- (b) Submitted the ballot title, substance and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371 and 101.161;
- (c) Obtained a letter from the Division of Elections confirming that the number of signatures required under s. 100.372, has been obtained and verified; and
- (d) Submitted a letter to the Secretary of State pursuant to s. 100.372 requesting the Supreme Court to review the compliance of the text of the proposed revision or amendment with s. 3, Art. XI of the State Constitution, and the compliance of the proposed ballot title and substance and changes thereto recommended by the Secretary of State with s. 101.161.

Section 2. Section 16.061, Florida Statutes, is created to read:

16.061 Initiative petitions.—

(1) The Attorney General shall, within 30 days after receipt of a proposed revision or amendment to the State Constitution by initiative petition from the Secretary of State, petition the Supreme Court, requesting an advisory opinion regarding the compliance of the text of the proposed amendment or revision with s. 3, Art. XI of the State Constitution and the compliance of the proposed ballot title and substance with s. 101.161. The petition may enumerate any specific factual issues which the Attorney General believes would require a judicial determination.

(2) A copy of the petition shall be provided to the Secretary of State and the principal officer of the sponsor.

Section 3. Section 100.372, Florida Statutes, is created to read:

100.372 Initiatives; procedure for judicial review.—

(1) The sponsor of a revision or amendment to the State Constitution proposed by initiative may, before seeking certification of ballot position, submit a letter to the Secretary of State requesting the Supreme Court to review the compliance of the text of the proposed initiative petition with s. 3, Art. XI of the State Constitution, and the compliance of the ballot title and substance with s. 101.161.

(2) Before requesting judicial review of a proposed initiative petition, the sponsor must have:

- (a) Registered as a political committee pursuant to s. 106.03;
- (b) Submitted the ballot title, substance and text of the proposed revision or amendment to the Secretary of State pursuant to ss. 100.371 and 101.161;
- (c) Submitted to the appropriate supervisors for verification, signed and dated forms equal to 10 percent of the number of electors statewide and in at least one fourth of the congressional districts required by s. 3, Art. XI of the State Constitution.

Section 4. This act shall take effect October 1, 1987.

Senator Langley moved the following amendment to House Amendment 2 which was adopted:

Amendment 1—On page 1, strike all of lines 13-19, and insert: An act relating to election petition, including petitions for constitutional initiatives; creating s. 15.21, F.S.; requiring the Secretary of State to submit to the Attorney General revisions or amendments to the State Constitution proposed by initiative petition; creating s. 16.061, F.S.; requiring the Attorney General to request an advisory opinion of the justices of the Supreme Court; creating s. 100.372, F.S.; providing procedures for Supreme Court review of initiative petitions; providing an effective date.

On motions by Senator Langley, the Senate concurred in House Amendments 1 and 2 as amended and the House was requested to concur in the Senate amendments to the House amendments.

SB 209 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crawford	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed Senate Bills 337, 436, CS for SB's 715, 664 and 850, SB 912, CS for SB 994, Senate Bills 1299, 1312, 1332, 1347, 1351, 1355, 1358; and has receded from House Amendments 1, 2, and 3 and passed SB 26.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended CS for CS for HB 18, CS for CS for HB's 47 and 17, CS for HB 124, CS for HB 196, CS for HB 204, House Bills 358, 360, 512, 513, 555, 716, 762, 775, CS for HB 1147, House Bills 1290, 1291, 1292, 1294, 1299, 1347, 1398 and 1438.

John B. Phelps, Clerk

SPECIAL ORDER

Consideration of CS for SB 950 was deferred.

CS for SB 2—A bill to be entitled An act relating to taxation; amending s. 212.059, F.S., relating to the sales and use tax on services; revising provisions relating to computation, collection, and remittance of the tax and registration of dealers as service providers; revising provisions relating to apportionment of interstate or international transportation services; amending s. 212.0591, F.S.; revising rules of construction relating to inclusion of a proportion of the sales or cost price under certain circumstances, transactions involving both taxable and exempt services, and determining where the benefit of a service is enjoyed; providing legislative intent regarding exemptions from the tax; amending s. 212.0592, F.S.; revising exemptions and conditions applicable thereto and providing additional exemptions; amending s. 212.0593, F.S., relating to administration of the exemption for services sold in this state for use outside this state; specifying inapplicability of certain refund provisions; repealing section 5 of chapter 87-6, Laws of Florida, and creating s. 212.0594, F.S.; revising special provisions applicable to the tax on construction services; amending s. 212.0595, F.S.; revising special provisions applicable to the tax on advertising; amending s. 212.02, F.S.; revising definitions applicable to chapter 212, F.S.; amending s. 212.031, F.S.; revising an exemption from the tax on rental, lease, or granting a license for use of real property for certain property leased to persons providing food and drink concessionaire services; amending s. 212.04, F.S.; exempting admissions to certain athletic or other events sponsored by schools and other institutions and certain admissions paid by students to places of sport or recreation; providing an exception; amending s. 212.05, F.S.; specifying application of the tax on sales, use and other transactions to sale of newspapers and magazines; amending s. 212.08, F.S.; revising the exemptions for sales to political subdivisions, film rentals, and vehicles engaged in interstate or foreign commerce; amending s. 212.095, F.S.; removing a prohibition against dealers assisting in preparation of tax refund claims; amending section 17 of chapter 87-6, Laws of Florida; revising the effective date of an amendment relating to application of the dealer's credit to persons who remit taxes or fees reported on the same documents utilized for sales and use tax; amending s. 212.235, F.S.; specifying uses of trust fund moneys; amending section 31 of chapter 87-6, Laws of Florida,

revising an exemption from the tax on services for certain improvements to real property; requiring the Department of Revenue to report to the Legislature; amending section 32 of chapter 87-6, Laws of Florida, relating to certain conditions applicable to self-accrual; amending section 33 of chapter 87-6, Laws of Florida; specifying administrative provisions applicable to department rules implementing said chapter and this act; amending section 36 of chapter 87-6, Laws of Florida, relating to waiver of penalties and interest with respect to the tax on services for a specified period; amending section 38 of chapter 87-6, Laws of Florida; revising provisions relating to construction of said chapter with respect to certain client confidentiality; amending ss. 120.575 and 120.65, F.S.; revising provisions relating to appointment of a panel to be hearing officer in certain administrative taxpayer contest proceedings; amending section 47 of chapter 87-6, Laws of Florida; revising a date for a department study of taxable services; amending ss. 95.091, 198.18, 211.33, 214.50, 214.51, 212.08, 125.0104, 198.37, 198.39, 199.282, 201.17, 201.20, 203.01, 203.03, 203.63, 206.18, 206.44, 206.877, 206.9931, 207.007, 211.076, 211.25, 212.0305, 212.05, 212.07, 212.085, 212.10, 212.12, 212.13, 212.14, 212.15, 212.18, 214.40, 214.60, F.S.; reducing certain penalties; repealing sections 100, 101, and 102 of chapter 87-6, Laws of Florida, relating to priority of tax warrants, seizure of property for collection of taxes, and sale of seized property, respectively; amending section 103 of chapter 87-6, Laws of Florida; deleting an inapplicable notice provision; amending section 104 of chapter 87-6, Laws of Florida; correcting cross-references; amending s. 213.76, F.S.; increasing a period of limitation; providing for applicability of certain penalties; repealing section 9 of chapter 86-166, Laws of Florida, relating to the commission established to study sales tax exemptions; providing an appropriation to the Division of Administrative Hearings; providing for severability; providing effective dates.

—was read the second time by title.

Senator Deratany moved the following amendments which were adopted:

Amendment 1—On page 11, line 5, after "However," insert: *unless the service is provided to a non-resident entity or non-resident person as defined in Rule 3C - 15.003, Florida Administrative Code,*

Amendment 2—On page 15, line 19, strike "\$1,000" and insert: \$5,000

Amendment 3—On page 13, between lines 18 and 19, insert:

(45) Convention and Conference registration fees.

Amendment 4—On page 11, line 14, strike "collection fees" and insert: *fees for the collection of coupons, drafts, checks, foreign exchange items, and similar over-the-counter collection items collection fees*

Amendment 5—On page 5, line 1, after "service" insert: *, if the purchaser of the service has nexus for tax purposes with this state*

Amendment 6—On page 9, line 10, strike "unconstitutional per se" and insert: *facially unconstitutional*

Amendment 7—On page 21, line 6, after "department" insert: *, if the advertiser has nexus for tax purposes with this state*

Amendment 8—On page 25, line 14, after "subsequent sale" insert: *, unless otherwise exempt pursuant to s. 212.0592(1)*

Amendment 9—On page 22, line 27, after "purposes." insert: *Also included in the definition of affiliated group are mutual insurance companies which are members of the same insurance holding company system subject to the provisions of s. 628.801.*

Amendment 10—On page 28, line 26, insert:

(e)1. At the rate of 5 percent on charges for all telegraph messages and long distance telephone calls beginning and terminating in this state; on charges for telecommunication service as defined in s. 203.012 and for those services described in s. 203.012(2)(a); on recurring charges to regular subscribers for wired television service; on all charges for the installation of telecommunication, wired television, and telegraphic equipment; and on all charges for electrical power or energy. For purposes of this ~~part~~ ^{subparagraph}, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph ser-

vices or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, wired television, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. Fifty percent of the charge imposed for the total channel mileage between the first channel termination point inside this state and the nearest channel termination point outside this state.

3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

Amendment 11—On page 13, line 18, after the period (.) insert: *This exemption shall apply only if:*

(a) *The purchaser of the service buys the service pursuant to a written contract with the seller and such contract identifies the client or customer for whom the purchaser is buying the service;*

(b) *The purchaser of the service identifies the seller of the service purchased in his charge for the service on its subsequent sale; and*

(c) *The service will be taxed under this part in a subsequent sale, unless exempt under other provisions of this part.*

Amendment 12—On page 11, strike all of lines 16-22 and insert: cash vault fees; or data processing services not otherwise exempt, except check processing and check clearing services.

(c) The tax imposed under s. 212.059 shall not apply to a service by a financial institution:

1. The charge for which is waived or imputed; or
2. Which service is specifically excluded from the exemption from taxation under subsection (23).

This paragraph does not exempt financial institutions from the tax imposed in paragraph (b).

Amendment 13—On page 79, line 25, insert:

Section 66. The Department of Revenue, in consultation with the Revenue Estimating Conference, shall conduct a study of the sales tax on construction services to determine the revenue impact of taxing such services based on 50% of the contract price as contained in this act versus taxing such services based on 100% of the cost price of the construction less items on which sales taxes have already been paid. The Department

shall report the results of this study to the Legislature prior to March 1, 1988.

Senators Crawford and Deratany offered the following amendment which was moved by Senator Deratany and adopted:

Amendment 14—On page 12, strike all of lines 8-12 and insert: enumerated in SIC Major Group 62 ~~involving the transfer of securities or commodities~~. However, this exemption shall not be construed to exempt any financial service taxable under subsection (11) or any accounting or investment advisory services provided by an investment adviser as defined in s. 517.021(12)(a)

Senators Deratany and Meek offered the following amendment which was moved by Senator Deratany and adopted:

Amendment 15—On page 11, between lines 29 and 30, insert:

(21) Water transportation services described in SIC Group Numbers 441 and 442, towing or tugboat services described in SIC Industry Number 4454, marine cargo handling services described in SIC Industry Number 4463, piloting services, ship cleaning, steamship leasing, marine surveyors and ship repair and maintenance services; storage of cargo at port facilities; transportation services enumerated in SIC Industry Numbers 4712 and 4723, regardless of the mode of transportation employed, lighterage services, described in SIC Industry Number 4453, and services related to processing and accessorizing of automobiles that are imported through Florida ports. The exemption provided by this subsection also applies to services provided in connection with cargo in international trade by any licensed customhouse broker; any customs bonded warehouse, container freight and examination station, or cartman; or freight consolidator or deconsolidator.

Senators Crenshaw and Deratany offered the following amendment which was moved by Senator Deratany and adopted:

Amendment 16—On page 41, between lines 6 and 7, insert a new Section 20:

Section 20. Section 37 of chapter 87-6, Laws of Florida, is amended to read:

Section 37. When a service that is taxable beginning July 1, 1987, is provided prior to that date, it shall not be taxed, notwithstanding that compensation for the service is paid or payable on or after that date. When a service that is taxable beginning July 1, 1987, is provided on or after that date, the service shall be taxed unless it was prepaid in full prior to April 1, 1987. When a service that is taxable beginning on July 1, 1987, is provided over a period of time beginning prior to that date and ending after that date, the service shall be taxed only upon that portion of the service provided on or after July 1, 1987. For purposes of this section, a service shall be deemed prepaid in full if payment for the service is pursuant to a finance agreement and such agreement was sold by the service provider to a third party prior to April 1, 1987.

(Renumber subsequent sections.)

Senator Deratany moved the following amendment which was adopted:

Amendment 17—On page 22, line 13, insert:

Section 8. Section 212.0598, Florida Statutes, is created to read:

212.0598 Special provisions; air carriers.—

(1) Notwithstanding other provisions of this part to the contrary, any air carrier required by the United States Department of Transportation to keep records according to said department's standard classification of accounting may elect, upon the conditions prescribed in subsection (4), to be subject to the tax imposed by this part on services and tangible personal property according to the provisions of this section.

(2) The basis of the tax shall be the ratio of Florida mileage to total mileage traveled by the carrier's aircraft during the previous fiscal year as determined pursuant to part IV of chapter 214. The ratio shall be determined at the close of the carrier's preceding fiscal year. The ratio shall be applied each month to the carrier's total systemwide gross pur-

chases of tangible personal property and services otherwise taxable in Florida.

(3) It is the legislative intent that air carriers are hereby determined to be susceptible to a distinct and separate classification for taxation under the provisions of this part, if the provisions of this section are met.

(4) The election provided for in this section shall not be allowed unless the purchaser makes a written request, in a manner prescribed by the Department of Revenue, to be taxed under the provisions of subsection (2), and such person registers with the Department of Revenue as a dealer and extends to his vendor at the time of purchase, if required to do so, a certificate stating that the item or items to be partially exempted are for the exclusive use designated herein. Otherwise, all purchases of taxable property and services purchased in this state shall be subject to taxation.

(5) Notwithstanding other provisions of this part to the contrary, any air carrier eligible for the election provided in subsection (1) which does not so elect shall be subject to the tax imposed by this part on the purchase or use of services and tangible personal property purchased or used in this state, as well as other taxes imposed herein.

Senator Hill moved the following amendments which were adopted:

Amendment 18—On page 30, between lines 17 and 18, insert:

(t) *Vinous and alcoholic beverages provided by distributors or vendors for the purpose of "wine tasting" and "spirituous beverage tasting" as contemplated under the provisions of section 564.08 and 565.17 respectively, are exempt from the tax imposed by this part. This exemption shall be effective retroactively to July 1, 1981.*

Amendment 19—On page 29, line 8, following the comma (,) insert: and paragraph (t) is added to subsection (7) of said section,

Senators Meek, Plummer and Frank offered the following amendment which was moved by Senator Meek and adopted:

Amendment 20—On page 11, line 30, insert:

(18) Qualified production services performed by any person for a person principally engaged in the business of producing qualified motion pictures or for a person who owns or leases property used primarily for the production of qualified motion pictures. For purposes of this subsection:

(a) "Qualified production services" means any activity or service performed directly in connection with the production of qualified motion pictures, and includes:

1. Photography, recording, casting, shooting, creation of special effects, animation, adaptation (language, media, electronic or otherwise), technological modifications, computer graphics, set and stage support, wardrobe, acting, consulting, writing, directing, dubbing, mixing, editing, cutting, lopping, printing, processing, duplicating, storing and distributing;

2. The design, planning, engineering, construction, alteration, repair and maintenance of real or personal property including stages, sets, props, models, painting, and facilities principally required for the performance of those services listed in subparagraph 1.; and

3. Property management services directly related to property used in connection with the services described in subparagraph 1. and 2.

(b) "Qualified motion picture" means all or any part of a series of related images, either on film, tape or other embodiment, including, but not limited to, all items comprising part of the original work and film-related products derived therefrom as well as duplicates and prints thereof and all sound recordings created to accompany a motion picture, which is produced, adapted or altered for exploitation in, on or through any medium or device and at any location, primarily for entertainment, industrial, commercial or educational purposes.

The vote was:

Yeas—18

Brown	Girardeau	Grant	Jenne
Frank	Gordon	Hair	Johnson

Langley	McPherson	Ros-Lehtinen	Weinstock
Malchon	Meek	Stuart	
Margolis	Plummer	Weinstein	

Nays—14

Beard	Deratany	Kirkpatrick	Thomas
Childers, D.	Grizzle	Kiser	Woodson
Childers, W. D.	Hill	Myers	
Crawford	Hollingsworth	Peterson	

Further consideration of CS for SB 2 was deferred.

Consideration of CS for SB 463 was deferred.

On motion by Senator Grant, by two-thirds vote CS for HB 1144 was withdrawn from the Committee on Commerce.

On motions by Senator Grant—

CS for HB 1144—A bill to be entitled An act relating to banking; amending s. 658.35, Florida Statutes, providing for the issuance of warrants by bank and trust companies to directors, officers, and employees in the same manner as is currently provided for stock options; providing for the value of such stock or warrant and providing for a limitation; providing an effective date.

—a companion measure, was substituted for CS for SB 935 and by two-thirds vote read the second time by title. On motion by Senator Grant, by two-thirds vote CS for HB 1144 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Grizzle	Langley	Ros-Lehtinen
Brown	Hair	Lehtinen	Scott
Childers, D.	Hill	Malchon	Stuart
Childers, W. D.	Hollingsworth	Margolis	Thomas
Crenshaw	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson
Grant	Kiser	Plummer	

Nays—None

CS for SB 935 was laid on the table.

Consideration of CS for SB 829 was deferred.

On motions by Senator Margolis, by two-thirds vote HB 1262 was withdrawn from the Committees on Economic, Community and Consumer Affairs; and Appropriations.

On motion by Senator Margolis—

HB 1262—A bill to be entitled An act relating to public accountancy; amending s. 473.305, F.S.; providing for the fee for examination to be refundable under certain circumstances; providing a maximum fee increase; amending s. 473.306, F.S.; deleting the equivalent of a baccalaureate degree from certain licensure prerequisites; providing an effective date.

—a companion measure, was substituted for CS for SB 743 and read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 1, line 13, strike everything after the enacting clause and insert:

Section 1. Section 473.305, Florida Statutes, is amended to read:

473.305 Fees.—The board, by rule, may establish fees to be paid for applications, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. *The fee for the examination is refundable if the applicant is found to be ineligible to sit for the examination. The examination fee shall be established at an amount that covers the costs for the procurement or development, administration, grading, and review of the examination. The fee for initial application is nonrefundable, and the combined fees for application and examination may shall not exceed \$250 \$150. The biennial renewal fee may shall not exceed \$150. The board may also establish, by rule, a*

reactivation fee and a late filing fee for the law and rules examination. The board shall establish fees which are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of public accountants. Fees shall be based on department estimates of the revenue required to implement this chapter act and the provisions of law with respect to the regulation of certified public accountants.

Section 2. Subsection (2) of section 473.306, Florida Statutes, is amended to read:

473.306 Examinations.—

(2) An applicant ~~is shall be~~ entitled to take the licensure examination to practice in this state as a certified public accountant if the applicant:

- (a) Is of good moral character; and
- (b) Has met the following educational requirements from an accredited college or university:

1. If application is made prior to August 2, 1983, a baccalaureate degree with a major in accounting or its equivalent with a concentration in accounting and business to the extent specified by the board.

2. If application is made after August 1, 1983, a baccalaureate degree ~~or its equivalent~~ with a major in accounting or its equivalent plus at least 30 semester or 45 quarter hours in excess of those required for a 4-year baccalaureate degree, with a concentration in accounting and business in the total educational program to the extent specified by the board.

Section 3. Section 473.312, Florida Statutes, is amended to read:

473.312 Continuing education.—As part of the license renewal procedure, the board shall by rule require licensees to submit proof satisfactory to the board that during the 2 years prior to application for renewal, they have successfully completed not less than 48 or more than 80 classroom hours of continuing professional education programs in public accounting subjects approved by the board. *The board may prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period.*

(1) Not less than 25 percent of the total hours required by the board shall be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services.

(2) Programs of continuing professional education approved by the board shall be formal programs of learning which contribute directly to the professional competency of an individual following licensure to practice public accounting and may be any of the following:

- (a) Professional development programs of the American Institute of Certified Public Accountants, state societies of certified public accountants, or other organizations.
- (b) Technical sessions at meetings of the American Institute of Certified Public Accountants, state societies, chapters, or other organizations.
- (c) University and college courses.
- (d) Formal organized in-firm education programs.

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

Amendment 2—In title, on page 1, strike all of lines 2-9, and insert: An act relating to public accountancy; amending s. 473.305, F.S.; providing for a refund of certain fees; providing a fee increase; providing a late filing fee; amending s. 473.306, F.S.; changing certain licensure prerequisites; amending s. 473.312, F.S.; providing for additional continuing education hours in certain circumstances; providing an effective date.

On motion by Senator Margolis, by two-thirds vote HB 1262 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Childers, D.	Crawford	Deratany
Brown	Childers, W. D.	Crenshaw	Frank

Girardeau	Jenne	Margolis	Scott
Gordon	Jennings	McPherson	Stuart
Grant	Johnson	Meek	Thomas
Grizzle	Kirkpatrick	Myers	Thurman
Hair	Kiser	Peterson	Weinstein
Hill	Langley	Plummer	Weinstock
Hollingsworth	Malchon	Ros-Lehtinen	Woodson

Nays—None

CS for SB 743 was laid on the table.

SB 490—A bill to be entitled An act relating to public meetings and records; amending s. 286.011, F.S.; exempting certain meetings of governmental agencies from the requirement that they be open to the public; establishing criteria for such meetings; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 490 to conform the bill to HB 1336.

Pending further consideration of SB 490 as amended, on motions by Senator Grant, by two-thirds vote HB 1336 was withdrawn from the Committees on Governmental Operations and Rules and Calendar.

On motion by Senator Grant—

HB 1336—A bill to be entitled An act relating to public meetings and records; amending s. 286.011, F.S.; exempting certain meetings of governmental agencies from the requirement that they be open to the public; establishing criteria for such meetings; providing an effective date.

—a companion measure, was substituted for SB 490 and read the second time by title.

Further consideration of HB 1336 was deferred.

On motions by Senator Johnson, by two-thirds vote CS for HB 364 was withdrawn from the Committees on Judiciary-Criminal, Transportation and Appropriations.

On motion by Senator Johnson—

CS for HB 364—A bill to be entitled An act relating to driving under the influence; amending s. 316.192, F.S., providing an additional penalty for reckless driving under certain circumstances; amending s. 316.193, F.S., providing clarifying language with respect to convictions for driving under the influence with a certain blood alcohol level; providing clarifying language with respect to substance abuse education, evaluation, and treatment for a violation of law relating to driving under the influence; deleting reference to time periods for subsequent violation penalties; amending s. 316.1932, F.S., deleting reference to a prearrest breath test; amending s. 316.1933, F.S., authorizing blood testing of certain persons under certain circumstances; deleting a restriction on certified paramedics withdrawing blood for the purpose of determining alcohol content; amending s. 322.264, F.S., reducing, under certain circumstances, the number of convictions for moving traffic offenses before a person is considered a "habitual traffic offender"; amending s. 322.28, F.S., deleting reference to time periods for subsequent violation penalties for the suspension or revocation of a driver's license; amending s. 958.04, F.S., providing that adjudication of guilt with respect to a youthful offender shall not be withheld with respect to violations for driving under the influence; providing an effective date.

—a companion measure, was substituted for CS for SB 426 and read the second time by title.

Senator Grant offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 1—On page 5, line 12 through page 12, line 9, strike all of said lines and insert:

Section 3. Section 316.1932, Florida Statutes, 1986 Supplement, is amended to read:

316.1932 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; right to refuse.—

(1)(a) Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state shall, by so operating such vehicle, be deemed to have given his consent to submit to an

approved chemical test or infrared light test of his breath for the purpose of determining the alcoholic content of his blood, and to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances, if he is lawfully arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages, chemical substances, or controlled substances. The chemical or infrared light breath test shall be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The urine test shall be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of one type of either test shall not preclude the administration of another type of the other test. Such person shall be told that his failure to submit to any lawful test of his such a breath test or urine test, or both such tests, will result in the suspension of his privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests. The refusal to submit to a chemical or infrared light breath test or to a urine test upon the request of a law enforcement officer as provided in this section shall be admissible into evidence in any criminal proceeding.

~~(b)1. Notwithstanding the provisions of this section, a law enforcement officer who has reason to believe that a person's ability to operate a motor vehicle is impaired by alcohol or any chemical substance or controlled substance and that the person has been operating a motor vehicle during the period of such impairment may, with the person's consent, give, or the person may demand, a prearrest breath test for the purpose of determining if the person is in violation of s. 316.193(1), but the taking of such prearrest breath test shall not be deemed a compliance with the provisions of paragraph (a). The results of any prearrest test administered under this paragraph shall not be admissible into evidence in any civil or criminal proceeding. An analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially according to methods approved by the Department of Health and Rehabilitative Services. For this purpose, the department is authorized to approve satisfactory techniques or methods. Any insubstantial differences between approved techniques and actual testing procedures in any individual case shall not render the test or test results invalid.~~

~~2. Prior to administering any prearrest breath test, a law enforcement officer shall advise the motor vehicle operator that he has the right to refuse to take such test, and, prior to administering such test, a law enforcement officer shall obtain the written consent of the motor vehicle operator.~~

(b)(e) Any person whose consent is implied as provided in this section shall be deemed to have consented to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided herein if such person appears for treatment at a hospital, clinic, or other medical facility as a result of his involvement as a driver in a motor vehicle accident and the administration of a breath or urine test is impractical or impossible. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition shall be deemed not to have withdrawn his consent to such test. A blood test may be administered whether or not such person is told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle upon the public highways of this state. Any person who is capable of refusal shall be told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been suspended previously as a result of a refusal to submit to such a test or tests. The refusal to submit to a blood test upon the request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

(c)(d) If the arresting officer does not request a chemical or infrared light breath test of the person arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages or controlled substances, such person may request the arresting officer to have a chemical or infrared light test made of the arrested person's breath, or a test of the urine, or blood for the purpose of determining the alcoholic content of the person's blood or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

(d)(e)1. By applying for a driver's license and by accepting and using a driver's license, the person holding the driver's license is deemed to have expressed his consent to the provisions of this section.

2. A nonresident or any other person driving in a status exempt from the requirements of the driver's license law, by his act of driving in such exempt status, is deemed to have expressed his consent to the provisions of this section.

3. A warning of the consent provision of this section shall be printed above the signature line on each new or renewed driver's license issued after the effective date of this act.

(e)(f)1. The tests determining the weight of alcohol in the defendant's blood shall be administered at the direction of the arresting officer substantially in accordance with rules and regulations which shall have been adopted by the Department of Health and Rehabilitative Services. Such rules and regulations shall be adopted after public hearing, shall specify precisely the test or tests which are approved by the Department of Health and Rehabilitative Services for reliability of result and facility of administration, and shall provide an approved method of administration which shall be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

2. Only a physician, certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment, registered nurse, licensed practical nurse, or duly licensed clinical laboratory technologist or clinical laboratory technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

3. The person tested may, at his own expense, have a physician, registered nurse, duly licensed clinical laboratory technologist or clinical laboratory technician, or other person of his own choosing administer a test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in his blood or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his blood or, urine, or by chemical or infrared light analysis of his breath. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him or his attorney.

5. No hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, duly licensed clinical laboratory technologist or clinical laboratory technician, or other person assisting a law enforcement officer shall incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or, urine specimen, or the chemical or infrared light test of a person's breath specimen pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or the presence of chemical substances or controlled substances in the blood obtained pursuant to this section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 316.193 upon request for such information.

Section 4. Paragraph (a) of subsection (2) of section 316.1933, Florida Statutes, 1986 Supplement, is amended to read:

316.1933 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(2)(a) Only a physician, certified paramedic ~~who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment~~, registered nurse, licensed practical nurse, or duly licensed clinical laboratory technologist or clinical laboratory technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

Section 5. Section 316.1934, Florida Statutes, 1986 Supplement, is amended to read:

316.1934 Presumption of impairment; testing methods.—

(1) It is unlawful and punishable as provided in chapter 322 and in s. 316.193 for any person who is under the influence of alcoholic beverages or controlled substances, when affected to the extent that his normal faculties are impaired, to drive or be in actual physical control of any motor vehicle within this state.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving, or in actual physical control of, a vehicle while under the influence of alcoholic beverages or controlled substances, when affected to the extent that his normal faculties were impaired or to the extent that he was deprived of full possession of his normal faculties, the results of any test administered in accordance with s. 316.1932 or s. 316.1933 and this section shall be admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, or by *chemical or infrared light analysis of the person's breath*, shall give rise to the following presumptions:

(a) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(b) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that his normal faculties were impaired, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, that fact shall be prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired. Moreover, such person who has a blood alcohol level of 0.10 percent or above is guilty of driving, or being in actual physical control of, a motor vehicle, with an unlawful blood alcohol level.

The percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood. The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(3) A chemical analysis of a person's blood to determine alcoholic content or a *chemical or infrared light* analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially in accordance with methods approved

by the Department of Health and Rehabilitative Services and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in any individual case shall not render the test or test results invalid. The Department of Health and Rehabilitative Services may approve satisfactory techniques or methods, ascertain the qualifications and competence of individuals to conduct such analyses, and issue permits which shall be subject to termination or revocation in accordance with rules adopted by the department.

(4) Any person charged with a violation of s. 316.193, whether in a municipality or not, is entitled to trial by jury according to the Florida Rules of Criminal Procedure.

(Renumber subsequent sections.)

Senators Weinstein and Johnson offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 2—On page 12, between lines 9 and 10, insert:

Section 5. Sections 316.1936 and 316.1937, Florida Statutes, are created to read:

316.1936 Ignition interlock devices, requiring; unlawful acts.—

(1) In addition to any other authorized penalties, the court may require that any person who is convicted of driving under the influence in violation of s. 316.193, and who is granted probation, shall not operate a motor vehicle during the period of probation unless that vehicle is equipped with a functioning, certified ignition interlock device installed in such a manner that the vehicle will not start if the operator's blood alcohol level is in excess of 0.05 percent or as otherwise specified by the court. The court may require the use of an approved ignition interlock device for the period of probation, said period to be for not less than 6 months, if the person is permitted to operate a motor vehicle, whether the privilege to operate a motor vehicle is restricted or not, as determined by the court.

(2) If the court imposes the use of an ignition interlock device as a condition of probation, the court shall:

(a) Stipulate on the record the requirement for, and the period of, the use of a certified ignition interlock device;

(b) Order that the records of the department reflect such requirement;

(c) Order that an ignition interlock device be installed, as the court may determine necessary, on any vehicle owned or operated by the probationer;

(d) Determine the probationer's ability to pay for installation of the device, if the probationer claims inability to pay; and

(e) Require proof of installation of the device and periodic reporting to the probation officer for verification of the operation of the device in the probationer's vehicle.

(3) If the court imposes the use of an ignition interlock device as a term of probation on a person whose driving privilege is not suspended or revoked, the court shall require the person to provide proof of compliance to the probation officer within 30 days. If the person fails to provide proof of installation within that period, absent a finding by the court of good cause for that failure which is entered in the court record, the court shall revoke or terminate the person's probation.

(4) If the court imposes the use of an ignition interlock device as a term of probation on a person whose driving privilege is suspended or revoked for a period of less than 3 years, the department shall require proof of compliance before reinstatement of the person's driving privilege.

(5) In addition to any other provisions of law, upon a finding by the court that a probationer has violated any term of probation relating to the use of an ignition interlock device, the department shall revoke the person's driving privilege for 1 year from the date of such finding. Upon finding of a separate violation of any term of probation relating to the use of an ignition interlock device, the department shall revoke the person's

driving privilege for 5 years from the date of such finding. The court shall report such findings to the department.

(6) It is unlawful for any person to commit any of the following acts. In the case of a probationer, refraining from such acts as shall be imposed by the court as terms of probation and if violated, shall subject the probationer to license revocation as provided in subsection (5):

(a) It is unlawful to tamper with, or to circumvent the operation of, a court-ordered ignition interlock device.

(b) It is unlawful for any person whose driving privilege is restricted pursuant to this section to request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

(c) It is unlawful to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person whose driving privilege is restricted pursuant to this section.

(d) It is unlawful to knowingly lease or lend a motor vehicle to a person who has had his or her driving privilege restricted under a condition of probation as provided in this section, unless the vehicle is equipped with a functioning, certified ignition interlock device. Any person whose driving privilege is restricted under a condition of probation requiring an ignition interlock device shall notify any other person who leases or loans a motor vehicle to him or her of such driving restriction.

(7) Notwithstanding the provisions of this section, if a person is required to operate a motor vehicle in the course and scope of his or her employment and if the vehicle is owned by the employer, the person may operate that vehicle without installation of an approved ignition interlock device if the employer has been notified of such driving privilege restriction and if proof of that notification is with the vehicle. This employment exemption does not apply, however, if the business entity which owns the vehicle is owned or controlled by the person whose driving privilege has been restricted.

316.1937 Ignition interlock devices, certification; warning label.—

(1) The Department of Health and Rehabilitative Services shall certify or cause to be certified ignition interlock devices as required by s. 316.1936, and shall publish a list of approved devices, together with rules governing the accuracy and the proper use of such devices as adopted by rule in compliance with s. 316.1936. The cost of certification shall be borne by the manufacturers of ignition interlock devices.

(2) No model of ignition interlock device shall be certified unless it meets the accuracy requirements specified by rules of the department.

(3) The department shall design and adopt by rule a warning label which shall be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a violation of law and may be subject to civil liability.

(Renumber subsequent sections.)

Senator Johnson moved the following amendments which were adopted:

Amendment 3—On page 5, lines 12-31; on page 6, lines 1-31; on page 7, lines 1-31; on page 8, lines 1-31; on page 9, lines 1-31; and on page 10, lines 1-31, strike all of said lines and insert:

Section 3. Section 316.1932, Florida Statutes, 1986 Supplement, is amended to read:

316.1932 Breath, blood, and urine tests for alcohol, chemical substances, or controlled substances; implied consent; right to refuse.—

(1)(a) Any person who accepts the privilege extended by the laws of this state of operating a motor vehicle within this state shall, by so operating such vehicle, be deemed to have given his consent to submit to an approved chemical or physical test, including but not limited to an infrared light test, of his breath for the purpose of determining the alcoholic content of his blood, and to a urine test for the purpose of detecting the presence of chemical substances as set forth in s. 877.111 or controlled substances, if he is lawfully arrested for any offense allegedly committed

while the person was driving or was in actual physical control of a motor vehicle while under the influence of alcoholic beverages, chemical substances, or controlled substances. The chemical or physical breath test shall be incidental to a lawful arrest and administered at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of the motor vehicle within this state while under the influence of alcoholic beverages. The urine test shall be incidental to a lawful arrest and administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests at the request of a law enforcement officer who has reasonable cause to believe such person was driving or was in actual physical control of a motor vehicle within this state while under the influence of controlled substances. The urine test shall be administered at a detention facility or any other facility, mobile or otherwise, which is equipped to administer such tests in a reasonable manner that will ensure the accuracy of the specimen and maintain the privacy of the individual involved. The administration of one type of either test shall not preclude the administration of another type of the other test. Such person shall be told that his failure to submit to any lawful test of his such a breath test or urine test, or both such tests, will result in the suspension of his privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been previously suspended as a result of a refusal to submit to such a test or tests. The refusal to submit to a chemical or physical breath test or to a urine test upon the request of a law enforcement officer as provided in this section shall be admissible into evidence in any criminal proceeding.

(b)1. Notwithstanding the provisions of this section, a law enforcement officer who has reason to believe that a person's ability to operate a motor vehicle is impaired by alcohol or any chemical substance or controlled substance and that the person has been operating a motor vehicle during the period of such impairment may, with the person's consent, give, or the person may demand, a prearrest breath test for the purpose of determining if the person is in violation of s. 316.193(1), but the taking of such prearrest breath test shall not be deemed a compliance with the provisions of paragraph (a). The results of any prearrest test administered under this paragraph shall not be admissible into evidence in any civil or criminal proceeding. An analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially according to methods approved by the Department of Health and Rehabilitative Services. For this purpose, the department is authorized to approve satisfactory techniques or methods. Any insubstantial differences between approved techniques and actual testing procedures in any individual case shall not render the test or test results invalid.

2. Prior to administering any prearrest breath test, a law enforcement officer shall advise the motor vehicle operator that he has the right to refuse to take such test, and, prior to administering such test, a law enforcement officer shall obtain the written consent of the motor vehicle operator.

(c) Any person whose consent is implied as provided in this section shall be deemed to have consented to an approved blood test for the purpose of determining the alcoholic content of the blood or a blood test for the purpose of determining the presence of chemical substances or controlled substances as provided herein if such person appears for treatment at a hospital, clinic, or other medical facility as a result of his involvement as a driver in a motor vehicle accident and the administration of a breath or urine test is impractical or impossible. The blood test shall be performed in a reasonable manner. Any person who is incapable of refusal by reason of unconsciousness or other mental or physical condition shall be deemed not to have withdrawn his consent to such test. A blood test may be administered whether or not such person is told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle upon the public highways of this state. Any person who is capable of refusal shall be told that his failure to submit to such a blood test will result in the suspension of his privilege to operate a motor vehicle for a period of 1 year for a first refusal, or for a period of 18 months if the driving privilege of such person has been suspended previously as a result of a refusal to submit to such a test or tests. The refusal to submit to a blood test upon the request of a law enforcement officer shall be admissible in evidence in any criminal proceeding.

(d) If the arresting officer does not request a chemical or physical breath test of the person arrested for any offense allegedly committed while the person was driving or was in actual physical control of a motor

vehicle while under the influence of alcoholic beverages or controlled substances, such person may request the arresting officer to have a chemical or physical test made of the arrested person's breath, or a test of the urine, or blood for the purpose of determining the alcoholic content of the person's blood or the presence of chemical substances or controlled substances; and, if so requested, the arresting officer shall have the test performed.

(e)1. By applying for a driver's license and by accepting and using a driver's license, the person holding the driver's license is deemed to have expressed his consent to the provisions of this section.

2. A nonresident or any other person driving in a status exempt from the requirements of the driver's license law, by his act of driving in such exempt status, is deemed to have expressed his consent to the provisions of this section.

3. A warning of the consent provision of this section shall be printed above the signature line on each new or renewed driver's license issued after the effective date of this act.

(f)1. The tests determining the weight of alcohol in the defendant's blood shall be administered at the direction of the arresting officer substantially in accordance with rules and regulations which shall have been adopted by the Department of Health and Rehabilitative Services. Such rules and regulations shall be adopted after public hearing, shall specify precisely the test or tests which are approved by the Department of Health and Rehabilitative Services for reliability of result and facility of administration, and shall provide an approved method of administration which shall be followed in all such tests given under this section. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

2. Only a physician, certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment, registered nurse, licensed practical nurse, or duly licensed clinical laboratory technologist or clinical laboratory technician, acting at the request of a law enforcement officer, may withdraw blood for the purpose of determining the alcoholic content thereof or the presence of chemical substances or controlled substances therein. However, the failure of a law enforcement officer to request the withdrawal of blood shall not affect the admissibility of a test of blood withdrawn for medical purposes.

3. The person tested may, at his own expense, have a physician, registered nurse, duly licensed clinical laboratory technologist or clinical laboratory technician, or other person of his own choosing administer a test in addition to the test administered at the direction of the law enforcement officer for the purpose of determining the amount of alcohol in his blood or the presence of chemical substances or controlled substances at the time alleged, as shown by chemical analysis of his blood or, urine, or by chemical or physical test of his breath. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of the law enforcement officer.

4. Upon the request of the person tested, full information concerning the test taken at the direction of the law enforcement officer shall be made available to him or his attorney.

5. No hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, duly licensed clinical laboratory technologist or clinical laboratory technician, or other person assisting a law enforcement officer shall incur any civil or criminal liability as a result of the withdrawal or analysis of a blood or, urine specimen, or the chemical or physical test of a person's breath specimen pursuant to accepted medical standards when requested by a law enforcement officer, regardless of whether or not the subject resisted administration of the test.

(2) The results of any test administered pursuant to this section for the purpose of detecting the presence of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

(3) Notwithstanding any provision of law pertaining to the confidentiality of hospital records or other medical records, information relating to the alcoholic content of the blood or the presence of chemical substances or controlled substances in the blood obtained pursuant to this

section shall be released to a court, prosecuting attorney, defense attorney, or law enforcement officer in connection with an alleged violation of s. 316.193 upon request for such information.

(Renumber subsequent sections.)

Amendment 4—On page 12, between lines 9 and 10, insert:

Section 5. Section 316.1934, Florida Statutes, 1986 Supplement, is amended to read:

316.1934 Presumption of impairment; testing methods.—

(1) It is unlawful and punishable as provided in chapter 322 and in s. 316.193 for any person who is under the influence of alcoholic beverages or controlled substances, when affected to the extent that his normal faculties are impaired, to drive or be in actual physical control of any motor vehicle within this state.

(2) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving, or in actual physical control of, a vehicle while under the influence of alcoholic beverages or controlled substances, when affected to the extent that his normal faculties were impaired or to the extent that he was deprived of full possession of his normal faculties, the results of any test administered in accordance with s. 316.1932 or s. 316.1933 and this section shall be admissible into evidence when otherwise admissible, and the amount of alcohol in the person's blood at the time alleged, as shown by chemical analysis of the person's blood, or by chemical or physical test of the person's breath, shall give rise to the following presumptions:

(a) If there was at that time 0.05 percent or less by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(b) If there was at that time in excess of 0.05 percent but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of alcoholic beverages to the extent that his normal faculties were impaired, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(c) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, that fact shall be prima facie evidence that the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired. Moreover, such person who has a blood alcohol level of 0.10 percent or above is guilty of driving, or being in actual physical control of, a motor vehicle, with an unlawful blood alcohol level.

The percent by weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood. The foregoing provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of alcoholic beverages to the extent that his normal faculties were impaired.

(3) A chemical analysis of a person's blood to determine alcoholic content or a chemical or physical test analysis of a person's breath, in order to be considered valid under the provisions of this section, must have been performed substantially in accordance with methods approved by the Department of Health and Rehabilitative Services and by an individual possessing a valid permit issued by the department for this purpose. Any insubstantial differences between approved techniques and actual testing procedures in any individual case shall not render the test or test results invalid. The Department of Health and Rehabilitative Services may approve satisfactory techniques or methods, ascertain the qualifications and competence of individuals to conduct such analyses, and issue permits which shall be subject to termination or revocation in accordance with rules adopted by the department.

(4) Any person charged with a violation of s. 316.193, whether in a municipality or not, is entitled to trial by jury according to the Florida Rules of Criminal Procedure.

(Renumber subsequent sections.)

Amendment 5—On page 13, lines 9-31 and on page 14, lines 1-11, strike all of said lines.

Amendment 6—In title, on page 2, line 20, after the semicolon (;) insert: amending s. 316.1934, F.S.; providing conforming language;

Amendment 7—On page 4, strike all of lines 12-17 and insert:

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

(c) For the third conviction within a period of 5 years from the date of a prior conviction for violation of

Senator Grant offered the following amendment which was moved by Senator Johnson and adopted:

Amendment 8—In title, on page 1, line 20, after the semicolon (;) insert: amending ss. 316.1932 and 316.1934, F.S.; authorizing the use of infrared light measuring devices approved by the Department of Health and Rehabilitative Services for breath testing of motorists to determine blood alcohol levels;

Senator Johnson moved the following amendments which were adopted:

Amendment 9—In title, on page 1, strike all of lines 14 and 15 and insert: penalties; amending s. 316.1932, F.S.; authorizing the use of physical tests including infrared light measuring devices approved by the Department of Health and Rehabilitative Services for breath testing of motorists to determine blood alcohol levels; amending

Amendment 10—In title, on page 1, lines 12-14, strike "deleting reference to time periods for subsequent violation penalties;"

Amendment 11—In title, on page 1, lines 25-28, strike "amending s. 322.28, F.S., deleting reference to time periods for subsequent violation penalties for the suspension or revocation of a driver's license;"

Amendment 12—In title, on page 1, line 20, after the semicolon (;) insert: creating ss. 316.1936 and 316.1937, F.S.; authorizing, in addition to other penalties for driving under the influence, the requirement of ignition interlock devices as a condition of probation; providing unlawful acts with respect to such devices; providing required terms of probation; providing for license revocation under certain circumstances; providing for certification of such devices by the Department of Health and Rehabilitative Services; providing rulemaking authority;

On motion by Senator Johnson, by two-thirds vote CS for HB 364 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Grant	Kiser	Plummer
Brown	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Scott
Childers, W. D.	Hill	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson

Nays—None

CS for SB 426 was laid on the table.

On motion by Senator Langley, by two-thirds vote CS for HB 198 was withdrawn from the Committee on Commerce.

On motion by Senator Langley—

CS for HB 198—A bill to be entitled An act relating to the Motor Fuel Marketing Practices Act; amending s. 526.303, F.S., defining the terms "nonrefiner" and "nonrefiner cost"; amending s. 526.304, F.S., prohibiting nonrefiners from selling below cost; including relevant market area; amending s. 526.311, F.S., increasing certain fines; requiring refiners to provide the Department of Agriculture and Consumer Services with reasonable access to certain information; amending s. 526.3135, F.S., eliminating a report required by the Division of Consumer Services; providing an effective date.

—a companion measure, was substituted for CS for SB 406 and read the second time by title. On motion by Senator Langley, by two-thirds vote CS for HB 198 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Beard	Grant	Kiser	Plummer
Brown	Grizzle	Langley	Ros-Lehtinen
Childers, D.	Hair	Lehtinen	Scott
Childers, W. D.	Hill	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson

Nays—None

CS for SB 406 was laid on the table.

Consideration of CS for SB 411 and CS for SB 412 was deferred.

CS for SB 359—A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.401, F.S.; providing legislative purpose; amending s. 400.402, F.S.; changing definitions; amending s. 400.404, F.S.; exempting certain retirement community facilities from licensure under this part; amending s. 400.407, F.S.; providing requirements for facilities that give and persons who receive limited nursing services; revising license fees and allowing periodic adjustment of those fees; providing for an additional fee for certain facilities and specifying the use of such fee; amending s. 400.411, F.S.; expanding the information required to be on license applications; prohibiting counties and municipalities from issuing an occupational license without first ascertaining that the applicant has been licensed as an adult congregate living facility; amending s. 400.412, F.S.; increasing the time period for giving notice and making application for a license before a transfer of ownership; requiring certain information to be sent to the Department of Health and Rehabilitative Services for licensure after a sale or transfer; amending s. 400.414, F.S.; providing grounds for denying a license and for taking action against a licensee; amending s. 400.421, F.S.; providing for temporary injunction and enjoining of a facility; amending s. 400.424, F.S.; revising and adding certain contract requirements; amending s. 400.426, F.S.; requiring a documented, periodic nursing assessment of residents; requiring records to be maintained for departmental inspection; amending s. 400.427, F.S.; revising the maximum value of personal effects that may be retained in the safekeeping of the facility; amending s. 400.441, F.S.; providing for standards based on the size of a facility; amending s. 400.447, F.S.; providing that a facility may be advertised while under construction if the department approves; requiring a disclaimer; creating s. 400.453, F.S.; providing for departmental consultation; providing for a fee; creating s. 205.1965, F.S.; prohibiting counties and municipalities from issuing an occupational license without first ascertaining that the applicant has been licensed as an adult congregate living facility; providing for review and repeal; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendment which was adopted:

Amendment 1—On page 7, line 17, after "sanctions" insert: *which affect the health, safety, and welfare of residents*

Senator Hill moved the following amendment which was adopted:

Amendment 2—On page 2, between lines 26 and 27, insert:

Section 1. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Resident Protection Trust Fund.—

(1) A Resident Protection Trust Fund shall be established for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 393.0673(2), 400.062(3)(b), 400.111(1), 400.121(2), and 400.23(4). Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the department determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the department determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the department may utilize such funds to maintain and care for the residents in the facility pending removal and alternate placement. The maintenance and care of the residents shall be

under the direction and control of a receiver appointed pursuant to s. 400.126(1) or s. 393.0678(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(6)(e), or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

(Renumber subsequent sections.)

Senator Crenshaw offered the following amendment which was moved by Senator Deratany and adopted:

Amendment 3—On page 21, between lines 17 and 18, insert:

Section 16. Subsection (5) is added to section 381.495, Florida Statutes, to read:

(5) Any facility domesticated in this state for at least 60 years on or before July 1, 1987, which has a licensed nursing home facility located on the grounds of a facility providing personal services, owned and operated by a nationally recognized fraternal organization, not open to the public, and which accepts only its own members and their spouses as residents, shall be exempt from the certificate of need requirements pursuant to ss. 381.493-381.499, until such time as the facility is sold or its ownership is transferred.

(Renumber subsequent sections.)

Senator Woodson offered the following amendment which was moved by Senator Myers and adopted:

Amendment 4—On page 21, between lines 26 and 27, insert:

Section 18. The Department of Health and Rehabilitative Services shall conduct a comprehensive long-term care financing study. The purpose of this study is to determine the gaps in service provision and to recommend methods of financing these long-term care services. The study shall provide documentation on the present and future projections of persons needing long-term care services who are not eligible for financial assistance; the types of services needed by these persons; the extent of asset depletion which ultimately enables a person to be eligible for the Medicaid program; and the effect of asset depletion on the income of the remaining spouse or family. The department shall report its findings and recommendations to the Legislature by March 1, 1988.

(Renumber subsequent sections.)

Senator Hill offered the following amendment which was moved by Senator Myers and adopted:

Amendment 5—In title, on page 1, lines 1 and 2, strike "adult congregate living facilities" and insert: nursing homes and related health care facilities; amending s. 400.063, F.S., providing for the expenditure of funds in the nursing home Resident Protection Trust Fund upon a declaration of local emergency pursuant to state law or upon an authorized local order of evacuation of a facility;

Senator Crenshaw offered the following amendment which moved by Senator Myers and adopted:

Amendment 6—In title, on page 2, line 21, after the first semicolon (;) insert: amending s. 381.495, F.S.; providing an exemption from certain certificate of need requirements;

Senator Woodson offered the following amendment which was moved by Senator Myers and adopted:

Amendment 7—In title, on page 2, line 22, after the semicolon (;) insert: providing for a comprehensive long-term care financing study and report;

On motion by Senator Myers, by two-thirds vote CS for SB 359 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Beard	Childers, W. D.	Frank	Grizzle
Brown	Crenshaw	Gordon	Hair
Childers, D.	Deratany	Grant	Hill

Hollingsworth	Lehtinen	Peterson	Thurman
Jenne	Malchon	Plummer	Weinstein
Johnson	Margolis	Ros-Lehtinen	Weinstock
Kirkpatrick	McPherson	Scott	Woodson
Kiser	Meek	Stuart	
Langley	Myers	Thomas	

Nays—None

HB 428—A bill to be entitled An act relating to insurance; amending s. 624.155, F.S., requiring additional information to be included in a notice of an alleged violation by an insurer as a condition to bringing a civil remedy action; specifying authority of the Department of Insurance relative to such notices; requiring insurers to report on the disposition of the violation; providing an effective date.

—was taken up pending roll call.

On motion by Senator Langley, the Senate reconsidered the vote by which HB 428 as amended was read the third time May 27.

On motions by Senator Langley, the Senate reconsidered the vote by which Amendments 3 and 4 were adopted. By permission, Amendments 3 and 4 were withdrawn.

On motion by Senator Langley, by two-thirds vote HB 428 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Grant	Kiser	Ros-Lehtinen
Brown	Grizzle	Langley	Scott
Childers, D.	Hair	Lehtinen	Stuart
Childers, W. D.	Hill	Malchon	Thomas
Crenshaw	Hollingsworth	Margolis	Thurman
Deratany	Jenne	McPherson	Weinstein
Frank	Jennings	Meek	Weinstock
Girardeau	Johnson	Myers	Woodson
Gordon	Kirkpatrick	Peterson	

Nays—None

Consideration of CS for SB's 35, 437, 894 and 923 and CS for HB 1467 was deferred.

HB 259—A bill to be entitled An act relating to county officials; amending s. 145.19, F.S.; amending the definition of "annual factor" for purposes of calculating annual salary increases for county officers; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendments which were adopted:

Amendment 1—On page 1, line 22, insert a new Section 2:

Section 2. Subsection (1) of section 145.051, Florida Statutes, is amended to read:

145.051 Clerk of circuit court; county comptroller.—

(1) Each clerk of the circuit court and each county comptroller shall receive as salary the amount indicated, based on the population of his county. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.

Pop. Group	County Pop. Range	Base Salary	Group Rate
	Minimum Maximum		
I	-0- 49,999	\$19,150 \$21,250	\$0.07875
II	50,000 99,999	22,300 24,400	0.06300
III	100,000 199,999	25,450 27,550	0.02625
IV	200,000 399,999	28,075 30,175	0.01575
V	400,000 999,999	31,225 33,325	0.00525
VI	1,000,000	34,375 36,475	0.00400

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, strike line 6 and insert: amending subsection (1) of section 145.051, F.S.; relating to

salary of clerk of circuit court and county comptroller; providing an effective date.

On motion by Senator Grant, by two-thirds vote HB 259 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Hair	Lehtinen	Stuart
Brown	Hill	Malchon	Thomas
Childers, D.	Hollingsworth	Margolis	Thurman
Childers, W. D.	Jenne	McPherson	Weinstein
Deratany	Jennings	Meek	Weinstock
Frank	Johnson	Myers	Woodson
Gordon	Kirkpatrick	Peterson	
Grant	Kiser	Ros-Lehtinen	
Grizzle	Langley	Scott	

Nays—None

On motion by Senator Johnson, by two-thirds vote HB 535 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Johnson—

HB 535—A bill to be entitled An act relating to court costs; requiring the court to consider the services of legal assistants when awarding attorneys' fees; defines legal assistant; providing an effective date.

—a companion measure, was substituted for CS for SB 11 and read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 1, line 25, after "1987" insert: , and shall be prospective only

On motion by Senator Johnson, by two-thirds vote HB 535 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Grizzle	Langley	Ros-Lehtinen
Brown	Hair	Lehtinen	Scott
Childers, D.	Hill	Malchon	Stuart
Childers, W. D.	Hollingsworth	Margolis	Thomas
Crenshaw	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson
Grant	Kiser	Plummer	

Nays—None

CS for SB 11 was laid on the table.

CS for SB 371—A bill to be entitled An act relating to education; establishing the Governor's Summer Colleges Program; providing the objectives of the program; providing for a Governor's Summer Colleges Council; providing for the State Board of Education to adopt rules to select location of the programs and participants; providing that students shall not be charged fees; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 2, line 30, strike Section 2 and renumber subsequent sections.

Amendment 2—In title, on page 1, line 10, strike "providing an appropriation;"

On motion by Senator Johnson, by two-thirds vote CS for SB 371 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

Beard	Grizzle	Langley	Scott
Brown	Hair	Malchon	Stuart
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Grant	Kiser	Ros-Lehtinen	

Nays—None

CS for SB 546—A bill to be entitled An act relating to hazardous waste management; amending s. 403.7225, F.S.; providing alternative procedure for updating assessments; amending s. 403.7264, F.S.; continuing amnesty days for collecting small quantities of hazardous waste from homeowners, farmers, schools, state agencies, and small businesses; requiring participation by the regional planning councils; setting a schedule for amnesty days; amending s. 403.7265, F.S.; providing for revisions of the plan for collecting small quantities of hazardous waste from homeowners, farmers, and businesses; requiring the Department of Environmental Regulation to establish a grant program for local governments to provide, through private entities, for regional hazardous waste collection centers; deleting the matching requirement; increasing the maximum amount of a regional collection center grant; requiring the department to submit a strategy for a local hazardous waste collection center network by 1990; requiring the department to recommend a multipurpose hazardous waste facility site by 1988; requiring review of regional planning council regional storage facility site designations; providing appropriations from the Water Quality Assurance Trust Fund and the General Revenue Fund; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 1—On page 8, line 13, strike "1" and insert: 2

Amendment 2—On page 8, lines 17 and 18, strike ", or upon becoming a law, whichever occurs later"

Amendment 3—On page 6, line 19, insert:

(3) For the purposes of this section, the phrase:

(b) "Regional collection center" means a facility ~~permitted by the department~~ for the storage of hazardous wastes *from a region*.

Amendment 4—In title, on page 1, line 14, after the semicolon (;) insert: defining regional collection center;

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 546 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Beard	Hair	Langley	Ros-Lehtinen
Brown	Hill	Lehtinen	Scott
Childers, D.	Hollingsworth	Margolis	Stuart
Childers, W. D.	Jenne	McPherson	Thomas
Crenshaw	Jennings	Meek	Thurman
Frank	Johnson	Myers	Weinstein
Girardeau	Kirkpatrick	Peterson	Weinstock
Grant	Kiser	Plummer	Woodson

Nays—None

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Langley, by two-thirds vote CS for SB 446 was withdrawn from the Committee on Rules and Calendar.

Recess

On motion by Senator Langley, the Senate recessed at 11:58 a.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by Senator W. D. Childers at 2:00 p.m.
A quorum present—34:

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Margolis, by two-thirds vote HB 591 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 141 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 141—A bill to be entitled An act relating to the Department of Transportation; amending s. 20.23, F.S.; providing legislative intent; providing for appointment of the Secretary of Transportation; providing powers and duties of the secretary and assistant secretary; creating the Florida Transportation Commission; providing for the membership of the commission; providing for the powers and duties of the commission; providing for travel expenses of commission members; providing for commission chairman, meetings, quorums, and records; providing for future repeal and review pursuant to the Sundown Act; allocating responsibilities within the department; providing an effective date.

Amendment 1—On page 4, line 24, through page 6, line 28, strike all of said lines and insert: 4. Review all construction, design and maintenance standards which may have been issued by the department and cause to have issued only those standards which can be shown to be cost-effective, consistent with any federal regulations or other prevailing state law which may apply.

(c) The commission or a member thereof may not enter into the day-to-day operation of the department and is specifically prohibited from taking part in:

1. The awarding of contracts.
2. The selection of a consultant or contractor or the prequalification of any individual consultant or contractor; however, the commission may recommend to the secretary standards and policies governing the procedure for selection and prequalification of consultants and contractors.
3. The selection of a route for a specific project.
4. The specific location of a transportation facility.
5. The acquisition of rights-of-way.
6. The employment, promotion, demotion, suspension, transfer, or discharge of any department personnel.
7. The granting, denial, suspension, or revocation of any license or permit issued by the department.

(d)1. The first chairman of the commission 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.

2. The commission shall hold a minimum of 4 regular meetings annually and other meetings may be called by the chairman upon at least 1 week's notice to all members and the public pursuant to chapter 120. Other meetings may also be held upon the written request of at least four other members of the commission, with at least 1 week's notice of such meeting being given to all members and the public by the chairman pursuant to chapter 120. Emergency meetings may be held without notice upon the request of all members of the commission.

3. Five members of the commission constitute a quorum at any meeting of the commission. An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of at least four members of the commission at a meeting held pursuant to subparagraph 2. and the vote is recorded in the minutes of that meeting.

4. The chairman shall cause to be made a complete record of the proceedings of the commission, which record shall be open for public inspection.

(e) The meetings of the commission shall be held in the central office of the department in Tallahassee unless the chairman determines that special circumstances warrant meeting at another location.

(f) Members of the commission are entitled to per diem and traveling expenses pursuant to s. 112.061.

(g) A member of the commission may not 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.

(3)(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 departmental rules, procedures, guidelines, and standards.

(c) The minimum resources necessary to ensure the efficiency, effectiveness, and quality of performance by the department of its statutory responsibilities shall be allocated to the central office.

(4)(a)(5) The operations of the department shall be organized into seven ~~a minimum of six~~ districts, each headed by a deputy assistant secretary. The headquarters of the districts shall be located in Polk, Columbia, Washington, Broward, Volusia, Dade and Hillsborough Counties. In order to provide for efficient

Amendment 2—On page 2, in the title, line 13, after the semicolon (;) insert: providing locations of district headquarters;

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

CS for SB 141 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—26

Beard	Grizzle	Lehtinen	Ros-Lehtinen
Brown	Hill	Malchon	Scott
Childers, D.	Hollingsworth	Margolis	Thurman
Childers, W. D.	Jenne	McPherson	Weinstein
Frank	Jennings	Meek	Woodson
Gordon	Johnson	Myers	
Grant	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau, Kirkpatrick, Langley, Stuart

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendments 1 and 2, concurred in same as amended and passed as amended CS for HB 123 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 123—A bill to be entitled An act relating to transportation contracts; creating s. 337.015, F.S., providing direction with respect to the administration of public transportation contracts; requiring the department to report annually on the administration of public transportation contracts; amending s. 337.11, F.S., expanding requirements with respect to contracts let by the department; amending s. 337.14, F.S., authorizing the department to limit the dollar amount or the total dollar volume of contracts which a person is allowed to have under contract at one time; 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 for certain contract defaults; 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; providing for applicability of certain sections of the act to specified contracts; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 6, line 23, through page 20, line 10, strike all of said lines and insert:

Section 5. Subsection (3) and paragraph (a) of subsection (5) and subsection (7) of section 337.11, Florida Statutes, 1986 Supplement, are amended to read:

337.11 Authority of department to contract; advertise for bids; make emergency repairs, supplemental agreements, and change orders; *progress periodic* payments; preservation of records.—

(3)(a) The department may award the proposed work to the lowest responsible bidder, or it may reject all bids and proceed to readvertise the work or otherwise perform the work.

(b) *Any person who files an action protesting an award pursuant to paragraph (a) shall post with the department, at the time of filing the formal written protest, a bond payable to the department in an amount equal to 1 percent of the lowest bid submitted or \$5,000, whichever is less, which bond shall be conditioned upon the payment of all costs which may be adjudged against him in the administrative hearing in which the action is brought and any subsequent appellate court proceeding. If, after completion of the administrative hearing process and any appellate court proceedings, the department prevails, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him. If the person protesting the award prevails, he shall recover from the department all costs and charges which shall be included in the final order or judgment, excluding attorney fees.*

(c) *As an alternative to any provision in s. 120.53(5)(c), the department may proceed with the bid solicitation or contract award process when the head of the department sets forth in writing particular facts and circumstances which require the continuance of the bid solicitation process or the contract award process in order to avoid a substantial loss of funding to the state.*

(d) *A person may not file a protest on any project for which he is not certified to bid pursuant to s. 337.14.*

(5)(a) The department shall permit the use of written supplemental agreements and written change orders to any contract entered into by the department. Any supplemental agreement shall be reduced to written contract form, approved by the contractor's surety, and executed by the contractor and the department. Any supplemental agreement modifying any item in the original contract must be approved by the head of the department, or his designee, and executed by the appropriate person designated by him, ~~except that a supplemental agreement for an original contract in an amount of \$150,000 or less may be approved by the deputy assistant secretary of the district administering such contract.~~

(7)(a) Every contract let by the department for the performance of work shall contain a provision requiring the prime contractor, before receipt of any *progress periodic* payment under the provisions of such contract, to certify that *the prime contractor has disbursed to all subcontractors and suppliers having an interest in the contract have received their pro rata shares of the payment out of previous progress periodic payments received by the prime contractor for all work completed and materials furnished in the previous period, less any retainage withheld*

by the prime contractor pursuant to an agreement with a subcontractor, as approved by the department for payment. The department shall not make any such progress periodic payment before receipt of such certification, unless the contractor demonstrates good cause for not making any such required payment and furnishes written notification of any such good cause to both the department and the affected subcontractors and suppliers.

(b) *Every contract let by the department for the performance of work shall contain a provision requiring the prime contractor, within 30 days of receipt of final progress payment or any other payments received thereafter except the final payment, to pay all subcontractors and suppliers having an interest in the contract their pro rata shares of the payment for all work completed and materials furnished, unless the contractor demonstrates good cause for not making any said required payment and furnishes written notification of any such good cause to both the department and the affected subcontractors or suppliers within said 30-day period.*

(c) *The department shall document and monitor claims of nonpayment of prime contractors, subcontractors and suppliers. The claims shall be submitted to the department in writing, and the department shall maintain, in a central file, a record of each claim, specifying the claimant, the nature and the resolution of the claim.*

Section 6. Subsections (1) and (2) of section 337.14, Florida Statutes, 1986 Supplement, are amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(1) Any person desiring to bid for the performance of any construction contract in excess of \$250,000 ~~\$150,000~~ which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of the department. The rules of the department shall address the qualification of persons to bid on construction contracts in excess of \$250,000 ~~\$150,000~~ and shall include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applicant *necessary to perform the specific class of work for which the person seeks certification. The department is authorized to limit the dollar amount of any contract upon which a person is qualified to bid or the aggregate total dollar volume of contracts such person is allowed to have under contract at any one time.* Each applicant seeking qualification to bid on construction contracts in excess of \$250,000 ~~\$150,000~~ shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification shall be accompanied by the latest annual financial statement of the applicant completed within the last 12 months. If the annual financial statement shows the financial condition of the applicant more than 4 months prior to the date on which the application is received by the department, then an interim financial statement must also be submitted. The interim financial statement must cover the period from the end date of the annual statement and must show the financial condition of the applicant no more than 4 months prior to the date on which the application is received by the department. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant or a public accountant approved by the department. The information required by this subsection is confidential and exempt from the provisions of s. 119.07(1). The department shall act upon the application for qualification within 30 days after it is presented.

(2) Certification shall be necessary in order to bid on a road, bridge, or public transportation construction contract of more than \$250,000 ~~\$150,000~~. However, the successful bidder on any construction contract must furnish a contract bond prior to the award of the contract. *The department may waive the requirement for all or a portion of a contract bond for contracts of \$150,000 or less under s. 337.18(1).*

Section 7. Section 337.145, Florida Statutes, is created to read:

337.145 *Offsetting payments.*—

(1) *After settlement, arbitration, or final adjudication of any claim of the department for work done pursuant to a construction contract with any party, the department may offset such amount from payments due for work done on any construction contract, excluding amounts owed subcontractors, suppliers and laborers, it has with the party owing such amount if, upon demand, payment of the amount is not made within 60 days to the department.*

(2) Offsetting any amounts pursuant to subsection (1) shall not be considered a breach of contract by the department.

Section 8. (1) Section 337.16, Florida Statutes, is amended to read:

337.16 Disqualification of delinquent contractors from bidding; denial, 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 disapproved 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 after the receipt of the notice of intent, the hearing shall be held within 30 days after receipt by the hearing officer 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 suspend 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 suspension revoke shall be 3 months; if such contractor has been suspended twice within a 24-month period, the period of suspension revoke 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 suspend 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 suspend 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 or 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, any certification of payment pursuant to s. 337.11(7), 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.

(2) The amendments to section 337.16, Florida Statutes, by subsection (1) of this section shall apply to contracts for which bids are received after July 1, 1987.

Section 9. (1) Section 337.175, Florida Statutes, is created to read:

337.175 Retainage.—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. Notwithstanding the provisions of s. 255.052, the department may not accept the substitution of securities for amounts retained on a construction contract. However, those contractors who have completed department projects without being declared delinquent for the preceding 3 consecutive years shall be allowed to substitute securities in lieu of retainage.

(2) The provisions of section 337.175, Florida Statutes, as created by subsection (1) of this section shall apply to contracts for which bids are received after July 1, 1987.

Section 10. (1) 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. For a project for which the contract price is \$150,000 or less, the department may waive the requirement for all or a portion of a surety bond if it determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property. The department may require alternate means of security if a surety bond is waived. 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. The department shall have no liability for anticipated profits for unfinished work on a contract which has been determined to be in default. 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:

Original Contract Amount	Daily Charge Per Calendar Day
\$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	550 200
\$2,500,000 or more but less than \$5,000,000	650 500
\$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) A contractor who fails to complete a project within the time stipulated in the contract or within such additional time as may have been granted by the department shall forfeit and pay to the department a penalty equal to the daily charge per calendar day set forth in subsection (2), for each day such contractor exceeds the allowed contract time.

(4) In addition to the provision for payment to the department by the contractor of liquidated damages and penalties due to the failure of the contractor to complete the work within the contract time, the department may also recover damages from the contractor for damages suffered by third parties as a result of the contractor's failure to complete the work within the contract time. However, nothing herein shall create a cause of action against the department where none has previously existed.

(5)(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 head of the department 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 for 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.

(6)(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.

(2) The amendments to section 337.18, Florida Statutes, by subsection (1) of this section shall apply to contracts for which bids are received after July 1, 1987.

Section 11. Subsection (1) of section 337.185, Florida Statutes, is amended to read:

337.185 State Arbitration Board.—

(1) To facilitate the prompt settlement of claims for additional compensation arising out of construction contracts between the department and the various contractors with whom it transacts business, the Legislature does hereby establish the State Arbitration Board, referred to in this section as the "board." Every contractual claim or claims in an aggregate amount up to \$100,000 per contract that cannot be resolved by the department and the contractor, shall be arbitrated by the board after acceptance of the project by the department, provided no party to the dispute requests the claim or claims be submitted to binding private arbitration. A court of law may not consider the settlement of such a claim until the process established by this section has been exhausted.

Section 12. Section 337.403, Florida Statutes, is amended to read:

337.403 Relocation of utility; expenses.—

(1) Any utility heretofore or hereafter placed upon, under, over, or along any public road that is found by the authority to be unreasonably interfering in any way with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such public road shall, upon 30 days' written notice to the utility or its agent by the authority, be removed or relocated by such utility at its own expense except as provided in paragraphs (a) and (b).

(a) However, If the relocation of utility facilities, as referred to in a. 111 of the Federal Aid Highway Act of 1956, Pub. L. No. 627 of the Eighty-Fourth Congress, is necessitated by the construction of a project on the federal-aid interstate system, including extensions thereof within urban areas, and the cost of such project is eligible and approved for reimbursement by the Federal Government to the extent of 90 percent or more under the Federal Aid Highway Act, or any amendment thereof, then in that event the utility owning or operating such facilities shall relocate such facilities upon order of the department, and the state shall pay the entire expense properly attributable to such relocation after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(b) When a joint agreement between the department and the utility is executed for utility improvement, relocation, or removal work to be accomplished as part of a contract for construction of a transportation facility, the department may participate in those utility improvement, relocation, or removal costs that exceed the department's official estimate of the cost of such work by more than 10 percent. The amount of such participation shall be limited to the difference between the official estimate of all the work in the joint agreement plus 10 percent and the amount awarded for this work in the construction contract for such work. The department may not participate in any utility improvement, relocation, or removal costs that occur as a result of changes or additions during the course of the contract.

(2) If such removal or relocation is incidental to work to be done on such road, the notice shall be given at the same time the contract for the work is advertised for bids, or 30 days prior to the commencement of such work by the authority.

(3) Whenever an order of the authority requires such removal or change in the location of any utility from the right-of-way of a public road, and the owner thereof fails to remove or change the same at his own expense to conform to the order within the time stated in the notice, the authority shall proceed to cause the utility to be removed. The expense thereby incurred shall be paid out of any money available therefor, and such expense shall, except as provided in those cases in which the state is required by subsection (1) to pay the expense, be charged against the owner and levied and collected and paid into the fund from which the expense of such relocation was paid.

Section 13. Section 337.221, Florida Statutes, is created to read:

337.221 Report on disputed contractual claims.—The department shall prepare a quarterly report on disputed contractual claims, specifying the nature, amount, and status of each claim, the parties thereto, and the reasons for department action or inaction. The Attorney General of the State of Florida is authorized to review the report, comment on specific claims and recommend appropriate action.

Section 14. Present subsections (2) and (3) of section 341.322, Florida Statutes, are renumbered as subsections (3) and (4), respectively, present subsection (4) of said section is renumbered as subsection (5) and amended, present subsections (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), and (31), of said section are renumbered as subsections (6), (7), (8), (9), (10), (11), (12), (13), (15), (16), (17), (18), (19), (20), (24), (25), (27), (28), (33), (34), (35), (36), (37), (38), (41), (42), and (43), respectively, present subsection (32) of said section is renumbered as subsection (44) and amended, present subsection (33) of said section is renumbered as subsection (46), and new subsections (2), (14), (21), (22), (23), (26), (29), (30), (31), (32), (39), (40), and (45) are added to said section to read:

341.322 Definitions of terms used in ss. 341.321-341.386.—As used in this act, the term:

(2) "Administering agency" means:

(a) The commission, for matters pertaining to the franchise component.

(b) The Department of Environmental Regulation, for matters pertaining to the rail line element of the certification component.

(c) The Department of Community Affairs for matters pertaining to the ancillary facilities element of the certification component.

(5)(4) "Ancillary facilities" means property, equipment, or buildings built, installed, or established to provide financing, funding, or revenues for the planning, construction, management, and operation of a high-speed rail line and shall include site-specific and non-site-specific ancillary facilities. The term "ancillary facilities" includes property necessary for joint development, such as parking lots, stores, retail establishments, restaurants, hotels, offices, or other commercial, civic, residential, or support facilities and may also include property necessary to protect or preserve the station area by reducing urban blight or traffic congestion or property necessary to accomplish any of the above purposes which are reasonably anticipated or necessary. However, the term "ancillary facilities" does not include the rail line, transit station, or transit station appurtenant building. The ancillary facilities may be located outside the corridor, provided the ancillary facilities are located on property adjacent to the corridor or the property is connected with the transit station or transit station appurtenant building by a transit system.

(14) "Development rights" means those rights created pursuant to the award of the franchise.

(21) "Level I information" means information elicited from those questions identified in the request for proposal certification component which are to be answered by each applicant in accordance with s. 341.343(2). Level I information includes, among other things, a general description of the high-speed rail line and its impacts on both the environment and local government, including, where applicable, a general discussion of mitigative measures.

(22) "Level II information" means information elicited from those questions identified in the request for proposal certification component which, at the option of an applicant, may be answered in accordance with a binding written agreement following the selection of applications by the commission for more detailed review. It shall include, among other things, a detailed presentation of the rail line element and the ancillary facilities element, including any mitigative measures for adverse impacts.

(23) "Level III information" means construction or other detailed plans and programs identified in the request for proposal which shall be provided in response to franchise conditions. Level III information is not required to be submitted as part of the application in response to the request for proposal.

(26) "Master plan for ancillary facilities" means a document included in the application which provides in narrative form the concept and plan for the systematic development over time of each ancillary facility planned by the applicant. The master plan for ancillary facilities shall include a description of the proposed land uses and the magnitude of development in terms of acres, different land uses, square footage of commercial space, number of residential units, or other appropriate measurements of quantity for each ancillary facility.

(29) "Modification request" means a request to modify the franchise submitted pursuant to s. 341.368, including a modification to change transit stations into transit station appurtenant buildings, to relocate or add new transit stations or transit station appurtenant buildings, to change non-site-specific ancillary facilities into site-specific ancillary facilities, to add new ancillary facilities, to modify any part of the franchise component, or to do any combination thereof.

(30) "More detailed review hearing" or "MDR hearing" means a hearing conducted by the commission to select no more than three applications for more detailed review pursuant to the act.

(31) "Mutual written agreement" means an agreement on any modification of the terms and conditions of the franchise as referred to in s. 341.368.

(32) "Non-site-specific ancillary facility" means an ancillary facility included in the master plan for ancillary facilities for which the applicant has not provided a metes and bounds or other legal description.

(39) "Site" means, when used in context with ancillary facilities, the location of ancillary facilities as established by certification or, in the case of non-site-specific ancillary facilities, by modification of the franchise.

(40) "Site-specific ancillary facility" means an ancillary facility for which the applicant has provided a metes and bounds or other legal description and which is designated for construction and operation during a time certain as specified in the franchise.

(44)(39) "Transit station appurtenant building" means a structure that is constructed in direct association with the operation of a transit station and that houses the transit station. The transit station appurtenant building may include at-grade or structured parking facilities, stores, restaurants, hotels, offices, or other commercial, retail, or civic establishments, but not residential facilities.

(45) "Transit system" means a transportation facility which is capable of transporting people, or people and property, to and from the transit station or station appurtenant building to an ancillary facility and which is available for use by the public, either alone or in conjunction with another transit system.

Section 15. Subsections (1), (3), and (5) of section 341.332, Florida Statutes, are amended to read:

341.332 Franchises.—

(1) The award of a franchise by the commission to an applicant will be the sole license and authority for the franchisee to construct and operate the rail line, transit station, and transit station appurtenant building; however, the franchisee must comply with the State Minimum Building Codes requirements of s. 553.73 as the requirements apply to transit stations and transit station appurtenant buildings. The franchise shall specify and include such minimum design standards and specifications for the construction, operation, and maintenance of the rail line as are submitted by the franchisee and adopted by the commission. It is the responsibility of the commission, or its designee, to enforce and otherwise assure compliance with the State Minimum Building Codes applicable to transit stations and transit station appurtenant buildings. The award of the franchise will constitute approval of the master plan for the ancillary facilities. However, all permits and licenses, except those under chapter 380, shall be required for ancillary facilities as provided in subsection (2).

(3) A franchise shall be awarded for a period of time of no less than 30 years from the date of the award as provided for in the franchise.

(5) A franchisee shall not convey, lease, or otherwise transfer any high-speed rail line property, any interest in such property, or any improvement constructed upon such property to any other person party during the term of the franchise if, in the opinion of the commission, such conveyance, lease, or transfer will adversely impact:

- (a) The overall quality or level of service;
- (b) The overall financial feasibility of the high-speed rail line; or
- (c) The overall continued operation or maintenance of the high-speed rail line.

Section 16. Subsection (3) is added to section 341.338, Florida Statutes, to read:

341.338 Requests for proposals.—

(3) The commission shall develop rules for the establishment of site-specific and non-site-specific ancillary facilities and for review of Level I, Level II, and Level III information.

Section 17. Subsection (4) of section 341.343, Florida Statutes, is amended to read:

341.343 Review of application.—

(4) ~~Within 60 days of the receipt of the recommendation of the committee,~~ The commission shall review all the applications ~~within 60 days of receipt of the recommendation of the committee;~~ but it may extend the 60-day period for selection for more detailed review if required in order to accommodate amendments or for other good cause. In reviewing applications, the commission shall utilize ~~and, utilizing~~ the criteria set out in s. 341.338, select no more than three applications for more detailed review pursuant to the provisions of this act. However, if there are fewer than three applications, there is no necessity for the committee to make recommendations to the commission.

Section 18. Subsection (3) is added to section 341.355, Florida Statutes, to read:

341.355 Assessment of franchise component.—

(3) The commission may adopt procedural rules governing the review of the franchise component.

Section 19. Subsection (3) of section 341.363, Florida Statutes, is amended to read:

341.363 Effect of franchise; act to take precedence.—

(3) The franchise shall authorize the applicant to locate the rail line, transit station, and transit station appurtenant building and to construct, operate, and maintain these facilities subject only to the conditions of franchise set forth in the franchise and to all nonprocedural standards or regulations of any agency, unless a variance to such requirements or any requirements and conditions of the franchise is granted by the board. The franchise may include conditions which constitute variances and exemptions, otherwise allowed by law, from nonprocedural standards or rules of any other agency, which conditions were expressly considered during the proceeding, unless there is a waiver by the agency as provided below in this subsection, and which conditions otherwise would be applicable to the location of the rail line, transit station, or transit station appurtenant building or the construction, operation, and maintenance of

these facilities. The conditions of the franchise relative to the actual operation of the train, including, but not limited to, train speed, control, vibration, electrification systems, rail structures, vehicles, safety, noise, or noise barriers, shall take precedence over any inconsistent non-procedural standards, rules, or local regulations. Each party shall notify the applicant and other parties at least 60 days prior to the certification hearing of any nonprocedural requirement not specifically listed in the application from which a variance or exception is necessary in order for the board to certify any corridor proposed for certification. The failure to provide such notification shall be treated as a waiver, variance, or exception, otherwise allowed by law, from nonprocedural standards or regulations of the department or any other agency.

Section 20. Section 341.368, Florida Statutes, is amended to read:

341.368 Modification of franchise.—

(1) Following award of a franchise, the franchise may be modified after issuance in any one of the following ways:

(a) Upon its own motion, the commission may initiate proceedings to modify specific conditions in the franchise when the modification is deemed essential for the protection of the public health, safety, or welfare.

(b) The franchisee may request modification of the franchise at any time.

(2) If no party to the certification proceeding objects in writing to the modifications set forth in a modification request within 45 days after notice mailed to the last address of record and if no other person whose substantial interest is affected by the modifications objects in writing within 30 days after the issuance of public notice, the commission may modify the terms and conditions of the franchise.

(3) If the modification affects lands located within the jurisdiction of a local government, notice of the modification shall be provided to the governing body of said local government. Each affected local government shall be entitled to participate in the modification proceeding regardless of whether the local government participated in the original certification proceeding.

(4) If the commission finds that the modification request requires no changes or additions to the terms and conditions in the certification component, then within 90 days after publication of notice of the modification request the commission shall act upon the modification request by rendering a written order. The order shall modify the terms and conditions of the franchise, provided that:

(a) No written objection has been filed pursuant to s. 341.368(2);

(b) The commission has considered, as applicable, the criteria enumerated in s. 341.355 or s. 341.353(2); and

(c) The commission, based on the record presented, concludes that the modification request should be granted.

(5) If the parties to the franchise proceeding are not able to reach a mutual written agreement on any modification of the terms and conditions of the franchise, the applicant may file a petition for modification with the commission. The petition shall set forth:

(a) The proposed modification;

(b) The factual reasons asserted for the modification; and

(c) The anticipated additional environmental effects of the proposed modification.

(6) If the proposed modification requires changes or additions to the terms and conditions in the certification component, the proposed modification shall be subject to additional requirements as specified in rules adopted by the commission. After an initial review by the commission, the proposed modification shall be forwarded to the board for consideration.

(a) The board shall render an order on the proposed modification.

(b) In the event the board approves the modification subject to terms and conditions, such terms and conditions shall be included by the commission in its final order on the modification request.

(c) Upon receipt of the board's order, the commission shall consider whether any modification of the franchise terms and conditions is required by reason of the board's order. The commission's action on the modification request shall be in the form of a final order which shall constitute final agency action.

(7) The effect of the commission's final order modifying the terms and conditions of the franchise shall be as follows:

(a) The terms and conditions of the final order shall be incorporated into and made a part of the terms and conditions of the franchise as if granted by the original award of franchise.

(b) With regard to ancillary facilities, upon application by the franchisee or its designee, all agencies shall grant and approve all appropriate permits and licenses necessary for the location, construction, operation, and maintenance of the ancillary facilities. All agency permits and licenses shall be consistent with the terms and conditions of the franchise as modified. The order shall list all applicable agency rules, regulations, orders, and ordinances from which the franchise is expressly exempted or granted a waiver, as the case may be.

~~(1) The commission may modify specific conditions in the franchise.~~

~~(2) The commission may modify the terms and conditions of the franchise if no party objects in writing to such modifications within 45 days after notice by mail to the last address of record in the certification proceeding and if no other person whose substantial interests will be affected by the modifications objects in writing within 30 days after the issuance of public notice.~~

~~(3) If the parties to the franchise proceeding are unable to reach a mutual written agreement on any modification of the terms and conditions of the franchise, the applicant may file a petition for modification with the commission, which petition sets forth:~~

~~(a) The proposed modification;~~

~~(b) The factual reasons asserted for the modification; and~~

~~(c) The anticipated additional environmental effects of the proposed modification.~~

~~(4) If the proposed modification may require changes in the terms and conditions in the certification component or additional terms and conditions in the certification component, the proposed modification shall be forwarded to the board for consideration. The board shall render an order on the proposed modification.~~

Section 21. This act shall take effect July 1, 1987.

House Amendment 2 to Senate Amendment 1—On page 2, lines 15-21, strike all of said lines and insert:

2. Remitted by the governing body of the county to an expressway or transportation authority created by law to be used, at the discretion of such authority, for the development, construction, operation, or maintenance of roads or bridges in the county, the operation and maintenance of a bus system, or the payment of principal and interest on existing bonds issued for the construction of such roads or bridges, and, upon approval by the county commission, such proceeds may be pledged for bonds issued to refinance existing bonds or new bonds issued for the construction of such roads or bridges.

House Amendment 1 to Senate Amendment 2—On page 2, line 13, through page 3, line 28, strike all of said lines and insert: F.S.; increasing the construction contract amount for which certification is required; authorizing the department to limit the dollar amount or the total dollar volume of contracts which a person is allowed to have under contract at one time; providing for waiver of contract bond; creating s. 337.145, F.S., providing for offsetting payments by the department; amending s. 337.16, F.S., directing payment of liquidated damages upon delinquency; providing for denial or suspension 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., authorizing the waiver of requirement of a surety bond under certain circumstances; increasing the daily liquidated damages charge for certain contract defaults; establishing penalty provisions; amending s. 337.185, F.S., authorizing binding private arbitration; amending s. 337.403, F.S., allowing the department to participate in certain work that exceeds cost estimates; limiting the amount of departmental participation; creating s. 337.221, F.S., requiring the department to prepare quarterly reports on

disputed contractual claims; amending s. 341.322, F.S.; revising and adding definitions; amending s. 341.332, F.S.; prescribing additional standards in the award of franchises; amending s. 341.338, F.S.; providing rulemaking authority with respect to requests for proposals; amending s. 341.343, F.S.; providing for extensions of time in review of applications; amending s. 341.355, F.S.; providing rulemaking authority with respect to assessment of franchise components; amending s. 341.363, F.S.; providing that franchise conditions take precedence over nonprocedural standards, rules, or regulations; amending s. 341.368, F.S.; revising procedures for modifications of franchise; providing for applicability of certain sections of the act to specified contracts; providing an effective date.

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

CS for HB 123 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives requests the return of CS for HB's 171 and 184.

John B. Phelps, Clerk

CS for HB's 171 and 184—A bill to be entitled An act relating to crime prevention assistance; amending s. 426.001, F.S.; deleting certain legislative findings relating to crimes against the elderly; amending ss. 426.002, 426.003, 426.007, 426.008, and 426.009, F.S.; updating references to subdivisions of the Department of Community Affairs; updating the definition of "housing project"; providing for matching security assistance grants to counties from the Department of Community Affairs; amending ss. 426.005 and 426.006, F.S.; deleting a restriction upon housing authorities which may apply for a security assistance grant under the Handicapped and Elderly Security Assistance Act; amending ss. 775.0836 and 939.015, F.S.; expanding the scope of provisions imposing a surcharge and certain costs upon fines for offenses against handicapped or elderly persons; increasing the surcharge and costs and providing for the disposition thereof; repealing s. 903.381, F.S.; deleting a surcharge on bail for such offenses; providing an effective date.

On motions by Senator Langley, by two-thirds vote CS for HB's 171 and 184 was withdrawn from the Committees on Economic, Community and Consumer Affairs; Judiciary-Civil; Finance, Taxation and Claims; and Appropriations and returned to the House as requested.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 144 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 144—A bill to be entitled An act relating to ad valorem taxation; amending s. 197.364, F.S.; allowing the Department of Revenue to refund railroad property tax overpayments directly to taxpayers; allowing the department to waive taxes and refunds in certain circumstances; providing for the distribution of certain excess collections for overpayments; amending s. 200.065, F.S.; providing additional notice to taxpayers in certain circumstances; providing for application of act; providing an effective date.

Amendment 1—On page 2, lines 25-31, on page 3, lines 1-31, and on page 4, lines 1-4, strike all of said lines and insert:

Section 2. Paragraph (d) of subsection (2) and subsection (4) of section 200.065, Florida Statutes, 1986 Supplement, are amended to read:

200.065 Method of fixing millage.—

(2) No millage shall be levied until a resolution or ordinance has been approved by the governing board of the taxing authority, which resolution or ordinance must be approved by the taxing authority according to the following procedure:

(d) Within 15 days of the meeting adopting the tentative budget, the taxing authority shall advertise, in a newspaper of general circulation in the county as provided in subsection (3), its intent to finally adopt a millage rate and budget. A public hearing to finalize the budget and adopt a millage rate shall be held not less than 2 days or more than 5 days after the day that the advertisement is first published. During the hearing, the governing body of the taxing authority shall amend the adopted tentative budget as it sees fit, adopt a final budget, and adopt a resolution or ordinance stating the millage rate to be levied. The resolution or ordinance shall state the percent, if any, by which the millage rate to be levied exceeds the rolled-back rate computed pursuant to subsection (1), which shall be characterized as the percentage increase in property taxes adopted by the governing body. The adoption of the budget and the millage-levy resolution or ordinance shall be by separate votes. The millage-levy resolution or ordinance shall be publicly read in full prior to its adoption. In no event may the millage rate adopted pursuant to this paragraph exceed the millage rate tentatively adopted pursuant to paragraph (c). If the rate tentatively adopted pursuant to paragraph (c) exceeds the proposed rate provided to the property appraiser pursuant to paragraph (b) or as subsequently adjusted pursuant to subsection (10), each taxpayer within the jurisdiction of the taxing authority shall be sent notice by first-class mail of his taxes under the tentatively adopted millage rate and his taxes under the previously proposed rate. The notice shall be prepared by the property appraiser, at the expense of the taxing authority, and shall generally conform to the requirements of s. 200.069. In the event such additional notice is necessary, its mailing shall precede the hearing held pursuant to this paragraph by not less than 10 days and not more than 15 days.

(4) The resolution or ordinance approved in the manner provided for in this section shall be forwarded to the property appraiser, the tax collector, and the Department of Revenue within 3 days of the adoption of such resolution or ordinance. No millage other than that approved by referendum may be levied until the resolution or ordinance to levy required in subsection (2) is approved by the governing board of the taxing authority and submitted to the property appraiser, the tax collector, and the Department of Revenue. The receipt of the resolution or ordinance by the property appraiser shall be considered official notice of the millage rate approved by the taxing authority, and that millage rate shall be the rate applied by the property appraiser in extending the rolls pursuant to s. 193.122, subject to the provisions of subsection (5). These submissions shall be made within 101 days of certification of value pursuant to subsection (1).

Amendment 2—On page 1, in the title, between lines 11 and 12, insert: requiring that notice of the millage adopted by resolution or ordinance be forwarded within a specified time;

Amendment 3—On page 4, between lines 4 and 5, insert:

Section 3. Subsection (2) of section 213.053, Florida Statutes, 1986 Supplement, is amended and subsection (9) is added to said section to read:

213.053 Confidentiality and information sharing.—

(2) Except as provided in subsections (3), (4), (5), (6), (7), and (8), and (9) all information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and included letters of technical advice, is confidential except for official purposes. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), or subsection (8), is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) Notwithstanding other provisions of this section, the department shall disclose to a tax collector the names, addresses and category of business of dealers, as defined in chapter 212, within the tax collector's

county, and to a property appraiser the taxable value of all leaseholds within the property appraisers' county subject to the intangible tax under chapter 199, and the names and addresses of all taxpayers responsible for paying such tax. The tax collector and property appraiser are subject to the same requirements of confidentiality and the same penalties for violating confidentiality as the department and its employees. Nothing in this subsection authorizes disclosure of any information prohibited from being disclosed by federal law.

(Renumber subsequent sections.)

Amendment 4—On page 1, in the title, line 9, after the semicolon (;) insert: amending s. 213.053, F.S.; authorizing the Department of Revenue to provide certain information to property appraisers and tax collectors; providing for application of confidentiality and penalty provisions;

Amendment 5—On page 1, between lines 16 and 17, insert:

Section 1. Section 192.032, Florida Statutes, is amended to read:

192.032 Situs of property for assessment purposes.—All property shall be assessed according to its situs as follows:

(1) Real property, in that county in which it is located and in that taxing jurisdiction in which it may be located.

(2) All tangible personal property which is not immunized by the state or federal constitution from ad valorem taxation, in that county and taxing jurisdiction in which it is physically present permanently located on January 1 of each year, unless such property has been physically present in another Florida county at any time during the preceding 12-month period, in which case the provisions of subsection (3) apply. Additionally, except that tangible personal property brought into the state after January 1 and before April 1 of any year shall be taxable for that year if the property appraiser has reason to believe that such property will be removed from the state prior to January 1 of the next succeeding year. The provisions of this subsection shall not apply to goods in transit as described in subsection (4).

(3) If more than one Florida county assesses any tangible personal property in the same assessment year, resolution of such multicounty dispute shall be governed by the following provisions:

(a) Tangible personal property which was physically present in one Florida county on January 1, but present in another Florida county at any time during the preceding year, shall be assessed in that county and taxing jurisdiction in which it was habitually located or typically present. All tangible personal property which is removed from one county in this state to another county after January 1 of any year shall be subject to taxation for said year in the county where located on January 1; except that the provisions of this subsection shall not apply to tangible personal property located in such county on January 1 on a temporary or transitory basis if such property is included in the tax return being filed in the county in this state where such tangible personal property is habitually permanently located or typically present.

(b) For purposes of this subsection, "habitually located or typically present" means the place where an object is generally kept for use or storage, or the place to which an object is consistently returned for use or storage. For purposes of this subsection, "temporary or transitory basis" means the place where an object is found for a short duration or limited utilization with an intention to remove the same to another place where it is usually used or stored. ~~The provisions of this subsection shall not apply to goods in transit as described in subsection (3).~~

(4)(3)(a) Personal property manufactured or produced outside this state and brought into this state only for transshipment out of the United States, or manufactured or produced outside the United States and brought into this state for transshipment out of this state, for sale in the ordinary course of trade or business is considered goods-in-transit and shall not be deemed to have acquired a taxable situs within a county even though the property is temporarily halted or stored within the state.

(b) The term "goods-in-transit" implies that the personal property manufactured or produced outside this state and brought into this state has not been diverted to domestic use and has not reached its final destination, which may be evidenced by the fact that the individual unit packaging device utilized in the shipping of the specific personal property has not been opened except for inspection, storage, or other process utilized in the transportation of the personal property.

(c) Personal property transshipped into this state and subjected in this state to a subsequent manufacturing process or used in this state in the production of other personal property is not goods-in-transit. Breaking in bulk, labeling, packaging, relabeling, or repacking of such property solely for its inspection, storage, or transportation to its final destination outside the state shall not be considered to be a manufacturing process or the production of other personal property within the meaning of this subsection. However, such storage shall not exceed 180 days.

(5)(4) Intangible personal property, according to the rules laid down in chapter 199.

~~(6) For the purposes of this section and with respect to tangible personal property, the term "permanently located" means habitually located or typically present for the 12-month period preceding the date of assessment.~~

(6)(a) Notwithstanding the provisions of subsection (2), personal property used as a marine cargo container in the conduct of foreign or interstate commerce shall not be deemed to have acquired a taxable situs within a county when the property is temporarily halted or stored within the state for a period not exceeding 180 days.

(b) "Marine cargo container" means a nondisposable receptacle which is of a permanent character, strong enough to be suitable for repeated use; which is specifically designed to facilitate the carriage of goods by one or more modes of transport, one of which shall be by ocean vessel, without intermediate reloading; and which is fitted with devices permitting its ready handling, particularly in the transfer from one transport mode to another. The term "marine cargo container" includes a container when carried on a chassis but does not include a vehicle or packaging.

(7) Notwithstanding any other provision of this section, tangible personal property used in traveling shows such as carnivals, ice shows, or circuses shall be deemed to be physically present or habitually located or typically present only to the extent the value of such property is multiplied by a fraction, the numerator of which is the number of days such property is present in Florida during the taxable year and the denominator of which is the number of days in the taxable year. However, railroad property of such traveling shows shall be taxable under s. 193.085(4)(b) and not under this section.

(Renumber subsequent sections.)

Amendment 6—On page 1, in the title, between lines 2 and 3, insert: amending s. 192.032, F.S.; revising provisions for determining situs of property for assessment purposes;

On motions by Senator Deratany, the Senate concurred in House Amendments 1, 2, 5 and 6.

Senators Deratany and Dudley offered the following amendment to House Amendment 3 which was moved by Senator Dudley and adopted:

Amendment 1—On page 1, line 11 through page 2, line 9, strike all of said lines and insert:

Section 3. Effective January 1, 1988, subsections (13), (14), and (15) of section 192.001, Florida Statutes, are amended to read:

192.001 Definitions.—All definitions set out in chapter 1 and chapter 200 that are applicable to this part are included herein. In addition, the following definitions shall apply in the imposition of ad valorem taxes:

(13) "Taxpayer" means the person or other legal entity in whose name property is assessed, including an agent of a time-share owner period titleholder.

(14) "Fee time-share real property" means the land and buildings and other improvements to land that are subject to time-share interests which are sold as a fee interest in real property. A "fee time-share unit" means a time-share unit as defined in s. 721.05(30) in which time-share estates as defined in s. 721.05(24) have been created, together with the share of common elements or facilities, if any, appurtenant to such time-share unit.

~~(15) "Time-share owner period titleholder" means the owner of purchaser of a time-share period sold as a fee interest in a fee time-share unit real property, whether organized under chapter 718 or chapter 721.~~

Section 4. Effective January 1, 1988, section 192.037, Florida Statutes, 1986 Supplement, is amended to read:

192.037 Fee time-share real property; taxes and assessments.—

(1) For the purposes of ad valorem taxation and special assessments, the managing entity responsible for operating and maintaining fee time-share real property pursuant to s. 721.13 shall be considered the taxpayer as the an agent of each the time-share owner period titleholder.

(2) Each fee time-share unit real property shall be listed on the assessment rolls as a separate single entry for each time-share development. The assessed value of each time-share development shall be the value of the combined individual time-share periods or time-share estates contained therein.

(3) The property appraiser shall annually notify the managing entity of the proportions to be used in allocating the valuation, taxes, and special assessments on time-share property among the various time-share estates periods. Such notice shall be provided on or before the mailing of notices pursuant to s. 194.011. Ad valorem taxes and special assessments shall be allocated by the managing entity based upon the proportions provided by the property appraiser pursuant to this subsection.

(4) All rights and privileges afforded property owners by chapter 194 with respect to contesting or appealing assessments shall apply both to the managing entity responsible for operating and maintaining the time-sharing plan and to each person having a fee interest in a time-share owner unit or time-share period.

(5) The managing entity, as an agent of the time-share owners period titleholders, shall collect and remit the taxes and special assessments due on each the fee time-share unit real property. In allocating taxes, special assessments, and common expenses to individual time-share estates period titleholders, the managing entity must clearly label the portion of any amounts due which are attributable to ad valorem taxes and special assessments.

(6)(a) Funds received by a managing entity or its successors or assigns from time-share owners titleholders for ad valorem taxes or special assessments shall be placed in escrow as provided in this section for release as provided herein.

(b) The escrow account shall be placed with an independent escrow agent who shall comply with the provisions of chapter 721 relating to escrow agents.

(c) The principal of such escrow account shall be paid only to the tax collector of the county in which the fee time-share real property development is located or to his deputy.

(d) Interest earned upon any sum of money placed in escrow under the provisions of this section shall be paid to the managing entity or its successors or assigns for the benefit of the owners of fee time-share units; however, no interest may be paid unless all taxes on the time-share development have been paid.

(e) On or before May 1 of each year, a statement of receipts and disbursements of the escrow account shall be forwarded to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation appropriately showing the amount of principal and interest in such account.

(7) For each fee time-share unit, the managing entity shall, prior to the date ad valorem taxes become delinquent, remit to the tax collector a single payment of such taxes and special assessments. If this payment does not include the full amount of taxes due with respect to the unit, the payment shall be accompanied by a certificate of the managing entity on a form prescribed by the Department of Revenue. The certificate shall separately identify each time-share estate for which the full allocation of taxes and special assessments determined in accordance with subsections (3) and (5) is included in the payment. The tax collector shall furnish the managing entity a receipt for the payment and certificate, and the time-share estates for which taxes and special assessments are included in the payment shall thereupon be released from the lien of taxes and from the lien of special assessments. Proceedings to enforce or collect delinquent taxes or special assessments shall be limited to the aggregate of the remaining interests in the unit. The tax collector shall accept only full payment of the taxes and special assessments due on the time-share development.

(8) The managing entity may advance funds for the purpose of effecting any payment remitted to the tax collector pursuant to subsection (7). The managing entity shall thereafter have a lien and right of

action for recovery of the amount advanced with respect to any time-share estate. Proceedings to enforce collection of such amounts shall be governed by the provisions of s. 721.16. Nothing in this subsection shall be construed to impose a duty on the managing entity to advance funds to pay ad valorem taxes or special assessments, and the managing entity shall not be held liable for failing or refusing to do so. The managing entity shall have a lien pursuant to s. 718.121 or s. 721.16 on the time-share periods for the taxes and special assessments.

(9) Except as otherwise provided in subsection (7), all provisions of law relating to enforcement and collection of delinquent taxes shall be administered with respect to each fee time-share unit development as a whole and the managing entity as the an agent of each the time-share owner period titleholders; if, however, a tax certificate is sold or issued an application is made pursuant to s. 197.432 197.502, the time-share owners period titleholders shall receive the rights and protections afforded by chapter 197. This subsection shall not be construed to require the tax collector to notify each individual time-share owner of the fact that a tax certificate is outstanding. Such notices shall be sent to the managing entity as agent for the individual time-share owner.

(10) The managing entity's liability to any time-share owner in connection with the performance of duties prescribed in this section shall be limited to actual damages caused by negligence or willful misconduct of the managing entity.

Section 5. Effective January 1, 1988, subsection (8) of section 197.472, Florida Statutes, as created by chapter 85-342, Laws of Florida, and amended by chapter 86-141, Laws of Florida, is hereby repealed.

On motion by Senator Deratany, the Senate concurred in House Amendment 3 as amended.

Further consideration of CS for SB 144 was deferred.

SPECIAL ORDER, continued

CS for SB's 35, 437, 894 and 923—A bill to be entitled An act relating to sentencing; providing for legislative adoption and implementation of revisions to sentencing guidelines promulgated by the Florida Supreme Court in accordance with s. 921.001, F.S.; amending ss. 775.084, 921.001, F.S.; providing that persons sentenced as habitual felony offenders are not subject to the statewide sentencing guidelines; requiring judges to consider psychological injury to the victim in sentencing certain persons; reducing the level of proof necessary to establish the facts supporting a departure; providing that one clear and convincing reason is sufficient to support a departure sentence on appeal; providing for departures from sentencing guidelines in cases of excessive trauma to the victim or where the defendant's record demonstrates an escalating pattern of criminal conduct involving violence; amending ss. 924.06, 924.07, 958.04, F.S.; providing for appeals of sentences imposed outside the range recommended or permitted by the guidelines under certain circumstances; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 1, line 29, strike everything after the enactment clause and insert:

Section 1. Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure, as revised by the Florida Supreme Court on April 2, 1987, in parts III and VI of its opinion are hereby adopted and implemented in accordance with s. 921.001, Florida Statutes.

Section 2. Paragraph (b) of subsection (4) and subsection (5) of section 921.001, Florida Statutes, 1986 Supplement, are amended, and present subsections (7) and (8) are renumbered as subsections (9) and (10), respectively, and new subsections (7) and (8) are added to said section to read:

921.001 Sentencing Commission.—

(4)(b) The commission shall, no later than October 1 of each year, make a recommendation to the members of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives on the need for changes in the guidelines. Upon receipt of such recommendation, the Supreme Court may within 60 days revise the statewide sentencing guidelines to conform them with all or part of the commission recommendation. Such revision shall be submitted by the Supreme

Court to the President of the Senate and the Speaker of the House of Representatives no later than February 1 of each year following the receipt of the recommendations of the commission. However, such revision shall become effective only upon the subsequent adoption by the Legislature of legislation implementing the guidelines as then revised. The court may also revise the state-wide sentencing guidelines if it certifies that the revisions are necessary to conform the guidelines to previously adopted statutory revisions.

(5) Sentences imposed by trial court judges must be in all cases within any relevant minimum and maximum sentence limitations provided by statute and must conform to all other statutory provisions. The failure of a trial court to impose a sentence within the sentencing guidelines shall be subject to appellate review pursuant to chapter 924. The extent of departure from a guideline sentence shall not be subject to appellate review. *A departure sentence shall be based upon circumstances or factors which reasonably justify the aggravation or mitigation of the sentence. The level of proof necessary to establish facts supporting a departure from a sentence under the guidelines is a preponderance of the evidence. When multiple reasons exist to support a departure from a guidelines sentence, the departure shall be upheld when at least one circumstance or factor justifies the departure regardless of the presence of other circumstances or factors found not to justify departure.*

(7) *A court may impose a sentence outside the guidelines when credible facts proven by a preponderance of the evidence demonstrate that the victim suffered excessive physical or emotional trauma at the hands of the defendant. Such departure is not barred because victim injury has been utilized in the calculation of the guidelines sentence.*

(8) *A trial court may impose a sentence outside the guidelines when credible facts proven by a preponderance of the evidence demonstrate that the defendant's prior record, including offenses for which adjudication was withheld, and the current criminal offense for which the defendant is being sentenced indicate an escalating pattern of criminal conduct. The escalating pattern of criminal conduct may be evidenced by a progression from nonviolent to violent crimes or a progression of increasingly violent crimes.*

Section 3. Subsection (3) of section 958.04, Florida Statutes, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(3) The provisions of this section shall not be used to impose a greater sentence than the maximum recommended range as established by state-wide sentencing guidelines pursuant to s. 921.001 unless ~~clear and convincing~~ reasons are explained in writing by the trial court judge *which reasonably justify departure*. A sentence imposed outside of such guidelines shall be subject to appeal ~~by the defendant~~ pursuant to s. 924.06 or s. 924.07.

Section 4. This act shall take effect July 1, 1987, or upon becoming a law, whichever occurs later.

Amendment 2—In title, on page 1, strike all of lines 1-25 and insert: A bill to be entitled An act relating to sentencing; providing for legislative adoption and implementation of revisions to sentencing guidelines promulgated by the Florida Supreme Court in accordance with s. 921.001, F.S.; amending s. 921.001, F.S.; providing a deadline for revisions to sentencing guidelines; specifying circumstances under which the court may revise the guidelines without legislative approval; providing that departure sentences shall be based upon reasonably justified circumstances or factors; reducing the level of proof necessary to establish the facts supporting a departure; providing that one justifiable reason is sufficient to support a departure sentence on appeal; providing for departures from sentencing guidelines in cases of excessive trauma to the victim or where the defendant's record demonstrates an escalating pattern of criminal conduct involving violence; amending s. 958.04, F.S.; providing that youthful offender sentences imposed outside the guidelines must be reasonably justified; providing for appeal by the state of youthful offender sentences imposed outside the guidelines; providing an effective date.

On motion by Senator Johnson, by two-thirds vote CS for SB's 35, 437, 894 and 923 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

Beard	Grizzle	Lehtinen	Stuart
Brown	Hair	Malchon	Thomas
Childers, D.	Hill	Margolis	Thurman
Childers, W. D.	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Frank	Johnson	Plummer	
Girardeau	Kiser	Ros-Lehtinen	
Grant	Langley	Scott	

Nays—None

Vote after roll call:

Yea—Gordon, Kirkpatrick

CS for HB 1467—A bill to be entitled An act relating to crime prevention; providing for state crime prevention information systems; providing legislative findings and intent; creating the Risk Assessment Information System Coordinating Council to provide information about the causes of crime; providing for membership and duties; requiring a report to the Legislature; providing for future review and repeal of the council; providing for a uniform sentencing policy; adopting Rules 3.701 and 3.988, Florida Rules of Criminal Procedure; amending s. 921.001, F.S.; providing a deadline for revisions to sentencing guidelines; widening range of sentences; lowering standards of review on appeals; amending s. 924.06, F.S.; limiting appeals by defendants; amending s. 924.07, F.S.; limiting appeals by the state; amending s. 775.084, F.S.; changing the standards for sentencing habitual offenders; amending s. 951.21, F.S.; changing the method of commuting time for good conduct of county prisoners; providing children and youth components; amending s. 233.067, F.S.; changing the comprehensive health education program in the public schools to the comprehensive health education and substance abuse prevention program; providing for establishment of a Prevention Resource Center as a clearinghouse; creating an advisory council to the center; providing for inservice training in substance abuse identification and prevention; providing for management training programs; providing for instruction in substance abuse prevention; providing for district contact persons to coordinate the program; requiring each district school board, laboratory school, or consortia thereof, to submit a proposed program; revising proposal contents; providing for model programs; providing for evaluation and dissemination of effective programs; amending s. 232.245, F.S.; requiring specification of the minimum number of hours of instruction for each grade level; amending s. 230.23, F.S.; requiring the district code of student conduct to include disciplinary action that may be imposed; amending s. 236.0811, F.S.; requiring training in substance abuse prevention education to be included as a component in the master plan for service training; amending s. 231.603, F.S.; requiring inservice training programs of teacher education centers to include substance abuse prevention education; creating s. 230.2318, F.S.; creating a statewide school resource officer program; providing for proposed program plans by school districts; providing contents; providing for approval of plans and provision of funding by the Commissioner of Education; providing duties of school resource officers; authorizing application for federal funds; providing for funding through the General Appropriations Act; providing for review and repeal; providing a guardian ad litem program for juveniles; providing legislative findings and intent; requiring the appointment of guardians ad litem for all juveniles alleged to be dependent; providing definitions; providing for reimbursement; providing for administrative and technical support by the office of the State Courts Administrator; providing for supervision by the chief judge of each circuit, along with a juvenile judge; providing immunity from liability; providing neighborhood and community components; creating the Safe Neighborhoods Act; providing legislative findings and purpose; providing definitions; providing for the creation of safe neighborhood improvement districts; providing for adoption of local planning ordinances; providing for the creation of property owners' association neighborhood improvement districts; providing for the creation of special neighborhood residential or business improvement districts; providing for ad valorem tax referenda; providing election procedures; providing ballots; providing for establishment, organization, management, funding, and powers and duties for each type of neighborhood improvement district; providing goals and methods for reducing crime through neighborhood improvement programs; providing for fiscal management and budget preparation; providing for development of safe neighborhood improvement plans; providing for notice and public hearings; providing for conformity with local government comprehensive plans; creating the Safe Neighborhoods Trust Fund within the Depart-

ment of Community Affairs; providing methods for allocations; establishing a "crime prevention through environmental design" program; providing duties; providing duties of the Department of Community Affairs; directing local governments which have approved enterprise zones to consider creation of neighborhood improvement districts within such zones; amending s. 290.007, F.S., to add use of neighborhood improvement districts to listing of local programs to encourage revitalization of enterprise zones; amending s. 163.340, F.S., to add neighborhood improvement districts to list of special districts excluded from definition of "public body" or "taxing authority"; amending s. 220.183, F.S., to make neighborhood improvement districts eligible for purposes of community contribution tax credit; amending s. 624.5105, F.S., to authorize eligibility of neighborhood improvement districts for community contribution tax credit; creating s. 177.086, F.S.; providing that discontinuance of rights-of-way caused by installation of cul-de-sacs shall not operate as abandonment of right-of-way; creating s. 16.55, F.S.; requiring that the Department of Law Enforcement develop and disseminate model crime prevention training materials for use by the localities; providing adult substance abuse control components; amending s. 893.03, F.S.; adding a substance to the list of Schedule I controlled substances; clarifying the meaning of a substance listed in Schedule II; amending s. 893.03, F.S.; including anabolic steroids, among Schedule III controlled substances; creating s. 893.0356, F.S.; requiring the treatment of certain new substances as controlled substances; amending s. 893.13, F.S.; making it a felony to utilize or involve a minor in the sale or delivery of a controlled substance, or to sell, or possess with intent to sell, a controlled substance within a specified distance of a school; providing minimum mandatory sentences; amending s. 893.135, F.S.; decreasing the amount of cocaine required for the offense of trafficking; providing a definition of "knowingly"; providing that any person who knowingly purchases one of the specified controlled substances in one of the specified amounts shall be guilty of trafficking in such substance and shall be punished accordingly; providing penalties; authorizing a court, upon the motion of the state attorney or defense attorney, to reduce or suspend the sentence of certain persons who provide substantial assistance in the identification, arrest, or conviction of a person engaged in trafficking in controlled substances; creating s. 893.137, F.S.; providing a minimum mandatory sentence for a second or subsequent drug-related felony offense; creating s. 322.055, F.S.; providing for revocation or suspension of or delay of eligibility for a person's driver's license upon conviction of certain offenses; amending s. 782.04, F.S.; defining as murder a death caused by the distribution of any cocaine, morphine, phenylcyclidine, or methaqualone; amending s. 60.05, F.S.; expanding use of abatement of nuisance proceedings; amending s. 932.704, F.S.; allowing proceeds from contraband forfeiture sales to be expended for school resource officer, crime prevention, or drug abuse education programs; providing for quarterly reports to the Department of Law Enforcement; providing that proceeds from forfeiture of contraband articles seized by certain state agencies be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services; creating s. 895.055, F.S.; providing for the distribution of residual funds derived from the sale of property forfeited under the RICO Act, to the Department of Health and Rehabilitative Services; specifying uses of such funds; amending s. 319.33, F.S., which provides offenses involving vehicle identification numbers or indicia of ownership of vehicles; providing that any vehicle to which such an offense relates shall constitute contraband subject to seizure and forfeiture proceedings; clarifying that any motor vehicle or mobile home the real identity of which cannot be determined shall constitute contraband; providing penalties; amending s. 329.10, F.S., relating to aircraft registration; authorizing seizure and forfeiture proceedings against aircraft in violation of any aircraft registration or information requirements; amending s. 329.11, F.S., relating to aircraft identification numbers; authorizing seizure and forfeiture proceedings against aircraft in violation of identification requirements; providing penalties; amending s. 330.40, F.S., relating to aircraft fuel tanks; authorizing seizure and forfeiture proceedings against aircraft in violation of any aircraft fuel tank requirements or restrictions; providing penalties; amending s. 328.05, F.S.; providing that specified unlawful acts relating to certificates of title or other indicia of ownership shall constitute any vessel to which they relate as contraband subject to seizure and forfeiture proceedings; amending s. 843.18, F.S.; providing that any vessel used to flee or attempt to elude a law enforcement officer shall be contraband subject to seizure and forfeiture proceedings; providing penalties; creating the "Florida Money Laundering Act"; providing for the filing of information with the Department of Revenue relating to specified trade or business cash transactions; defining the offense of money laundering; providing fines and penalties; providing for notification of the reporting requirements by local governing authorities to all trades and businesses

which they license; authorizing the Department of Revenue to enforce compliance and to be custodian of the information submitted; providing that such information shall be confidential; providing an exception for law enforcement agencies; providing changes in the law relating to pawnbrokers; amending s. 715.041, F.S.; making records available to the local police chief or sheriff or the delegate thereof; providing for recovery of stolen property; creating s. 715.0415, F.S.; requiring verification of ownership; providing penalties; creating s. 790.165, F.S.; prohibiting hoax bombs; providing definitions; providing penalties; creating the Crime Prevention and Law Enforcement Study Commission; providing membership and duties of such commission; providing for per diem and travel expenses; providing effective dates.

—was read the second time by title.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Johnson:

Amendment 1—On page 10, line 6, strike everything after the enacting clause and insert:

Section 1. This act may be cited as the "Crime Prevention and Control Act."

Section 2. Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure, as revised by the Florida Supreme Court on April 2, 1987, in parts I, III, and V of its opinion are hereby adopted and implemented in accordance with s. 921.001, Florida Statutes, and part VII of the Supreme Court opinion is hereby adopted and implemented to the extent not inconsistent with sections 6, 7, and 8 of this act. Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure, as revised by the Florida Supreme Court on April 2, 1987, in Part VI of its opinion are hereby adopted and implemented in accordance with s. 921.001, Florida Statutes, to the extent that such part authorizes the scoring of injury regardless of whether it is an element of the crime and for each victim injured during a criminal episode or transaction.

Section 3. A judge in sentencing a person to whom the sentencing guidelines apply shall, in addition to all other matters required by law or court rule to be considered, consider psychological injury to the victim.

Section 4. Paragraph (e) is added to subsection (4) of section 775.084, Florida Statutes, to read:

775.084 Habitual felony offenders and habitual misdemeanants; extended terms; definitions; procedure; penalties.—

(4)

(e) *A sentence imposed under this section is not subject to the sentencing guidelines prescribed in chapter 921. When a defendant is found to be an habitual felony offender, the trial court may impose an extended term of imprisonment up to the maximum periods set forth in this section.*

Section 5. Subsection (5) of section 921.001, Florida Statutes, 1986 Supplement, is amended, and present subsections (7) and (8) are renumbered as subsections (9) and (10), respectively, and new subsections (7) and (8) are added to said section to read:

921.001 Sentencing Commission.—

(5) Sentences imposed by trial court judges must be in all cases within any relevant minimum and maximum sentence limitations provided by statute and must conform to all other statutory provisions. *Except as provided in s. 775.084, the failure of a trial court to impose a sentence within the sentencing guidelines shall be subject to appellate review pursuant to chapter 924. The extent of departure from a guideline sentence shall not be subject to appellate review. The level of proof necessary to establish facts supporting a departure from a recommended or permitted sentence under the guidelines is a preponderance of the evidence. When multiple reasons to support a departure from a recommended or permitted sentence under the guidelines exist, the departure shall be upheld when at least one clear and convincing reason is present regardless of the presence of other reasons found not to be clear and convincing.*

(7) *A court may impose a sentence outside the range recommended by the guidelines when credible facts proven by a preponderance of the evidence demonstrate that the victim suffered excessive physical or emotional trauma at the hands of the defendant. Such departure is not barred because victim injury has been utilized in the calculation of the guidelines recommended or permitted sentence.*

(8) A trial court may impose a sentence outside the range recommended by the guidelines when credible facts proven by a preponderance of the evidence demonstrate that the defendant's prior record, including offenses for which adjudication was withheld, and the current criminal offense for which the defendant is being sentenced indicate an escalating pattern of criminal conduct. The escalating pattern of criminal conduct may be evidenced by a progression from nonviolent to violent crimes or a progression of increasingly violent crimes.

Section 6. Paragraph (e) of subsection (1) of section 924.06, Florida Statutes, is amended to read:

924.06 Appeal by defendant.—

(1) A defendant may appeal from:

(a) A final judgment of conviction when probation has not been granted under chapter 948, except as provided in subsection (3);

(b) An order granting probation under chapter 948;

(c) An order revoking probation under chapter 948;

(d) A sentence, on the ground that it is illegal; or

(e) A sentence imposed outside the range recommended or permitted by the guidelines authorized by s. 921.001 when:

1. The sentence recommended by the guidelines is any nonstate prison sanction, and the trial court sentence exceeds 40 months incarceration;

2. The maximum sentence permitted by the guidelines is more than doubled by the trial court sentence; or

3. The maximum sentence permitted by the guidelines is less than life imprisonment, and the trial court sentence is life imprisonment.

Section 7. Section 924.07, Florida Statutes, is amended to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(a)(1) An order dismissing an indictment or information or any count thereof;

(b)(2) An order granting a new trial;

(c)(3) An order arresting judgment;

(d)(4) A ruling on a question of law when the defendant is convicted and appeals from the judgment. Once the state's cross-appeal is instituted, the appellate court shall review and rule upon the question raised by the state regardless of the disposition of the defendant's appeal;

(e)(5) The sentence, on the ground that it is illegal;

(f)(6) A judgment discharging a prisoner on habeas corpus;

(g)(7) An order adjudicating a defendant insane under the Florida Rules of Criminal Procedure;

(h)(8) All other pretrial orders, except that it may not take more than one appeal under this subsection in any case; or

(i)(9) A sentence imposed outside the range recommended or permitted by the guidelines authorized by s. 921.001 when:

1. The minimum sentence permitted by guidelines is an incarceration period of more than 40 months, and the trial court sentence is any nonstate prison sanction or community control;

2. The minimum sentence recommended by the guidelines is reduced by more than half by the trial court sentence; or

3. The sentence permitted by the guidelines is life, and the trial court sentence is an incarceration period less than that permitted by guidelines.

(j) A ruling granting a motion for judgment of acquittal after a jury verdict.

(2) An such appeal under this section shall embody all assignments of error in each pretrial order that the state seeks to have reviewed. The state shall pay all costs of such appeal except for the defendant's attorney's fee.

Section 8. Subsection (3) of section 958.04, Florida Statutes, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(3) The provisions of this section shall not be used to impose a greater sentence than the maximum recommended range as established by statewide sentencing guidelines pursuant to s. 921.001 unless clear and convincing reasons are explained in writing by the trial court judge. A sentence imposed outside of such guidelines shall be subject to appeal by the defendant pursuant to s. 924.06 or s. 924.07.

Section 9. Paragraphs (a) and (c) of subsection (1), paragraph (a) of subsection (2), and subsection (3) of section 893.03, Florida Statutes, 1986 Supplement, are amended to read:

893.03 Standards and schedules.—The substances enumerated herein are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this act shall not be construed to include within any of the schedules herein contained any excluded nonprescription drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards except for such uses provided for in s. 402.36. The following substances are controlled in Schedule I:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl.

2. Acetylmethadol.

3. Alfentanil. Alfentanil is listed in Schedule I because it is presently scheduled in the same way in rules adopted by the United States Attorney General pursuant to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811. Alfentanil is currently the subject of an application to the Food and Drug Administration which, if approved, will cause the United States Attorney General to consider adopting a rule rescheduling alfentanil. In order to allow medical use of alfentanil as soon as possible, alfentanil is hereby listed on Schedule II, and deleted from Schedule I, effective upon alfentanil being rescheduled by rule adopted by the United States Attorney General.

4. Allylprodine.

5. Alphacetylmethadol.

6. Alphamethadol.

7. Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).

8. Alpha-methylthiofentanyl.

9. Alphameprodine.

10. Benzethidine.

11. Benzylfentanyl.

12. Betacetylmethadol.

13. Beta-hydroxyfentanyl.

14. Beta-hydroxy-3-methylfentanyl.

15. Betameprodine.

16. Betamethadol.

17. Betaprodine.

18. Clonitazene.

19. Cocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine.

The Legislature recognizes that these substances are currently accepted for severely restricted medical use in treatment in the United States; however, they are classified in Schedule I because of the extraordinary danger they pose to the public health and safety and because of their extraordinary degree of abuse by many persons. These substances may be prescribed under s. 893.04(1)(f). Possession, sale, dispensing, or distribution of cocaine or ecgonine by a pharmacist licensed pursuant to chapter 465 or by a prescriber authorized by law to prescribe medicinal drugs is lawful when such possession, sale, dispensing, or distribution occurs in the course of his professional practice.

- ~~20.10.~~ Dextromoramide.
- ~~21.20.~~ Diampromide.
- ~~22.21.~~ Diethylthiambutene.
- ~~23.22.~~ Difenoxin.
- ~~24.23.~~ Dimenoxadol.
- ~~25.24.~~ Dimepheptanol.
- ~~26.25.~~ Dimethylthiambutene.
- ~~27.26.~~ Dioxaphetyl butyrate.
- ~~28.27.~~ Dipipanone.
- ~~29.28.~~ Ethylmethylthiambutene.
- ~~30.29.~~ Etonitazene.
- ~~31.30.~~ Extoxeridine.
- ~~32.31.~~ Furethidine.
- ~~33.32.~~ Hydroxypethidine.
- ~~34.33.~~ Ketobemidone.
- ~~35.34.~~ Levomoramide.
- ~~36.35.~~ Levophenacilmorphan.
- ~~37.36.~~ 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- ~~38.37.~~ 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
- ~~39.38.~~ 3-Methylthiofentanyl.
- ~~40.39.~~ 3, 4-Methylenedioxy methamphetamine (MDMA).
- ~~41.40.~~ Morpheridine.
- ~~42.41.~~ Noracymethadol.
- ~~43.42.~~ Norlevorphanol.
- ~~44.43.~~ Normethadone.
- ~~45.44.~~ Norpipanone.
- ~~46.45.~~ Para-Fluorofentanyl.
- ~~47.46.~~ Phenadoxone.
- ~~48.47.~~ Phenampromide.
- ~~49.48.~~ Phenomorphan.
- ~~50.49.~~ Phenoperidine.
- ~~51.50.~~ 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine (PEPAP).
- ~~52.51.~~ Piritramide.
- ~~53.52.~~ Proheptazine.
- ~~54.53.~~ Properidine.
- ~~55.54.~~ Propiram.
- ~~56.55.~~ Racemoramide.
- ~~57.56.~~ Thenylfentanyl.
- ~~58.57.~~ Thiofentanyl.
- ~~59.58.~~ Tilidine.

~~60.59.~~ Trimeperidine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- ~~1.~~ 2-Amino-4-methyl-5-phenyloxazoline.
- ~~2.1.~~ 4-Bromo-2,5-dimethoxyamphetamine.
- ~~3.2.~~ Bufotenine.
- ~~4.3.~~ Cannabis.
- ~~5.4.~~ Diethyltryptamine.
- ~~6.5.~~ 2,5-Dimethoxyamphetamine.
- ~~7.6.~~ Dimethyltryptamine.
- ~~8.7.~~ N-Ethyl-1-phenylcyclohexylamine.
- ~~9.8.~~ N-Ethyl-3-piperidyl benzilate.
- ~~10.9.~~ N-ethylamphetamine.
- ~~11.10.~~ Fenethylamine.
- ~~12.11.~~ Ibogaine.
- ~~13.12.~~ Lysergic acid diethylamide.
- ~~14.13.~~ Mecloqualone.
- ~~15.14.~~ Mescaline.
- ~~16.15.~~ 5-Methoxy-3,4-methylenedioxy-amphetamine.
- ~~17.16.~~ 4-methoxyamphetamine.
- ~~18.17.~~ 4-Methyl-2,5-dimethoxy-amphetamine.
- ~~19.18.~~ 3,4-Methylenedioxy-amphetamine.
- ~~20.19.~~ N-Methyl-3-piperidyl benzilate.
- ~~21.20.~~ Parahexyl.
- ~~22.21.~~ Peyote.
- ~~23.22.~~ N-(1-Phenylcyclohexyl)-pyrrolidine.
- ~~24.23.~~ Psilocybin.
- ~~25.24.~~ Psilocyn.
- ~~26.25.~~ Tetrahydrocannabinols.
- ~~27.26.~~ 1-[1-(2-Thienyl)-cyclohexyl]-piperidine.
- ~~28.27.~~ 3,4,5-Trimethoxy-amphetamine.

(2) SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis:

1. Opium and any salt, compound, derivative, or preparation of opium, except nalmefene or isoquinoline alkaloids of opium, including but not limited to the following:

- a. Raw opium.
- b. Opium extracts.
- c. Opium fluid extracts.
- d. Powdered opium.
- e. Granulated opium.

- f. Tincture of opium.
- g. Codeine.
- h. Ethylmorphine.
- i. Etorphine hydrochloride.
- j. Hydrocodone.
- k. Hydromorphone.
- l. Metopon.
- m. Morphine.
- n. Oxycodone.
- o. Oxymorphone.
- p. Thebaine.
- q. Dronabinol (*synthetic*) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product.

2. Any salt, compound, derivative, or preparation of a substance which is chemically equivalent to or identical with any of the substances referred to in subparagraph 1., except that these substances shall not include the isoquinoline alkaloids of opium.

3. Any part of the plant of the species *Papaver somniferum*, L.

~~4. Cocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine.~~

(3) SCHEDULE III.—A substance in Schedule III has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence, or in the case of *anabolic steroids*, *serious physical damage*. The following substances are controlled in Schedule III:

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant or stimulant effect on the nervous system:

- 1. Any substance which contains any quantity of a derivative of barbituric acid, including thiobarbituric acid, or any salt of a derivative of barbituric acid or thiobarbituric acid.
- 2. Benzphetamine.
- 3. Chlorhexadol.
- 4. Chlorphentermine.
- 5. Clortermine.
- 6. Gluthethimide.
- 7. Lysergic acid.
- 8. Lysergic acid amide.
- 9. Methypylon.
- 10. Phendimetrazine.
- 11. Sulfondiethylmethane.
- 12. Sulfonethylmethane.
- 13. Sulfonmethane.
- (b) Nalorphine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following controlled substances or any salts thereof:

- 1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

3. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

7. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

(d) *Anabolic steroids, including testosterone and its analogs, human chorionic and other gonadotropins, and human growth hormone of biosynthetic or pituitary origin.*

Section 10. Section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, *purchase*, manufacture, or deliver, or possess with intent to sell, *purchase*, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) is guilty of a felony of the second degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, it is unlawful to sell, *purchase*, deliver, or possess in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph is guilty of a felony of the first degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

(c) Except as authorized by this chapter, it is unlawful for any person over the age of 18 years to deliver any controlled substance to a person under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of such a substance, or to use such person to assist in avoiding detection or apprehension for a violation of this chapter. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (2)(a), or (2)(b) is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (1)(d), (2)(c), (3), or (4) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence shall not be suspended or deferred, nor shall the person so convicted be placed on probation.

(d) It is unlawful for any person to bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (2)(a), or (2)(b) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (1)(d), (2)(c), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) Except as authorized by this chapter, it is unlawful for any person to sell, purchase, or deliver, or to possess with the intent to sell, purchase, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, secondary, or vocational school, or a public or private junior college, college, or university. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (2)(a), or (2)(b) is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (1)(d), (2)(c), (3), or (4) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f)(e) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter. Any person who violates this provision is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g)(f) If the offense is the possession or delivery without consideration of not more than 20 grams of cannabis, as defined in this chapter, that person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 and s. 775.083. For the purposes of this subsection, "cannabis" does not include the resin extracted from the plants of the genus Cannabis, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(h)(g) Notwithstanding any provision to the contrary of the laws of this state relating to arrest, a law enforcement officer may arrest without warrant any person who he has probable cause to believe is violating the provisions of this chapter relating to possession of cannabis.

(2)(a) It is unlawful for any person:

1. To distribute or dispense a controlled substance in violation of the provisions of this chapter relating thereto.

2. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.

3. To refuse an entry into any premises for any inspection or to refuse to allow any inspection authorized by this chapter.

4. To distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.

5. To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

6. To use to his own personal advantage, or to reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.

7. To withhold information from a practitioner from whom he seeks to obtain a controlled substance or a prescription for a controlled substance that such person has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the last 30 days.

8. To possess a prescription form which has not been completed and signed by the practitioner whose name appears printed thereon, unless

the person is such practitioner, is an agent or employee of such practitioner, is a pharmacist, or is a supplier of prescription forms who is authorized by such practitioner to possess such forms.

(b) Any person who violates the provisions of paragraph (a) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; except that, upon a second or subsequent violation, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) It is unlawful for any person:

1. To acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

2. To affix any false or forged label to a package or receptacle containing a controlled substance.

3. To furnish false or fraudulent material information in, or omit any material information from, any report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.

(b) Any person who violates the provisions of paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The provisions of subsections (1), (2), and (3) are not applicable to:

(a) The delivery for medical or scientific purpose only of controlled substances to persons included in any of the classes hereinafter named, or to the agents or employees of such persons, for use in the usual course of their business or profession or in the performance of their official duties.

(b) The actual or constructive possession of controlled substances for such use by such persons or their agents or employees, to wit:

1. Pharmacists.

2. Practitioners.

3. Persons who procure controlled substances in good faith and in the course of professional practice only, by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale.

4. Hospitals which procure controlled substances for lawful administration by practitioners, but only for use by or in the particular hospital.

5. Officers or employees of state, federal, or local governments acting in their official capacity only, or informers acting under their jurisdiction.

6. Common carriers.

7. Manufacturers, wholesalers, and distributors.

(c) The delivery of controlled substances by a law enforcement officer for bona fide law enforcement purposes in the course of an active criminal investigation.

Section 11. Section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 100 pounds of cannabis is guilty of a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 100 pounds, but less than 2,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$200,000.

(b) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine as described in s. 893.03(1)(a)19. ~~s. 893.03(2)(a)4.~~ or of any mixture containing cocaine is guilty of a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

1. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

3. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(c) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, is guilty of a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

1. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of \$100,000.

3. Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of \$500,000.

(d) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), is guilty of a felony of the first degree, which felony shall be known as "trafficking in phencyclidine." If the quantity involved:

1. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

3. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(e) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), is guilty of a felony of the first degree, which felony shall be known as "trafficking in methaqualone." If the quantity involved:

1. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

3. Is 25 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(2) A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state,

or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3)(2) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section.

(4)(3) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance.

(5)(4) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) is guilty of a felony of the first degree and is punishable as if he had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

Section 12. Subsections (1) and (4) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being; or

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

- a. Trafficking offense prohibited by s. 893.135(1),
- b. Arson,
- c. Sexual battery,
- d. Robbery,
- e. Burglary,
- f. Kidnapping,
- g. Escape,
- h. Aggravated child abuse,
- i. Aircraft piracy, or
- j. Unlawful throwing, placing, or discharging of a destructive device or bomb; or

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1) or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

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

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

- (a) Trafficking offense prohibited by s. 893.135(1),
- (b) Arson,
- (c) Sexual battery,

- (d) Robbery,
- (e) Burglary,
- (f) Kidnapping,
- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aircraft piracy,
- (j) Unlawful throwing, placing, or discharging of a destructive device or bomb, or
- (k) Unlawful distribution of *any substance controlled under s. 893.03(1)* or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Section 893.139, Florida Statutes, is created to read:

893.139 Drug felonies; mandatory probation.—

(1) Any person found guilty of a violation of s. 893.13 or s. 893.135 that constitutes a felony, in addition to being sentenced to any term of imprisonment, shall be placed on probation for a term not less than the period specified in this section.

(a) If the offense is a felony of the second or third degree, the minimum period of probation shall be 3 calendar years, less the amount of time actually served in prison.

(b) If the offense is a felony of the first degree, the minimum period of probation shall be 5 calendar years, less the amount of time actually served in prison.

(2) Probation under this section shall commence upon the person's release from incarceration or, if the person is not incarcerated, upon imposition of sentence.

(3) Probation under this section shall not be suspended, deferred, waived, or withheld.

(4) The sentencing court shall impose the following conditions of probation, in addition to any other conditions that the court, in the sound exercise of its discretion, imposes:

(a) The person shall not possess, sell, deliver, or use any illegal drug.

(b) The person shall regularly submit to drug testing, evaluation, counseling, and treatment, pursuant to a reasonable schedule established by the court.

(c) The person shall perform at least 100 hours of community service in a program approved by the court.

(5) This section shall not be construed to limit the period of probation that a court may impose.

Section 14. Local administrative action to abate drug-related public nuisances.—

(1) Any place or premises which have been used on more than two occasions as the site of the unlawful sale or delivery of controlled substances may be declared to be a public nuisance, and such nuisance may be abated, pursuant to the procedures provided in this section.

(2) Any county or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances described in subsection (1). Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days' written notice of such complaint to the owner of the place or premises at his last known address. After a hearing in which the board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his defense, the board may declare the place or premises to be a public nuisance as described in subsection (1).

(3) If the board declares a place or premises to be a public nuisance, it may enter an order immediately prohibiting:

(a) The maintaining of the nuisance;

(b) The operating or maintaining of the place or premises; or

(c) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

(4) An order entered under subsection (3) shall expire after 1 year or at such earlier time as is stated in the order.

(5) The board may bring a complaint under s. 60.05, Florida Statutes, seeking a permanent injunction against any nuisance described in subsection (1).

(6) This section does not restrict the right of any person to proceed under s. 60.05, Florida Statutes, against any public nuisance.

Section 15. Section 817.565, Florida Statutes, is created to read:

817.565 Urine testing, fraudulent practices; penalties.—

(1) It is unlawful for any person:

(a) Willfully to defraud or attempt to defraud any lawfully administered urine test designed to detect the presence of chemical substances or controlled substances.

(b) Willfully to manufacture, advertise, sell, or distribute any substance or device which is intended to defraud or attempt to defraud any lawfully administered urine test designed to detect the presence of chemical substances or controlled substances.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Section 232.26, Florida Statutes, is amended to read:

232.26 Authority of principal.—

(1)(a) Subject to law and to the rules of the state board and the district school board, the principal in charge of the school or his designated representative shall develop policies by which he may delegate to any teacher or other member of the instructional staff or to any bus driver transporting students of the school such responsibility for the control and direction of students as he may consider desirable.

(b) The principal or his designated representative may suspend a student only in accordance with the rules of the district school board; and each suspension shall be reported in writing within 24 hours, with the reasons therefor, to the student's parent or guardian and to the superintendent. A good faith effort shall be made by the principal to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral or written notice to the student of the charges against him and, if he denies the charges, an explanation to him of the evidence against him and an opportunity for him to present his side of the story. No student who is required by law to attend school shall be suspended for unexcused absence or truancy. The principal or his designated representative may suspend any student transported to or from school at the public expense from the privilege of riding on a school bus, the principal or his designated representative giving notice in writing to the student's parent or guardian and to the superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or his designated representative may recommend to the superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. Any recommendation of expulsion shall include a detailed report by the principal or his designated representative on the alternative measures taken prior to the recommendation of expulsion.

(d) The principal or his designated representative shall include an analysis of suspensions and expulsions in the annual report of school progress.

(2) Any pupil enrolled as a student who is formally charged with a felony by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, but which incident is shown to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled, shall (following an administrative hearing upon notice provided to the parents or parent or guardian of such pupil by the principal of the school pursuant to rules promulgated by the State Board of Education, if such suspension is recommended) be suspended from all classes of instruction until the determination of his guilt or innocence, or the dismissal of the charge, is made by a court of competent jurisdiction. If the pupil is adjudicated guilty of a felony, the district school board shall immediately expel him. Any pupil who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If he divulges information leading to the arrest and conviction of the person who supplied such controlled substance to him, or if he voluntarily discloses his unlawful possession of such controlled substance prior to his arrest. Any information divulged which leads to such arrest and conviction is not admissible in evidence in a subsequent criminal trial against the pupil divulging such information.

(b)(3) ~~Any pupil subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may receive a waiver of the discipline or expulsion~~ If the pupil commits himself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.

Section 17. Section 240.133, Florida Statutes, is amended to read:

240.133 Expulsion and discipline of students of the State University System and community colleges.—

(1) Each student in the State University System and each student in a community college is subject to federal and state law, respective county and municipal ordinances, and all rules and regulations of the Board of Regents or board of trustees of the community college.

(2) Violation of these published laws, ordinances, or rules and regulations may subject the violator to appropriate action by the university or community college authorities.

(3) Each president of a university in the State University System and each president of a community college shall have authority, after notice to the student of the charges and after a hearing thereon, to expel, suspend, or otherwise discipline any student who is found to have violated any law, ordinance, or rule or regulation of the Board of Regents or of the board of trustees of the community college. *Any student who is adjudicated guilty of a felony violation of any provision of chapter 893 relating to controlled substances shall be immediately expelled. A student may be entitled to waiver of expulsion:*

(a) *If he provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals or of any other person engaged in violations of chapter 893 within the State University System or community colleges;*

(b) *If he voluntarily discloses his violations of chapter 893 prior to his arrest; or*

(c) *If he commits himself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.*

Section 18. Dismissal of public employees for unlawful drug use.—If any public agency or public employer has probable cause to believe that an employee is utilizing or has utilized prohibited drugs listed in s. 893.03(1), Florida Statutes, in the past 6 months, the employer shall undertake dismissal procedures with a minimum of reasonable notice and an opportunity for the employee to be heard. If a preponderance of evidence exists following notice and a hearing that the public employee is utilizing or has utilized prohibited drugs listed in s. 893.03(1), Florida Statutes, within 6 months preceding the undertaking of the dismissal proceedings, the employee shall be terminated.

Section 19. By March 1, 1988, the Department of Corrections shall present a report to the President of the Senate and the Speaker of the House of Representatives containing:

(1) A statistical analysis of anticipated increases in the need for prison beds resulting from increased incarcerations for drug offenses, from penalties created or increased by this act, and from revisions to sentencing guidelines; and

(2) An analysis of drug treatment, evaluation, and counseling programs and services provided by the Department of Corrections to those persons in the custody of the department, and recommendations for meeting future drug treatment, evaluation, and counseling needs of offenders in the correctional system.

Such report shall also contain a budget request for any needed additional beds and drug rehabilitation programs and services.

Section 20. Subsections (2) and (4) of section 39.10, Florida Statutes, are amended to read:

39.10 Adjudication.—

(2) If the court finds that the child named in the petition has committed a delinquent act, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of a delinquent act and placing the child in a community control program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose a curfew, require restitution or public service, revoke or suspend the driver's license of the child, require school attendance, or require that the child work faithfully at suitable employment insofar as may be possible. *If the delinquent act is a second or subsequent violation of s. 562.11(2) or s. 562.111 or if the delinquent act is a second or subsequent violation of chapter 893, the court shall enter an order revoking the child's driving privilege for up to 1 year, and the court shall require the child to surrender to it all operator's and chauffeur's licenses held by the child; the court shall forward said licenses and a record of the finding of the commission of a delinquent act to the Department of Highway Safety and Motor Vehicles.* If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(4) Except for use in a subsequent proceeding under this chapter, an adjudication by a court that a child has committed a delinquent act shall not be deemed a conviction; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication; nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or to disqualify or prejudice the child in any civil service application or appointment. However, *a finding of the commission of a delinquent act in violation of s. 562.11(2), s. 562.111, or chapter 893, as described in subsection (2), even though adjudication was withheld, or an adjudication by the court that a juvenile has committed a delinquent act, including a violation of chapter 316 or chapter 322, shall constitute a "conviction" as that term is used in chapter 322.*

Section 21. Subsection (8) is added to section 322.05, Florida Statutes, to read:

322.05 Persons not to be licensed.—The department shall not issue any license:

(8) *To any child as defined in s. 39.01(7) who has been convicted two or more times of a violation of s. 562.11(2), s. 562.111, or chapter 893, for a period of up to 1 year from the date of the latest conviction.*

Section 22. Subsection (9) is added to section 322.26, Florida Statutes, to read:

322.26 Mandatory revocation of license by department.—The department shall forthwith revoke the license or driving privilege of any operator or chauffeur upon receiving a record of such operator's or chauffeur's conviction of any of the following offenses:

(9) *For a second or subsequent violation of s. 562.11(2), s. 562.111, or chapter 893, if the operator or chauffeur is a child as defined in s. 39.01(7). Revocation under this subsection shall be for a period of up to 1 year.*

Section 23. Subsection (3) of section 932.704, Florida Statutes, is amended to read:

932.704 Forfeiture proceedings.—

(3)(a) Whenever the head of the law enforcement agency effecting the forfeiture deems it necessary or expedient to sell the property forfeited rather than to retain it for the use of the law enforcement agency, or if the property is subject to a lien which has been preserved by the court, he shall cause a notice of the sale to be made by publication as provided by law and thereafter shall dispose of the property at public auction to the highest bidder for cash without appraisal. In lieu of the sale of the property, the head of the law enforcement agency, whenever he deems it necessary or expedient, may salvage the property or transfer the property to any public or nonprofit organization, provided such property is not subject to a lien preserved by the court as provided in s. 932.703(3). The proceeds of sale shall be applied: first, to payment of the balance due on any lien preserved by the court in the forfeiture proceedings; second, to payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property; third, to payment of court costs incurred in the forfeiture proceeding. The remaining proceeds shall be deposited in a special law enforcement trust fund established by the board of county commissioners or the governing body of the municipality and such proceeds and interest earned therefrom shall be used for law enforcement or drug abuse education or treatment purposes only. These funds may be expended only upon request by the sheriff to the board of county commissioners or by the chief of police to the governing body of the municipality, accompanied by a written certification that the request complies with the provisions of this subsection, and only upon appropriation to the sheriff's office or police department by the board of county commissioners or the governing body of the municipality. Such funds may be expended only to defray the costs of protracted or complex investigations; to provide additional technical equipment or expertise, which may include automated fingerprint identification equipment and an automated uniform offense report and arrest report system; to provide matching funds to obtain federal grants; or for such other law enforcement or drug abuse education or treatment purposes as the board of county commissioners or governing body of the municipality deems appropriate and shall not be a source of revenue to meet normal operating needs of the law enforcement agency. In the event that the seizing law enforcement agency is a state agency, all remaining proceeds shall be deposited into the *Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services, for use in drug and alcohol abuse treatment state General Revenue Fund*. However, in the event the seizing law enforcement agency is the Department of Law Enforcement, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Forfeiture and Investigative Support Trust Fund; and, if the seizing law enforcement agency is the Department of Natural Resources, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Motorboat Revolving Trust Fund to be used for law enforcement purposes.

(b) If more than one law enforcement agency was substantially involved in effecting the forfeiture, the court having jurisdiction over the forfeiture proceeding shall equitably distribute the property among the seizing agencies. Any forfeited money or currency, or any proceeds remaining after the sale of the property, shall be equitably distributed to the board of county commissioners or the governing body of the municipality having budgetary control over the seizing law enforcement agencies for deposit into the law enforcement trust fund established pursuant to paragraph (a). In the event that the seizing law enforcement agency is a state agency, the court shall direct that all forfeited money or currency and all proceeds be forwarded to the Treasurer for deposit into the *Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services, for use in drug and alcohol abuse treatment state General Revenue Fund*, unless the seizing agency is the Department of Natural Resources, in which case the court shall direct that the proceeds be deposited into the Motorboat Revolving Trust Fund to be used for law enforcement purposes.

Section 24. Section 895.055, Florida Statutes, is created to read:

895.055 Distribution of residual funds.—

(1) This section shall govern the distribution of the residual funds of any cash or cash proceeds recovered by the state pursuant to forfeiture proceedings under s. 895.05(2) on or after July 1, 1987. For purposes of this section, the term "residual funds" means those excess funds required by s. 895.09(2)(b) to be placed in the General Revenue Fund of the state,

once all other valid claims against the forfeited cash or cash proceeds have been satisfied in accordance with the priorities established by s. 895.09. The term "forfeiture proceedings" shall include settlements in lieu of forfeiture. Funds shall be deemed "recovered" at the time they are actually received by the Treasurer for deposit in the General Revenue Fund, pursuant to a settlement, a final order or judgment, or a sale of property forfeited pursuant to final order or judgment, and following the expiration of all rights of opposing parties to seek relief in the appellate courts.

(2) Within each fiscal year, beginning July 1, 1987, all residual funds recovered and deposited in the General Revenue Fund of the state pursuant to s. 895.09(2)(b) shall be kept account of by the State Treasurer, until the amount so deposited equals the state's total recoveries in forfeiture proceedings under s. 895.05(2) during fiscal year 1985-1986. The State Treasurer shall determine when such allocation for the General Revenue Fund within each fiscal year has been fulfilled. He shall thereafter cause funds received as residual funds within the same fiscal year to be transferred to the Department of Health and Rehabilitative Services for use as required by subsection (3).

(3) In the case of forfeiture proceedings brought within the state or on behalf of the state in courts of another jurisdiction, any residual funds recovered following the allocation to the General Revenue Fund required in subsection (2) shall be transferred to the Department of Health and Rehabilitative Services. The Department of Health and Rehabilitative Services shall use such funds to supplement residential, outpatient, detoxification, and other treatment and prevention services, including, but not limited to, one-time nonrecurring expenditures in licensed nonprofit alcohol and drug abuse treatment organizations providing alcohol and drug abuse treatment services under a contract with the department throughout the state.

(4) The Department of Health and Rehabilitative Services shall distribute funds it receives pursuant to this section at least once every 6 months, or at such time as said funds accumulated shall exceed \$25,000, whichever may occur first. Moneys distributed to licensed private nonprofit alcohol and drug abuse treatment organizations may be used to further the purpose and intent of chapter 396 and chapter 397 and for the meeting of local matching fund requirements of state or federal programs. The Department of Health and Rehabilitative Services and the respective service district shall not reduce its allocation to any organization as a result of distributions made pursuant to this section.

Section 25. Section 233.067, Florida Statutes, is amended to read:

233.067 Comprehensive health education and substance-abuse prevention.—

(1) **SHORT TITLE.**—This section shall be known and may be cited as the "*Florida Comprehensive Health Education and Substance-Abuse Prevention Act of 1973*."

(2) **INTENT.**—*The Legislature recognizes that sound health habits are essential to the educational and personal success of the student. The Legislature further recognizes that schools are uniquely situated to effectively promote the establishment of sound health habits among our youth, including prevention of substance abuse. To this end, it is the intent of the Legislature to implement a comprehensive health education and substance-abuse prevention program in Florida's public schools.*

(2) **PURPOSE.**—~~The purpose of this section is to foster the development and dissemination of educational activities and materials which will assist Florida students, teachers, and administrators in the perception, appreciation, and understanding of health principles and problems.~~

(3) **DEFINITIONS.**—As used in this section, the term "comprehensive health education" includes, but is not limited to, such concerns as mental and emotional health, venereal diseases and other communicable diseases, *substance drug abuse* (including alcohol and tobacco), environmental health, safety and emergency care, nutrition and food management, personal health and hygiene, dental health, hereditary diseases, developmental disabilities, growth and development, and consumer health and careers.

(4) **ADMINISTRATION OF THE COMPREHENSIVE HEALTH EDUCATION AND SUBSTANCE-ABUSE PREVENTION PROGRAM.**—

(a) There is created a comprehensive health education and substance-abuse prevention program for children and youths in kindergarten and grades 1 through 12. Responsibility for the administration of this section shall rest with the Department of Education, in cooperation with, and with the advice of, the Department of Health and Rehabilitative Services, and the administration of the program shall be pursuant to rules and regulations adopted by the State Board of Education, provided that such rules shall require the minimum amount of paperwork and reporting necessary to comply with this section. For purposes of administering this section, the commissioner shall establish a Prevention Resource Center within the department and shall assign appropriate staff to work directly with school district personnel. The center shall serve as a clearinghouse for evaluation and dissemination of information, materials, and model programs and shall provide program and technical assistance and other prevention services as determined by the commissioner.

(b) In administering this section, the department shall take into consideration the advice of an advisory council to the Prevention Resource Center consisting of representatives of the Florida Medical Association school health medical advisory committee to the department, the state university and community college systems, school food service personnel, governmental agencies, school boards, district school personnel, teachers' associations, and any official and voluntary health or substance-abuse prevention and treatment agencies as may be deemed appropriate. The department is authorized to reimburse the members of this advisory council the committee for travel and per diem expense, as provided by law, when performing advisory services requested by the department.

(c) The comprehensive health education and substance-abuse prevention program shall include the following:

1. Implementation of inservice education programs for teachers, counselors, administrators, and other persons. Such inservice education programs shall be consistent with the 5-year master plan, as specified in s. 236.0811, and shall include training in substance-abuse identification and prevention. The training plan may provide for the option of using teachers as trainers and shall include, but not be limited to: information on current theory, knowledge, and practice regarding substance abuse; identification and referral procedures; legal issues; peer counseling; and methods of teaching decision-making skills and building self-concept. Inservice teacher education materials and student materials which are based upon individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts.

2. Implementation of management training programs consistent with the provisions of s. 231.087 for principals and other school leaders on the identification, prevention, and treatment of substance abuse and the availability of local and regional referral resources.

3. Instruction in nutrition education as a specific area of health education instruction. Nutrition education shall include, but not be limited to, sound nutritional practices, wise food selection, analysis of advertising claims about food, proper food preparation, and food storage procedures. The purpose of such nutrition education programs shall be to educate students in the overall area of nutrition education and significantly reduce health problems associated with poor or improper nutrition practices.

4. Reorientation and utilization of existing regional drug education resource centers for use as health education resource centers to assist the Department of Education in coordinating health education activities in the regions.

5. Instruction in substance-abuse prevention in kindergarten through grade 12. Such instruction shall be designed to meet local needs and priorities and shall articulate clear instructional objectives aimed at the prevention of alcohol and substance abuse. The instruction shall be appropriate for the grade and age of the student and shall reflect current theory, knowledge, and practice regarding prevention of substance abuse and shall contain instruction in such components as health, personal, and economic consequences of substance abuse and instruction in resisting peer pressure and identifying and dealing with situations that pose a risk to one's health and may lead to substance abuse.

6. Design and development of programs for the selection and training of health education instructors from existing teaching staff and the orientation to teaching roles for persons employed in appropriate health fields and community volunteers.

6.5. Development of training programs to allow the use of school food service personnel as resource persons.

(5) **DISTRICT PROGRAM RESPONSIBILITIES DEVELOPMENT.**—

(a) Each school district shall designate one or more contact persons to coordinate the district's comprehensive health education and substance-abuse prevention program and to receive materials and information from the Prevention Resource Center. District responsibilities may include cooperating with law enforcement and alcohol-abuse and substance-abuse treatment agencies and encouraging business and community involvement in prevention activities. Each district shall plan for efficient use of state resources and prevention center resources, including, but not limited to, training programs for school personnel, curriculum materials, and identification, referral, and legal guidelines.

(b) Pursuant to policies and regulations to be adopted by the Commissioner of Education, each district school board, laboratory school, or consortia thereof shall and each school principal through the district school board, may submit to the commissioner a proposed program designed to effectuate an exemplary comprehensive health education and substance-abuse prevention program for kindergarten through grade 12 project in the district or school. Such programs shall be implemented no later than the 1988-1989 school year in each public school within the district. The proposal shall include:

1. (a) A statement of the nature of the comprehensive health education and substance-abuse prevention program proposed;

2. (b) A provision for a sequential program of instruction in comprehensive health education, including nutrition education and substance-abuse drug-abuse education, at the four progression levels K-3, 4-6, 7-9, and 10-12. The sequential program shall be integrated into the curriculum with special emphasis in grades 4-6. The program for kindergarten through grade 3 shall take into account the developmental needs of young children and shall emphasize personal health and safety;

3. (c) The number of teachers and students to be involved;

4. (d) A provision stating how the involvement of governmental agencies and private organizations will be enlisted in order to ensure the use of all available resources in the implementation of the program;

5. (e) An estimate of the cost;

6. (f) A plan for evaluation of the program project;

7. A plan for coordinating this program with student services and dropout prevention, pursuant to the provisions of ss. 230.2313 and 230.2316, respectively, and other social services, and for the provision of support activities for students in treatment and those returning to school after treatment or suspension;

(g) The number of years for which the project is to be funded;

8. (h) A plan for integration of the program project into the general curricular and financial program of the district at the end of the funded term of years; and

9. A provision for involvement by parents or legal guardians, the community, and businesses; and

10. (i) Such other information as the commissioner shall by regulation require.

(6) **TECHNICAL ASSISTANCE.**—Upon request of a district school board, laboratory school, or consortia thereof or any school principal, the department shall provide such technical assistance as is necessary to develop and submit a proposed program for comprehensive health education and substance-abuse prevention.

(7) **PROGRAM REVIEW; FUNDING.**—The commissioner shall review and approve, disapprove, or resubmit for modification all proposed comprehensive health education and substance-abuse prevention programs submitted. Approval shall be based on the assurance that components specified in this section have been met. For those programs approved, the commissioner shall authorize distribution of funds equal to the cost of the program from funds appropriated to the Department of Education for comprehensive health education and substance-abuse prevention purposes.

(8) PROGRAM EVALUATION AND MONITORING.—The department shall monitor and evaluate the programs or projects funded under subsection (7) and evaluate the overall comprehensive health education and substance-abuse prevention program. *The department shall collect, analyze, evaluate, and disseminate to all school districts, laboratory schools, or consortia thereof, resource information on effective comprehensive health education and substance-abuse programs. Program* Such evaluations shall include, but not be limited to, components for determining program or project effectiveness, efficiency, and use of resources. A report on the overall evaluation as well as recommendations for funding and any other recommendations deemed to be appropriate by the commissioner shall be included in the annual report of the Commissioner of Education required under s. 229.575(1).

(9) NONPUBLIC PERSONNEL PERMITTED TO PARTICIPATE.—Teachers or school administrators employed by a nonpublic school may participate as students in inservice teacher education institutes or curriculum development programs conducted pursuant to this section, provided such participants assume the pro rata share of the cost or charges for tuition.

(10) STUDENT EXEMPTION.—Any child whose parent presents to the school principal a signed statement that the teaching of disease and its symptoms, development, and treatment, and the use of instructional aids and materials of such subjects, conflicts with his religious beliefs shall be exempt from such instruction. No child so exempt shall be penalized by reason of such exemption.

(11) SEX EDUCATION NOT REQUIRED.—This section shall not be construed to require the teaching of sex education as a specific area of instruction or as part of health education instruction required by the State Board of Education.

(12) USE OF FUNDS.—In implementing this section, every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local, or private, in order to achieve maximum benefits for improving health education and substance-abuse prevention.

Section 26. Paragraph (d) of subsection (6) of section 230.23, Florida Statutes, 1986 Supplement, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) CHILD WELFARE.—Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(d) Code of student conduct.—*Adopt and distribute to all teachers, school personnel, students, and parents or guardians, at the beginning of every school year, a code of student conduct which is developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and may be made available in the student handbook or similar publication. The code shall include, but not be limited to:*

1. *Consistent policies and specific grounds for disciplinary action, including any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function, or the illegal use, sale, or possession of controlled substances as defined in chapter 893.*

2. *Procedures to be followed for acts requiring discipline, including corporal punishment.*

3. *An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.*

4. *Notice that illegal use, possession or sale of controlled substances, as defined in chapter 893, or weapons by any student while such student is upon school property or in attendance at a school function is grounds for suspension, expulsion, or imposition of other disciplinary action.*

Section 27. Paragraph (a) of subsection (2) of section 236.0811, Florida Statutes, is amended to read:

236.0811 Educational training.—

(2)(a)1. Pursuant to rules of the State Board of Education, each district shall develop and submit to the Commissioner for approval a 5-year master plan for inservice educational training. The plan shall be based on an assessment of the inservice educational training needs of the district conducted by a committee which includes parents, classroom teachers, and other educational personnel. The plan shall include a component consisting of competencies in the identification, assessment, and prescription of instruction for exceptional students. The plan shall also include a component consisting of competencies in the identification, assessment, and prescription of instruction for child abuse and neglect prevention and for substance drug and alcohol abuse prevention. The plan shall be updated annually by July 1 and shall include inservice activities for all district employees from all fund sources. Classroom teachers and guidance counselors shall be required to participate in the inservice training for child abuse and neglect prevention and for alcohol and substance drug abuse prevention education. *The department shall withhold approval of any district's master inservice plan, as required by this section, which fails to provide and require training in substance abuse prevention education pursuant to s. 233.067(4)(b)1. for all classroom teachers and guidance counselors.*

2. Effective no later than July 1, 1986, the plan of each school district for inservice educational training submitted pursuant to this paragraph must include inservice components which may be used for extension of a certificate or a new endorsement in each of the following areas: a study of the middle grades, understanding the student in the middle grades, organizing interdisciplinary instruction in the middle grades, curriculum development in the middle grades, developing critical thinking and creative thinking in students in the middle grades, counseling functions of the teacher in the middle grades, developing creative learning materials for the middle grades, and planning and evaluating programs in the middle grades. The department is authorized to waive one or more of these inservice areas if the district can document its unsuccessful attempt to secure a competent trainer or sufficient enrollment or when the department determines that specific validated competencies may be substituted in lieu of such inservice areas. This subparagraph shall be implemented in the 1986-1987 school year and thereafter only to the extent specifically funded and authorized by law.

Section 28. Paragraph (c) of subsection (3) of section 231.603, Florida Statutes, is amended to read:

231.603 Establishment and operation of teacher education centers.—

(3) The program of each teacher education center shall include, but not be limited to, the following:

(c) Design and implementation of inservice programs for instructional personnel which address state policy and program priorities. These programs shall include:

1. Programs offered at a time other than the regular school year for students, pursuant to s. 231.613.

2. Programs designed to improve the capability of instructional personnel to assume new and expanded instructional roles.

3. Programs to develop and utilize existing school district staff, including qualified instructional personnel, to conduct inservice activities.

4. Programs which ensure evaluation of inservice programs, including evaluation of program impact, with emphasis on changes in classroom practices which enhance the instruction of students.

5. Programs to provide school-focused program improvement, pursuant to s. 231.612.

6. Programs to provide professional development plans, pursuant to s. 231.6125.

7. *Programs to provide a pedagogical component addressing all public school grade levels concerning methods of instructing substance abuse prevention education. The department shall withhold approval of the teacher education program of any district or consortium of districts if such program fails to address substance-abuse education.*

Section 29. Section 230.2318, Florida Statutes, is created to read:

230.2318 School Resource Officer Program.—

(1) The School Resource Officer Program is hereby created to provide trained law enforcement officers to serve in public secondary schools. The Department of Education shall administer the program in cooperation with the Criminal Justice Standards and Training Commission of the Florida Department of Law Enforcement.

(2) Each school or district that intends to establish a School Resource Officer Program shall submit a proposal to the Department of Education for approval. The proposal shall be in the form of a contract between the school board and the law enforcement agency which must be signed before it is submitted. The contract shall specify the following:

(a) The duties of the officer, including an estimate of the proportion of his time that will be spent in law enforcement, counseling, and teaching. A school resource officer may provide instruction as a guest lecturer in a classroom, but he shall not have primary instructional responsibility unless he holds the teaching certificate required by law and by State Board of Education rule for that subject. If the officer holds a Florida teaching certificate, his certificate number must be included in the contract.

(b) The eligibility of the principal and the officer to participate in the program. To be eligible, the principal must have received training provided by the Department of Education. The officer must have and maintain active certification as a law enforcement officer under s. 943.1395, and must have completed the school resource officer training course approved by the Florida Department of Law Enforcement.

(c) The proposed budget, including the salary of the officer and any other costs of the program and indicating the amount to be contributed by the law enforcement agency and by the state.

(d) The areas of responsibility and jurisdiction of the school resource officer and the principal, which shall include the following:

1. The school district and the principal shall be responsible for the welfare of the students and personnel at the school.

2. The officer's ultimate responsibility is to the law enforcement agency; he has the powers and duties of a law enforcement officer at all times while he is on campus.

3. The officer must inform the principal of any investigation he is conducting on school grounds unless the principal is the subject of the investigation. If the principal is being investigated, the school superintendent must be informed of the investigation at its beginning.

(3) The Department of Education is authorized to apply for funds from, and to submit all necessary forms to, any federal agency which may provide assistance to programs similar to the School Resource Officer Program.

Section 30. The Florida Comprehensive Health Education and Substance Abuse Prevention Program and the School Resource Officer Program shall be funded to the extent authorized in the General Appropriations Act. It is the intent of the Legislature that the appropriation recognize the more pressing needs of the middle grades.

Section 31. Section 233.067(4)(b), Florida Statutes, is repealed on October 1, 1997, and shall be reviewed prior to that date by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 32. Subsections (6) and (7) of section 319.33, Florida Statutes, are amended to read:

319.33 Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.—

(6) Any person who violates any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any motor vehicle used in violation of this section shall constitute contraband which may be seized by a law enforcement agency and shall be subject to forfeiture proceedings pursuant to ss. 932.701-932.704.* This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of motor vehicles or mobile homes, but is supplementary thereto.

(7) *If any all identifying numbers of a motor vehicle or mobile home do not exist or have been destroyed, removed, covered, altered, or defaced, or if and the real identity of the motor vehicle or mobile home*

cannot be determined, the motor vehicle or mobile home shall constitute contraband and shall be subject to forfeiture by a seizing law enforcement agency or the department, pursuant to applicable provisions of ss. 932.701-932.704. Such motor vehicle shall not be operated on the streets and highways of the state unless, by written order of a court of competent jurisdiction, the department is directed to assign to the vehicle a replacement vehicle identification number which shall thereafter be used for identification purposes. If the motor vehicle is confiscated from a licensed motor vehicle dealer as defined in s. 320.27, the dealer's license shall be revoked.

Section 33. Subsection (6) of section 329.10, Florida Statutes, is amended to read:

329.10 Aircraft registration.—

(6) A violation of this section shall be deemed a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any violation of this section shall constitute the aircraft to which it relates as contraband, and said aircraft may be seized as contraband by a law enforcement agency and shall be subject to forfeiture pursuant to ss. 932.701-932.704.*

Section 34. Section 330.40, Florida Statutes, is amended to read:

330.40 Aircraft fuel tanks.—In the interests of the public welfare, it is unlawful for any person, firm, corporation, or association to install, maintain, or possess any aircraft which has been equipped with, or had installed in its wings or fuselage, fuel tanks, bladders, drums, or other containers which will hold fuel if such fuel tanks, bladders, drums, or other containers do not conform to federal aviation regulations or have not been approved by the Federal Aviation Administration by inspection or special permit. This provision also includes any pipes, hoses, or auxiliary pumps which when present in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers. Any person who violates any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any aircraft with fuel tanks in violation of this section shall be considered contraband, and said aircraft may be seized as contraband by a law enforcement agency and shall be subject to forfeiture pursuant to ss. 932.701-932.704.*

Section 35. Subsection (1) of section 329.11, Florida Statutes, is amended to read:

329.11 Aircraft identification numbers; penalties.—

(1)(a) It is unlawful for any person, firm, association, or corporation to knowingly buy, sell, offer for sale, receive, dispose of, conceal, or have in his possession, or to endeavor to buy, sell, offer for sale, receive, dispose of, conceal, or possess, any aircraft or part thereof on which the assigned identification numbers do not meet the requirements of the federal aviation regulations. ~~Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(b) *If any of the identification numbers required by this subsection have been knowingly omitted, altered, removed, destroyed, covered, defaced, or the real identity of the aircraft cannot be determined due to an intentional act of the owner or possessor, the aircraft may be seized as contraband property by a law enforcement agency and shall be subject to forfeiture pursuant to ss. 932.701-932.704. Such aircraft may not be knowingly sold or operated from any airport, landing field, or other property or body of water where aircraft may land or take off in this state unless the Federal Aviation Administration has issued the aircraft a replacement identification number which shall thereafter be used for identification purposes.*

(c) *It is unlawful for any person to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, supply in blank, or give away any counterfeit manufacturer's aircraft identification number plate or decal used for the purpose of identification of any aircraft; to authorize, direct, aid in exchange, or give away such counterfeit manufacturer's aircraft identification number plate or decal; or to conspire to do any of the foregoing.*

(d) *Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 36. Subsections (2) and (4) of section 327.30, Florida Statutes, are amended to read:

327.30 Collisions, accidents, and casualties.—

(2) In the case of collision, accident, or other casualty involving a vessel in or upon or entering into or exiting from the water, including capsizing, collision with another vessel or object, sinking, personal injury, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or property damage of \$200 or more to any vessel or dock, the operator shall immediately, or as soon as practicable within 24 hours, report such accident to the Division of Law Enforcement, which shall notify the sheriff of the county wherein such accident occurred, and to the Game and Fresh Water Fish Commission.

(4) It is unlawful for a person operating a vessel involved in an accident or injury to leave the scene of the accident or injury without giving all possible aid to persons involved, or without making a reasonable effort to locate the owner or persons affected and subsequently complying with and notifying the appropriate law enforcement official as required under this section. Any person who violates this subsection with respect to an accident resulting in personal injury is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who violates this subsection with respect to an accident resulting in property damage only is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 37. Subsection (9) of section 327.25, Florida Statutes, is amended to read:

327.25 Classification; registration; fees and charges; disposition of fees; fines.—

(9) EXPIRED REGISTRATION.—The operation of a previously registered vessel after July 15, unless the period is extended, without a current registration as provided under this law is a noncriminal violation, as defined in s. 327.73 ~~s. 775.08(3)~~, and shall subject the owner thereof, if he is present, or, if the owner is not present, the operator thereof to a fine of \$15.

Section 38. Subsections (1) and (2) of section 327.351, Florida Statutes, are amended to read:

327.351 Operation of a vessel while intoxicated; punishment.—

(1) It is unlawful for any person, while in an intoxicated condition or under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 to the such extent that as to deprive him of full possession of his normal faculties are impaired, to operate on the waters of this state any vessel. Any person convicted of a violation of this section shall be punished as provided in s. 327.35. For the purposes of this subsection, a previous conviction under s. 327.35 shall also be considered a previous conviction for violation of this subsection.

(2) If, however, damage to the property or person of another, other than damage resulting in the death of any person, is done by such intoxicated person under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 to the such extent that as to deprive him of full possession of his normal faculties are impaired, by reason of the operation of any vessel mentioned herein, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, but the penalty imposed for a violation of this subsection shall be not less than the penalty provided under s. 327.35; and, if the death of any human being is caused by the operation of a vessel by any person while so intoxicated, such person shall be deemed guilty of manslaughter and on conviction shall be punished as provided by existing law relating to manslaughter.

Section 39. Subsection (1) of section 327.353, Florida Statutes, is amended to read:

327.353 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(1)(a) Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 327.352, if a law enforcement officer has probable cause to believe that a vessel operated by a person under the influence of alcoholic beverages or controlled substances has caused the death or seri-

ous bodily injury of any a human being, including the operator of the vessel, such person shall submit, upon the request of a law enforcement officer, to a test of his blood for the purpose of determining the alcoholic content thereof or the presence of controlled substances therein. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner.

(b) The term "serious bodily injury" means a physical condition which creates a substantial risk of death; serious, personal disfigurement; or protracted loss or impairment of the function of any bodily member or organ.

Section 40. Section 327.36, Florida Statutes, is created to read:

327.36 Mandatory adjudication; prohibition against accepting plea to lesser included offense.—

(1) Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 327.351, for manslaughter resulting from the operation of a vessel, or for vessel homicide.

(2)(a) No trial judge may accept a plea of guilty to a lesser offense from a person who is charged with a violation of s. 327.351, manslaughter resulting from the operation of a vessel, or vessel homicide and who has been given a breath or blood test to determine blood alcohol content, the results of which show a blood alcohol content by weight of .20 percent or more.

(b) No trial judge may accept a plea of guilty to a lesser offense from a person charged with a felony violation of s. 327.351(2), manslaughter resulting from the operation of a vessel, or vessel homicide.

Section 41. Subsection (1) of section 327.73, Florida Statutes, 1986 Supplement, is amended to read:

327.73 Noncriminal infractions.—

(1) Violations of the following provisions of this chapter are noncriminal infractions:

(a) Section 327.11(5), relating to display of number and possession of registration certificate;

(b) Section 327.11(7), relating to display of decal;

(c) Section 327.13(2), relating to display of number;

(d) Section 327.14, relating to spacing of digits and letters of identification number;

(e) Section 327.25(9), relating to operation without a current registration;

(f) Section 327.33(2), relating to careless operation;

(g) Section 327.37(2), relating to water skiing, aquaplaning, and similar activities at night;

(h) Section 327.44, relating to interference with navigation;

(i) Section 327.46, relating to restricted areas;

(j) Section 327.48, relating to regattas and races;

(k) Section 327.50, relating to required safety equipment; and

(l) Section 327.65, relating to muffling devices.

Any person cited for a violation of any such provision shall be deemed to be charged with a noncriminal infraction, shall be cited for such an infraction, and shall be cited to appear before the county court. The civil penalty for any such infraction is \$35, except as otherwise provided in this section.

Section 42. Section 327.74, Florida Statutes, is created to read:

327.74 Uniform boating citations.—

(1) The department shall prepare, and supply to every law enforcement agency in this state which enforces the laws of this state regulating the operation of vessels, an appropriate form boating citation containing a notice to appear (which shall be issued in prenumbered books with citations in quintuplicate) and meeting the requirements of this chapter or

any laws of this state regulating boating which form shall be consistent with the state's county court rules and the procedures established by the department.

(2) Courts, enforcement agencies, and the department are jointly responsible to account for all uniform boating citations in accordance with the procedures promulgated by the department.

(3) Every law enforcement officer, upon issuing a boating citation to an alleged violator of any provision of the boating laws of this state or any boating ordinance of any municipality, shall deposit the original and one copy of such boating citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau within 5 days after issuance to the violator.

(4) The chief administrative officer of every law enforcement agency shall require the return to him of the department record copy of every boating citation issued by an officer under his supervision to an alleged violator of any boating law or ordinance and all copies of every boating citation which has been spoiled or upon which any entry has been made and not issued to an alleged violator.

(5) Upon the deposit of the original and one copy of such boating citation with a court having jurisdiction over the alleged offense or with its traffic violations bureau as aforesaid, the original or copy of such boating citation may be disposed of only by trial in the court or other official action by a judge of the court, including forfeiture of the bail, or by the deposit of sufficient bail with, or payment of a fine to, the traffic violations bureau by the person to whom such boating citation has been issued by the law enforcement officer.

(6) The chief administrative officer shall transmit, on a form approved by the department, the department record copy of the uniform boating citation to the department within 5 days after submission of the original and one copy to the court. A copy of such transmittal shall also be provided to the court having jurisdiction for accountability purposes.

(7) It is unlawful and official misconduct for any law enforcement officer or other officer or public employee to dispose of a boating citation or copies thereof or of the record of the issuance of the same in a manner other than as required in this section.

(8) Such citations shall not be admissible evidence in any trial.

(9) If a uniform boating citation has not been issued with respect to a criminal boating offense, and the prosecution is by affidavit, information, or indictment, the prosecutor shall direct the arresting officer to prepare a citation. In the absence of an arresting officer, the prosecutor shall prepare the citation. For the purpose of this subsection, the term "arresting officer" means the law enforcement officer who apprehended or took into custody the alleged offender.

Section 43. Subsection (3) of section 328.05, Florida Statutes, is amended to read:

328.05 Crimes relating to certificates of title to, or other indicia of ownership of, vessels; penalties.—

(3) It is unlawful:

(a) To alter or forge any certificate of title to a vessel or any assignment thereof or any cancellation of any lien on a vessel.

(b) To retain or use such certificate, assignment, or cancellation knowing that it has been altered or forged.

(c) To use a false or fictitious name, give a false or fictitious address, or make any false statement in any application or affidavit required under the provisions of this chapter or in a bill of sale or sworn statement of ownership or otherwise commit a fraud in any application.

(d) To knowingly obtain goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, registration, bill of sale, or other indicia of ownership of a vessel.

(e) To knowingly obtain goods, services, credit, or money by means of a certificate of title to a vessel which certificate is required by law to be surrendered to the department.

Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A violation of any provision of this subsection with respect

to any vessel shall constitute such vessel as contraband which may be seized by a law enforcement agency, or the division, and which shall be subject to forfeiture pursuant to ss. 932.701-932.704.

(4) This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of vessels, but is supplementary thereto.

Section 44. Section 843.18, Florida Statutes, is amended to read:

843.18 Boats; fleeing or attempting to elude a law enforcement officer.—It is unlawful for the operator of any boat plying the waters of the state, having knowledge that he has been directed to stop such vessel by a duly authorized law enforcement officer, willfully to refuse or fail to stop in compliance with such directive or, having stopped in knowing compliance with such a directive, willfully to flee in an attempt to elude such officer. Any person violating this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any violation of this section with respect to any vessel shall constitute such vessel as contraband which may be seized by a law enforcement agency and which shall be subject to forfeiture pursuant to ss. 932.701-932.704.

Section 45. Section 790.165, Florida Statutes, is created to read:

790.165 Planting of "hoax bomb" prohibited; penalties.—

(1) For the purposes of this section "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive.

(2) Any person who manufactures, possesses, sells, or delivers a hoax bomb or mails or sends a hoax bomb to another person shall be guilty of a felony of the second degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax bomb shall be guilty of a felony of the second degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person violating the provisions of this subsection shall be sentenced to a minimum term of imprisonment of 3 calendar years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall the defendant be eligible for basic gain-time under s. 944.275 prior to serving such minimum sentence.

(4) The provisions of subsection (2) shall not apply to any law enforcement officer, fireman, person or corporation licensed pursuant to chapter 493, or member of the armed forces of the United States while engaged in training or other lawful activity within the scope of their employment, or to any member of a theatrical company or production utilizing a hoax bomb as property during the course of a rehearsal or performance.

Section 46. Section 16.55, Florida Statutes, is created to read:

16.55 Crime prevention training.—The Department of Legal Affairs shall develop model crime prevention training materials for the localities. The training material shall provide the governing body of each county and municipality in this state with up-to-date information on how to reduce commercial crime exposure through environmental design. Included in the model training materials shall be information on lighting, cash-handling procedures, obstructed vision, traffic flow, counter placement, and staffing. The model training materials shall be completed and distributed no later than July 1988.

Section 47. The sum of \$30,000 is appropriated from the General Revenue Fund to the Department of Legal Affairs for the purpose of developing crime prevention training materials as set forth in section 46.

Section 48. Subsection (7) of section 187.201, Florida Statutes, is amended to read:

187.201 State Comprehensive Plan adopted.—The Legislature hereby adopts as the State Comprehensive Plan the following specific goals and policies:

(7) PUBLIC SAFETY.—

(a) Goal.—Florida shall protect the public by preventing, discouraging, and punishing criminal behavior, lowering the highway death rate, and protecting lives and property from natural and manmade disasters.

(b) Policies.—

1. By 1995, protect the public from crimes by lowering the recidivism rate by at least 15 percent, and by expanding proven alternative corrections programs and increasing the ex-offenders' employment rate by at least 10 percent.

2. Maintain safe and secure prisons and other correctional facilities with the required number of well-trained staff.

3. Provide effective alternatives to incarceration for appropriate offenders and encourage victim restitution.

4. Make the corrections system as financially cost-effective as possible through prison industries and other inmate work programs and through contractual agreements with public and private vendors.

5. Continue to monitor educational and vocational training of inmates to assure that our goal of increasing the likelihood of successful reintegration into the community is being accomplished.

6. Ensure that all inmates have access to comprehensive health care, including effective diagnostic and treatment programs for offenders suffering from substance abuse or psychological disorders.

7. Provide incentives which will attract and retain high-quality law enforcement and correctional officers.

8. By 1995, reduce the serious crime rate by 25 percent and reduce the volume of illegal drugs entering the state.

9. Emphasize the reduction of serious crime, particularly violent, organized, economic, and drug-related crimes.

10. Increase the level of training and technical assistance provided to law enforcement agencies.

11. Increase crime prevention efforts to enhance the protection of individual personal safety and property, especially for those individuals who are most vulnerable.

12. Reduce commercial crime exposure through the application of tangible and structural crime prevention techniques and crime prevention technology.

~~13.12.~~ Ensure that the rights of crime victims are emphasized and protected.

~~14.13.~~ Continue to implement coordinated and integrated strategies to combat organized crime, economic crime, and drug trafficking.

~~15.14.~~ Expand the state's provisions for the protection of witnesses in criminal cases, especially organized crime cases.

~~16.15.~~ Strengthen the state's commitment to pursue, both criminally and civilly, those individuals who profit from economic crimes, and assure that the commitment keeps pace with the level and sophistication of these criminal activities.

~~17.16.~~ Improve the efficiency of law enforcement through the establishment of a close communication and coordination system among agencies and a comprehensive reporting system for such types of criminal activities as forcible felonies and organized, economic, and drug crimes.

~~18.17.~~ Improve the effectiveness of the delinquent juvenile justice system commitment programs to reduce recidivism of juveniles who would otherwise be recommitted to state supervision.

~~19.18.~~ Utilize alternative sentencing and dispute resolution when appropriate, particularly in civil disputes and minor criminal violations.

~~20.19.~~ Increase the state's commitment to stringent enforcement of laws against drunken or drugged driving.

~~21.20.~~ Expand public awareness campaigns that will emphasize the dangers of driving while under the influence of alcohol or drugs.

~~22.21.~~ Promote efforts to encourage the use of personal safety restraint devices for all persons traveling in motor vehicles.

~~23.22.~~ Improve the enforcement of and compliance with safe highway speed limits.

~~24.23.~~ Provide effective and efficient driver licensing systems, including a reliable testing system that will help ensure that only qualified drivers receive driver's licenses.

~~25.24.~~ Require local governments, in cooperation with regional and state agencies, to prepare advance plans for the safe evacuation of coastal residents.

~~26.25.~~ Require local governments, in cooperation with regional and state agencies, to adopt plans and policies to protect public and private property and human lives from the effects of natural disasters.

Section 49. Entrapment.—

(1) A law enforcement officer, a person engaged in cooperation with a law enforcement officer, or a person acting as an agent of a law enforcement officer perpetrates an entrapment if, for the purpose of obtaining evidence of the commission of a crime, he induces or encourages and, as a direct result, causes another person to engage in conduct constituting such crime by employing methods of persuasion or inducement which create a substantial risk that such crime will be committed by a person other than one who is ready to commit it.

(2) A person prosecuted for a crime shall be acquitted if he proves by a preponderance of the evidence that his criminal conduct occurred as a result of an entrapment. The issue of entrapment shall be tried by the trier of fact.

Section 50. Section 49 shall apply to offenses committed on or after the effective date of this act.

Section 51. Section 810.07, Florida Statutes, is amended to read:

810.07 Prima facie evidence of intent.—

(1) In a trial on the charge of burglary, proof of the entering of such structure or conveyance at any time stealthily and without consent of the owner or occupant thereof is shall be prima facie evidence of entering with intent to commit an offense.

(2) In a trial on the charge of attempted burglary, proof of the attempt to enter such structure or conveyance at any time stealthily and without the consent of the owner or occupant thereof is prima facie evidence of attempting to enter with intent to commit an offense.

Section 52. Section 812.13, Florida Statutes, is amended to read:

812.13 Robbery.—

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

(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If in the course of committing the robbery the offender carried a weapon, then the robbery is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If in the course of committing the robbery the offender carried no firearm, deadly weapon, or other weapon, then the robbery is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(b) An act shall be deemed "in the course of the taking" if it occurs either prior to, contemporaneous with, or subsequent to the taking of the property and if it and the act of taking constitute a continuous series of acts or events.

Section 53. Section 914.23, Florida Statutes, is amended to read:

914.23 Retaliating against a witness, victim, or informant.—A person who knowingly engages in any conduct that causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for:

(1) The attendance of a witness or party at an official proceeding, or for any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) Any information relating to the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding given by a person to a law enforcement officer;

or attempts to do so, is guilty of a criminal offense. If the conduct results in, if bodily injury occurs, such person is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Otherwise if the conduct results only in damages to property, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 54. This act shall take effect October 1, 1987, except that this section and sections 1-8 and 24 shall take effect July 1, 1987, or upon becoming a law, whichever occurs later.

Senator Johnson moved the following substitute amendment:

Amendment 2—On page 10, line 5, strike everything after the enacting clause and insert:

Section 1. This act may be cited as the "Crime Prevention and Control Act."

Section 2. Paragraph (c) of subsection (1) and paragraph (a) of subsection (2) of section 893.03, Florida Statutes, 1986 Supplement, are amended to read:

893.03 Standards and schedules.—The substances enumerated herein are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, or trade name designated. The provisions of this act shall not be construed to include within any of the schedules herein contained any excluded nonprescription drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards except for such uses provided for in s. 402.36. The following substances are controlled in Schedule I:

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. 2-Amino-4-methyl-5-phenyloxazoline.
- ~~2.1.~~ 4-Bromo-2,5-dimeth
- ~~3.2.~~ Bufotenine.
- ~~4.3.~~ Cannabis.
- 5.4. Diethyltryptamine.
- ~~6.5.~~ 2,5-Dimethoxyamphetamine.
- ~~7.6.~~ Dimethyltryptamine.
- 8.7. N-Ethyl-1-phenylcyclohexylamine.
- 9.8. N-Ethyl-3-piperidyl benzilate.
- ~~10.9.~~ N-ethylamphetamine.
- ~~11.10.~~ Fenethylamine.
- ~~12.11.~~ Ibogaine.
- ~~13.12.~~ Lysergic acid diethylamide.
- ~~14.13.~~ Mecloqualone.
- ~~15.14.~~ Mescaline.
- ~~16.15.~~ 5-Methoxy-3,4-methylenedioxy-amphetamine.
- ~~17.16.~~ 4-methoxyamphetamine.

~~18.17.~~ 4-Methyl-2,5-dimethoxy-amphetamine.

~~19.18.~~ 3,4-Methylenedioxy-amphetamine.

~~20.19.~~ N-Methyl-3-piperidyl benzilate.

~~21.20.~~ Parahexyl.

~~22.21.~~ Peyote.

~~23.22.~~ N-(1-Phenylcyclohexyl)-pyrrolidine.

~~24.23.~~ Psilocybin.

~~25.24.~~ Psilocyn.

~~26.25.~~ Tetrahydrocannabinols.

~~27.26.~~ 1-[1-(2-Thienyl)-cyclohexyl]-piperidine.

~~28.27.~~ 3,4,5-Trimethoxy-amphetamine.

(2) SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis:

1. Opium and any salt, compound, derivative, or preparation of opium, except nalmeferine or isoquinoline alkaloids of opium, including but not limited to the following:

- a. Raw opium.
- b. Opium extracts.
- c. Opium fluid extracts.
- d. Powdered opium.
- e. Granulated opium.
- f. Tincture of opium.
- g. Codeine.
- h. Ethylmorphine.
- i. Etorphine hydrochloride.
- j. Hydrocodone.
- k. Hydromorphone.
- l. Metopon.
- m. Morphine.
- n. Oxycodone.
- o. Oxymorphone.
- p. Thebaine.
- q. Dronabinol (*synthetic*) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product.

2. Any salt, compound, derivative, or preparation of a substance which is chemically equivalent to or identical with any of the substances referred to in subparagraph 1., except that these substances shall not include the isoquinoline alkaloids of opium.

3. Any part of the plant of the species *Papaver somniferum*, L.

4. Cocaine or ecgonine, including any of their stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine.

Section 3. Section 893.0356, Florida Statutes, is created to read:

893.0356 Control of new substances; findings of fact; "controlled substance analog" defined.—

(1)(a) New substances are being created which are not controlled under the provisions of this chapter but which have a potential for abuse similar to or greater than that for substances controlled under this chapter. These new substances are called "controlled substance analogs," and can be designed to produce a desired pharmacological effect and to evade the controlling statutory provisions. Controlled substance analogs are being manufactured, distributed, possessed, and used as substitutes for controlled substances.

(b) The hazards attributable to the traffic in and use of controlled substance analogs are increased because their unregulated manufacture produces variations in purity and concentration.

(c) Many such new substances are untested, and it cannot be immediately determined whether they have useful medical or chemical purposes.

(d) The uncontrolled importation, manufacture, distribution, possession, or use of controlled substance analogs has a substantial and detrimental impact on the health and safety of the people of Florida.

(e) Controlled substance analogs can be created more rapidly than they can be identified and controlled by action of the Legislature. There is a need for a speedy determination of their proper classification under this chapter. It is therefore necessary to identify and classify new substances that have a potential for abuse, so that they can be controlled in the same manner as other substances currently controlled under this chapter.

(2)(a) As used in this section, "controlled substance analog" means a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

1. Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03; and

2. Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03.

(b) "Controlled substance analog" does not include:

1. A controlled substance;

2. Any substance for which there is an approved new drug application;

3. Any compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or

4. Any substance to which an investigational exemption applies under s. 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, but only to the extent that conduct with respect to the substance is pursuant to such exemption.

(3) The term "potential for abuse" in this section means that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being:

(a) Used in amounts that create a hazard to the user's health or the safety of the community;

(b) Diverted from legal channels and distributed through illegal channels; or

(c) Taken on the user's own initiative rather than on the basis of professional medical advice.

Proof of potential for abuse can be based upon a showing that these activities are already taking place, or upon a showing that the nature and properties of the substance make it reasonable to assume that there is a substantial likelihood that such activities will take place, in other than isolated or occasional instances.

(4) The following factors shall be relevant to a finding that a substance is a controlled substance analog within the purview of this section:

- (a) Its actual or relative potential for abuse.
- (b) Scientific evidence of its pharmacological effect, if known.

(c) The state of current scientific knowledge regarding the substance.

(d) Its history and current pattern of abuse.

(e) The scope, duration, and significance of abuse.

(f) What, if any, risk there is to the public health.

(g) Its psychic or physiological dependence liability.

(h) Its diversion from legitimate channels, and clandestine importation, manufacture, or distribution.

(i) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(5) A controlled substance analog shall, for purposes of drug abuse prevention and control, be treated as a controlled substance in Schedule I of s. 893.03.

(6) In construing this section, due consideration and great weight should be given to interpretations of the United States Attorney General and the federal courts relating to s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985. New substances controlled under this section shall not be treated in a manner inconsistent with the rules of the United States Attorney General and the decisions of the federal courts interpreting the provisions of s. 201 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. s. 811, as amended and in effect on April 1, 1985.

(7) The treatment of a new substance as a controlled substance pursuant to this section shall not affect prosecution or punishment for any crime previously committed with respect to that substance.

Section 4. Section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, *purchase*, manufacture, or deliver, or possess with intent to sell, *purchase*, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) is guilty of a felony of the second degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, it is unlawful to sell, *purchase*, deliver, or possess in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph is guilty of a felony of the first degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

(c) Except as authorized by this chapter, it is unlawful for any person ~~over the age of 18 years of age or older to deliver any controlled substance to a person under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of such a substance, or to use such person to assist in avoiding detection or apprehension for a violation of this chapter.~~ Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), ~~(1)(d)~~, (2)(c), (3), or (4) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence shall not be suspended or deferred, nor shall the person so convicted be placed on probation.

(d) It is unlawful for any person to bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), ~~(1)(d)~~, (2)(c), (3), or (4) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) *Except as authorized by this chapter, it is unlawful for any person to sell, purchase, manufacture, or deliver, or to possess with the intent to sell, purchase, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school. Any person who violates this paragraph with respect to:*

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f)(e) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter. Any person who violates this provision is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g)(f) If the offense is the possession or delivery without consideration of not more than 20 grams of cannabis, as defined in this chapter, that person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 and s. 775.083. For the purposes of this subsection, "cannabis" does not include the resin extracted from the plants of the genus Cannabis, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(h)(g) Notwithstanding any provision to the contrary of the laws of this state relating to arrest, a law enforcement officer may arrest without warrant any person who he has probable cause to believe is violating the provisions of this chapter relating to possession of cannabis.

(2)(a) It is unlawful for any person:

1. To distribute or dispense a controlled substance in violation of the provisions of this chapter relating thereto.

2. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.

3. To refuse an entry into any premises for any inspection or to refuse to allow any inspection authorized by this chapter.

4. To distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.

5. To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

6. To use to his own personal advantage, or to reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.

7. To withhold information from a practitioner from whom he seeks to obtain a controlled substance or a prescription for a controlled substance that such person has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the last 30 days.

8. To possess a prescription form which has not been completed and signed by the practitioner whose name appears printed thereon, unless the person is such practitioner, is an agent or employee of such practitioner, is a pharmacist, or is a supplier of prescription forms who is authorized by such practitioner to possess such forms.

(b) Any person who violates the provisions of paragraph (a) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; except that, upon a second or subsequent violation, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) It is unlawful for any person:

1. To acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

2. To affix any false or forged label to a package or receptacle containing a controlled substance.

3. To furnish false or fraudulent material information in, or omit any material information from, any report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.

(b) Any person who violates the provisions of paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The provisions of subsections (1), (2), and (3) are not applicable to:

(a) The delivery for medical or scientific purpose only of controlled substances to persons included in any of the classes hereinafter named, or to the agents or employees of such persons, for use in the usual course of their business or profession or in the performance of their official duties.

(b) The actual or constructive possession of controlled substances for such use by such persons or their agents or employees, to wit:

1. Pharmacists.

2. Practitioners.

3. Persons who procure controlled substances in good faith and in the course of professional practice only, by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale.

4. Hospitals which procure controlled substances for lawful administration by practitioners, but only for use by or in the particular hospital.

5. Officers or employees of state, federal, or local governments acting in their official capacity only, or informers acting under their jurisdiction.

6. Common carriers.

7. Manufacturers, wholesalers, and distributors.

(c) The delivery of controlled substances by a law enforcement officer for bona fide law enforcement purposes in the course of an active criminal investigation.

Section 5. Section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 100 pounds of cannabis is guilty of a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 100 pounds, but less than 2,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$200,000.

(b) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine as described in s. 893.03(2)(a)4. or of any mixture containing cocaine is guilty of a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

1. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

3. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(c) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, is guilty of a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

1. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 10 calendar years and to pay a fine of \$100,000.

3. Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and to pay a fine of \$500,000.

(d) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), is guilty of a felony of the first degree, which felony shall be known as "trafficking in phencyclidine." If the quantity involved:

1. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

3. Is 400 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(e) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), is guilty of a felony of the first degree, which felony shall be known as "trafficking in methaqualone." If the quantity involved:

1. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 calendar years and to pay a fine of \$50,000.

2. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 5 calendar years and to pay a fine of \$100,000.

3. Is 25 kilograms or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and to pay a fine of \$250,000.

(2) A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state, or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3)(2) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section.

(4)(3) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance.

(5)(4) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) is guilty of a felony of the first degree and is punishable as if he had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

Section 6. Subsections (1) and (4) of section 782.04, Florida Statutes, are amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being; or

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aircraft piracy, or

j. Unlawful throwing, placing, or discharging of a destructive device or bomb; or

3. Which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

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

(4) The unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

(a) Trafficking offense prohibited by s. 893.135(1),

(b) Arson,

(c) Sexual battery,

(d) Robbery,

(e) Burglary,

(f) Kidnapping,

- (g) Escape,
- (h) Aggravated child abuse,
- (i) Aircraft piracy,
- (j) Unlawful throwing, placing, or discharging of a destructive device or bomb, or
- (k) Unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user,

is murder in the third degree and constitutes a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Local administrative action to abate drug-related public nuisances.—

(1) Any place or premises which have been used on more than two occasions as the site of the unlawful sale or delivery of controlled substances may be declared to be a public nuisance, and such nuisance may be abated, pursuant to the procedures provided in this section.

(2) Any county or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances described in subsection (1). Any employee, officer, or resident of the county or municipality may bring a complaint before the board after giving not less than 3 days' written notice of such complaint to the owner of the place or premises at his last known address. After a hearing in which the board may consider any evidence, including evidence of the general reputation of the place or premises, and at which the owner of the premises shall have an opportunity to present evidence in his defense, the board may declare the place or premises to be a public nuisance as described in subsection (1).

(3) If the board declares a place or premises to be a public nuisance, it may enter an order immediately prohibiting:

- (a) The maintaining of the nuisance;
 - (b) The operating or maintaining of the place or premises; or
 - (c) The conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.
- (4) An order entered under subsection (3) shall expire after 1 year or at such earlier time as is stated in the order.

(5) The board may bring a complaint under s. 60.05, Florida Statutes, seeking a permanent injunction against any nuisance described in subsection (1).

(6) This section does not restrict the right of any person to proceed under s. 60.05, Florida Statutes, against any public nuisance.

Section 8. Subsection (1) of section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(1) When any nuisance as defined in s. 823.05 exists, the Attorney General, or state attorney, city attorney, county attorney, or any citizen of the county may sue in the name of the state on his relation to enjoin the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists.

Section 9. Section 817.565, Florida Statutes, is created to read:

817.565 Urine testing, fraudulent practices; penalties.—

- (1) It is unlawful for any person:
 - (a) Willfully to defraud or attempt to defraud any lawfully administered urine test designed to detect the presence of chemical substances or controlled substances.
 - (b) Willfully to manufacture, advertise, sell, or distribute any substance or device which is intended to defraud or attempt to defraud any lawfully administered urine test designed to detect the presence of chemical substances or controlled substances.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 10. Section 232.26, Florida Statutes, is amended to read:

232.26 Authority of principal.—

(1)(a) Subject to law and to the rules of the state board and the district school board, the principal in charge of the school or his designated representative shall develop policies by which he may delegate to any teacher or other member of the instructional staff or to any bus driver transporting students of the school such responsibility for the control and direction of students as he may consider desirable.

(b) The principal or his designated representative may suspend a student only in accordance with the rules of the district school board; and each suspension shall be reported in writing within 24 hours, with the reasons therefor, to the student's parent or guardian and to the superintendent. A good faith effort shall be made by the principal to employ parental assistance or other alternative measures prior to suspension, except in the case of emergency or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct as defined by rules of the district school board. Such rules shall require oral or written notice to the student of the charges against him and, if he denies the charges, an explanation to him of the evidence against him and an opportunity for him to present his side of the story. No student who is required by law to attend school shall be suspended for unexcused absence or truancy. The principal or his designated representative may suspend any student transported to or from school at the public expense from the privilege of riding on a school bus, the principal or his designated representative giving notice in writing to the student's parent or guardian and to the superintendent within 24 hours. School personnel shall not be held legally responsible for suspensions of students made in good faith.

(c) The principal or his designated representative may recommend to the superintendent the expulsion of any student who has committed a serious breach of conduct, including, but not limited to, willful disobedience, open defiance of authority of a member of his staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school. Any recommendation of expulsion shall include a detailed report by the principal or his designated representative on the alternative measures taken prior to the recommendation of expulsion.

(d) The principal or his designated representative shall include an analysis of suspensions and expulsions in the annual report of school progress.

(2) Any pupil enrolled as a student who is formally charged with a felony by a proper prosecuting attorney for an incident which allegedly occurred on property other than public school property, but which incident is shown to have an adverse impact on the educational program, discipline, or welfare in the school in which the student is enrolled, shall (following an administrative hearing upon notice provided to the parents or parent or guardian of such pupil by the principal of the school pursuant to rules promulgated by the State Board of Education, if such suspension is recommended) be suspended from all classes of instruction until the determination of his guilt or innocence, or the dismissal of the charge, is made by a court of competent jurisdiction. If the pupil is adjudicated guilty of a felony, the district school board shall immediately expel him. Any pupil who is subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may be entitled to a waiver of the discipline or expulsion:

(a) If he divulges information leading to the arrest and conviction of the person who supplied such controlled substance to him, or if he voluntarily discloses his unlawful possession of such controlled substance prior to his arrest. Any information divulged which leads to such arrest and conviction is not admissible in evidence in a subsequent criminal trial against the pupil divulging such information.

~~(b)(3) Any pupil subject to discipline or expulsion for unlawful possession or use of any substance controlled under chapter 893 may receive a waiver of the discipline or expulsion. If the pupil commits himself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.~~

Section 11. Section 240.133, Florida Statutes, is amended to read:

240.133 Expulsion and discipline of students of the State University System and community colleges.—

(1) Each student in the State University System and each student in a community college is subject to federal and state law, respective county and municipal ordinances, and all rules and regulations of the Board of Regents or board of trustees of the community college.

(2) Violation of these published laws, ordinances, or rules and regulations may subject the violator to appropriate action by the university or community college authorities.

(3) Each president of a university in the State University System and each president of a community college shall have authority, after notice to the student of the charges and after a hearing thereon, to expel, suspend, or otherwise discipline any student who is found to have violated any law, ordinance, or rule or regulation of the Board of Regents or of the board of trustees of the community college. *Any student who is adjudicated guilty of a felony violation of any provision of chapter 893 relating to controlled substances shall be immediately expelled. A student may be entitled to waiver of expulsion:*

(a) *If he provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, conspirators, or principals or of any other person engaged in violations of chapter 893 within the State University System or community colleges;*

(b) *If he voluntarily discloses his violations of chapter 893 prior to his arrest; or*

(c) *If he commits himself, or is referred by the court in lieu of sentence, to a state-licensed drug abuse program and successfully completes the program.*

Section 12. Section 322.055, Florida Statutes, is created to read:

322.055 Revocation or suspension of, or delay of eligibility for, driver's license, for persons found guilty of certain drug offenses.—

(1) Notwithstanding the provisions of s. 322.28, the department, at the direction of the sentencing court, shall revoke the driver's license or driving privilege of any person found guilty of or adjudicated delinquent for any violation of chapter 893 involving a substance listed in s. 893.03(1) or (2). The period of such revocation shall be a period of time of up to 2 years as determined by the sentencing court.

(2) If a person is found guilty of or adjudicated delinquent for a violation of chapter 893 involving a substance listed in s. 893.03(1) or (2), and such person is eligible by reason of age for a driver's license or privilege, the department, at the direction of the sentencing court, shall not issue such person a driver's license or driving privilege for a period of time of up to 2 years, as determined by the sentencing court, from the date the person was found guilty or adjudicated delinquent.

(3) If a person is found guilty of or adjudicated delinquent for a violation of chapter 893 involving a substance listed in s. 893.03(1) or (2), and such person's driver's license or driving privilege is already under suspension or revocation for any reason, the department, at the direction of the sentencing court, shall extend the period of such suspension or revocation by an additional period of time of up to 2 years, as determined by the sentencing court.

(4) If a person is found guilty of or adjudicated delinquent for a violation of chapter 893 involving a substance listed in s. 893.03(1) or (2), and such person is ineligible by reason of age for a driver's license or driving privilege, the department, at the direction of the sentencing court, shall not issue such person a driver's license or driving privilege for a period of time of up to 2 years, as determined by the sentencing court, from the date that he would otherwise have become eligible.

(5) Each clerk of court shall promptly report to the department each finding of guilt of or adjudication of delinquency for a violation of chapter 893 involving a substance listed in s. 893.03(1) or (2).

Section 13. Section 233.067, Florida Statutes, is amended to read:

233.067 Comprehensive health education and substance-abuse prevention.—

(1) **SHORT TITLE.**—This section shall be known and may be cited as the "Florida Comprehensive Health Education and Substance-Abuse Prevention Act of 1973."

(2) **INTENT.**—*The Legislature recognizes that sound health habits are essential to the educational and personal success of the student. The Legislature further recognizes that schools are uniquely situated to effectively promote the establishment of sound health habits among our youth, including prevention of substance abuse. To this end, it is the intent of the Legislature to implement a comprehensive health education and substance-abuse prevention program in Florida's public schools.*

(2) **PURPOSE.**—~~The purpose of this section is to foster the development and dissemination of educational activities and materials which will assist Florida students, teachers, and administrators in the perception, appreciation, and understanding of health principles and problems.~~

(3) **DEFINITIONS.**—As used in this section, the term "comprehensive health education" includes, but is not limited to, such concerns as mental and emotional health, venereal diseases and other communicable diseases, substance drug abuse (including alcohol and tobacco), environmental health, safety and emergency care, nutrition and food management, personal health and hygiene, dental health, hereditary diseases, developmental disabilities, growth and development, and consumer health and careers.

(4) **ADMINISTRATION OF THE COMPREHENSIVE HEALTH EDUCATION AND SUBSTANCE-ABUSE PREVENTION PROGRAM.**—

(a) There is created a comprehensive health education and substance-abuse prevention program for children and youths in kindergarten and grades 1 through 12. Responsibility for the administration of this section shall rest with the Department of Education, in cooperation with, and with the advice of, the Department of Health and Rehabilitative Services; and The administration of the program shall be pursuant to rules and regulations adopted by the State Board of Education, provided that such rules shall require the minimum amount of paperwork and reporting necessary to comply with this section. For purposes of administering this section, the commissioner shall establish a Prevention Resource Center within the department and shall assign appropriate staff to work directly with school district personnel. The center shall serve as a clearinghouse for evaluation and dissemination of information, materials, and model programs and shall provide program and technical assistance and other prevention services as determined by the commissioner.

(b) In administering this section, the department shall take into consideration the advice of an advisory council to the Prevention Resource Center consisting of representatives of the Florida Medical Association school health medical advisory committee to the department, the state university and community college systems, school food service personnel, governmental agencies, school boards, district school personnel, teachers' associations, and any official and voluntary health or substance-abuse prevention and treatment agencies as may be deemed appropriate. The department is authorized to reimburse the members of this advisory council the committee for travel and per diem expense, as provided by law, when performing advisory services requested by the department.

(c)(b) The comprehensive health education and substance-abuse prevention program shall include the following:

1. Implementation of inservice education programs for teachers, counselors ~~administrators~~, and other persons. Such inservice education programs shall be consistent with the 5-year master plan, as specified in s. 236.0811, and shall include training in substance-abuse identification and prevention. The training plan may provide for the option of using teachers as trainers and shall include, but not be limited to: information on current theory, knowledge, and practice regarding substance abuse; identification and referral procedures; legal issues; peer counseling; and methods of teaching decision-making skills and building self-concept. Inservice teacher education materials and student materials which are based upon individual performance and designed for use with a minimum of supervision shall be developed and made available to all school districts.

2. Implementation of management training programs consistent with the provisions of s. 231.087 for principals and other school leaders on the identification, prevention, and treatment of substance abuse and the availability of local and regional referral resources.

3.2. Instruction in nutrition education as a specific area of health education instruction. Nutrition education shall include, but not be limited

to, sound nutritional practices, wise food selection, analysis of advertising claims about food, proper food preparation, and food storage procedures. The purpose of such nutrition education programs shall be to educate students in the overall area of nutrition education and significantly reduce health problems associated with poor or improper nutrition practices.

~~3. Reorientation and utilization of existing regional drug education resource centers for use as health education resource centers to assist the Department of Education in coordinating health education activities in the regions.~~

4. *Instruction in substance-abuse prevention in kindergarten through grade 12. Such instruction shall be designed to meet local needs and priorities and shall articulate clear instructional objectives aimed at the prevention of alcohol and substance abuse. The instruction shall be appropriate for the grade and age of the student and shall reflect current theory, knowledge, and practice regarding prevention of substance abuse and shall contain instruction in such components as health, personal, and economic consequences of substance abuse and instruction in resisting peer pressure and identifying and dealing with situations that pose a risk to one's health and may lead to substance abuse.*

5.4. Design and development of programs for the selection and training of health education instructors from existing teaching staff and the orientation to teaching roles for persons employed in appropriate health fields and community volunteers.

6.5. Development of training programs to allow the use of school food service personnel as resource persons.

(5) DISTRICT PROGRAM RESPONSIBILITIES DEVELOPMENT.—

(a) *Each school district shall designate one or more contact persons to coordinate the district's comprehensive health education and substance-abuse prevention program and to receive materials and information from the Prevention Resource Center. District responsibilities may include cooperating with law enforcement and alcohol-abuse and substance-abuse treatment agencies and encouraging business and community involvement in prevention activities. Each district shall plan for efficient use of state resources and prevention center resources, including, but not limited to, training programs for school personnel, curriculum materials, and identification, referral, and legal guidelines.*

(b) *Pursuant to policies and regulations to be adopted by the Commissioner of Education, each district school board, laboratory school, or consortium thereof shall and each school principal through the district school board, may submit to the commissioner a proposed program designed to effectuate an exemplary comprehensive health education and substance-abuse prevention program for kindergarten through grade 12 project in the district or school. Such programs shall be implemented no later than the 1988-1989 school year in each public school within the district. The proposal shall include:*

1.(a) A statement of the nature of the comprehensive health education and substance-abuse prevention program proposed;

2.(b) A provision for a sequential program of instruction in comprehensive health education, including nutrition education and substance-abuse drug abuse education, at the four progressional levels K-3, 4-6, 7-9, and 10-12. *The sequential program shall be integrated into the curriculum with special emphasis in grades 4-6. The program for kindergarten through grade 3 shall take into account the developmental needs of young children and shall emphasize personal health and safety;*

3.(c) The number of teachers and students to be involved;

4.(d) A provision stating how the involvement of governmental agencies and private organizations will be enlisted in order to ensure the use of all available resources in the implementation of the program;

5.(e) An estimate of the cost;

6.(f) A plan for evaluation of the program project;

7. *A plan for coordinating this program with student services and dropout prevention, pursuant to the provisions of ss. 230.2313 and 230.2316, respectively, and other social services, and for the provision of support activities for students in treatment and those returning to school after treatment or suspension;*

~~(g) The number of years for which the project is to be funded;~~

8.(h) A plan for integration of the program project into the general curricular and financial program of the district at the end of the funded term of years; and

9. *A provision for involvement by parents or legal guardians, the community, and businesses; and*

10.(i) Such other information as the commissioner shall by regulation require.

(6) **TECHNICAL ASSISTANCE.**—Upon request of a district school board, laboratory school, or consortium thereof ~~or any school principal~~, the department shall provide such technical assistance as is necessary to develop and submit a proposed program for comprehensive health education and substance-abuse prevention. The department shall develop and make available to any requesting district school board one or more model suggested programs for substance-abuse prevention, including recommended minimum number of hours of instruction in substance-abuse prevention appropriate for each grade level kindergarten through 12.

(7) **PROGRAM REVIEW; FUNDING.**—The commissioner shall review and approve, disapprove, or resubmit for modification all proposed comprehensive health education and substance-abuse prevention programs submitted. Approval shall be based on the assurance that components specified in this section have been met. For those programs approved, the commissioner shall authorize distribution of funds equal to the cost of the program from funds appropriated to the Department of Education for comprehensive health education and substance-abuse prevention purposes.

(8) **PROGRAM EVALUATION AND MONITORING.**—The department shall monitor and evaluate the programs or projects funded under subsection (7) and evaluate the overall comprehensive health education and substance-abuse prevention program. The department shall collect, analyze, evaluate, and disseminate to all school districts, laboratory schools, or consortia thereof, resource information on effective comprehensive health education and substance-abuse programs. Program ~~Such~~ evaluations shall include, but not be limited to, components for determining program or project effectiveness, efficiency, and use of resources. A report on the overall evaluation as well as recommendations for funding and any other recommendations deemed to be appropriate by the commissioner shall be included in the annual report of the Commissioner of Education required under s. 229.575(1).

(9) **NONPUBLIC PERSONNEL PERMITTED TO PARTICIPATE.**—Teachers or school administrators employed by a nonpublic school may participate as students in inservice teacher education institutes or curriculum development programs conducted pursuant to this section, provided such participants assume the pro rata share of the cost or charges for tuition.

(10) **STUDENT EXEMPTION.**—Any child whose parent presents to the school principal a signed statement that the teaching of disease and its symptoms, development, and treatment, and the use of instructional aids and materials of such subjects, conflicts with his religious beliefs shall be exempt from such instruction. No child so exempt shall be penalized by reason of such exemption.

(11) **SEX EDUCATION NOT REQUIRED.**—This section shall not be construed to require the teaching of sex education as a specific area of instruction or as part of health education instruction required by the State Board of Education.

(12) **USE OF FUNDS.**—In implementing this section, every effort shall be made to combine funds appropriated for this purpose with funds available from all other sources, federal, state, local, or private, in order to achieve maximum benefits for improving health education and substance-abuse prevention.

Section 14. Subsection (2) of section 232.245, Florida Statutes, is amended to read:

232.245 Pupil progression.—

(2) The district program for pupil progression shall be based upon local goals and objectives which are compatible with the state's plan for education and which supplement the minimum performance standards approved by the State Board of Education. *Each district shall determine*

and specify minimum number of hours of instruction in health education and alcohol and substance abuse prevention appropriate for each grade level kindergarten through 12. Particular emphasis, however, shall be placed upon the pupil's mastery of the basic skills, especially reading, before he is promoted from the 3rd, 5th, 8th, and 11th grades. Other pertinent factors considered by the teacher before recommending that a pupil progress from one grade to another shall be prescribed by the district school board in its rules.

Section 15. Paragraph (d) of subsection (6) of section 230.23, Florida Statutes, 1986 Supplement, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(6) CHILD WELFARE.—Provide for the proper accounting for all children of school age, for the attendance and control of pupils at school, and for proper attention to health, safety, and other matters relating to the welfare of children in the following fields, as prescribed in chapter 232.

(d) Code of student conduct.—*Adopt and* distribute to all teachers, school personnel, students, and parents or guardians, at the beginning of every school year, a code of student conduct *which is* developed in consultation with teachers, school personnel, students, and parents or guardians. The code shall be based on the rules governing student conduct and discipline adopted by the school board and ~~may be~~ made available in the student handbook or similar publication. The code shall include, but not be limited to:

1. *Consistent policies and* specific grounds for disciplinary action, including any disciplinary action that may be imposed for the possession or use of alcohol on school property or while attending a school function, or the illegal use, sale, or possession of controlled substances as defined in chapter 893.

2. Procedures to be followed for acts requiring discipline, including corporal punishment.

3. An explanation of the responsibilities and rights of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities.

4. Notice that *illegal use*, possession or sale of controlled substances, as defined in chapter 893, or weapons by any student while such student is upon school property or in attendance at a school function is grounds for suspension, expulsion, or imposition of other disciplinary action.

Section 16. Paragraph (a) of subsection (2) of section 236.0811, Florida Statutes, is amended to read:

236.0811 Educational training.—

(2)(a)1. Pursuant to rules of the State Board of Education, each district shall develop and submit to the Commissioner for approval a 5-year master plan for inservice educational training. The plan shall be based on an assessment of the inservice educational training needs of the district conducted by a committee which includes parents, classroom teachers, and other educational personnel. The plan shall include a component consisting of competencies in the identification, assessment, and prescription of instruction for exceptional students. The plan shall also include a component consisting of competencies in the identification, assessment, and prescription of instruction for child abuse and neglect prevention and for ~~substance drug~~ and alcohol abuse prevention. The plan shall be updated annually by July 1 and shall include inservice activities for all district employees from all fund sources. Classroom teachers and guidance counselors shall be required to participate in the inservice training for child abuse and neglect prevention and for alcohol and ~~substance drug~~ abuse prevention education. *The department shall withhold approval of any district's master inservice plan, as required by this section, which fails to provide and require training in substance abuse prevention education pursuant to s. 233.067(4)(b)1. for all classroom teachers and guidance counselors.*

2. Effective no later than July 1, 1986, the plan of each school district for inservice educational training submitted pursuant to this paragraph must include inservice components which may be used for extension of a certificate or a new endorsement in each of the following areas: a study of the middle grades, understanding the student in the middle grades,

organizing interdisciplinary instruction in the middle grades, curriculum development in the middle grades, developing critical thinking and creative thinking in students in the middle grades, counseling functions of the teacher in the middle grades, developing creative learning materials for the middle grades, and planning and evaluating programs in the middle grades. The department is authorized to waive one or more of these inservice areas if the district can document its unsuccessful attempt to secure a competent trainer or sufficient enrollment or when the department determines that specific validated competencies may be substituted in lieu of such inservice areas. This subparagraph shall be implemented in the 1986-1987 school year and thereafter only to the extent specifically funded and authorized by law.

Section 17. Paragraph (c) of subsection (3) of section 231.603, Florida Statutes, is amended to read:

231.603 Establishment and operation of teacher education centers.—

(3) The program of each teacher education center shall include, but not be limited to, the following:

(c) Design and implementation of inservice programs for instructional personnel which address state policy and program priorities. These programs shall include:

1. Programs offered at a time other than the regular school year for students, pursuant to s. 231.613.

2. Programs designed to improve the capability of instructional personnel to assume new and expanded instructional roles.

3. Programs to develop and utilize existing school district staff, including qualified instructional personnel, to conduct inservice activities.

4. Programs which ensure evaluation of inservice programs, including evaluation of program impact, with emphasis on changes in classroom practices which enhance the instruction of students.

5. Programs to provide school-focused program improvement, pursuant to s. 231.612.

6. Programs to provide professional development plans, pursuant to s. 231.6125.

7. *Programs to provide a pedagogical component addressing all public school grade levels concerning methods of instructing substance abuse prevention education. The department shall withhold approval of the teacher education program of any district or consortium of districts if such program fails to address substance-abuse education.*

Section 18. The Florida Comprehensive Health Education and Substance Abuse Prevention Program shall be funded to the extent authorized in the General Appropriations Act. It is the intent of the Legislature that the appropriation recognize the more pressing needs of the middle grades.

Section 19. Section 233.067(4)(b), Florida Statutes, is repealed on October 1, 1997, and shall be reviewed prior to that date by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 20. Subsections (6) and (7) of section 319.33, Florida Statutes, are amended to read:

319.33 Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.—

(6) Any person who violates any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any motor vehicle used in violation of this section shall constitute contraband which may be seized by a law enforcement agency and shall be subject to forfeiture proceedings pursuant to ss. 932.701-932.704.* This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of motor vehicles or mobile homes, but is supplementary thereto.

(7) *If any all* identifying numbers of a motor vehicle or mobile home do not exist or have been destroyed, removed, covered, altered, or defaced, *or if and* the real identity of the motor vehicle or mobile home cannot be determined, the motor vehicle or mobile home shall constitute contraband and shall be subject to forfeiture by a seizing law enforcement agency or the department, pursuant to applicable provisions of ss. 932.701-932.704. Such motor vehicle shall not be operated on the streets

and highways of the state unless, by written order of a court of competent jurisdiction, the department is directed to assign to the vehicle a replacement vehicle identification number which shall thereafter be used for identification purposes. If the motor vehicle is confiscated from a licensed motor vehicle dealer as defined in s. 320.27, the dealer's license shall be revoked.

Section 21. Subsection (6) of section 329.10, Florida Statutes, is amended to read:

329.10 Aircraft registration.—

(6) A violation of this section shall be deemed a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any violation of this section shall constitute the aircraft to which it relates as contraband, and said aircraft may be seized as contraband by a law enforcement agency and shall be subject to forfeiture pursuant to ss. 932.701-932.704.*

Section 22. Section 330.40, Florida Statutes, is amended to read:

330.40 Aircraft fuel tanks.—In the interests of the public welfare, it is unlawful for any person, firm, corporation, or association to install, maintain, or possess any aircraft which has been equipped with, or had installed in its wings or fuselage, fuel tanks, bladders, drums, or other containers which will hold fuel if such fuel tanks, bladders, drums, or other containers do not conform to federal aviation regulations or have not been approved by the Federal Aviation Administration by inspection or special permit. This provision also includes any pipes, hoses, or auxiliary pumps which when present in the aircraft could be used to introduce fuel into the primary fuel system of the aircraft from such tanks, bladders, drums, or containers. Any person who violates any provision of this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any aircraft in violation of this section shall be considered contraband, and said aircraft may be seized as contraband by a law enforcement agency and shall be subject to forfeiture pursuant to ss. 932.701-932.704.*

Section 23. Subsection (1) of section 329.11, Florida Statutes, is amended to read:

329.11 Aircraft identification numbers; penalties.—

(1)(a) It is unlawful for any person, firm, association, or corporation to knowingly buy, sell, offer for sale, receive, dispose of, conceal, or have in his possession, or to endeavor to buy, sell, offer for sale, receive, dispose of, conceal, or possess, any aircraft or part thereof on which the assigned identification numbers do not meet the requirements of the federal aviation regulations. ~~Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(b) *If any of the identification numbers required by this subsection have been knowingly omitted, altered, removed, destroyed, covered, defaced, or the real identity of the aircraft cannot be determined due to an intentional act of the owner or possessor, the aircraft may be seized as contraband property by a law enforcement agency and shall be subject to forfeiture pursuant to ss. 932.701-932.704. Such aircraft may not be knowingly sold or operated from any airport, landing field, or other property or body of water where aircraft may land or take off in this state unless the Federal Aviation Administration has issued the aircraft a replacement identification number which shall thereafter be used for identification purposes.*

(c) *It is unlawful for any person to knowingly possess, manufacture, sell or exchange, offer to sell or exchange, supply in blank, or give away any counterfeit manufacturer's aircraft identification number plate or decal used for the purpose of identification of any aircraft; to authorize, direct, aid in exchange, or give away such counterfeit manufacturer's aircraft identification number plate or decal; or to conspire to do any of the foregoing.*

(d) *Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 24. Subsections (2) and (4) of section 327.30, Florida Statutes, are amended to read:

327.30 Collisions, accidents, and casualties.—

(2) In the case of collision, accident, or other casualty involving a vessel in or upon or entering into or exiting from the water, including capsizing, collision with another vessel or object, sinking, personal injury, death, disappearance of any person from on board under circumstances which indicate the possibility of death or injury, or property damage of \$200 or more to any vessel or dock, the operator shall immediately, *or as soon as practicable within 24 hours*, report such accident to the Division of Law Enforcement, which shall notify the sheriff of the county wherein such accident occurred, and to the Game and Fresh Water Fish Commission.

(4) It is unlawful for a person operating a vessel involved in an accident or injury to leave the scene of the accident or injury without giving all possible aid to persons involved, or without making a reasonable effort to locate the owner or persons affected and subsequently complying with and notifying the appropriate law enforcement official as required under this section. *Any person who violates this subsection with respect to an accident resulting in personal injury is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person who violates this subsection with respect to an accident resulting in property damage only is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 25. Subsections (1) and (2) of section 327.351, Florida Statutes, are amended to read:

327.351 Operation of a vessel while intoxicated; punishment.—

(1) It is unlawful for any person, while in an intoxicated condition or under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 to ~~the such extent that as to deprive him of full possession of his normal faculties are impaired~~, to operate on the waters of this state any vessel. Any person convicted of a violation of this section shall be punished as provided in s. 327.35. For the purposes of this subsection, a previous conviction under s. 327.35 shall also be considered a previous conviction for violation of this subsection.

(2) If, however, damage to the property or person of another, other than damage resulting in the death of any person, is done by such intoxicated person under the influence of alcoholic beverages, any chemical substance set forth in s. 877.111, or any substance controlled under chapter 893 ~~to the such extent that as to deprive him of full possession of his normal faculties are impaired~~, by reason of the operation of any vessel mentioned herein, such person is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, but the penalty imposed for a violation of this subsection shall be not less than the penalty provided under s. 327.35; and, if the death of any human being is caused by the operation of a vessel by any person while so intoxicated, such person shall be deemed guilty of manslaughter and on conviction shall be punished as provided by existing law relating to manslaughter.

Section 26. Subsection (1) of section 327.353, Florida Statutes, is amended to read:

327.353 Blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.—

(1)(a) Notwithstanding any recognized ability to refuse to submit to the tests provided in s. 327.352, if a law enforcement officer has probable cause to believe that a vessel operated by a person under the influence of alcoholic beverages or controlled substances has caused the death or serious bodily injury of any a human being, *including the operator of the vessel*, such person shall submit, upon the request of a law enforcement officer, to a test of his blood for the purpose of determining the alcoholic content thereof or the presence of controlled substances therein. The law enforcement officer may use reasonable force if necessary to require such person to submit to the administration of the blood test. The blood test shall be performed in a reasonable manner.

(b) The term "serious bodily injury" means a physical condition which creates a substantial risk of death; serious, personal disfigurement; or protracted loss or impairment of the function of any bodily member or organ.

Section 27. Section 327.36, Florida Statutes, is created to read:

327.36 Mandatory adjudication; prohibition against accepting plea to lesser included offense.—

(1) Notwithstanding the provisions of s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 327.351, for manslaughter resulting from the operation of a vessel, or for vessel homicide.

(2)(a) No trial judge may accept a plea of guilty to a lesser offense from a person who is charged with a violation of s. 327.351, manslaughter resulting from the operation of a vessel, or vessel homicide and who has been given a breath or blood test to determine blood alcohol content, the results of which show a blood alcohol content by weight of .20 percent or more.

(b) No trial judge may accept a plea of guilty to a lesser offense from a person charged with a felony violation of s. 327.351(2), manslaughter resulting from the operation of a vessel, or vessel homicide.

Section 28. Subsection (3) of section 328.05, Florida Statutes, is amended to read:

328.05 Crimes relating to certificates of title to, or other indicia of ownership of, vessels; penalties.—

(3) It is unlawful:

(a) To alter or forge any certificate of title to a vessel or any assignment thereof or any cancellation of any lien on a vessel.

(b) To retain or use such certificate, assignment, or cancellation knowing that it has been altered or forged.

(c) To use a false or fictitious name, give a false or fictitious address, or make any false statement in any application or affidavit required under the provisions of this chapter or in a bill of sale or sworn statement of ownership or otherwise commit a fraud in any application.

(d) To knowingly obtain goods, services, credit, or money by means of an invalid, duplicate, fictitious, forged, counterfeit, stolen, or unlawfully obtained certificate of title, registration, bill of sale, or other indicia of ownership of a vessel.

(e) To knowingly obtain goods, services, credit, or money by means of a certificate of title to a vessel which certificate is required by law to be surrendered to the department.

Any person who violates any provision of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *A violation of any provision of this subsection with respect to any vessel shall constitute such vessel as contraband which may be seized by a law enforcement agency, or the division, and which shall be subject to forfeiture pursuant to ss. 932.701-932.704.*

(4) This section is not exclusive of any other penalties prescribed by any existing or future laws for the larceny or unauthorized taking of vessels, but is supplementary thereto.

Section 29. Section 843.18, Florida Statutes, is amended to read:

843.18 Boats; fleeing or attempting to elude a law enforcement officer.—It is unlawful for the operator of any boat plying the waters of the state, having knowledge that he has been directed to stop such vessel by a duly authorized law enforcement officer, willfully to refuse or fail to stop in compliance with such directive or, having stopped in knowing compliance with such a directive, willfully to flee in an attempt to elude such officer. Any person violating this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any violation of this section with respect to any vessel shall constitute such vessel as contraband which may be seized by a law enforcement agency and which shall be subject to forfeiture pursuant to ss. 932.701-932.704.*

Section 30. Sections 30-36 may be cited as the "Money Laundering Control Act."

Section 31. All persons engaged in a trade or business, except for those financial institutions that report to the Comptroller pursuant to s. 655.50, Florida Statutes, who receive more than \$10,000 in currency, including foreign currency, in one transaction, or who receive this amount through two or more related transactions, must complete and file with the Department of Revenue the information required pursuant to 26 U.S.C. s. 6050I, concerning returns relating to currency received in trade or business. Any person who willfully fails to comply with the reporting requirements of this section is guilty of a misdemeanor of the first degree,

punishable as provided in s. 775.082, Florida Statutes, or by fine not exceeding \$250,000 or twice the value of the amount of the currency transaction involved, whichever is greater, or by both such imprisonment and fine. For a second or subsequent conviction of a violation of the provisions of this section, the maximum fine which may be imposed is \$500,000 or quintuple the value of the amount of the currency transaction involved, whichever is greater.

Section 32. Notwithstanding any other provision of law, for purposes of sections 30-36 each individual currency transaction exceeding \$10,000 which is made in violation of the provisions of section 31 or each financial transaction in violation of the provisions of section 35 which involves the movement of funds in excess of \$10,000 shall constitute a separate, punishable offense.

Section 33. The Department of Revenue shall have the duty to enforce compliance with the provisions of section 31, and shall be the custodian of all information and documents filed pursuant to section 31. Such information shall be confidential; however, the provisions of s. 213.053, Florida Statutes, do not apply to information submitted pursuant to this section, and any law enforcement agency as defined in s. 934.02, Florida Statutes, or the Department of Legal Affairs, which establishes a clear need for such information for investigative purposes shall be provided access thereto, but such agency shall likewise maintain the information in a confidential manner except as otherwise provided by the Florida Rules of Criminal Procedure. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14, Florida Statutes.

Section 34. Definitions.—As used in sections 34-36, the term:

(1) "Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law, regardless of whether or not such activity is specified in subsection (7).

(2) "Conducts" includes initiating, concluding, or participating in initiating or concluding a transaction.

(3) "Transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(4) "Financial transaction" means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, commerce in any way or degree.

(5) "Monetary instruments" means coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(6) "Financial institution" means an institution regulated under chapter 657, chapter 658, chapter 660, chapter 661, chapter 662, chapter 663, chapter 664, or chapter 665, Florida Statutes.

(7) "Specified unlawful activity" means any "racketeering activity" as defined in s. 895.02, Florida Statutes.

Section 35. It is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes, for a person:

(1) Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, to conduct or attempt to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity:

(a) With the intent to promote the carrying on of specified unlawful activity; or

(b) Knowing that the transaction is designed in whole or in part:

1. To conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

2. To avoid a transaction reporting requirement under state law.

(2) To transport or attempt to transport a monetary instrument or funds:

(a) With the intent to promote the carrying on of specified unlawful activity; or

(b) Knowing that the monetary instrument or funds involved in the transportation represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or in part:

1. To conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

2. To avoid a transaction reporting requirement under state law.

Section 36. A person who violates section 35 is also liable for a civil penalty of not more than the greater of the value of the property, funds, or monetary instruments involved in the transaction or \$10,000.

Section 37. Definitions.—As used in sections 37-39, the term:

(1) "Money order" means any negotiable or nonnegotiable instrument, other than a check, traveler's check, draft or certificate of deposit, sold for the purpose of making payments or transfers to third persons or others and purchased with money or purchased by any other means other than a withdrawal from a deposit account in the seller of such instrument.

(2) "Deposit account" means a deposit account as defined in s. 655.081(1)(b), Florida Statutes.

(3) "Check," "draft," or "certificate of deposit," means a check, draft, or certificate of deposit as defined in s. 673.104, Florida Statutes.

Section 38. The record of sale of any money order sold in this state in the amount of \$700.00 or more shall be kept in the form of a log in the store selling the money order, or in its headquarters, and shall be available upon request by any state or federal law enforcement agency for a period of 3 years from the date the money order was issued. The log shall bear the full name of the purchaser, including the first and last name and middle initial, the residence address of the purchaser, and proof of identity as deemed satisfactory by the Department of Banking and Finance. The responsibility of maintaining the log shall be with the seller of the money order. Any seller who willfully fails to maintain a log required by this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 39. Use of money order in furtherance of criminal activity; penalty.—Any person who knowingly and willfully uses or causes to be used a money order, directly or indirectly, in furtherance of any criminal activity, is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

Section 40. Section 790.165, Florida Statutes, is created to read:

790.165 Planting of "hoax bomb" prohibited; penalties.—

(1) For the purposes of this section "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive.

(2) Any person who manufactures, possesses, sells, or delivers a hoax bomb or mails or sends a hoax bomb to another person shall be guilty of a felony of the third degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax bomb shall be guilty of a felony of the second degree punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Any person violating the provisions of this subsection shall be sentenced to a minimum term of imprisonment of 3 calendar years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld. However, the state attorney or defense attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals.

(4) The provisions of subsection (2) shall not apply to any law enforcement officer, fireman, person or corporation licensed pursuant to chapter 493, or member of the armed forces of the United States while engaged in training or other lawful activity within the scope of their employment, or to any member of a theatrical company or production utilizing a hoax bomb as property during the course of a rehearsal or performance.

Section 41. Section 715.041, Florida Statutes, is amended to read:

715.041 Recovery of stolen property from pawnbrokers.—

(1) Any person who sells property to a pawnbroker or pledges the property as security for a loan shall present either a driver's license or other comparable identification to the pawnbroker. The pawnbroker shall record the date of the transaction, the type of identification, the name and address as it appears on the item of identification, and the identifying number appearing thereon and have the record signed by the person from whom he receives the property. This record shall be made available to any law enforcement agency or officer *having jurisdiction*, upon request.

(2) The lawful owner of any stolen property in the possession of a pawnbroker may recover such property by informing any law enforcement agency of the location of such property and providing the agency with proof of ownership of the property provided a timely report of the theft of the property was made to the proper authorities. Upon the receipt of such proof, any law enforcement officer is authorized by the *police chief or sheriff, or the delegate thereof, in the jurisdiction where the property is found*, may recover the property from the pawnbroker, without expense to the lawful owner thereof, unless the pawnbroker presents evidence of having received proof of ownership of such property by the person who sold it to the pawnbroker or pledged the property as security for a loan. Any property recovered from a pawnbroker pursuant to this section shall be returned to the lawful owner subject to its use as evidence in any criminal proceeding.

(3) When the lawful owner recovers stolen property and the person who sold or pledged the stolen property to the pawnbroker is convicted of theft, the court may order the defendant to make restitution pursuant to s. 775.089.

Section 42. Section 715.0415, Florida Statutes, is created to read:

715.0415 Transfer of property to pawnbroker; requirements; penalties.—

(1) Any person who sells property to a pawnbroker or who pledges the property as security for a loan shall sign a statement verifying that he is the rightful owner of the property being sold or pledged and that such property is clear of all liens and encumbrances, including liens for past due child support.

(2) Any person who knowingly gives false verification of ownership and who receives money from the pawnbroker for property sold or pledged shall, if the money received is less than \$300, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or, if the amount is \$300 or greater, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) When the lawful owner recovers stolen property and the person who sold or pledged the stolen property to the pawnbroker is convicted of theft, a violation of this section, or dealing in stolen property, the court shall order the defendant to make restitution to the pawnbroker pursuant to s. 775.089.

Section 43. Entrapment.—

(1) A law enforcement officer, a person engaged in cooperation with a law enforcement officer, or a person acting as an agent of a law enforcement officer perpetrates an entrapment if, for the purpose of obtaining evidence of the commission of a crime, he induces or encourages and, as a direct result, causes another person to engage in conduct constituting such crime by employing methods of persuasion or inducement which create a substantial risk that such crime will be committed by a person other than one who is ready to commit it.

(2) A person prosecuted for a crime shall be acquitted if he proves by a preponderance of the evidence that his criminal conduct occurred as a result of an entrapment. The issue of entrapment shall be tried by the trier of fact.

Section 44. Section 43 shall apply to offenses committed on or after the effective date of this act.

Section 45. Section 810.07, Florida Statutes, is amended to read:

810.07 Prima facie evidence of intent.—

(1) In a trial on the charge of burglary, proof of the entering of such structure or conveyance at any time stealthily and without consent of the owner or occupant thereof ~~is shall be~~ prima facie evidence of entering with intent to commit an offense.

(2) *In a trial on the charge of attempted burglary, proof of the attempt to enter such structure or conveyance at any time stealthily and without the consent of the owner or occupant thereof is prima facie evidence of attempting to enter with intent to commit an offense.*

Section 46. Section 812.13, Florida Statutes, is amended to read:

812.13 Robbery.—

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

(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If in the course of committing the robbery the offender carried a weapon, then the robbery is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If in the course of committing the robbery the offender carried no firearm, deadly weapon, or other weapon, then the robbery is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(b) *An act shall be deemed "in the course of the taking" if it occurs either prior to, contemporaneous with, or subsequent to the taking of the property and if it and the act of taking constitute a continuous series of acts or events.*

Section 47. Section 914.23, Florida Statutes, is amended to read:

914.23 Retaliating against a witness, victim, or informant.—A person who knowingly engages in any conduct that causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for:

(1) The attendance of a witness or party at an official proceeding, or for any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(2) Any information relating to the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding given by a person to a law enforcement officer;

or attempts to do so, is guilty of a criminal offense. *If the conduct results in, if* bodily injury ~~occurs~~, *such person is guilty* of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Otherwise if the conduct results only in damages to property, such person is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 48. Section 924.07, Florida Statutes, is amended to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(a)(1) An order dismissing an indictment or information or any count thereof.;

(b)(2) An order granting a new trial.;

(c)(3) An order arresting judgment.;

(d)(4) A ruling on a question of law when the defendant is convicted and appeals from the judgment. *Once the state's cross-appeal is instituted, the appellate court shall review and rule upon the question raised by the state regardless of the disposition of the defendant's appeal.;*

(e)(6) The sentence, on the ground that it is illegal.;

(f)(6) A judgment discharging a prisoner on habeas corpus.;

(g)(7) An order adjudicating a defendant insane under the Florida Rules of Criminal Procedure.;

(h)(8) All other pretrial orders, except that it may not take more than one appeal under this subsection in any case.;

(i)(9) A sentence imposed outside the range recommended by the guidelines authorized by s. 921.001.

(j) *A ruling granting a motion for judgment of acquittal after a jury verdict.*

(2) *An Such appeal under this section shall embody all assignments of error in each pretrial order that the state seeks to have reviewed. The state shall pay all costs of such appeal except for the defendant's attorney's fee.*

Section 49. Section 939.01, Florida Statutes, is amended to read:

939.01 Judgment for costs on conviction.—

(1) *In all criminal cases of conviction for crime the costs of prosecution, including investigative costs incurred by law enforcement agencies, and by fire departments for arson investigations, if requested and documented by such agencies, shall be included and entered up in the judgment rendered against the convicted person.*

(2) *If the court does not enter costs, or orders only partial costs under this section, it shall state on the record the reasons therefor.*

(3)(a) *The court may require that the defendant pay the costs within a specified period or in specified installments.*

(b) *The end of such period or the last such installment shall not be later than:*

1. *The end of the period of probation or community control, if probation or community control is ordered;*

2. *Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or*

3. *Five years after the date of sentencing in any other case.*

(c) *If not otherwise provided by the court under this section, costs shall be paid immediately.*

(4) *If a defendant is placed on probation or community control, any costs ordered under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to comply with such order.*

(5) *The court, in determining whether to order costs and the amount of such costs, shall consider the amount of the costs incurred, the financial resources of the defendant, the financial needs and earning ability of the defendant, and such other factors which it deems appropriate.*

(6) *Any dispute as to the proper amount or type of costs ordered shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of costs incurred is on the state attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.*

(7) *Any default in payment of costs ordered may be collected by any means authorized by law for enforcement of a judgment.*

(8) *The court may order the clerk of the court to collect and disburse cost payments in any case.*

(9) *Investigative costs which are recovered shall be returned to the appropriate investigative agency which incurred the expense. Costs shall include actual expenses incurred in conducting the investigation and prosecution of the criminal case; however, costs may also include the salaries of permanent employees.*

Section 50. Section 849.25, Florida Statutes, is amended to read:

849.25 "Bookmaking" defined; penalties; exceptions.—

(1)(a) The term "bookmaking" means the act of taking or receiving, while engaged in the business or profession of gambling, any bet or wager upon the result of any trial or contest of skill, speed, power, or endurance of man, or beast or between men, beasts, fowl, motor vehicle vehicles, or mechanical apparatus or upon the result of any chance, casualty, unknown, or contingent event whatsoever.

(b) The following factors shall be considered in making a determination that a person has engaged in the offense of bookmaking:

1. Taking advantage of betting odds created to produce a profit for the bookmaker or charging a percentage on accepted wagers.

2. Placing all or part of accepted wagers with other bookmakers to reduce the chance of financial loss.

3. Taking or receiving more than five wagers in any single day.

4. Taking or receiving wagers totaling more than \$500 in any single day, or more than \$1,500 in any single week.

5. Engaging in a common scheme with two or more persons to take or receive wagers.

6. Taking or receiving wagers on both sides on a contest at the identical point spread.

7. Any other factor relevant to establishing that the operating procedures of such person are commercial in nature.

(c) The existence of any two factors listed in paragraph (b) may constitute prima facie evidence of a commercial bookmaking operation.

(2) Any person who engages in bookmaking shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(3) Any person who has been convicted of bookmaking and thereafter violates the provisions of this section shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding the provisions of s. 948.01, any person convicted under the provisions of this subsection shall not have adjudication of guilt suspended, deferred, or withheld.

(4) Notwithstanding the provisions of s. 777.04, any person who is guilty of conspiracy to commit bookmaking shall be subject to the penalties imposed by subsections (2) and (3).

(5) This section shall not apply to pari-mutuel wagering in Florida as authorized under chapters 550 and 551.

(6) This section shall not apply to any prosecutions filed and pending at the time of the passage hereof, but all such cases shall be disposed of under existing laws at the time of the institution of such prosecutions.

Section 51. Section 812.16, Florida Statutes, is created to read:

812.16 Operating chop shops; definitions; penalties; restitution; forfeiture.—

(1) As used in this section, the term:

(a) "Chop shop" means any area, building, storage lot, field, or any other premises or place where one or more persons are engaged or have engaged in altering, dismantling, reassembling, or in any way concealing or disguising the identity of a stolen motor vehicle or of any major component part of a stolen motor vehicle; where there are two or more stolen motor vehicles present; or where there are major component parts from two or more stolen motor vehicles present.

(b) "Major component part" means one of the following subassemblies of a motor vehicle, regardless of its actual market value: front end assembly, including fenders, grills, hood, bumper, and related parts; frame and frame assembly; engine; transmission; T-tops; rear clip assembly, including quarter panels and floor panel assembly; doors; tires, tire wheels, and continuous treads and other devices.

(c) "Motor vehicle" includes every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, which device is self-propelled or may be connected to and towed by a self-propelled device, and also includes any and all other land-based devices which are self-propelled but which are not designed for use upon a highway, including but not limited to farm machinery and steam shovels.

(2) Any person who knowingly owns, operates, or conducts a chop shop or who knowingly aids and abets another person in owning, operating, or conducting a chop shop is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who violates this section, upon conviction, in addition to any other punishment, may be ordered to make restitution to the rightful owner of a stolen motor vehicle or of a stolen major component part, or to the owner's insurer if the owner has already been compensated for the loss by the insurer, for any financial loss sustained as a result of the theft of the motor vehicle or a major component part. Restitution may be imposed in addition to any imprisonment or fine imposed, but not in lieu thereof.

(4) The following may be seized and are subject to forfeiture pursuant to ss. 932.701-932.704:

(a) Any stolen motor vehicle or major component part found at the site of a chop shop or any motor vehicle or major component part for which there is probable cause to believe that it is stolen but for which the true owner cannot be identified.

(b) Any engine, tool, machine, implement, device, chemical, or substance used or designed for altering, dismantling, reassembling, or in any other way concealing or disguising the identity of a stolen motor vehicle or any major component part.

(c) A wrecker, car hauler, or other motor vehicle that is knowingly used or has been used to convey or transport a stolen motor vehicle or major component part.

Section 52. Crime prevention information; legislative findings and intent.—The Legislature finds that:

(1) To better analyze the effectiveness of state and local expenditures in preventing criminal behavior, it is necessary to increase the sharing of information among state agencies.

(2) There is a need to provide the direction and means whereby information about the individuals who interact with the education, social services, and criminal justice systems of this state can be readily shared among the various state agencies.

(3) To provide for the sharing of information among the various agencies of the education, social services, and criminal justice systems of the state requires that there be standard data elements and formats required of these state agencies.

(4) The increased sharing of information on individuals who interact with the education, social services, and criminal justice systems of this state should be used to improve the management and operation of the various state agencies associated with these systems.

Section 53. Information system coordinating council; creation; membership; duties.—

(1) The Department of Education shall establish the Risk Assessment Information System Coordinating Council. The membership of the coordinating council shall consist of the following individuals, or their designees: a member of the House of Representatives appointed by the Speaker of the House of Representatives, a member of the Senate appointed by the President of the Senate, the Executive Director of the Department of Law Enforcement, the State Courts Administrator, the Secretary of the Department of Corrections, the Chairman of the Parole and Probation Commission, the Secretary of the Department of Health and Rehabilitative Services, the Secretary of the Department of Labor and Employment Security, the Commissioner of the Department of Education, a representative to be appointed by the Attorney General, one state attorney selected as a representative by the state attorneys, and one public defender selected as a representative by the public defenders. The Director of the Division of Communications of the Department of General Services and the Executive Administrator of the Information Resource Commission shall serve without voting rights as ex officio members on the coordinating council.

(2) The Commissioner of the Department of Education shall serve as chairman and shall provide administrative and clerical support to the council. The chairman may call a meeting of the coordinating council as often as necessary to transact business.

(3) The coordinating council shall:

(a) Develop, by March 1, 1988, a list of the information systems and the data elements and their formats which are related to criminal justice and which are maintained by each of the entities represented on the coordinating council.

(b) Develop, by March 1, 1988, a list of the custodians for the systems and data elements as determined in paragraph (a) and describe the policies relating to access to each of the respective systems and data elements.

(c) Identify, by March 1, 1988, the barriers to the access and sharing of information among the entities represented on the council and determine, as to each barrier, whether it exists by virtue of statute, rule, or technological considerations.

(d) Establish, by March 1, 1989, a subset of the data elements in paragraph (a) which would provide standard definitions and standard formats to be utilized by all entities represented on the council in order to develop a population-at-risk profile for purposes of identifying at an early age, and tracking for statistical purposes, persons who are probable candidates for entering into the criminal justice system so as to develop educational and human resources to direct such persons away from criminal activities.

(e) Coordinate and develop, by March 1, 1989, a plan for the sharing of common data elements as determined in paragraph (d) by the entities represented on the coordinating council, through the use of the statewide communications system as provided in chapter 282, Florida Statutes.

(f) Provide an annual report and recommendations, by March 1 of each year, to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives.

Section 54. Section 53 is repealed October 1, 1990, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 55. Section 16.55, Florida Statutes, is created to read:

16.55 Crime prevention training.—The department shall develop model crime prevention training materials for the localities. The training material shall provide each county commission and each city commission in the State of Florida with up-to-date information on how to reduce commercial crime exposure through environmental design. Included in the model training materials shall be information on lighting, cash-handling procedures, obstructed vision, traffic flow, counter placement, and staffing. The model training materials shall be completed and distributed no later than July 1988.

Section 56. Crime Prevention and Law Enforcement Study Commission; membership; duties.—

(1) There is established the Crime Prevention and Law Enforcement Study Commission. The membership of the commission shall consist of the following individuals: three members of the Senate appointed by the President of the Senate, three members of the House of Representatives appointed by the Speaker of the House of Representatives, a representative from the office of the Governor appointed by the Governor, a representative appointed by the Attorney General, the Secretary of the Department of Corrections, the Chairman of the Parole and Probation Commission, the Executive Director of the Department of Law Enforcement, a representative from a large municipality and a representative from a small municipality selected by the Florida League of Cities, a representative of a heavily-populated county and a representative of a sparsely-populated county selected by the Florida Association of Counties, the President of the Florida Sheriff's Association, the President of the Florida Police Chiefs Association, a state attorney selected as a representative by the state attorneys, a public defender selected as a representative by the public defenders, a criminal defense attorney in private practice selected by the Florida Criminal Defense Attorneys Association, the Chairman of the Conference of Circuit Judges or his designee, a representative from the Supreme Court or District Courts of Appeal appointed by the Chief Justice, the Chancellor of the Board of Regents or his designee, and three persons from the business community appointed by the Governor.

(2) The Governor shall appoint a chairman of the commission from the membership. The chairman may call a meeting of the commission as often as necessary to transact business.

(3) The commission shall be staffed by an executive director and other personnel who shall be appointed by the chairman and who shall be exempt from the provisions of part II of chapter 110, Florida Statutes, relating to the Career Service System.

(4) The commission shall study the current sentencing practices, available penalties, methods of funding the criminal justice and corrections systems, and alternative sentencing and funding methods. No later than January 1, 1989, the commission shall report its findings and suggestions to the Governor, President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the House Minority Leader. Among the possible areas of study, the commission shall consider:

(a) Alternative funding sources for the corrections and criminal justice systems, including, but not limited to:

1. Increased taxes earmarked for the corrections and criminal justice systems.

2. Revenue-producing corrections and criminal justice measures.

(b) Alternatives to current sentencing practices, including, but not limited to:

1. Greater local participation in the corrections systems.

2. Lower-security facilities for low-risk offenders.

3. Greater utilization of community work release programs for low-risk offenders.

4. Scientific and technological advances in alternative sentencing.

5. Privatization of correction facilities.

6. Greater utilization of space in existing correction facilities.

(c) Reduction of penalties to affordable levels.

(d) Appropriate treatment for first-time offenders for possession and use of controlled substances.

(5) The Governor shall consider and include appropriate recommendations of the commission in his recommended budget to the Legislature for the 1989-1990 fiscal year.

(6) The members of the commission shall serve without compensation, except that members shall be entitled to per diem and travel expenses as provided in s. 112.061, Florida Statutes, while on the official business of the commission.

Section 57. Short title.—Sections 57-75 may be cited as the "Safe Neighborhoods Act."

Section 58. Safe neighborhoods; legislative findings and purpose.—

(1) The Legislature hereby finds and declares that among the many causes of deterioration in the business and residential neighborhoods of the state are the following: proliferation of crime, automobile traffic flow strangled by outmoded street patterns, unsuitable topography, faulty lot layouts, fragmentation of land uses and parking areas necessitating frequent automobile movement, lack of separation of pedestrian areas from automobile traffic, lack of separation of vehicle traffic lanes and railroad traffic, and excessive noise levels from automobile traffic.

(2) The Legislature further finds and declares that safe neighborhoods are the product of planning and implementation of appropriate environmental design concepts, comprehensive crime prevention programs, land use recommendations, and beautification techniques.

(3) The Legislature further finds and declares that the provisions of sections 57-75 and the powers granted to local governments, property owners' associations, and special dependent districts are desirable to guide and accomplish the coordinated, balanced, and harmonious development of safe neighborhoods; to promote the health, safety, and general welfare of these areas and their inhabitants, visitors, property owners, and workers; to establish, maintain, and preserve property values and preserve and foster the development of attractive neighborhood and business environments; to prevent overcrowding and congestion; to improve

or redirect automobile traffic and provide pedestrian safety; to reduce crime rates and the opportunities for the commission of crime; and to provide environmental security in neighborhoods so they are defensible against crime.

(4) It is the intent of the Legislature to assist local governments in implementing effective crime prevention techniques to establish safe neighborhoods. The Legislature, therefore, declares that the development, redevelopment, preservation, and revitalization of neighborhoods in this state, and all the purposes of sections 57-75, are public purposes for which public money may be borrowed, expended, loaned, and granted.

Section 59. Safe neighborhoods; definitions.—

(1) "Safe neighborhood improvement district" means a district located in an area in which more than 50 percent of the land is used for residential purposes, or in an area in which more than 50 percent of the land is used for commercial, office, business, or industrial purposes, and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques.

(2) "Association" means a property owners' association which is incorporated for the purpose of creating and operating a neighborhood improvement district.

(3) "Department" means the Department of Community Affairs.

(4) "Board" means the board of directors of a neighborhood improvement district, which may be the governing body of a municipality or county or the officers of a property owners' association or the board of directors of a special neighborhood improvement district.

(5) "Environmental security" means an urban planning and design process which integrates crime prevention with neighborhood design and community development.

(6) "Crime prevention through environmental design" means the planned use of environmental design concepts such as natural access control, natural surveillance, and territorial reinforcement in a neighborhood or community setting which is designed to reduce criminal opportunity and foster positive social interaction among the legitimate users of that setting.

(7) "Defensible space" means an architectural perspective on crime prevention through physical design of the environment to create the ability to monitor and control the environment along individual perceived zones of territorial influence that result in a proprietary interest and a felt responsibility.

Section 60. Safe neighborhood improvement districts; planning funds.—

(1) The governing body of any municipality or county may authorize the formation of safe neighborhood improvement districts through the adoption of a planning ordinance which specifies that such districts may be created by one or more of the methods established in sections 61, 62, and 63. No district may overlap the jurisdictional boundaries of a municipality and the unincorporated area of a county, except by interlocal agreement.

(2) If the governing body of a municipality or county elects to create a safe neighborhood improvement district, it shall be eligible to request a grant from the Safe Neighborhoods Trust Fund, created pursuant to section 68 and administered by the Department of Community Affairs, to prepare a safe neighborhood plan for the district.

Section 61. Local government neighborhood improvement districts; creation; advisory council; dissolution.—

(1) After a local planning ordinance has been adopted authorizing the creation of local government neighborhood improvement districts, the local governing body of a municipality or county may create local government neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Specifies the boundaries, size, and name of the district.

(b) Authorizes the district to receive a planning grant from the department.

(c) Includes a statement of purpose to utilize a maximum of 2 mills ad valorem taxes or special assessments on real property within the district.

(d) Designates the local governing body as the board of directors of the district.

(e) Establishes an advisory council to the board of directors comprised of property owners or residents of the district.

(f) May prohibit the use of any district power authorized by section 65.

(2) The advisory council shall perform such duties as may be prescribed by the governing body and shall submit within the time period specified by the governing body, acting as the board of directors, a report on the district's activities and a proposed budget to accomplish its objectives. In formulating a plan for services or improvements the advisory board shall consult in public session with the appropriate staff or consultants of the local governing body responsible for the district's plan:

(3) A district may be dissolved by the governing body by rescinding the ordinance creating the district. The governing body shall consider rescinding the ordinance if presented with a petition containing the signatures of 60 percent of the residents of a district.

Section 62. Property owners' association neighborhood improvement districts; creation; powers and duties; duration.—

(1) After a local planning ordinance has been adopted authorizing the creation of property owners' association neighborhood improvement districts, the local governing body of a municipality or county may create property owners' association neighborhood improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Establishes that an incorporated property owners' association representing 75 percent of all owners of property within a proposed district meeting the requirements of this section has petitioned the governing body of the municipality or county for creation of a district for the area encompassed by the property owned by members of the association.

(b) Specifies the boundaries, size, and name of the district.

(c) Authorizes the governing body through mutual agreement with the property owners' association to:

1. Request a matching grant from the state's Safe Neighborhoods Trust Fund to prepare the first year's safe neighborhood plan. The provider of the local match for the state grant shall be mutually agreed upon between the governing body and the property owners' association. The governing body may agree to provide the match as a no-interest-bearing loan to be paid back from assessments imposed by the association on its members or shareholders.

2. Provide staff and other technical assistance to the property owners' association on a mutually agreed-upon basis, contractual or otherwise.

3. Prepare the first year's safe neighborhood plan, which shall comply with and be consistent with the governing body's adopted comprehensive plan.

(d) Provides for an audit of the property owners' association.

(e) Designates the officers of the incorporated property owners' association as the board of directors of the district.

(f) May prohibit the use of any district power authorized by section 65.

(2) In order to qualify for the creation of a neighborhood improvement district, the property owners shall form an association in compliance with this section, which shall be a corporation, for profit or not for profit, and of which not less than 75 percent of all property owners within the proposed area have consented in writing to become members or shareholders. Upon such consent by 75 percent of the property owners in the proposed district, all consenting property owners and their successors shall become members of the association and shall be bound by the provisions of the articles of incorporation, the bylaws of the association, the covenants, the deed restrictions, the indentures, and any other properly promulgated restrictions. The association shall have no member or shareholder who is not a bona fide owner of property within the proposed district. Upon receipt of its certificate of incorporation, the property owners' association shall notify the clerk of the city or county court, whichever is appropriate, in writing, of such incorporation, and shall list the names and addresses of the officers of the association.

(3) Any incorporated property owners' association operating pursuant to sections 57-75 shall have the power:

(a) To negotiate with the governing body of a municipality or county for closing, privatizing, or modifying the rights-of-way, and appurtenances thereto, within the district.

(b) To utilize various legal instruments such as covenants, deed restrictions, and indentures to preserve and maintain the integrity of property, land, and rights-of-way owned and conveyed to it within the district.

(c) To make and collect assessments and to lease, maintain, repair, and reconstruct any privatized street, land, or common area within the district upon dedication thereof to the association.

(d) Without the joinder of any property owner, to modify, move, or create any easement for ingress and egress or for the purpose of utilities, if such easement constitutes part of or crosses district property. However, this shall not authorize the association to modify or move any easement which is created in whole or in part for the use or benefit of anyone other than association members, or which crosses the property of anyone other than association members, without the consent or approval of such person as required by law or by the instrument creating the easement. Nothing in this paragraph shall affect the rights of ingress or egress of any member of the association.

(4) A property owners' association neighborhood improvement district shall continue in perpetuity as long as the property owners' association created pursuant to this section exists under the applicable laws of the state.

Section 63. Special neighborhood improvement districts; creation; referendum; board of directors; duration; extension.—

(1) After a local planning ordinance has been adopted authorizing the creation of special neighborhood improvement districts, the governing body of a municipality or county may declare the need for and create special neighborhood residential or business improvement districts by the enactment of a separate ordinance for each district, which ordinance:

(a) Conditions the implementation of the ordinance on the approval of a referendum as provided in subsection (2).

(b) Limits the taxing power of a special neighborhood improvement district to up to 2 mills annually.

(c) Authorizes special assessments to support planning and implementation of district improvements.

(d) Specifies the boundaries, size, and name of the district.

(e) Authorizes the district to receive a planning grant from the department.

(f) Provides for the appointment of a 3-member board of directors for the district.

(g) May authorize a special neighborhood improvement district to exercise the power of eminent domain pursuant to Chapter 73 and 74, F.S. Any property identified for eminent domain by the district shall be subject to the approval of the local governing body before eminent domain procedures are exercised.

(h) May prohibit the use of any district power authorized by section 65.

(2) A referendum to implement a special neighborhood residential or business improvement district shall be held within 120 days after the occurrence of one of the following:

(a) The governing body of the municipality or county declares, by the enactment of a separate ordinance pursuant to subsection (1), that there is a need for a special neighborhood residential or business improvement district to function within a proposed area; or

(b) A petition containing the signatures of 40 percent of the electors of a proposed special neighborhood residential improvement district area or 20 percent of the property owners of a proposed special neighborhood business improvement district area is presented to the county commission of a county, if the proposed area is located in the unincorporated area of the county, or to the governing body of a municipality, if the proposed area is located within the incorporated limits of the municipality.

The petition shall define the proposed area and shall state that it is for the purpose of calling a referendum to determine whether a special neighborhood residential or business improvement district should be created in such proposed area.

(3)(a) The referendum to implement a special neighborhood residential improvement district ordinance shall be held as prescribed in this subsection.

(b) Within 45 days from the date the governing body of the municipality or county, whichever is appropriate, enacts an ordinance pursuant to subsection (1), or is presented with a petition pursuant to subsection (2)(b), so that the boundaries of the proposed improvement district are defined, the city clerk or the supervisor of elections, whichever is appropriate, shall certify such ordinance or petition and compile a list of the names and last known addresses of the electors in the proposed special neighborhood residential improvement district from the list of registered voters of the county as of the last day of the month preceding that in which the ordinance was enacted or the petition was presented, and the same shall constitute the registration list for the purposes of the referendum required under this subsection, except as otherwise provided in this subsection.

(c) Within 45 days from compilation of the voter registration list pursuant to paragraph (b), the city clerk or the supervisor of elections shall notify each such elector of the general provisions of this section, including the taxing authority and the date of the upcoming referendum. Notification shall be by United States mail and, in addition thereto, by publication one time in a newspaper of general circulation in the county or municipality in which the district is located.

(d) Any resident of the district whose name does not appear on the list compiled pursuant to paragraph (b) may register to vote as provided by law. The registration list shall remain open for 75 days after enactment of the ordinance defining the special neighborhood improvement district or after presentation of the petition calling for creation of the district.

(e)1. Within 15 days after the closing of registration, the city clerk or the supervisor of elections shall send a ballot to each elector at his last known mailing address by first-class United States mail. The ballot shall include:

a. A description of the general provisions of this section applicable to special neighborhood residential improvement districts; and

b. Immediately following said information, the following:

"Do you favor the creation of the Special Neighborhood Residential Improvement District and approve the levy of up to 2 mills of ad valorem taxes by such proposed district?"

. . . Yes, for the Special Neighborhood Residential Improvement District.

. . . No, against the Special Neighborhood Residential Improvement District."

2. Ballots shall be returned by United States mail, or by personal delivery.

(f) All ballots received within 120 days after enactment of the ordinance or presentation of the petition defining the district shall be tabulated by the city clerk or the supervisor of elections, who shall certify the results thereof to the city council or county commission no later than 5 days after said 120-day period.

(g) The electors shall be deemed to have approved of the provisions of this section at such time as the city clerk or the supervisor of elections certifies to the governing body of the municipality or county that approval has been given by a majority of the electors voting in the referendum.

(4)(a) The referendum to implement a special neighborhood business improvement district ordinance shall be held as prescribed in this subsection.

(b) Within 45 days from the date the governing body of the municipality or county, whichever is appropriate, enacts an ordinance pursuant to subsection (1), or is presented with a petition pursuant to subsection (2)(b), so that the boundaries of the proposed improvement district are defined, the city clerk or the supervisor of elections, whichever is appro-

priate, shall certify such ordinance or petition and compile a list of the names and last known addresses of the freeholders in the proposed special neighborhood business improvement district from the tax assessment roll of the county applicable as of the thirty-first day of December in the year preceding the year in which the ordinance was enacted or the petition was presented, and the same shall constitute the registration list for the purposes of the freeholders' referendum required under this subsection, except as otherwise provided in this subsection.

(c) Within 45 days from compilation of the freeholders' registration list pursuant to paragraph (b), the city clerk or the supervisor of elections shall notify each such freeholder of the general provisions of this section, including the taxing authority and the date of the upcoming referendum, and the method provided for submitting corrections to the registration list should the status of the freeholder have changed since the compilation of the tax rolls. Notification shall be by United States mail and, in addition thereto, by publication one time in a newspaper of general circulation in the county or municipality in which the district is located.

(d) Any freeholder whose name does not appear on the tax rolls compiled pursuant to paragraph (b) may register to vote with the city clerk or the supervisor of elections. The registration list shall remain open for 75 days after enactment of the ordinance defining the special neighborhood business improvement district or after presentation of the petition calling for creation of the district.

(e)1. Within 15 days after the closing of the registration list, the city clerk or the supervisor of elections shall send a ballot to each registered freeholder at his last known mailing address by first-class United States mail. The ballot shall include:

- a. A description of the general provisions of this section applicable to special neighborhood business improvement districts;
- b. The assessed value of the freeholder's property;
- c. The percent of the freeholder's interest in such property; and
- d. Immediately following said information, the following:

"Do you favor the creation of the
Special Neighborhood Business Improvement District and approve the levy of up to 2 mills of ad valorem taxes by such proposed district?"

- ... Yes, for the Special Neighborhood Business Improvement District.
- ... No, against the Special Neighborhood Business Improvement District."

2. Ballots shall be returned by United States mail or by personal delivery.

(f) All ballots received within 120 days after enactment of the ordinance or presentation of the petition defining the district shall be tabulated by the city clerk or the supervisor of elections, who shall certify the results thereof to the city council or county commission no later than 5 days after said 120-day period.

(g) The freeholders shall be deemed to have approved of the provisions of this section at such time as the city clerk or the supervisor of elections certifies to the governing body of the municipality or county that approval has been given by freeholders representing in excess of 50 percent of the assessed value of the property within the special neighborhood business improvement district.

(5)(a) The city clerk or the supervisor of elections, whichever is appropriate, shall enclose with each ballot sent pursuant to this section two envelopes: a secrecy envelope, into which the elector or freeholder shall enclose his marked ballot; and a second envelope, into which the elector or freeholder shall then place the secrecy envelope, which shall be addressed to the city clerk or the supervisor of elections. The back side of the mailing envelope shall bear a certificate in substantially the following form:

Note: Please Read Instructions Carefully Before
Marking Ballot and Completing Voter's Certificate.

CERTIFICATE

I, , am a duly qualified and registered (voter or freeholder, whichever is appropriate) of the proposed (name) (Special Neighborhood Residential or Business, whichever is appropriate) Improvement District; and I am entitled to vote this ballot.

. . . . (Voter's Signature) . . .

Note: Your Signature Must Be Witnessed By Either:

- 1. A Notary or Officer defined in Item 6.b. of the Instruction Sheet.

Subscribed and sworn to before me this day of , 19. . . .
. . . (Official Title) . . . My Commission Expires this day of
. . . . , 19. . . .
(Do Not Use Impression Seal)

. . . (Address) (Signature of Official) . . .
. . . (City/State) (City/State) . . .
or

2. Two Witnesses 18 Years of Age or Older as provided in Item 6.a. of the Instruction Sheet.

. . . (First Witness) (City/State) . . .
. . . (Address) (City/State) . . .
. . . (Second Witness) (City/State) . . .
. . . (Address) (City/State) . . .

(b) The statement shall be so arranged that the signature of the elector or freeholder and the attesting witness or witnesses shall be across the seal of the envelope. The elector or freeholder and the attesting witness or witnesses shall execute the form on the envelope.

(6) The city clerk or the supervisor of elections shall enclose with each ballot sent to an elector or freeholder pursuant to this section separate printed instructions in substantially the following form:

READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING
BALLOT.

1. VERY IMPORTANT. In order to assure that your ballot will be counted, it should be completed and returned as soon as possible so that it can reach the city clerk or the supervisor of elections no later than 7 p.m. on the (final day of the 120-day period given here).

2. Mark your ballot in secret as instructed on the ballot.

3. Place your marked ballot in the enclosed secrecy envelope.

4. Insert the secrecy envelope into the enclosed mailing envelope, which is addressed to the city clerk or the supervisor of elections.

5. Seal the mailing envelope and completely fill out the Voter's Certificate on the back of the mailing envelope.

6. VERY IMPORTANT. Sign your name on the line provided for "(Voter's Signature)."

a. Persons serving as attesting witnesses shall affix their signatures and addresses on the Voter's Certificate. Any two persons 18 years of age or older may serve as attesting witnesses.

b. Any notary or other officer entitled to administer oaths or any Florida supervisor of elections or his deputy may serve as a sole attesting witness. The sole attesting witness shall affix his signature, official title, and address to the Voter's Certificate.

7. Mail, deliver, or have delivered the completed mailing envelope. Be sure there is sufficient postage if mailed.

(7) The business and affairs of a special neighborhood improvement district shall be conducted and administered by a board of three directors who shall be residents of the proposed area and who are subject to ad valorem taxation in the district. Upon their appointment and qualification, and in January of each year, the directors shall organize by electing from their number a chairman and a secretary, and may also employ staff and legal representatives as deemed appropriate, who shall serve at the pleasure of the board and may receive such compensation as shall be fixed by the board. The secretary shall keep a record of the proceedings of the district and shall be custodian of all books and records of the district. The directors shall not receive any compensation for their services, nor may they be employed by the district.

(8) Within 30 days of the approval of the creation of a special neighborhood improvement district, if the district is in a municipality, a majority of the governing body of the municipality, or if the district is in the unincorporated area of the county, a majority of the county commission, shall appoint the three directors provided for herein for staggered terms of 3 years. The initial appointments shall be as follows: one for a 1-year term, one for a 2-year term, and one for a 3-year term. Each director shall hold office until his successor is appointed and qualified unless the director ceases to be qualified to act as a director or is removed from office. Vacancies on the board shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made.

(9) Reappointment of the directors shall be accomplished in the same manner as the original appointments by the governing body of the municipality or county 2 months prior to the reappointment date.

(10) The governing body of a municipality or county may remove a director for inefficiency, neglect of duty, or misconduct in office only after a hearing and only if he has been given a copy of the charges at least 10 days prior to such hearing and has had an opportunity to be heard in person or by counsel. A vacancy so created shall be filled as provided herein.

(11) The district may employ a manager, who shall be a person of recognized ability and experience, to serve at the pleasure of the district. The manager may employ such employees as may be necessary for the proper administration of the duties and functions of the district. However, the district shall approve such positions and fix compensation for such employees. The district may contract for the services of attorneys, engineers, consultants, and agents for any lawful purpose of the district.

(12) The directors shall be subject to the code of ethics for public officers and employees as set forth in part III of chapter 112, Florida Statutes, and to the requirements of the public records law and public meetings law in chapters 119 and 286, Florida Statutes, respectively.

(13) Any special neighborhood improvement district created pursuant to sections 57-75 shall cease to exist at the end of the tenth fiscal year of operation. Such a district may continue in operation for subsequent 10-year periods if the continuation of the district is approved at a referendum conducted pursuant to sections 57-75. Said referendum shall be held upon one of the occurrences specified in subsection (2). Should the district cease to exist, all property owned by the district shall become property of the municipality or county in which the district is located.

(14) In the event the district is dissolved, the property owners in the district shall make alternate arrangements acceptable to the debtholders and local governments pertaining to payment of debts.

Section 64. Crime prevention through environmental design functions of neighborhood improvement districts.—All boards of local governments, property owners' associations, and special neighborhood improvement districts created pursuant to sections 57-75 shall:

(1) Collect data on the types, frequency, severity, and location of criminal activity occurring in the district, including determination, from surveys and other research techniques, of the level of crime as perceived by neighborhood residents; and comparison of the types of crime in the district on a per capita, citywide, and countywide basis.

(2) Provide an analysis of crimes related to land use and environmental and physical conditions of the district, giving particular attention to factors which support or create opportunities for crime, which impede natural surveillance, which encourage free circulation through the district, or which hinder the defense of social territories perceived by residents as under control. Any factor used to define or describe the conditions of the physical environment can serve as the basis of a crime-to-environment relationship. These factors include streets, alleys, sidewalks, residential blocks, position of dwellings on a block, single vs. multifamily dwellings, abandoned houses, parking areas and parking lots, informal pathways, functional areas of the environment, traffic flow patterns, and the existence of barriers such as fences, walls, gullies, and thick vegetation.

(3) Determine, from surveys and other data collection techniques, areas within the district where modification or closing of, or restriction of access to, certain streets would assist crime prevention and enhance neighborhood security for property owners and residents.

(4) Formulate and maintain on a current basis for each district short-range and long-range projects and plans which the crime-to-environment analysis, including surveys and citizen participation, have determined are applicable and appropriate for crime prevention through environmental design strategies and tactics, and which will improve the attractiveness and security of the district by reducing criminal activity, will stabilize neighborhoods and enhance property values within the district, will promote proper use and informal control of residential streets within the district, will improve public facilities and amenities and provide for territorial control of streets and areas within the district by legitimate users, and will increase the probability that persons who commit crimes in the district will be apprehended.

(5) Prepare and initiate actions deemed most suitable for implementing safe neighborhood improvement plans, including modifications to existing street patterns and removal, razing, renovation, reconstruction, remodeling, relocation, and improvement of existing structures and facilities, and addition of new structures and facilities, and coordination with other agencies providing relevant informational, educational, and crime prevention services. The preparation of actions for implementation shall utilize crime prevention through environmental design strategies and tactics.

(6) Participate in the implementation and execution of safe neighborhood improvement plans, including any establishment, acquisition, construction, ownership, financing, leasing, licensing, operation, and management of publicly owned or leased facilities deemed beneficial in effecting such implementation for the public purposes stipulated in section 58. However, this subsection shall not give the board, association, or special district any power or control over any city or county property unless and until assigned to it by the city or county governing body.

(7) Ensure that all capital improvements within the district are consistent with the Capital Improvement Plan of the Local Government Comprehensive Plan.

Section 65. Powers of neighborhood improvement districts.—Unless prohibited by ordinance, the board of any district shall be empowered to:

(1) Enter into contracts and agreements, and sue and be sued as a body corporate.

(2) Have and use a corporate seal.

(3) Acquire, own, convey, or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type to which it holds title, and grant and acquire licenses, easements, and options with respect thereto.

(4) Accept grants and donations of any type of property, labor, or other thing of value from any public or private source.

(5) Have exclusive control of funds legally available to it, subject to limitations imposed by law or by any agreement validly entered into by it.

(6) Cooperate and contract with other governmental agencies or other public bodies.

(7) Contract for services of planning consultants, experts on crime prevention through environmental design, environmental security, or defensible space, or other experts in areas pertaining to the operations of the board of directors or the district.

(8) Contract with the county or municipal government for planning assistance, and for increased levels of law enforcement protection and security, including additional personnel.

(9) Promote and advertise the commercial advantages of the district so as to attract new businesses and encourage the expansion of existing businesses.

(10) Promote and advertise the district to the public and engage in cooperative advertising programs with businesses located in the district.

(11) Improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.

(12) Undertake innovative approaches to securing neighborhoods from crime, such as crime prevention through environmental design, environmental security, and defensible space.

(13) Privatize, close, vacate, plan, or replan streets, roads, sidewalks, and alleys, subject to the concurrence of the local governing body and, if required, the state Department of Transportation.

(14) Prepare, adopt, implement, and modify a safe neighborhood improvement plan for the district.

(15) Issue revenue bonds pursuant to chapter 125 or chapter 166, Florida Statutes.

(16) Subject to s. 12, Art. VII of the State Constitution, pledge the revenue under its control to the payment of revenue bonds.

(17) Identify areas with blighted influences, including, but not limited to, areas where unlawful urban dumping or graffiti are prevalent, and develop programs for eradication thereof.

(18) Exercise all lawful powers incidental to the effective and expedient exercise of the foregoing powers.

Section 66. Fiscal management; budget preparation.—

(1) Subject to agreement with the local governing body, all funds of the districts created pursuant to sections 57-75 shall be received, held, and secured in the same manner as other public funds by the appropriate fiscal officers of the municipality in which the district is located, or the county if the district is located in the unincorporated portion of the county. The funds of the district shall be maintained under a separate account, shall be used for purposes authorized by this act, and shall be disbursed only by direction of or with approval of the district pursuant to requisitions signed by the manager or other designated chief fiscal officer of the district and countersigned by at least one other member of the board.

(2) The district bylaws shall provide for maintenance of minutes and other official records of its proceedings and actions, for preparation and adoption of an annual budget for each ensuing fiscal year, for internal supervision and control of its accounts, which function the appropriate city or county fiscal officers may perform for the district at its request, and for an external audit at least annually by an independent certified public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the district. A copy of the external audit shall be filed with the city clerk or the clerk of the court, whichever is appropriate, within 90 days after the end of each fiscal year. The bylaws shall specify the means by which each of these functions is to be performed, and, as to those functions assigned to district personnel, the manner and schedule of performance.

(3) Each special neighborhood improvement district shall establish its budget pursuant to the provisions of chapter 200, Florida Statutes. Prior to adoption of the final budget and setting of the millage rate to be levied by the board, the board shall submit a tentative budget and proposed millage rate of the district to the governing body of the municipality in which the district is located, or the county if the district is located in the unincorporated portion of the county, for approval or disapproval. Such governing body shall have the power to modify the budget or millage submitted by the board. Subsequent to approval, the board shall adopt its final budget and millage rate in accordance with the requirements of chapter 200, Florida Statutes.

Section 67. Safe neighborhood improvement plans.—

(1) A safe neighborhood improvement plan is mandated for all neighborhood improvement districts. The plan shall contain at least the following elements:

- (a) Demographics of the district.
- (b) Crime activity data and analysis.
- (c) Land use, zoning, housing, and traffic analysis.
- (d) Determination of the problems of the crime-to-environment relationship and the stability of the neighborhood improvement district.
- (e) Statement of the district's goal and objectives.
- (f) Assessment of crime prevention through environmental design strategies and tactics that will be applied to the crime-to-environment relationship problems.
- (g) Cost estimates and the methods of financing.
- (h) Outline of program participants and their functions and responsibilities.
- (i) Schedule for executing program activities.
- (j) Evaluation guidelines.

(2) Every safe neighborhood improvement plan shall show, by diagram and by general explanation:

(a) Such property as is intended for use as public parks, recreation areas, streets, public utilities, and public improvements of any nature.

(b) Specific identification of any publicly funded capital projects to be undertaken within the district.

(c) Adequate safeguards that the improvements will be carried out pursuant to the plan.

(d) Provision for the retention of controls and the establishment of any restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as the governing body of the municipality in which the district is located, or the county if the district is located in the unincorporated portion of the county, deems necessary to effectuate the purposes of sections 57-75.

(e) Projected costs of improvements, including the amount to be expended on publicly funded capital projects in the district and any indebtedness of the district, the county, or the municipality proposed to be incurred if such indebtedness is to be repaid with district revenues.

(f) Promotion of advertising programs to be undertaken by the district or in conjunction with businesses in the district.

(g) Suggested physical improvements necessary for the safety of residents in or visitors to the district.

(h) Increased law enforcement and security plans for the district.

(3) The safe neighborhood improvement plan shall:

(a) Be consistent with the adopted comprehensive plan for the county or municipality pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act. No district plan shall be implemented unless the local governing body has determined said plan is consistent.

(b) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, street modifications, redevelopment, and rehabilitation as may be proposed to be carried out in the district.

(c) Provide some method for and measurement of the reduction of crime within the district.

(4) The county, municipality, or district may prepare or cause to be prepared a safe neighborhood improvement plan, or any person or agency, public or private, may submit such a plan to a district. Prior to its consideration of a safe neighborhood improvement plan, the district shall submit such plan to the local governing body for review and written approval as to its consistency with the local government comprehensive plan. The district must be notified of approval or disapproval within 60 days after receipt of the plan for review, and a revised version of the plan may be submitted to satisfy any inconsistencies. The district may not proceed with the safe neighborhood improvement plan until final approval is given by the local governing body.

(5) Prior to adoption of the safe neighborhood improvement plan, the board shall hold a public hearing on the plan after public notice thereof by publication in a newspaper of general circulation in the county or municipality in which the district is located. The notice shall describe the time, date, place, and purpose of the hearing, identify the boundaries of the district, and outline the general scope of the plan.

(6) The board, after the public hearing, may approve the safe neighborhood improvement plan if it finds:

(a) The plan has been approved as consistent with the local comprehensive plan by the local governing body; and

(b) The plan will improve the promotion, appearance, safety, security, and public amenities of the neighborhood improvement district as stipulated in section 58.

(7) If, at any time after approval of the safe neighborhood improvement plan, it becomes desirable to amend or modify the plan, the board may do so. Prior to any such amendment or modification, the board shall obtain written approval of the local governing body concerning conformity to the local government comprehensive plan and hold a public hearing on the proposed amendment or modification after public notice thereof by publication in a newspaper of general circulation in the county or municipality in which the district is located. The notice shall describe the time, place, and purpose of the hearing and generally describe the proposed amendment or modification.

(8) Pursuant to ss. 163.3184 and 163.3187, Florida Statutes, the governing body of a municipality or county shall hold two public hearings to

consider the board-adopted safe neighborhood improvement plan as an amendment or modification to the municipality's or county's adopted local comprehensive plan.

(9) A safe neighborhood improvement plan for each district shall be prepared and adopted by the municipality or county prior to the levy and expenditure of any of the proceeds of any tax assessment or fee authorized to such districts other than for the preparation of the safe community or business improvement plan.

Section 68. Safe Neighborhoods Trust Fund.—

(1) The Safe Neighborhoods Trust Fund is hereby created. The purpose of the trust fund shall be to provide planning grants and technical assistance on a 100-percent matching basis to the three types of neighborhood improvement districts authorized by this part. Planning grants shall be awarded in the order in which applications are received, provided the threshold criteria in subsection (4) are met, as follows:

(a) Property owners' association neighborhood improvement districts may receive up to \$20,000.

(b) Local government neighborhood improvement districts may receive up to \$250,000.

(c) Special neighborhood improvement districts may receive up to \$100,000.

(2) Each local governing body which creates a neighborhood improvement district is eligible to receive an allocation of up to \$30,000 to employ the services of technical experts in the fields of crime prevention through environmental design, environmental security, or defensible space.

(3) Any funds deposited in the Safe Neighborhoods Trust Fund and not needed for distribution may be invested pursuant to s. 215.535, Florida Statutes, with the interest earned to be deposited in the trust fund.

(4) Applications for planning grants from the Safe Neighborhoods Trust Fund shall be evaluated and considered when the following threshold criteria are met:

(a) Verification that the local governing body has passed an ordinance creating neighborhood improvement districts.

(b) Verification of commitment to provide matching funds for purposes of planning for neighborhood improvement districts. A local match may include in-kind services such as office space and supplies. The fair market value of such in-kind services must be documented.

(c) Evidence of commitment from neighborhood organizations, homeowners, property owners, business or merchant's associations, or concerned individuals to participate in the activities of their neighborhood improvement districts.

(d) Need of the community for neighborhood improvement districts for purposes of reducing crime, including the degree to which crime data indicates an escalation of criminal activities which impact area physical and economic conditions, identification of environmental factors which support criminal activities, previous crime prevention plans and efforts which impact the physical environment, excessive traffic counts for residential roads, and crime rates in enterprise zones and in business and commercial areas.

(e) Capacity to successfully implement neighborhood improvement districts, including knowledge of and ability to utilize crime prevention through environmental design and defensible space strategies and techniques, organizational structure which utilizes trained experts in crime prevention, community planning, environmental control, and engineering.

(5) Population distribution of Florida's cities and counties shall be considered in order to give communities of all sizes an opportunity to benefit from the matching funds provided by the Safe Neighborhoods Trust Fund for the establishment of neighborhood improvement districts.

Section 69. Crime prevention through environmental design program.—The Department of Community Affairs shall contract with the Department of Legal Affairs to create within the Department of Legal Affairs a crime prevention through environmental design program. This program shall act as the repository of crime prevention through environmental design strategies, principles, and tactics; environmental security plans and procedures; defensible space techniques; and safe neighborhood plans. The program shall:

(1) Utilize staff and provide crime prevention through environmental design and defensible space training.

(2) Provide for consultant contracts for statewide training on safe neighborhood development for planners, engineers, local officials, property owners' associations, and boards of directors of special neighborhood improvement districts.

Section 70. The Department of Community Affairs shall:

(1) Develop program design and criteria for funding neighborhood improvement districts.

(2) Carry out the development, promulgation, and revision of rules required for the operation of the Safe Neighborhoods Trust Fund.

(3) Develop application and review procedures.

(4) Provide advice and technical assistance to local government units, property owners' associations, and boards of directors for special neighborhood improvement districts in their efforts to promote the goals of the Safe Neighborhoods Act and to apply for planning grants.

(5) Review and evaluate applications for planning assistance.

(6) Provide for contract management, including the review of contract close-out reports for accountability and conformance with state law and the required administrative procedures.

(7) Evaluate program performance in light of state objectives and future trends and opportunities, and prepare recommendations for the Legislature.

Section 71. The local governing body of any municipality or county which creates a neighborhood improvement district inside the boundaries of an enterprise zone may request the Department of Community Affairs to submit a budget request to the Legislature to fund 100 percent of the capital improvement costs for 25 percent of the area of the enterprise zone in which the district or portion thereof is located. The local governing body may also request a matching grant for capital improvement costs for the remaining 75 percent of the area of the enterprise zone in which the district is located.

Section 72. State redevelopment programs.—Any county or municipality which has authorized the creation of an enterprise zone pursuant to s. 290.0055, Florida Statutes, which has state approval pursuant to s. 290.0065, Florida Statutes, is directed to give consideration to the creation of a neighborhood improvement district within said area.

Section 73. Paragraph (f) is added to subsection (2) of section 290.007, Florida Statutes, to read:

290.007 Incentives and programs available in enterprise zones.—

(2) **LOCAL INCENTIVES.—**The following incentives are available from local governments to encourage the revitalization of enterprise zones:

(f) *The use of neighborhood community improvement districts created pursuant to the Safe Neighborhoods Act.*

Section 74. Subsection (2) of section 163.340, Florida Statutes, is amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(2) "Public body" or "taxing authority" means the state or any county, municipality, authority, special district as defined in s. 165.031(5), or other public body of the state, except a school district, library district, neighborhood improvement district created pursuant to the Safe Neighborhoods Act, metropolitan transportation authority, water management district created under s. 373.069, a special district which levies ad valorem taxes on taxable real property in more than one county, or a special district the sole available source of revenue of which is ad valorem taxes at the time an ordinance is adopted pursuant to s. 163.387. The exclusion of a library district from the definition of "public body" or "taxing authority" does not apply in any jurisdiction where the community redevelopment agency validated bonds as of April 30, 1984.

Section 75. Section 177.086, Florida Statutes, is created to read:

177.086 Installation of cul-de-sacs.—In the event a municipality or county installs a cul-de-sac on a street or road under its jurisdiction and

thereby discontinues use of any existing street or road right-of-way, such discontinuance shall not operate to abandon or vacate the unused right-of-way unless the governing body of the municipality or county adopts a resolution or ordinance, as appropriate, vacating the unused right-of-way.

Section 76. The Safe Neighborhoods Act shall be funded to the extent authorized in the General Appropriations Act.

Section 77. This act shall take effect October 1, 1987, except that this section and sections 13, 14, 15, 16, 17, 18, 19, 48, and 50 shall take effect July 1, 1987, or upon becoming a law, whichever occurs later.

Further consideration of CS for HB 1467 was deferred.

Consideration of CS for SB 598 was deferred.

On motions by Senator Malchon, by two-thirds vote CS for HB 54 was withdrawn from the Committees on Health and Rehabilitative Services; Judiciary-Civil; and Appropriations.

On motion by Senator Malchon—

CS for HB 54—A bill to be entitled An act relating to juveniles; amending s. 39.01, F.S.; providing definitions; amending ss. 39.015, 39.11, 39.403, 39.408, and 959.24, F.S.; providing conforming language; amending ss. 39.401 and 39.402, F.S.; omitting provisions authorizing that certain juveniles be placed in shelter care; creating a new part IV of ch. 39, F.S.; providing definitions and procedures; authorizing the Department of Health and Rehabilitative Services to provide services to certain children and families; providing legislative intent; providing procedures and court jurisdiction; providing for taking into custody a child alleged to be from a family in need of services or alleged to be a child in need of services; providing for placement in a shelter of a child from a family in need of services or a child in need of services; providing for fees; providing for investigation of complaints that a child is from a family in need of services; providing for services and treatment to a family in need of services; providing for fees; providing for case review and service-treatment plans; providing for family mediation; requiring the department to establish a family mediation program in each district; authorizing the department to contract for family mediation services; providing for selection and qualifications of family mediators; providing for disposition of cases; providing for fees; providing for family arbitration; authorizing county arbitration programs; authorizing the department to contract for family arbitration services; providing for selection and qualifications of family arbitrators; providing for arbitration hearings; providing for disposition of cases; providing for a review of dispositions; authorizing the department to file a petition for a child in need of services; providing for summonses and service of process; providing for response to petition and representation of parties; providing duties of the state attorney; authorizing physical and mental examination and treatment of the child and, under certain circumstances, the parent, guardian, or person requesting custody; authorizing emergency treatment; providing for hearings; providing for orders of adjudication; providing for disposition; providing for oaths, records, and confidential information; providing contempt of court sanctions; providing right to counsel; providing for appeals; providing for compensation for appointed counsel; amending s. 232.19, F.S.; conforming provisions relating to habitual truancy; amending s. 27.51, F.S.; requiring the public defender to represent an indigent alleged to be a child in need of services; creating a Child In Need of Services Trust Fund; providing an effective date.

—a companion measure, was substituted for CS for SB 737 and read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for HB 54 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Gordon	Johnson	Scott
Brown	Grant	Langley	Stuart
Childers, D.	Grizzle	Lehtinen	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crenshaw	Hill	Margolis	Weinstein
Deratany	Hollingsworth	McPherson	Weinstock
Frank	Jenne	Myers	Woodson
Girardeau	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB 737 was laid on the table.

On motion by Senator Margolis, by two-thirds vote HB 1376 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Margolis—

HB 1376—A bill to be entitled An act relating to real estate; amending s. 455.203, F.S., revising the Department of Professional Regulation's duties regarding license renewals; amending s. 475.011, F.S., adding an exemption to the chapter on real estate brokers, salesmen, and schools; amending s. 475.125, F.S., revising the license renewal fee cap; amending s. 475.182, F.S., restating continuing education requirements; revising the renewal period for real estate licenses; amending s. 475.482, F.S., revising the period for Real Estate Recovery Fund fee collections; amending s. 475.483, F.S., revising prohibition of certain Real Estate Recovery Fund claims; providing an effective date.

—a companion measure, was substituted for CS for SB 752 and read the second time by title.

Senator Margolis moved the following amendments which were adopted:

Amendment 1—On page 4, line 30, insert new subsection 7:

Section 7. Section 475.15, Florida Statutes, is amended to read:

475.15 Registration of licenses of members, officers, and directors of firm.—Each partnership or corporation which acts as a broker, or as a partner of a partnership which acts as a broker, shall register with the commission and shall renew the licenses of those of its members who are natural persons, officers, and directors for each license period. The registration of such a partnership shall be canceled automatically during any period of time that the license or registration of any of its partners is not in force. If the license of at least one active broker member is not in force, the registration of such a corporation shall be canceled automatically during that period of time.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 15, after "claims;" insert: amending s. 475.15, F.S.; providing for the registration as brokers of partnerships some or all of whose partners are other than natural persons;

On motion by Senator Margolis, by two-thirds vote HB 1376 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB 752 was laid on the table.

On motions by Senator Hair, by two-thirds vote HB 747 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Hair—

HB 747—A bill to be entitled An act relating to deferred compensation; amending s. 112.215, F.S., limiting the liability of the state, county, municipality or other political subdivision with respect to deferred compensation plans; exempting funds created by such plans from state, county or municipal taxation; exempting such funds from any legal process or assignment by the employer; providing that certain benefits under the deferred compensation plan shall remain the property of the State of Florida until made available to the employee or other beneficiary; providing an effective date.

—a companion measure, was substituted for SB 768 and read the second time by title. On motion by Senator Hair, by two-thirds vote HB 747 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 768 was laid on the table.

On motions by Senator Langley, by two-thirds vote CS for HB 383 was withdrawn from the Committees on Commerce and Judiciary-Civil.

On motion by Senator Langley—

CS for HB 383—A bill to be entitled An act relating to assignments for the benefit of creditors; amending s. 727.01, F.S.; deleting language with respect to general requirements for assignments; providing legislative intent; amending s. 727.02, F.S.; deleting language relating to the oath of assignor; providing for jurisdiction of proceedings and venue; amending s. 727.03, F.S.; deleting language with respect to record of assignment and oath; providing definitions; amending s. 727.04, F.S.; deleting language with respect to qualifications of assignee; providing for commencement of proceedings; amending s. 727.05, F.S.; deleting language with respect to notice of assignment; providing for proceedings against the assignee; amending s. 727.06, F.S.; deleting language with respect to disposition of property; providing for turnover; amending s. 727.07, F.S.; deleting language with respect to semiannual statements; providing for duties of the assignor; amending s. 727.08, F.S.; deleting language with respect to application for discharge of assignee; providing for duties of the assignee; creating s. 727.09, F.S.; providing for power of the court; creating s. 727.10, F.S.; providing for actions by assignees and other parties in interest; creating s. 727.11, F.S.; providing for notice; creating s. 727.12, F.S.; providing for proof of claim; creating s. 727.13, F.S.; providing for objections to claims; creating s. 727.14, F.S.; providing for priority of claims; creating s. 727.15, F.S.; providing for resignation or removal of assignee; creating s. 727.16, F.S.; providing for the assignee's final report and discharge; providing an effective date.

—a companion measure, was substituted for CS for SB 808 and read the second time by title. On motion by Senator Langley, by two-thirds vote CS for HB 383 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Grant	Kiser	Ros-Lehtinen
Brown	Grizzle	Langley	Scott
Childers, D.	Hair	Lehtinen	Stuart
Childers, W. D.	Hill	Malchon	Thomas
Crenshaw	Hollingsworth	McPherson	Thurman
Frank	Jenne	Meek	Weinstock
Girardeau	Jennings	Myers	Woodson
Gordon	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB 808 was laid on the table.

Consideration of SB 810 and CS for SB 833 was deferred.

On motions by Senator Thurman, by two-thirds vote HB 1072 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

On motion by Senator Thurman—

HB 1072—A bill to be entitled An act relating to death benefits of law enforcement officers; amending the definition of "law enforcement officer" in ss. 112.19 and 112.1904, F.S., to provide that survivors of state attorneys and of public defender investigators are entitled to death benefits; providing an effective date.

—a companion measure, was substituted for SB 1186 and read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 1072 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Frank	Jennings	Myers	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 1186 was laid on the table.

On motions by Senator Ros-Lehtinen, by two-thirds vote HB 1409 was withdrawn from the Committees on Health and Rehabilitative Services; Personnel, Retirement and Collective Bargaining; and Appropriations.

On motion by Senator Ros-Lehtinen—

HB 1409—A bill to be entitled An act relating to screening; amending s. 39.12, F.S.; providing for use of records in disqualification from certain employment; amending s. 39.407, F.S., emphasizing the need for immunization of children in shelter care; amending s. 39.411, F.S.; providing for use of records in disqualification from certain employment; amending s. 110.1127, F.S.; changing requirements for employee security checks; expanding possible exemptions from employment disqualification; providing penalties; amending s. 393.063, F.S.; providing changes in definitions; amending s. 393.0655, F.S.; changing minimum standards for screening of caretakers; expanding possible exemptions from employment disqualification; requiring information to be provided by a time certain; removing certain distinctions between permanent and probationary status caretakers; amending s. 393.066, F.S.; providing rulemaking authority; amending s. 393.067, F.S.; deleting outdated provisions; requiring submission of information by a time certain; providing penalty for noncompliance; amending s. 393.0675, F.S.; providing for injunctive proceedings; amending s. 394.455, F.S.; deleting employment history checks and checks of reference from and changing requirements for volunteers in the definition of "screening"; amending s. 394.457, F.S.; revising minimum standards for mental health personnel; expanding possible exemptions from employment disqualification; deleting outdated provisions; providing for chapter 120 hearing; requiring certain information to be provided by a time certain; providing penalty for noncompliance; removing certain distinctions between permanent and probationary employee status; amending s. 396.032, F.S.; deleting employment history checks and checks of reference from and changing the requirements for volunteers in the definition of "screening"; amending s. 396.042, F.S.; deleting outdated provisions; requiring certain information to be provided by a time certain; providing penalties for noncompliance; amending s. 396.0425, F.S.; revising minimum standards for screening of treatment resource personnel; expanding possible exemptions from employment disqualification; requiring certain information be supplied by specified time; providing penalty for noncompliance; removing certain distinctions between permanent and probationary status treatment resource personnel; requiring automatic termination of treatment resource personnel under certain circumstances; amending s. 396.173, F.S.; requiring submission of fingerprints; amending s. 396.175, F.S.; providing for issuance of license if screening materials have been timely submitted; prohibiting licensure under specified circumstances; providing for the issuance of a probationary license; amending s. 397.021, F.S.; deleting employment history checks and checks of reference from and changing the requirements for volunteers in the definition of "screening"; amending s. 397.0715, F.S.;

revising minimum standards for screening of treatment resource personnel; expanding possible exemptions from employment disqualification; requiring certain information be supplied by specified time; providing penalty for noncompliance; removing certain distinctions between permanent and probationary status treatment resource personnel; amending s. 397.081, F.S.; providing penalty for failure to supply required information by a time certain; amending s. 397.091, F.S.; deleting outdated provisions; providing penalty for failure to supply required information by a time certain; providing for issuance of license under certain circumstances; providing for the issuance of a probationary license; amending s. 402.301, F.S.; providing legislative intent that certain membership organizations shall not be screened; amending s. 402.302, F.S.; changing definitions of "child care personnel" and "screening"; amending s. 402.305, F.S.; revising the minimum standards for child care personnel; expanding possible exemptions from employment disqualification; providing for contesting through chapter 120 procedures and others; amending s. 402.3055, F.S.; deleting outdated provisions; providing penalty for failure to supply information within specified time; removing certain distinctions between permanent and probationary child care personnel; amending s. 402.308, F.S.; providing for issuance or renewal of license if all screening materials have been timely submitted; amending s. 402.309, F.S.; providing for issuance of provisional license; amending s. 402.313, F.S.; providing guidelines for screening; amending s. 409.175, F.S.; providing changes in definitions; providing for promulgation of rules; providing requirements for licensure and operation; providing changes to screening requirements; expanding possible exemptions from employment disqualification; requiring submission of information; providing penalty for failure to submit within time required; deleting outdated provisions; providing for issuance or renewal of license under certain circumstances; prohibiting licensure of summer day camps or summer 24-hour camps; providing departmental access to certain records; providing for issuance of provisional license; amending s. 415.102, F.S.; adding a definition of "confirmed report"; amending s. 415.103, F.S.; adding "confirmed report"; providing for amendment and expunction of records; providing procedures; providing for confidentiality; amending s. 415.104, F.S.; providing for classification of report; amending s. 415.107, F.S.; providing Division of Administrative Hearings access to records; providing for search of records; providing for classification of records; specifying information to be released to certain parties; amending s. 415.503, F.S.; adding definition of "confirmed report"; amending s. 415.504, F.S.; providing for classification of reports; providing for amendment and expunction of records; providing procedures; providing for confidentiality; amending s. 415.505, F.S.; changing terminology to conform with changes in definition and usage in current law; amending s. 415.51, F.S.; providing the Division of Administrative Hearings access to records; providing for search of records; providing for classification of records; specifying the information to be released to certain parties; amending s. 447.208, F.S.; providing for delay of appeal hearing under certain circumstances; amending s. 447.401, F.S.; providing for delay of grievance decision under certain circumstances; amending s. 959.001, F.S.; adding a definition of "screening"; amending s. 959.06, F.S.; requiring screening for contract providers for any juvenile delinquency program; requiring that providers meet criteria; providing for certain exemptions from disqualification; providing exemption procedures; providing an effective date.

—a companion measure, was substituted for CS for SB's 1289, 771 and 84 and read the second time by title. On motion by Senator Ros-Lehtinen, by two-thirds vote HB 1409 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Grant	Langley	Stuart
Brown	Grizzle	Lehtinen	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Frank	Jennings	Myers	
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB's 1289, 771 and 84 was laid on the table.

Senator Deratany presiding

Consideration of CS for SB 893, CS for HB 619, CS for SB 764 and CS for SB 988 was deferred.

CS for CS for SB 572—A bill to be entitled An act relating to real property acquired through the exercise of eminent domain; amending s. 74.051, F.S.; providing for a period of time in which a deposit may be made on real property sought to be acquired through such process; creating s. 74.052, F.S.; providing legislative intent; requiring the owner of real property that is to be acquired through such process to remove hazardous substances, pollutants, or contaminants from such property; providing for withdrawal of deposit with the court; providing method for determining the amount of compensation to be awarded in certain condemnation proceedings; excluding payment of attorney fees and costs; amending s. 337.27, F.S.; authorizing the Department of Transportation to acquire certain property through eminent domain when reasonably necessary for securing applicable environmental permits; providing exemption from ch. 376 and ch. 403 liability; providing for interagency agreements; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for CS for SB 572 to conform the bill to HB 1456.

Pending further consideration of CS for CS for SB 572, on motions by Senator Stuart, by two-thirds vote HB 1456 was withdrawn from the Committees on Transportation and Judiciary-Civil.

On motion by Senator Stuart—

HB 1456—A bill to be entitled An act relating to real property acquired through the exercise of eminent domain; amending s. 337.27, F.S.; authorizing the Department of Transportation to acquire certain property through eminent domain when reasonably necessary for securing applicable environmental permits; providing exemption from ch. 376 and ch. 403 liability; providing for interagency agreements; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 572 and read the second time by title. On motion by Senator Stuart, by two-thirds vote HB 1456 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Grizzle	Malchon	Thomas
Brown	Hill	Margolis	Thurman
Childers, D.	Jenne	McPherson	Weinstein
Crenshaw	Jennings	Meek	Weinstock
Deratany	Johnson	Myers	Woodson
Frank	Kiser	Plummer	
Gordon	Langley	Ros-Lehtinen	
Grant	Lehtinen	Stuart	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick

CS for CS for SB 572 was laid on the table.

CS for HB 619—A bill to be entitled An act relating to insurance; providing legislative intent; providing for reports to legislative committees regarding social and financial impacts of proposed mandated benefits; providing guidelines; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote CS for HB 619 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Beard	Deratany	Hill	Johnson
Brown	Frank	Hollingsworth	Langley
Childers, D.	Grant	Jenne	Malchon
Crenshaw	Grizzle	Jennings	Margolis

McPherson	Plummer	Stuart	Weinstein
Meek	Ros-Lehtinen	Thomas	Weinstock
Myers	Scott	Thurman	Woodson

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick

CS for CS for SB 501—A bill to be entitled An act relating to schools; creating s. 230.335, F.S.; requiring notification of the appropriate superintendent of schools of a student who commits certain offenses or an employee of the school district who is arrested; providing for release of information; providing an effective date.

—was read the second time by title. On motion by Senator Hollingsworth, by two-thirds vote CS for CS for SB 501 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Grizzle	Malchon	Thomas
Brown	Hill	Margolis	Thurman
Childers, D.	Hollingsworth	McPherson	Weinstein
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Frank	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	
Grant	Langley	Stuart	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Kirkpatrick

Senator W. D. Childers presiding

Reconsideration

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

CS for HB 364—A bill to be entitled An act relating to driving under the influence; amending s. 316.192, F.S., providing an additional penalty for reckless driving under certain circumstances; amending s. 316.193, F.S., providing clarifying language with respect to convictions for driving under the influence with a certain blood alcohol level; providing clarifying language with respect to substance abuse education, evaluation, and treatment for a violation of law relating to driving under the influence; deleting reference to time periods for subsequent violation penalties; amending s. 316.1932, F.S., deleting reference to a prearrest breath test; amending s. 316.1933, F.S., authorizing blood testing of certain persons under certain circumstances; deleting a restriction on certified paramedics withdrawing blood for the purpose of determining alcohol content; amending s. 322.264, F.S., reducing, under certain circumstances, the number of convictions for moving traffic offenses before a person is considered a "habitual traffic offender"; amending s. 322.28, F.S., deleting reference to time periods for subsequent violation penalties for the suspension or revocation of a driver's license; amending s. 958.04, F.S., providing that adjudication of guilt with respect to a youthful offender shall not be withheld with respect to violations for driving under the influence; providing an effective date.

—as amended passed this day.

On motion by Senator Thomas, by two-thirds vote the Senate reconsidered the vote by which CS for HB 364 was read the third time.

Further consideration of CS for HB 364 was deferred.

On motions by Senator Langley, by two-thirds vote CS for HB 1174 was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Langley—

CS for HB 1174—A bill to be entitled An act relating to transportation; creating part X of chapter 348, F.S., the "Central Florida Expressway Authority Law"; providing definitions; creating the Central Florida Expressway Authority; providing for purposes and powers; providing for bonds of the authority; providing for remedies of the bondholders; providing for a lease-purchase agreement with the Department of Transportation;

providing that the department may be appointed agent of authority for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for the covenant of the state; providing for exemption from taxation; providing for eligibility for investments and security; providing that pledges are enforceable by bondholders; providing for the effect of the part; providing for consolidation; amending s. 348.68, F.S.; deleting obsolete language and revising language relative to the Hillsborough County Planning and Zoning Commission to refer to such commission as the Hillsborough County City-County Planning Commission; providing that the Tampa-Hillsborough County Expressway Authority shall give consideration to the city and county comprehensive plans with respect to determining the route or routes, design, and construction of the expressway system or any extension thereof; authorizing the authority to employ consultants and traffic engineers of the Florida Department of Transportation; requiring the authority to transmit studies and recommendations to the Hillsborough County City-County Planning Commission; providing that the commission may request additional review of approved routes under certain circumstances; deleting a provision requiring an affirmative vote of not less than 5 members of the governing body of the authority to change or alter a route recommended by the commission; providing a conditional effective date.

—a companion measure, was substituted for CS for SB 930 and read the second time by title. On motion by Senator Langley, by two-thirds vote CS for HB 1174 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Brown	Grant	Langley	Ros-Lehtinen
Childers, D.	Grizzle	Lehtinen	Scott
Childers, W. D.	Hill	Malchon	Stuart
Crenshaw	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Gordon	Kiser	Myers	Weinstock

Nays—None

Vote after roll call:

Yea—Beard, Girardeau, Kirkpatrick, Woodson

CS for SB 930 was laid on the table.

The hour of 3:00 p.m. having arrived, the Senate proceeded to consideration of—

LOCAL CALENDAR

SB 1368—A bill to be entitled An act relating to Marion County utilities; providing a short title; providing legislative intent; authorizing the Marion County Board of County Commissioners to establish the Marion County Utilities Authority; authorizing the Marion County Board of County Commissioners to specify the powers and duties of the authority; providing for the establishment of rates for utilities provided by the authority; providing procedures for the creation of rules of the authority; providing for standards and charges for service availability; providing review of authority actions and orders; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendments which were adopted:

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

Section 1. Short title.—This act shall be known and may be cited as the "Marion County Utility Authority Act."

Section 2. Declaration of legislative intent.—The provisions of chapter 367, Florida Statutes, to the contrary notwithstanding, it is the intent and purpose of this act to authorize the Board of County Commissioners of Marion County to establish by ordinance the Marion County Utility Authority to own and operate utilities in Marion County and to exercise the powers and duties provided for in this act as authorized in the ordinance establishing the authority.

Section 3. Definitions.—As used in this act, the following terms shall mean:

(1) "Authority" means the Marion County Utility Authority.

(2) "Board" means the Board of County Commissioners of Marion County.

(3) "Ordinance" means the ordinance of the board which establishes the authority and prescribes its powers and duties.

(4) "Person" means any individual, corporation, governmental agency, business trust, estate, trust, partnership, association or any other legal entity.

(5) "System" means facilities and property used or useful in providing utility services which may include a combination of functionally related facilities and property.

(6) "Utility services" means providing water, sewer, drainage, garbage and waste disposal, and cable television services as the board may authorize in the ordinance.

Section 4. Marion County Utility Authority; powers and duties.—

(1) The authority may exercise any of the following powers and duties as authorized in the ordinance:

(a) To prescribe fair and reasonable rates and charges, classifications, standards of quality, and measurements in accordance with section 5.

(b) To prescribe by rule a uniform system and classification of accounts for all utility services provided by the authority.

(c) To employ and compensate technical, legal, and clerical employees deemed necessary to carry out the duties and powers of the authority.

(d) To own and operate utility services.

(e) To acquire in the name of the authority, real property, including riparian rights, by purchase, gift or exercise of right of eminent domain.

(f) To issue general obligation bonds, revenue bonds, special assessment bonds or combinations thereof to finance the cost of capital improvement projects. The procedures shall be set forth in the ordinance.

(g) To make use of any public easements, dedications to public use, or plat reservations.

(h) To maintain offices and purchase insurance and other personal property necessary or convenient to provide utility services.

(i) To make and prescribe such rules as are reasonably necessary and appropriate for the proper administration and enforcement of the provisions of the ordinance. These rules shall not become effective until a public hearing before the board has been held upon the proposed rule and the rule has been approved by the board and filed with the clerk of the board. A notice stating the time and place of the hearing and the general nature of the proposed rule shall be served by regular mail on the affected utilities two (2) weeks before the date of the hearing and shall be published by the board in a newspaper of general circulation in Marion County once a week for two (2) consecutive weeks before the date of the hearing. Upon approval by the board, such rules shall have the full force and effect of law within Marion County.

(j) Subject to the limits and procedures specified in s. 768.28, Florida Statutes, to sue and be sued.

(2) The authority shall consist of at least three (3) and no more than nine (9) members appointed by the board. The ordinance shall prescribe the number of members and the specific qualifications, if any, desired by the board. The ordinance shall also prescribe the terms of the members and any rules and regulations regarding meetings that the board may desire. The ordinance may authorize the authority to adopt rules of procedure for authority meetings, however all authority meetings shall be open to the public and subject to s. 286.011, Florida Statutes.

(3) No member of the authority shall be employed by or be connected with or have any financial interest in, directly or indirectly, or serve as an agent or representative of, any utility providing services in Marion County. Members of the authority shall be subject to financial disclosure as required by s. 112.3145, Florida Statutes. No member may be an employee of Marion County.

(4) The ordinance shall contain provisions regarding the compensation of members of the authority and reimbursement of expenses incurred in the performance of authority duties.

(5) The ordinance shall provide for removal and replacement of members of the authority.

Section 5. Rates and ratemaking procedures.—

(1) The ordinance shall provide procedures and criteria for the authority to establish and change the rates and charges for utilities operated by the authority.

(2) The authority's rate structure shall consider, in addition to any other criteria contained in the ordinance, the value and quality of the service and the cost of providing the service, which cost shall include, but not be limited to, interest on debt; the requirements of the authority for working capital; maintenance, depreciation, tax and operating expenses incurred in the operation of all property used and useful in the public service; and a fair return on the investment of the utility in property-used and useful in the public service.

Section 6. Charges for service availability.—The authority, by rule, may set standards for service availability conditions and may set just and reasonable charges and conditions for service availability.

Section 7. The ordinance shall provide a procedure for review of authority orders.

Section 8. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to Marion County; creating the Marion County Utility Authority; providing legislative intent; providing definitions; providing powers and duties of the authority; providing for rates; providing for standards and charges for service availability; providing for review of authority actions and orders; providing an effective date.

On motion by Senator Thurman, by two-thirds vote SB 1368 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Hill	McPherson	Thurman
Crenshaw	Hollingsworth	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Frank	Jennings	Peterson	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 441—A bill to be entitled An act relating to Orange County; relating to the West Orange Memorial Hospital Tax District; amending section 2 of chapter 26066, Laws of Florida, 1949, substituting "West Orange Jr. Service League, Inc." for the term "Winter Garden Junior Welfare League"; requiring members of the board of trustees to remain residents of the tax district during their tenure and eliminating a requirement that members of the board of trustees be freeholders of the tax district; requiring only that they be residents of the tax district; amending section 8 of chapter 26066, Laws of Florida, 1949; allowing all electors who are residents of the district to vote in bond elections; amending section 14 of chapter 26066, Laws of Florida, 1949, defining some expenditures that are included in the "operation of the hospital"; amending section 16 of chapter 26066, Laws of Florida, 1949; changing the date by which the board of trustees must deliver certified copies of its tax resolution to the Board of County Commissioners of Orange County and to the Comptroller of the State of Florida; providing for severability; providing an effective date.

—was read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—On page 5, strike all of lines 23 and 24 and insert: majority of the qualified electors voting in an election called for that purpose.

Amendment 2—On page 5, line 31, strike everything through page 6, line 2 and insert: majority of the qualified electors voting in the election approve the issuance of the bonds, then all such

On motion by Senator Jennings, by two-thirds vote HB 441 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Beard, Brown, Childers, D., Childers, W. D., Crenshaw, Deratany, Frank, Girardeau, Gordon, Grant, Grizzle, Hair, Hill, Hollingsworth, Jenne, Jennings, Johnson, Kiser, Langley, Malchon, Margolis, McPherson, Meek, Myers, Peterson, Plummer, Ros-Lehtinen, Scott, Stuart, Thomas, Thurman, Weinstein, Weinstock, Woodson

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 485—A bill to be entitled An act relating to Duval County; establishing a special zone in downtown Jacksonville consisting of Northside West, Northside East and Southbank; providing exceptions for space and seating requirements for liquor licenses for restaurants in this zone; providing an effective date.

—was read the second time by title. On motion by Senator Crenshaw, by two-thirds vote HB 485 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Beard, Brown, Childers, D., Childers, W. D., Crenshaw, Deratany, Frank, Girardeau, Gordon, Grant, Grizzle, Hair, Hill, Hollingsworth, Jenne, Jennings, Johnson, Kiser, Langley, Malchon, Margolis, McPherson, Meek, Myers, Peterson, Plummer, Ros-Lehtinen, Scott, Stuart, Thomas, Thurman, Weinstein, Weinstock, Woodson

Nays—None

Vote after roll call:

Yea—Kirkpatrick

Yea to Nay—Langley

HB 678—A bill to be entitled An act relating to Hillsborough County; amending various provisions of chapter 83-423, Laws of Florida, relating to the Hillsborough County Public Transportation Commission; amending sections 1, 2(1), 5, 9(1)(b), (5)(c) and (d), and (9)(b), and 11 of said chapter; providing for regulation of basic life support ambulances by the Commission; modifying provisions relating to transferability and display of licenses; conforming references; amending section 3(12) and (15) of said chapter, and adding subsection (16) thereto, relating to definitions; amending section 4 of said chapter; creating the office of Commission Director; providing qualifications, fixing compensation, and providing for filling of vacancies; providing that basic life support ambulances and persons licensed to operate them shall do so in accordance with all applicable regulations; exempting basic life support services operated by municipalities; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote HB 678 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Beard, Brown, Childers, D., Childers, W. D., Crenshaw, Deratany, Frank, Girardeau, Gordon, Grant, Grizzle, Hair, Langley, Malchon, Margolis, McPherson, Meek, Myers, Peterson, Plummer, Ros-Lehtinen, Scott, Stuart, Thomas, Thurman, Weinstein, Weinstock, Woodson

Table with 4 columns: Hill, Hollingsworth, Jenne, Jennings, Johnson, Kiser, Langley, Malchon, Margolis, McPherson, Meek, Myers, Peterson, Plummer, Ros-Lehtinen, Scott, Stuart, Thomas, Thurman, Weinstein, Weinstock, Woodson

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 784—A bill to be entitled An act relating to the Sixteen Mile Creek Water Control District, in St. Johns and Flagler Counties, created under chapter 298, Florida Statutes, relating to the creation and organization of water control districts; providing that the name of the district shall be changed to Flagler Estates Road and Water Control District; repealing section 4, chapter 81-481 and section 3, chapter 82-294, Laws of Florida, relating to the limit on maintenance tax levied by the district; providing an effective date.

—was read the second time by title. On motion by Senator Crenshaw, by two-thirds vote HB 784 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Beard, Brown, Childers, D., Childers, W. D., Crenshaw, Deratany, Frank, Girardeau, Gordon, Grant, Grizzle, Hair, Hill, Hollingsworth, Jenne, Jennings, Johnson, Kiser, Langley, Malchon, Margolis, McPherson, Meek, Myers, Peterson, Plummer, Ros-Lehtinen, Scott, Stuart, Thomas, Thurman, Weinstein, Weinstock, Woodson

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 890—A bill to be entitled An act relating to Broward County; amending chapter 65-1541, Laws of Florida, as amended, relating to the Downtown Development Authority of the City of Fort Lauderdale, Florida; adding section 35 to chapter 65-1541, Laws of Florida, as amended; expanding the boundaries of the Downtown Development Authority of the City of Fort Lauderdale; extending the annual mill tax levy authorized pursuant to said chapter 65-1541, Laws of Florida, as amended, for operations and for outstanding bond issues to the expanded area; providing for a referendum to approve said tax levy in the expanded area; amending paragraph (5) of section 1 of chapter 65-1541, Laws of Florida, as amended; eliminating "contiguous proprietorship" and adding in its place "common ownership"; eliminating "or leased"; amending paragraphs (4) and (5) of section 17 of chapter 65-1541, Laws of Florida, as amended; eliminating "contiguous proprietorship" and adding in its place "freehold"; providing for validation of notice of intent to apply for this legislation; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator McPherson, by two-thirds vote HB 890 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Table with 4 columns: Beard, Brown, Childers, D., Childers, W. D., Crenshaw, Deratany, Frank, Girardeau, Gordon, Grant, Grizzle, Hair, Hill, Hollingsworth, Jenne, Jennings, Johnson, Kiser, Langley, Malchon, Margolis, McPherson, Meek, Myers, Peterson, Plummer, Ros-Lehtinen, Scott, Stuart, Thomas, Thurman, Weinstein, Weinstock, Woodson

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 925—A bill to be entitled An act relating to St. Lucie County; amending section 1 of chapter 29502, Laws of Florida, 1953, as amended, providing for future changes in the boundaries of the St. Lucie County Mosquito Control District; amending section 2 to delete the provision for compensation to the governing body of the St. Lucie County Mosquito Control District, to amend the rates of reimbursement to the governing board of the St. Lucie County Mosquito Control Board for travel and meal expenses, to amend the provision requiring advertisement for bids for certain contracts and purchase agreements entered into by the St. Lucie County Mosquito Control District, and to authorize and empower the governing board of the St. Lucie County Mosquito Control District to consider petitions for amendment of the boundaries of the district; amending section 29, establishing a procedure for petitioning for amendment of the boundaries of the district; providing an effective date.

—was read the second time by title.

Senator Myers moved the following amendments which were adopted:

Amendment 1—On page 6, lines 18-31 through page 7, line 2, strike all of said lines and insert: petition. Within a reasonable time after the public hearing, the board shall approve or disapprove the petition. However, if the petition is approved, the property described in the petition may be added to the district, only upon approval by a majority vote of qualified electors of the area proposed to be added voting in a referendum called for such purpose.

(8) Notification of the results of the referendum shall be mailed to the petitioner, and a copy of the notification shall be filed in the office of the secretary of the board.

(9) If the amendment to the district boundaries is approved, the secretary of the board shall file notification of the final decision, including the boundaries as amended, with the Department of Health and Rehabilitative Services and the St. Lucie County Property Appraiser.

(10) Ad valorem taxes of property added to the district shall be initially imposed no earlier than January 1 subsequent to the approval of the petition.

Amendment 2—In title, on page 1, line 22, after the semicolon (;) insert: providing for a referendum on such petitions;

On motion by Senator Myers, by two-thirds vote HB 925 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Hill	McPherson	Thurman
Crenshaw	Hollingsworth	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Frank	Jennings	Peterson	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 951—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; relating to the West Palm Beach Firemen Pension Fund; amending section 17, chapter 24981, Laws of Florida, 1947, as amended, amending subsection (1) providing definitions; revising provisions relative to the board of trustees and the membership of the West Palm Beach Firemen Pension Fund; amending subsection (2) providing for the employment of legal counsel and other persons by the board; amending subsections (3)(b), (6)(a), (6)(c), (6)(e), (7)(a), and (7)(b) conforming title of fireman and firemen to current usage; amending subsection (3)(d) conforming title of city treasurer to current usage; amending subsection (4) relating to the deposit of moneys and securities of the West Palm Beach Firemen Pension Fund; conforming title of city treasurer to current usage; revising investment provisions; providing for performance evaluation of money managers or investment counsel; amending subsection (5)(b) relating to age and service pensions; amending subsection (6)(a) revising provisions relative to the medical committee and its report; amending subsection (6)(c) revising provisions relative

to the medical committee and its report; amending subsection (6)(g) relating to expenses of medical examinations for disability; amending subsection (15) relating to actuarial valuations; repealing all laws in conflict herewith; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 951 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Hill	McPherson	Thurman
Crenshaw	Hollingsworth	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Frank	Jennings	Peterson	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 952—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; relating to the West Palm Beach Police Pension and Relief Fund; amending section 16, chapter 24981, Laws of Florida, 1947, as amended, amending subsections (2)(d), (2)(i), (2)(k), (6), (8), (9), (10)(a), (10)(c), (11), (12)(a), (13)(a), (13)(b), (15)(b)4., (15)(c)1., and (18) conforming title of policeman, patrolman, and policemen to current usage; adding subsections (2)(t), (2)(u), (2)(v), and (2)(w) providing definitions; amending subsections (3)(a), (3)(b) and (3)(d) revising provisions relative to the board of trustees; adding subsections (3)(e) and (3)(f) relating to the board of trustees; amending subsection (4) providing for employment of legal counsel and other persons by the board and relating to the deposit of funds and securities of the West Palm Beach Police Pension and Relief Fund; amending subsection (5)(a) to require that the pension coordinator keep data necessary for an actuarial valuation; amending subsection (9) relating to age and service pensions; amending subsection (10)(a) revising provisions relative to the medical committee and its report; adding subsection (10)(d) relating to expenses of medical examinations for nonduty disability; amending subsection (11) revising provisions relative to the medical committee and its report and relating to expenses of medical examinations for duty disability; amending subsection (15)(c)4. to renumber; amending subsection (17)(a) revising investment provisions; adding subsection (17)(d) providing for performance evaluation of the money manager or investment counsel; repealing all laws in conflict herewith; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 952 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Hill	McPherson	Thurman
Crenshaw	Hollingsworth	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Frank	Jennings	Peterson	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 591—A bill to be entitled An act relating to the East County Water Control District, Lee and Hendry counties; increasing the membership of the board of supervisors; abolishing terms of present members; providing for election of new members; providing severability; providing for abolishment of the district under certain circumstances; repealing chapter 86-460, Laws of Florida, relating to subdistricts of the district; providing an effective date.

—was read the second time by title.

Senators Dudley and Woodson offered the following amendments which were moved by Senator Woodson and adopted:

Amendment 1—On page 3, strike all of lines 5-10 and insert:

Section 2. Severability.—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.

Amendment 2—On page 1, lines 7, 8 and 9, strike “providing for abolishment of the district under certain circumstances;”

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

Yeas—34

Beard	Grant	Langley	Scott
Brown	Grizzle	Malchon	Stuart
Childers, D.	Hair	Margolis	Thomas
Childers, W. D.	Hill	McPherson	Thurman
Crenshaw	Hollingsworth	Meek	Weinstein
Deratany	Jenne	Myers	Weinstock
Frank	Jennings	Peterson	Woodson
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SPECIAL ORDER, continued

Consideration of CS for SB’s 805, 1127 and 751 was deferred.

On motion by Senator Hollingsworth, by unanimous consent—

HB 1111—A bill to be entitled An act relating to cable television; prohibiting owners or operators of cable television systems from sending, transmitting, or retransmitting by a cable television system certain uninvited material; providing penalties; providing an effective date.

—was taken up and read the second time by title. On motion by Senator Hollingsworth, by two-thirds vote HB 1111 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Thomas
Childers, D.	Hair	Malchon	Thurman
Childers, W. D.	Hill	Margolis	Weinstein
Crenshaw	Hollingsworth	McPherson	Weinstock
Deratany	Jenne	Meek	Woodson
Frank	Jennings	Myers	
Girardeau	Johnson	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motions by Senator Stuart, by two-thirds vote CS for HB 58 was withdrawn from the Committees on Economic, Community and Consumer Affairs; and Appropriations.

On motion by Senator Stuart—

CS for HB 58—A bill to be entitled An act relating to psychological services; amending ss. 490.002, 490.003, 490.004, 490.005, 490.006, 490.007, 490.008, 490.009, 490.0111, 490.012, 490.014, and 490.015, F.S.; removing provisions relating to regulation of clinical social workers, marriage and family therapists, and mental health counselors; modifying provisions relating to psychologists and school psychologists; conforming language; removing obsolete language; modifying provisions relating to definitions, qualifications for licensure, licensure by endorsement, and license renewal; increasing license renewal fee; modifying provisions

relating to inactive status, disciplinary actions, violations, and exemptions; creating s. 490.0143, F.S., relating to the practice of sex therapy; creating s. 490.0147, F.S., relating to confidentiality and privileged communications; creating chapter 491, F.S., providing intent; providing definitions; creating the Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling; providing for qualifications and licensure for clinical social workers, marriage and family therapists, and mental health counselors; providing for licensure or certification by endorsement; providing for renewal; providing for inactive status; providing for continuing education and for approval of providers, programs, and courses; providing an application fee; providing disciplinary actions and grounds therefor; prohibiting sexual misconduct; providing violations; providing a penalty; providing for injunction; providing exemptions from the provisions of the chapter; providing for the practice of hypnosis; providing for the practice of sex therapy; providing for certification of certified master social workers; providing an examination fee; providing for confidentiality and privileged communications; providing duties of the Department of Health and Rehabilitative Services; providing for continuation of certain rules, legal and administrative proceedings, and licenses; amending ss. 232.02 and 394.455, F.S.; conforming language and cross references; rescheduling review and repeal of chapter 490, F.S.; providing for review and repeal of chapter 491, F.S.; providing an effective date.

—a companion measure, was substituted for CS for SB’s 270 and 386 and read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for HB 58 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Beard	Gordon	Johnson	Ros-Lehtinen
Brown	Grant	Kiser	Scott
Childers, D.	Grizzle	Lehtinen	Stuart
Childers, W. D.	Hair	Malchon	Thomas
Crenshaw	Hill	Margolis	Thurman
Deratany	Hollingsworth	Meek	Weinstein
Frank	Jenne	Myers	Weinstock
Girardeau	Jennings	Plummer	Woodson

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Langley

CS for SB’s 270 and 386 was laid on the table.

CS for CS for SB 1081—A bill to be entitled An act relating to children; amending s. 63.032, F.S.; providing a definition of the term “mother” for purposes of the Florida Adoption Act; amending s. 63.212, F.S.; prohibiting contracts for the transfer of parental rights for any child, whether conceived or not, for consideration; providing penalties; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendment:

Amendment 1—On page 4, line 18, after “conceived,” insert: *or even just a gleam in a parent’s eye,*

Senator Frank moved that consideration of CS for CS for SB 1081 be deferred until a time certain, July 1. The motion failed.

Amendment 1 failed.

On motion by Senator Ros-Lehtinen, by two-thirds vote CS for CS for SB 1081 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Beard	Girardeau	Jennings	Meek
Brown	Grant	Johnson	Myers
Childers, D.	Grizzle	Kiser	Plummer
Childers, W. D.	Hair	Langley	Ros-Lehtinen
Crenshaw	Hill	Lehtinen	Thomas
Deratany	Hollingsworth	Margolis	Thurman

Nays—5

Frank	Malchon	Weinstock
Gordon	McPherson	

Vote after roll call:

Yea—Kirkpatrick, Woodson

Yea to Nay—Margolis, Thurman

On motion by Senator Langley, by two-thirds vote HB 1029 was withdrawn from the Committee on Commerce.

On motion by Senator Langley—

HB 1029—A bill to be entitled An act relating to uninsured motorist insurance; amending s. 627.727, F.S.; providing that insurers may offer policies providing uninsured motorist coverage which contain particular policy provisions under certain circumstances; requiring notice of coverage options to be attached to the notice of premium and specifying that receipt thereof does not constitute waiver of coverage; providing an effective date.

—a companion measure, was substituted for CS for SB 829 and read the second time by title.

Further consideration of HB 1029 was deferred.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 3 was corrected and approved.

CO-INTRODUCERS

Senator Thomas—SB 1289

VOTES RECORDED

Senator Grant was recorded as voting yea on the following which were considered June 3: Senate Bills 142, 1024, 1201, 1269 and House Bills 483, 501, 685, 1247, 1272, 1345, 1377 and 1384 and nay on Conference Committee Report on CS for CS for HB 1247.

RECESS

On motion by Senator Langley, the Senate recessed at 3:35 p.m. to reconvene at 10:00 a.m., Friday, June 5.