Journal of the Senate

Number 25 **Friday, June 3, 1988**

CALL TO ORDER

The Senate was called to order by Senator W. D. Childers at 11:08 a.m. A quorum present—39:

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

Excused: Periodically, conferees on HB 1700 and CS for CS for SB 1192

PRAYER

The following prayer was offered by Jackie Sharkey, Administrative Assistant, Senate Sergeant at Arms:

Dear God, we bow our heads to say we praise your name. We thank you for the day.

Almighty God, in your mercy, guide the people of this land, especially the Florida Legislature and the people of all nations, in the ways of justice and peace that we may honor one another and serve the common good. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following Local Bill Calendar for Friday, June 3, 1988: HB 619, HB 746, HB 710, HB 888, HB 1032, HB 1312, HB 1412, HB 1530, HB 1551, HB 1660, HB 1704

Respectfully submitted,
Dempsey J. Barron, Chairman

The Committee on Appropriations recommends the following pass: HB 1653 with 2 amendments, HB 1717 with 10 amendments

The bills were placed on the calendar.

The Committee on Appropriations recommends a committee substitute for the following: CS for SB 307

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

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Appropriations and Senators Hollingsworth, W. D. Childers, Kirkpatrick, Thomas, Stuart, McPherson, Johnson, Thurman, Weinstein, Meek, Myers, Plummer, Langley, Grant, Weinstock, Beard, Margolis, Grizzle, Woodson, Jenne, Crawford, Hill, Girardeau, Crenshaw, Gordon, Brown, Dudley, Malchon, Frank and Lehtinen—

CS for SB 150—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.071, F.S.; increasing the rate of employer contributions with respect to members of the special risk class of the system; amending s. 121.091, F.S.; increasing the monthly retirement benefit with respect to special risk service; providing an effective date.

By the Committees on Appropriations; and Corrections, Probation and Parole and Senators Johnson, Lehtinen and Jenne—

CS for CS for SB 307—A bill to be entitled An act relating to sentencing; amending s. 921.0015, F.S.; 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.; authorizing the commission to develop revised statewide guidelines; authorizing community control or incarceration for certain felony offenders; providing legislative findings and intent as to career criminals; providing for enhanced prosecution of and penalties for career criminals; providing criteria and standards; providing for investigative cooperation among criminal justice agencies; providing for the establishment of career criminal prosecution units in state attorneys' offices; providing guidelines for prosecution; providing for career criminal apprehension programs to be implemented by law enforcement agencies; amending s. 775.084, F.S.; deleting provisions relating to habitual misdemeanants and providing for the sentencing of habitual violent felony offenders; providing a limitation on gain-time for habitual felons; providing for extended terms of imprisonment; providing definitions, procedures, and standards; amending s. 775.021, F.S.; providing legislative intent as to the rules of construction for determining criminal penalties; providing for severability; providing an effective date.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Barron, by two-thirds vote SB 1058, and Senate Joint Resolutions 360 and 728 were withdrawn from the Committee on Rules and Calendar.

Motion

On motion by Senator Barron, by two-thirds vote the special order calendar for this day was set to include the following bills: CS for HB 1574, SB 999, CS for SB 703, CS for SB 376, CS for SB 377, CS for CS for SB 487, CS for SB 906, SB 71, SB 276, SB 706, CS for SB 157, CS for SB 285, CS for SB 478, CS for SB 381, SB 1239, CS for SB 46, CS for SB 1324, SB 866, CS for CS for SB 980, SB 986, CS for CS for SB 998, HB 1444, CS for SB 770, CS for SB 1215, CS for SB 431, CS for CS for SB 526, CS for CS for SB 527, CS for SB 628, CS for SB 685, SB 753, CS for SB 767, SB 768, CS for SB 335, SB 1039, HB 56, CS for SB 1100, CS for SB 1429, CS for SB 1038, CS for SB 1068, CS for SB 600, CS for SB 1308, CS for CS for CS for SB 954, HB 1711, SB 975, SB 675, SB 1018 and SB 1313.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State Senate Bills 535, 562, 951, CS for SB's 33, 197 and 241, CS for SB 447, CS for SB 500, CS for SB 568 and CS for SB 573, which he approved on June 1, 1988; and Senate Bills 194, 630, 631, 651, 671, 672, 877, 1206 and 1220 which became law without his signature on June 2, 1988.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 823, CS for HB 946, HB 1660; has passed as amended CS for HB's 347, 866 and 1343, HB 467, CS for HB 468, CS for HB 495, HB 619, CS for HB 621, House Bills 710, 888, CS for HB 923, HB 1025, CS for HB 1153, CS for HB 1254, House Bills 1543, 1626, 1668 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Transportation and Representatives Bronson and Harris—

CS for HB 823—A bill to be entitled An act relating to drivers' licenses; amending s. 322.125, F.S.; requiring the Medical Advisory Board to the Department of Highway Safety and Motor Vehicles to assist the department in developing coded restrictions for licensees whose medical condition warrants a requirement that they wear medical identification bracelets; amending s. 322.126, F.S.; requiring the department to provide coded medical identification bracelet restrictions and requiring disability reporting; amending s. 322.16, F.S.; authorizing the department to impose medical identification bracelet restrictions upon the use of licenses; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Natural Resources and Representative Kelly—

CS for HB 946—A bill to be entitled An act relating to the Board of Trustees of the Internal Improvement Trust Fund; amending s. 253.03, F.S.; authorizing the board to retain certain real property obtained under the Florida RICO Act in public ownership; authorizing reimbursement to the Forfeited Property Trust Fund for funds expended in regard to such property; authorizing the board to reimburse an investigative or law enforcement agency from funds in said trust fund; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Crady—

HB 1660—A bill to be entitled An act relating to Union County; amending section 1, chapter 65-930, Laws of Florida; providing for the distribution of all race track funds accruing to Union County under the provisions of chapters 550 and 551, Florida Statutes; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Judiciary and Representative Tobin and others—

CS for HB's 347, 866 and 1343—A bill to be entitled An act relating to guardianship; creating the Study Commission on Guardianship Law; providing for appointment of members; providing duties and responsibilities; requiring the submission of reports; providing for staffing of the commission; providing per diem for members; providing for expiration of the commission; providing an effective date.

(Substituted for CS for SB 431 on the special order calendar this day.)

By Representative Lombard and others—

HB 467—A bill to be entitled An act relating to education; authorizing a comprehensive traffic education program in kindergarten through grade 6; providing duties of the Department of Transportation and the Department of Education; providing for rules; providing an effective date.

(Substituted for SB 706 on the special order calendar this day.)

By the Committee on Criminal Justice and Representative Wetherell—

CS for HB 468—A bill to be entitled An act relating to fraudulent practices; creating s. 817.566, F.S.; providing a penalty for misrepresentation of association with, or academic standing at, a state institution of higher education or community college; creating s. 817.5621, F.S.; providing a penalty for the unlawful subleasing of a motor vehicle; providing that persons suffering damage as a result of a violation may bring an action for relief as specified; providing an effective date.

(Substituted for SB 866 on the special order calendar this day.)

By the Committee on Community Affairs and Representative Smith and others—

CS for HB 495—A bill to be entitled An act relating to environmental regulation; amending s. 376.303, F.S.; extending the deadline for filing information with the Department of Environmental Regulation in order to participate in the Early Detection Incentive Program; amending s. 376.3071, F.S.; providing that moneys in the Inland Protection Trust Fund may be used to pay for the provisions of the Florida Petroleum Liability Insurance Program; providing a criterion by which the department establishes priority for the cleanup of contamination sites; extending the period of operation of the Early Detection Incentive Program; creating s. 376.3072, F.S.; creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation; specifying the scope and type of insurance coverage under the program; providing for the payment of restoration costs through the Inland Protection Trust Fund; providing eligibility for participation; providing for charging of premiums; specifying participant's liability under a certain type of coverage; authorizing department assessments of participants under certain circumstances; providing for self-insurance; specifying criteria for self-insurance; providing for disposition of the premiums collected; providing for the purchase of insurance management or underwriting services and certain management services and tank registration compliance verification services by the department; providing for the reporting of third-party liability claims; authorizing the department to adopt rules and to establish criteria for certain storage tanks; amending s. 376.3073, F.S.; requiring the department to contract with local governments to administer ss. 376.3072 and 376.3077, F.S., under certain circumstances; transferring, renumbering, and amending s. 526.3055, F.S.; requiring the department to enforce certain provisions relating to the deposit of motor fuels into certain tanks; authorizing the department to contract with the Department of Agriculture and Consumer Services to enforce such provisions; amending s. 376.317, F.S.; revising criteria regarding the authorization of county governments to adopt ordinances regulating underground storage tanks; amending s. 376.319, F.S.; extending the time period for the statutory indemnification of certain response action contractors; directing the Department of Professional Regulation to adopt rules for the certification of response action contractors; providing an exemption from certification; providing appropriations to the Department of Environmental Regulation for contracting with counties for verification and enforcement of compliance with certain rules, for contracting with businesses for certain services, and for implementation of the Florida Petroleum Liability Insurance Program; directing the Department of Insurance to compile a report on the availability and cost of pollution liability insurance issued by private insurers; providing an effective date.

—was referred to the Committee on Natural Resources and Conservation.

By Representative Sansom—

HB 619—A bill to be entitled An act relating to specified lands in Brevard County; directing the Board of Trustees of the Internal Improvement Trust Fund to quitclaim certain lands in Brevard County to the Canaveral Port Authority for inclusion in the foreign trade zone established by the authority and to quitclaim certain lands in Brevard County to the Canaveral Port Authority for subsequent lease to the City of Cape Canaveral for the use and enjoyment of the public; authorizing and directing the Canaveral Port Authority to convey to the board fee simple title to one or more parcels of land of comparable value in exchange therefor; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Transportation and Representative Rehm and others—

CS for HB 621—A bill to be entitled An act relating to transportation corporations; creating the "Florida Transportation Corporation Act"; providing definitions; providing legislative findings and purpose; providing for authorization of transportation corporations by the Department of Transportation; prescribing the form of a corporation; providing for a contract; providing for articles of incorporation; providing for a board of directors; providing for advisory directors; providing for bylaws; providing for notice of meetings and for open records; providing for amendment of articles of incorporation; prescribing powers of a corporation; providing for audit of the corporations; providing for the use of state property; exempting property of corporations from taxation; providing for dissolution of a corporation; providing for disposition of assets upon dissolution; providing for rules; providing for liberal construction; providing an effective date.

(Substituted for CS for CS for SB 526 on the special order calendar this day.)

By Representative Ireland—

HB 710—A bill to be entitled An act relating to Lee County; prohibiting the taking of saltwater fish, except by hook and line or handheld cast net or with no more than five blue-crab traps, within any manmade saltwater canals located within the Palm Acres Subdivision, Units 1 and 2, and within Shell Point Village, Lee County, Florida; providing a penalty; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkins—

HB 888—A bill to be entitled An act relating to Collier County and the Collier County Water-Sewer District; providing for legislative intent; reestablishing the Collier County Water-Sewer District and providing a supplement to chapter 78-489, Laws of Florida, relating to the County Water-Sewer District of Collier County; providing for jurisdiction, restrictions and boundaries as applied to the City of Naples, Everglades City, Pelican Bay Improvement District, Immokalee Water and Sewer District, Marco Island, Golden Gate and other unincorporated areas; providing definitions; providing for powers and duties of district board; providing for adoption of rates, fees, and other charges; providing for issuance of bonds; providing for trust funds and trustees; providing for covenants of district board with bondholders; providing that unpaid fees constitute a lien; providing for publication of notice of issuance of bonds; providing that bonds shall have the qualities of negotiable instruments and for the rights of holders; providing for annual reports of the district board; providing that district property is exempt from taxation; providing for district bonds as securities for public bodies; providing for bonds as payment for services; providing for contracts for construction of improvements and sealed bids; providing for special assessments; prohibiting free water and sewer services; providing for system development charges; providing for conveyance of property without consideration; providing for district approval of construction of water and sewage facilities; providing for construction of law; providing for penalties and enforcement; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Natural Resources and Conservation and Representative Wallace—

CS for HB 923—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.02, F.S.; expanding the duties of the Division of Marine Resources; establishing the Florida Marine Research Institute within the division; providing powers of the institute; providing for the establishment of citizen support organizations to assist the department; specifying qualifications for such organizations; limiting the authority of such organizations with respect to the receipt of funds; authorizing the department to permit such organizations to use property and facilities of the department, subject to certain conditions; requiring an annual audit; requiring the department to develop salary recommendations for institute personnel; providing an effective date.

(Substituted for CS for CS for SB 527 on the special order calendar this day.)

By Representatives Trammell and Crotty—

HB 1025—A bill to be entitled An act relating to fire prevention and control; amending s. 633.025, F.S.; providing an exemption from certain provisions of standards of National Fire Protection Association; amending s. 633.021, F.S.; defining the term "special state firesafety inspector"; amending s. 633.081, F.S.; providing training requirements for special state firesafety inspectors; providing for certification; providing an effective date.

(Substituted for CS for SB 1324 on the special order calendar this day.)

By the Committee on Criminal Justice and Representative Wallace and others—

CS for HB 1153—A bill to be entitled An act relating to obscene material; creating s. 847.0145, F.S.; prohibiting the selling or buying of minors for engagement in certain sexually explicit activities; providing penalties; creating s. 847.0147, F.S.; prohibiting obscene telephone services; providing a penalty; amending s. 847.001, F.S.; redefining the term "sadomasochistic abuse"; amending s. 847.012, F.S.; expanding provisions relating to the prohibited sale or distribution of harmful materials to a minor to include the rental of such materials as an unlawful activity; expanding a list of specified depictions, the visual representation of which is unlawful to sell, rent, or loan for monetary consideration to a minor, to include depictions of sexual excitement, sexual battery, bestiality, or sadomasochistic abuse; providing penalties; amending s. 847.013, F.S.; prohibiting the sale or rental of certain videotapes to minors; prohibiting the sale or rental of a video movie where the official rating is not clearly displayed on the outside of the cassette, case, jacket, or other covering; providing definitions; providing penalties; providing an effective date.

(Substituted for CS for SB 770 on the special order calendar this day.)

By the Committee on Agriculture and Representative Smith and others—

CS for HB 1254—A bill to be entitled An act relating to taxes on special fuels; amending s. 206.9825, F.S., relating to the excise tax on aviation fuels; providing that certain air carriers shall pay a tax at a specified rate on the retail price of such fuel; providing for the application of the special apportionment provisions of s. 212.0598, F.S.; providing that such carriers are not entitled to certain refunds; providing for refunds; providing for repeal; creating s. 212.637, F.S.; exempting from the tax on special fuels sales of special fuel for specified agricultural, aquacultural, or commercial fishing purposes; amending s. 212.67, F.S.; deleting provision for refund of special fuel taxes paid on such sales; providing an effective date.

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

By the Committee on Natural Resources and Representative Martin—

HB 1543—A bill to be entitled An act relating to hunting and fishing; amending s. 372.57, F.S.; authorizing the Game and Fresh Water Fish Commission to designate days upon which unlicensed persons may engage in the taking of freshwater fish; creating s. 372.195, F.S.; requiring a permit for a freshwater fishing tournament or contest; providing for issuance by the Game and Fresh Water Fish Commission; providing rules; providing fees; creating s. 372.196, F.S.; providing that it is unlawful to hold such a tournament or contest without a permit; providing penalties; amending s. 372.561, F.S.; providing for certification by any branch of the United States Armed Forces or by the United States Social Security Administration to receive a permanent hunting and fishing license for certain totally and permanently disabled persons; amending s. 372.57, F.S.; providing that the turkey stamp used for hunting need not bear the name of the person to whom it is issued; revising language with respect to certain nonresident hunting licenses; providing fees; amending s. 372.571, F.S.; conforming to the act; amending s. 372.661, F.S.; providing for a commercial hunting preserve license; providing a fee; providing an effective date.

(Substituted for CS for SB 1181 on the special order calendar this day.)

By the Committee on Regulatory Reform and Representatives Lippman and Kelly—

HB 1626—A bill to be entitled An act relating to professions and occupations; amending s. 20.30, F.S.; listing boards created by other chapters within the Department of Professional Regulation; amending s. 455.206, F.S.; providing an exception for certain physicians with respect to appointment to the board; amending s. 455.207, F.S.; authorizing regulatory boards to establish committees to settle differences between such boards; requiring the boards to adopt the rules recommended by the committee; creating s. 455.208, F.S.; providing for newsletters; amending s. 455.209, F.S.; limiting liability of certain past board members; amending s. 455.218, F.S.; deleting provisions relating to podiatric technicians; creating s. 461.017, F.S.; providing for the certification of certified Cuban quiropedistas; establishing criteria; providing for an examination; establishing a fee; providing for the repeal of said section; providing a grandfather clause; amending s. 455.241, F.S.; requiring certain practitioners to provide copies of records to patients on request; amending s. 455.242, F.S.; providing for the disposition of records of certain practitioners; amending s. 455.26, F.S.; adding to the membership of the Impaired Practitioners Committee; amending s. 458.307, F.S.; increasing the size of the Board of Medicine; providing a criterion for appointment to the Board of Medicine; amending s. 458.313, F.S.; requiring certain active practice or teaching with respect to licensure by endorsement; amending s. 458.3145, F.S.; expanding practice under a medical faculty certificate;

requiring registration of sites; amending s. 458.319, F.S.; increasing the maximum fee for renewal of a license to practice medicine; requiring evidence of active practice for license renewal; providing for supervised practice; amending s. 460.408, F.S.; providing criteria for approval of continuing chiropractic education courses; amending s. 464.003, F.S.; redefining the term "advanced or specialized nursing practice"; amending s. 464.018, F.S.; adding a penalty; creating s. 466.0275, F.S.; providing, with respect to dentists, for handwriting samples, release of medical records, and admissibility of reports in certain investigations; amending s. 466.028, F.S.; relating to disciplinary violations; creating s. 466.0283, F.S.; establishing standards and procedures for handling impaired practitioners who are dentists; providing for certain confidentiality; amending s. 472.008, F.S.; providing for financial responsibility; amending s. 472.013, F.S.; modifying eligibility requirements for land surveyors licensure examination; amending s. 474.2141, F.S.; conforming provisions on impaired practitioners who are veterinarians; amending s. 475.17, F.S.; providing for adoption of rules by the Florida Real Estate Commission regarding hardship; amending ss. 476.044 and 477.0135, F.S.; exempting certain persons from laws governing barbers and cosmetologists; amending s. 491.005, F.S.; modifying eligibility requirements for clinical social workers, marriage and family therapists, and mental health counselors; amending s. 491.012, F.S.; providing for proceedings to enjoin certain violations; requiring the Department of Professional Regulation to license certain persons as clinical social workers, marriage and family therapists, or mental health counselors; amending s. 492.103, F.S.; modifying membership of the Board of Professional Geologists; amending s. 492.116, F.S.; exempting certain persons from laws governing geologists; amending s. 768.40, F.S.; providing for certain duties and immunity for certain actions of medical review committees of corporations and professional service corporations that meet certain criteria; providing effective dates.

—was referred to the Committee on Economic, Community and Consumer Affairs.

By the Committee on Regulatory Reform and Representative Gordon—

HB 1668—A bill to be entitled An act relating to abortion clinics; amending s. 390.012, F.S.; amending the rulemaking responsibilities of the Department of Health and Rehabilitative Services with respect to such clinics and to the disposal of fetal remains; providing penalties for the improper disposal of fetal remains; revising language with respect to penalties; repealing s. 390.026, F.S.; deleting the requirement for internal risk management programs in the clinics; amending s. 395.041, F.S., pertaining to internal risk management programs in hospitals; deleting obsolete cross-references and references to abortion clinics; saving ss. 390.011(2), 390.012-390.019, and 390.021, F.S., from Sunset repeal; providing for future review and repeal; amending s. 390.001, F.S.; providing that a minor may have a termination-of-pregnancy procedure performed without parental consent if the court determines that she is sufficiently mature to give an informed consent to the procedure; prescribing procedure for such proceedings and for appeal therefrom; providing for confidentiality of such proceedings; providing an effective date.

(Substituted for SB 266 on the special order calendar this day.)

The President presiding

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 359 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 359—A bill to be entitled An act relating to law enforcement officers retirement awards; amending s. 110.123, F.S., providing for the payment of certain premiums for state group health insurance with respect to the surviving spouse of a law enforcement or correctional officer killed in the line of duty; providing for the payment of premiums with respect to certain children; amending s. 112.19, F.S., providing an additional death benefit with respect to certain law enforcement officers or correctional officers killed in the line of duty; amending s. 112.193, F.S.; providing definitions; providing that employers may provide law enforcement officers with certain benefits upon retirement; providing arrest powers for certain law enforcement officers; providing an effective date.

Amendment 1—On page 4, lines 7-31, on page 5, lines 1-31, on page 6, lines 1-14, strike all of said lines and renumber the subsequent section accordingly.

Amendment 2—On page 1, in the title, lines 16-18, strike all of said lines and insert: certain benefits upon retirement; providing an effective date.

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

CS for SB 359 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—28

Mr. President	Frank	Jennings	Ros-Lehtinen
Barron	Gordon	Lehtinen	Scott
Beard	Grant	Margolis	Thomas
Brown	Grizzle	McPherson	Thurman
Childers, D.	Hair	Meek	Weinstein
Childers, W. D.	Hollingsworth	Myers	Weinstock
Dudley	Jenne	Plummer	Woodson

Nays—None

Vote after roll call:

Yea—Crawford, Kirkpatrick, Stuart

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for SB 1056 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 1056—A bill to be entitled An act relating to motor vehicle inspections; creating the Clean Outdoor Air Law; providing definitions; providing requirements for a motor vehicle emissions inspection program to be administered by the Department of Highway Safety and Motor Vehicles; specifying motor vehicles that are subject to inspection requirements and providing exemptions therefrom; specifying program area designation by county; providing for voluntary safety inspections; requiring the Department of Environmental Regulation to adopt rules establishing exhaust emissions inspection criteria; requiring the Department of Highway Safety and Motor Vehicles to enforce and administer such rules; requiring the department to establish requirements for inspection stations; authorizing the department to enter into contracts to implement the emissions inspection program; providing contract requirements; providing for contract zones; providing procedures for protesting contract awards and requests for proposals; authorizing the department to waive inspection requirements under certain circumstances; providing for repair procedures with respect to defective vehicles; providing for reinspections by motor vehicle repair facilities; providing for licensure as a self-inspector; providing penalties; amending s. 20.21; creating the Motor Vehicle Inspection Trust Fund; providing for the use of the fund; providing a maximum inspection fee and a delinquency charge; providing for the remittance of such fee and charge; providing that inspection does not constitute a warranty of mechanical condition; prohibiting certain forgery, alteration, reproduction, and possession of inspection certificates; providing penalties; requiring cost-benefit analyses and evaluations and reports with respect thereto; requiring a public education program prior to implementation of the emissions inspection program; creating s. 316.2935, F.S.; prohibiting tampering with air pollution control equipment; providing penalties; amending s. 320.02, F.S.; providing for local motor vehicle registration under certain circumstances; requiring proof of inspection or waiver at time of motor vehicle registration; amending s. 215.22, F.S.; including the Motor Vehicle Inspection Trust Fund in a list of funds from which certain deductions may be made; amending s. 20.24; creating the Division of Motor Vehicle Inspection; providing rulemaking authority; providing effective dates.

Amendment 1—On page 29, beginning on line 15, strike all of section 21

(Renumber subsequent sections.)

Amendment 2—On page 2, lines 24 and 25, strike all of said lines and insert: made; providing

Amendment 3—On page 30, line 2, strike "22" and insert: 21

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

CS for CS for SB 1056 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

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

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1075 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1075—A bill to be entitled An act relating to aquaculture; amending s. 253.69, F.S., relating to the survey of submerged land leased for aquacultural activities; amending s. 253.71, F.S., relating to the performance requirements for such lease; providing for the issuance of certain shellfish leases; providing an effective date.

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

Section 4. Paragraph (e)3. of subsection (3) of Section 258.42, Florida Statutes, is amended to read:

258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(e) There shall be no erection of structures within the preserve, except:

1. Private docks, including multislip docks that are nonrevenue generating or nonincome producing and are located within 1,000 feet of the maintained channel of the Atlantic Intracoastal Waterway, for reasonable ingress or egress of riparian owners.

2. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve.

3. Structures for shore protection, *including restoration of seawalls at their previous location or upland of or within eighteen (18) inches waterward of their previous location,* approved navigational aids, or public utility crossings authorized under subsection (3)(a) *may be approved.*

No structure under this paragraph or chapter 253 shall be prohibited solely because the local government fails to adopt a marina plan or other policies dealing with the siting of such structures in its local comprehensive plan.

(Renumber subsequent section.)

Amendment 2—On page 1, in the title, line 8, after the word "leases" insert: revising restrictions relating to the restoration of seawalls in aquatic preserves;

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

Amendment 1—On page 1, strike all of lines 3-7 and insert:

Section 4. Paragraph (e) of subsection (3) of section 258.42, Florida Statutes, is amended to read:

258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(3)

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

SB 1075 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31

Mr. President	Frank	Langley	Scott
Beard	Girardeau	Lehtinen	Stuart
Brown	Grant	Malchon	Thomas
Childers, D.	Hair	McPherson	Thurman
Childers, W. D.	Hill	Meek	Weinstein
Crenshaw	Hollingsworth	Myers	Weinstock
Deratany	Johnson	Plummer	Woodson
Dudley	Kirkpatrick	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Crawford, Gordon

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1114 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1114—A bill to be entitled An act relating to sheriffs; amending s. 30.48, F.S.; providing that a sheriff's salary is payable either monthly, twice per month, or biweekly; providing an effective date.

Amendment 1—On page 1, after line 18, insert:

Section 2. The sheriffs may provide meals and lodging to bailiffs appointed by the sheriff who, by order of any court, provide security to sequestered juries.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, strike line 5, and insert: biweekly; providing that the sheriffs may provide the cost of certain items to bailiffs under certain circumstances; providing an effective date.

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

SB 1114 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

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

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended and passed CS for HB 1125, as amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 1125—A bill to be entitled An act relating to the regulation of yacht brokers and salesmen by the Department of Business Regulation; providing definitions; providing for the administration of brokers' and salesmen's licenses; prescribing qualifications for issuance of a license; prohibiting unlicensed persons from acting as brokers or salesmen; providing exceptions; providing for license fees; providing for the denial, revocation, or suspension of licenses; requiring surety bonds; providing for the handling and disposition of funds received by licensees; providing for the adoption of rules; providing for review and repeal; providing an appropriation; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 1, line A, strike: "strike *pleasure or recreational*" and insert:

strike: lines 4 on page 2 through line 16 on page 5

and insert:

(4) "Yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

(5) "Person" means an individual, partnership, firm, corporation, association, or other entity.

Section 1. *Administration.—The department shall:*

(1) Administer this act and collect fees sufficient to administer this act.

(2) Adopt rules to administer this act and to classify brokers and salesmen and regulate their activities.

Section 2. *Licensing.—*

(1) A person may not act as a broker or salesman unless licensed pursuant to this act. The department shall adopt rules establishing a procedure for the biennial renewal of licenses.

(2) A broker may not engage in business as a broker under a fictitious name unless his license is issued in such name.

(3) A license is not required for:

(a) A person who sells his own yacht.

(b) An attorney-at-law for services rendered in his professional capacity.

(c) A receiver, trustee, or other person acting under a court order.

(d) A transaction involving the sale of a new yacht.

(e) A transaction involving the foreclosure of a security interest in a yacht.

(5) Any person who purchases a used yacht for resale must transfer title to such yacht into his name and maintain the title or bill of sale in his possession to be exempt from licensure.

(6) The department by rule shall establish fees for application, initial licensing, biennial renewal, and reinstatement of licenses in an amount not to exceed $500. The fees shall be adequate to proportionately fund the expenses of the department in this act.

(7) The department may deny a license to any applicant who does not:

(a) Furnish proof satisfactory to the department that he is of good moral character and obtain recommendations from three reputable state residents.

(b) Certify that he has never been convicted of a felony.

(c) Post the bond required by this act.

(d) Demonstrate that he is a resident of this state or that he conducts business in this state.

(8)(a) Annually, before any license may be issued to a yacht or ship broker, the broker of used yachts or ships must deliver to the department a good and sufficient surety bond or irrevocable letter of credit, executed by the broker as principal, in the sum of $25,000.

(b) Surety bonds and irrevocable letters of credit shall be in a form to be approved by the department and shall be conditioned that the broker shall comply with the conditions of any written contract made by such broker in connection with the sale or exchange of any yacht or ship and shall not violate any of the provisions of the Yacht and Ship Brokers' Act in the conduct of the business for which he is licensed. Such bonds and letters of credit shall be delivered to the department and in favor of any person in a transaction who shall suffer any loss as a result of any violation of the conditions in this act. When the department determines that a person has incurred a loss as a result of a violation of the Yacht and Ship Brokers' Act, it shall notify the person in writing of the existence of the bond or letter of credit. Such bonds and letters of credit shall be for the license period, and a new bond or letter of credit or a proper continuation certificate shall be delivered to the department at the beginning of each license period. However, the aggregate liability of the surety in any one year shall in no event exceed the sum of the bond or, in the case of a letter of credit, the aggregate liability of the issuing bank shall not exceed the sum of the credit.

(c) Surety bonds shall be executed by a surety company authorized to do business in the state as surety, and irrevocable letters of credit shall be issued by a bank authorized to do business in the state as a bank.

(d) Irrevocable letters of credit shall be engaged by a bank as an agreement to honor demands for payment as specified in this section.

Such security shall remain on deposit for a period of 1 year after he ceases to be a broker. A person may not be licensed as a broker unless he has been a salesman for at least 2 consecutive years, and may not be licensed as a broker after October 1, 1990, unless he has been licensed as a salesman for at least 2 consecutive years.

(9) An applicant for a salesman's license or its renewal must deposit with the department a bond or equivalent securities in the sum of $10,000 subject to the conditions in subsection (8).

(10) Any person injured by the fraud, deceit, or willful negligence of any broker or salesman or by the failure of any broker or salesman to comply with this act or other law may file an action for damages upon the respective bonds against the principals and the surety.

(11) If a surety notifies the department that it is no longer the surety for a licensee, the department shall notify the licensee of such withdrawal, by certified mail, return receipt requested, addressed to the licensee's principal office. Upon the termination of such surety the licensee's license is automatically suspended until he new bond with the department.

(12) Each broker must maintain a principal place of business in this state and

On motion by Senator McPherson, the Senate concurred in the House amendment to Senate Amendment 1.

CS for HB 1125 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 4 and 7; has refused to concur in Senate Amendments 3, 5 and 6 and requests the Senate to recede; and passed HB 1454 as amended.

John B. Phelps, Clerk

HB 1454—A bill to be entitled An act relating to housing; amending s. 212.235, F.S.; adding the financing of affordable housing to the list of purposes for which infrastructure funds may be expended; creating part I of chapter 420, F.S.; the "State Housing Incentive Partnership Act of 1988"; providing legislative findings; providing policy and purpose; providing definitions; creating the State Housing Trust Fund; amending s. 380.0666, F.S.; correcting a reference; amending s. 420.502, F.S.; providing additional legislative findings under the Florida Housing Finance Agency Act; amending s. 420.503, F.S.; providing definitions; amending s. 420.504, F.S.; revising membership of the Florida Housing Finance Agency; amending s. 420.507, F.S.; providing additional powers of the Florida Housing Finance Agency; creating s. 420.5087, F.S.; creating the State Apartment Incentive Loan Program; providing requirements and procedures for loans; creating the State Apartment Incentive Loan Trust Fund; providing for foreclosure upon default; providing for acquisition and sale of property; creating s. 420.5088, F.S.; creating the Florida Homeownership Assistance Program; providing requirements for loans; creating the Florida Homeownership Assistance Trust Fund; amending s. 420.511, F.S.; providing additional requirements for the annual report of the agency; amending s. 420.604, F.S.; deleting a provision that the Florida Affordable Housing Demonstration Program be a 2"year pilot program; providing an additional criterion for inclusion of demonstration areas in the demonstration project; amending s. 420.605, F.S.; providing loan preference to community development corporations and community"based organizations; establishing a pilot program for housing cooperatives; creating ss. 420.303"420.33, F.S., the Housing Predevelopment Assistance Act; providing legislative findings and purpose; providing definitions; establishing the Housing Predevelopment Trust Fund; authorizing loans and grants and specifying eligible activities; providing for repayment of loans; providing for security; providing application procedure; providing for rules and annual reports; providing for foreclosure or other action upon default; providing for acquisition and sale of property; providing for disposition of undeveloped land; providing applicability; amending s. 420.608, F.S.; expanding the inventory of publicly owned lands and buildings established for the purpose of identifying lands and buildings suitable for housing; providing duties of the Department of Community Affairs; amending s. 420.609, F.S.; revising membership of the Affordable Housing Study Commission; extending the commission and revising its duties; creating s. 420.4255, F.S.; creating a Neighborhood Housing Services Grant Fund; creating s. 410.504, F.S.; providing for responsibilities of the Board of Regents regarding establishment of multidisciplinary centers on elderly living environments; requiring annual reports; creating part IX of chapter 420, F.S.; creating the "Maintenance of Housing for the Elderly Act of 1988"; providing legislative findings; providing intent; providing definitions; creating the Maintenance of Housing for the Elderly Trust Fund; creating the Maintenance of Housing for the Elderly Program; providing for loans; providing powers and duties of the department; amending s. 420.606, F.S.; providing a Training and Technical Assistance Program; establishing the Multidisciplinary Center for Affordable Housing; transferring s. 420.011, F.S., to part II of chapter 420, F.S., and renumbering as s. 420.102, F.S.; providing legislative findings; providing purpose; providing definitions; creating the Pocket of Poverty Trust Fund; providing for the pocket of poverty program in the community of Immokalee; providing legislative findings and intent, program creation and administration, pilot community description, local comprehensive farmworker housing plan, review of plans, application procedure, and accountability; providing for the future review and repeal of s. 420.609, F.S., relating to the Affordable Housing Study Commission; amending s. 36 of ch. 86"192, Laws of Florida, to change the date of the future review and repeal of s. 31 of such act, relating to an advisory group on housing for the elderly; repealing s. 34 of Chapter 86"192, Laws of Florida, to delete reference to the multi"disciplinary center on elderly living environments; repealing s. 20.18(5), F.S., relating to the Florida Housing Advisory Council; repealing ss. 420.001 and 420.005, F.S., relating to the Florida Housing Act of 1972; repealing ss. 420.40"420.417, F.S., relating to the "Farmworker Housing Assistance Act"; repealing s. 420.607, F.S., relating to the community"based organization loan program; repealing ss. 420.701"420.713, F.S., relating to the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986"; providing an effective date.

On motions by Senator Meek, the Senate receded from Amendments 3, 5 and 6.

On motion by Senator Meek, HB 1454 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

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

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 concurred in Senate Amendment 2; has amended Senate Amendment 1, and concurred in same as amended and passed CS for HB 1133, as amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB 1133—A bill to be entitled An act relating to state employment; amending s. 110.205, F.S.; revising an exemption from career service for the Florida School for the Deaf and the Blind; specifying that salaries for certain personnel of the Florida School for the Deaf and the Blind shall be set by the board of trustees of the school; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 1, line 3, strike "19" and insert: 29

On motion by Senator Hair, the Senate concurred in the House amendment to Senate Amendment 1.

CS for HB 1133 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

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

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 CS for CS for SB 161 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 161—A bill to be entitled An act relating to state government; amending s. 20.04, F.S.; authorizing the Department of Administration to recommend establishment of new bureaus, sections, and subsections of departments; requiring the department to adopt and apply criteria for recommending agency reorganization; amending s. 20.31, F.S.; creating a Division of State Employees' Insurance in the department; deleting the Office of State Employees' Insurance; requiring a study and recommendations to be submitted to the Legislature regarding the pay plan for state employees and the state group insurance program; providing for lump sum bonus rewards; amending s. 110.109, F.S.; providing for personnel audits by the department; providing for agencies to initiate corrective action; creating s. 110.1095, F.S.; providing for the department to establish supervisory skills training for hired or promoted agency supervisors; providing for the department to establish a continuing education program for agency supervisors and managers; amending s.

110.123, F.S.; authorizing the department to establish or contract for medical services to improve health or reduce medical costs for state group insurance plan participants; authorizing the department to require copayments; authorizing the department to establish voluntary health maintenance program; amending s. 110.213, F.S.; providing for the department to determine guidelines for selection procedures by employing agencies; deleting provisions pertaining to competitive and noncompetitive employee classes; deleting provisions pertaining to examinations and recruitment; amending s. 110.217, F.S.; providing for the department to establish rules and guidelines for eligibility of applicants and selection by employing agencies; amending s. 110.403, F.S.; limiting positions in Senior Management Service to percentage of career service positions; providing for report when limitation is reached; authorizing department to approve contracts of employing agencies for executive searches; providing for in-house searches prior to contracting; deleting provisions for list of names approved to make executive searches; amending s. 110.602, F.S.; limiting positions in Selected Exempt Service to percentage of career service positions; providing for report when limitation is reached; amending s. 447.401, F.S.; precluding availability of more than one of civil service appeal procedure, unfair labor practice procedure, or grievance procedure; creating a task force on health benefits for state employees and prescribing its membership and duties; creating s. 20.37, F.S.; creating a Department of Veterans' Affairs and providing for its organization; transferring specified powers, duties, records, personnel, property, and appropriations, allocations, and funds from the Department of Education to the Department of Veterans' Affairs; transferring the Florida Commission on Veterans' Affairs from the Executive Office of the Governor to the Department of Veterans' Affairs; transferring the Division of Veterans' Affairs from the Department of Administration to the Department of Veterans' Affairs; providing that department personnel may not be required to move their households solely because of the reorganization effected by this act; amending s. 20.31, F.S.; eliminating the Division of Veterans' Affairs from the Department of Administration; amending s. 292.04, F.S.; assigning the Florida Commission on Veterans' Affairs to the department; amending s. 292.05, F.S.; providing for the duties of the department; amending s. 295.124, F.S.; providing that the department is the state approving agency for purposes of certain veterans' education and training; repealing s. 292.07, F.S., relating to the appointment of veterans' affairs officers; amending ss. 292.11, 295.01, 295.016, 295.11, 295.16, 295.17, 320.084, 322.21, 626.833, and 744.421, F.S.; amending provisions to conform to the reorganization made by this act; providing that administrative rules of the Division of Veterans' Affairs of the Department of Administration shall remain in effect; providing effective dates.

Amendment 1—On page 4, line 6, strike everything after the enacting clause and insert:

Section 1. Section 20.37, Florida Statutes, is created to read:

20.37 Department of Veterans' Affairs.—There is created a Department of Veterans' Affairs.

(1) The head of the department is the Governor and Cabinet. The executive director of the department shall be appointed by the Governor with the approval of three members of the Cabinet and subject to confirmation by the Senate. The executive director shall serve at the pleasure of the Governor and Cabinet.

(2) The following divisions, and bureaus within these divisions, of the Department of Veterans' Affairs are established:

(a) Division of Administration and Public Information.

1. Bureau of Information and Research.

(b) Division of Veterans' Benefits and Assistance.

1. Bureau of Veteran Claims Services.

2. Bureau of Veteran Field Services.

3. Bureau of State Approving for Veterans' Training.

(3) The headquarters for the department shall be located where the Florida Regional Office of the Veterans Administration was located immediately prior to the effective date of this act.

Section 2. (1) The powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Department of Education which relate to the administration of section 295.124, Florida Statutes, are hereby transferred by a type four transfer as defined in section 20.06(4), Florida Statutes, to the Department of Veterans' Affairs.

(2) The Florida Commission on Veterans' Affairs, which is assigned to the Executive Office of the Governor, is hereby transferred by a type one transfer as defined in section 20.06(1), Florida Statutes, to the Department of Veterans' Affairs, except that the commission in the performance of its duties shall not be subject to control, supervision, or direction by the department.

(3) The Division of Veterans' Affairs of the Department of Administration is hereby transferred by a type three transfer as defined in section 20.06(3), Florida Statutes, to the Department of Veterans' Affairs.

Section 3. Personnel of the Department of Veterans' Affairs shall not be required to move their households solely as a result of the reorganization made by this act.

Section 4. Subsection (2) of section 20.31, Florida Statutes, is amended to read:

20.31 Department of Administration.—There is created a Department of Administration.

(2) The following divisions of the Department of Administration are established:

(a) Division of Administrative Hearings.

(b) Division of Personnel Management Services.

(c) Division of Retirement.

~~(d) Division of Veterans' Affairs.~~

Section 5. Section 292.04, Florida Statutes, is amended to read:

292.04 Florida Commission on Veterans' Affairs.—

(1)(a) There is created a Florida Commission on Veterans' Affairs~~, hereinafter referred to as the "commission,"~~ to be composed of nine commissioners who shall be appointed by the Governor, subject to confirmation by the Senate. Eight commissioners shall be appointed from various regions of the state, with consideration given to proportional representation of the veterans in the state based on population. One commissioner shall be appointed from the state at large. The Governor may suspend a member of the commission only for cause, subject to removal or reinstatement of the member by the Senate.

(b) Commissioners must be veterans of a war in which the United States was or is a participant, and they must have been separated from the Armed Forces of the United States under honorable conditions. Each member of the commission must be a *resident* ~~citizen~~ of the state~~, and at least one member of the commission must be 60 years of age or older~~. Commissioners shall be appointed to 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 is eligible for reappointment.

(2)(a) The commission is assigned to the *Department of Veterans' Affairs and shall serve as an advisory body to that department* ~~Executive Office of the Governor~~. The *department shall provide administrative staff support for the commission and* ~~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 *department* ~~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 shall *biennially elect* ~~select~~ a chairman, vice chairman, and secretary to serve for terms of 2 years. The commission *shall* ~~may~~ meet *four times annually* ~~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).~~

~~(c) The commission may apply for and accept funds, grants, gifts, and services from the state, the United States Government or any of its agencies, or any other public or private source and is authorized to use funds derived from these sources to defray clerical and administrative costs as may be necessary for carrying out the duties of the commission.~~

~~(d) The commission shall, in accordance with chapter 120, adopt, promulgate, amend, or rescind such rules as it deems necessary to carry out the provisions of this section.~~

(3)(a) It is the duty of the commission to conduct ~~an ongoing study on the problems and needs of those citizens of this state who are veterans of the Armed Forces of the United States and the problems and needs of their dependents. The study shall include, but shall not be limited to:~~

~~1. A survey of existing state and federal programs available for such persons that specifies the extent to which such programs presently are being implemented, with recommendations for the improved implementation or the extension and improvement of such programs.~~

~~2. A survey of the needs of such persons in the areas of social services, health care, education, and employment, and any other areas of determined need, with recommendations regarding state and community services that would meet those needs.~~

~~3. A survey of public funds and private funds available that could be used to defray the costs of state and community services needed for such persons.~~

~~4.~~ a *biennial* survey of *possible* ~~the~~ contributions that veterans, or state organizations of veterans and their auxiliaries, could make to ~~the people of~~ the state *and to report the results of the survey to the department together*~~,~~ with recommendations for encouraging such contributions.

(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 *department* ~~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 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 a statewide effort by veterans to obtain such benefit.~~

~~(d) The commission shall prepare an annual report based on the duties carried out under the provisions of paragraphs (a), (b), and (c), which report is to be presented to the Governor no later than January 1, with copies to the Speaker of the House of Representatives, President of the Senate, Secretary of Administration, and such other persons as the commission may desire. The report shall include specific suggestions for necessary legislation and specific recommendations for any necessary administrative or regulatory reform.~~

Section 6. Section 292.05, Florida Statutes, is amended to read:

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

(1) The *Department* ~~Division~~ of Veterans' Affairs shall provide assistance to all former, present, and future members of the Armed Forces of the United States and their dependents in preparing claims for and securing such compensation, hospitalization, vocational training, and other benefits or privileges to which such persons or any of them are or may become entitled under any federal or state law or regulation by reason of their service in the Armed Forces of the United States. All services rendered under *this subsection* ~~the provisions of the law~~ shall be without charge to the claimant.

(2) The executive director of the department may employ such personnel and incur such expenses as he may deem necessary to administer this chapter and may also prescribe the salary standards, rights, powers, duties, and qualifications of all persons employed by the department. The director and his staff shall be reimbursed for traveling expenses as provided in s. 112.061.

(3) The department may adopt, amend, or rescind such rules as it deems necessary to carry out this chapter.

(4) The department may apply for and accept funds, grants, gifts, and services from the state, the United States Government or any of its agencies, or any other public or private source and may use funds derived from these sources to defray clerical and administrative costs as may be necessary for carrying out its duties.

(5) The department shall conduct an ongoing study on the problems and needs of those residents of this state who are veterans of the Armed Forces of the United States and the problems and needs of their dependents. The study shall include, but not be limited to:

(a) A survey of existing state and federal programs available for such persons that specifies the extent to which such programs presently are being implemented, with recommendations for the improved implementation, extension, or improvement of such programs.

(b) A survey of the needs of such persons in the areas of social services, health care, education, and employment, and any other areas of determined need, with recommendations regarding federal, state, and community services that would meet those needs.

(c) A survey of federal, state, public, and private moneys available that could be used to defray the costs of state or community services needed for such persons.

~~(2) The Secretary of Administration shall employ a Director of the Division of Veterans' Affairs to serve under the direction, supervision, and control of the secretary in carrying out the provisions of this chapter. The director may be selected by the secretary from a list of three persons nominated by the Commission on Veterans' Affairs. The director shall be a resident of the state; must have served as a member of the Armed Forces of the United States; and must have been separated from such service under honorable conditions. In addition, the director must have at least a 4-year degree from an accredited university or college and 3 years of administrative experience in veterans' affairs, or any equivalent combination of experience, training, and education totaling at least 7 years in work related to veterans' affairs.~~

~~(3) Except as may otherwise be provided in this law, the director may employ such personnel and incur such expenses as he may deem necessary to carry out the objects and purposes of this law and may also prescribe the salary standards, rights, powers, duties, and qualifications of all persons employed hereunder.~~

~~(4) The Division of Veterans' Affairs shall have authority to promulgate rules pertaining to all veteran service work and the duties of all veteran service officers in the state.~~

(6)~~(5)~~ The *department* ~~division~~ shall, on January 1 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 *department* ~~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.~~;~~ *The report shall also describe the actions taken by the department in implementing subsections (4), (5), and (7)* and *shall contain* such other information and recommendations as may appear to the *department* ~~division~~ to be right and proper.

(7)~~(6)~~ The *department* ~~division~~ shall administer ~~the provisions of~~ this chapter and shall have the authority and responsibility to apply for and administer any federal programs and develop and coordinate such state programs as may be beneficial to the particular interests of the veterans of this state. Such programs shall be subject to ~~the provisions of~~ chapter 215 and ~~the provisions of~~ chapter 216.

Section 7. Section 292.07, Florida Statutes, is hereby repealed.

Section 8. Subsections (2), (3), and (4) of section 292.11, Florida Statutes, are amended to read:

292.11 County and city veteran service officer.—

(2) Any county or city desiring to employ a county or city veteran service officer under the provisions of this section may notify the *Department of Veterans' Affairs* ~~division~~ of its intention to do so and may furnish the *department* ~~division~~ with the name or names of any person or persons applying to fill such position, along with documentation supporting the qualifications thereof. The *department* ~~division~~ shall thereupon certify to such county or city the name or names of candidates for such position who meet the requirements and qualifications prescribed by the

department ~~division~~. The county or city may thereupon employ any person or persons so certified by the *department* ~~division~~. Duties, compensation, and terms of employment shall be prescribed by the board of county commissioners or, where applicable, by the governing body of the city.

(3) Any person employed by any county or city under the provisions of this section shall, from the time of his employment, be subject to such rules as the *Department of Veterans'* ~~Division of Veterans'~~ Affairs may from time to time prescribe. Appropriations made by any county or city, or both, for the purposes set forth in this section are hereby declared to be appropriations for a county or municipal purpose, as the case may be.

(4) The *Department of Veterans' Affairs* ~~Division of Veterans' Affairs of the Department of Administration~~ is directed to establish a training program for county and city veteran service officers. Every county or city veteran service officer employed under ~~the provisions of~~ this chapter shall attend the training program established by the *department* ~~division~~ and successfully complete a test administered by the *department* ~~Division of Veterans' Affairs~~ prior to assuming any responsibilities as a county or city veteran service officer. The *department* ~~division~~ shall further establish periodic training refresher courses which each county or city veteran service officer *must* ~~shall~~ attend and complete as a condition of remaining in employment as a county or city veteran service officer. County and city veteran service officers shall be reimbursed for traveling expenses, as provided in s. 112.061, in fulfilling the requirements of this section.

Section 9. 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:

(a) 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

(b) Has been:

1. Determined by the Veterans Administration to have a service-connected 100-percent total and permanent disability rating for compensation,

2. 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

3. Issued a valid identification card by the *Department* ~~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.

(2) The provisions of ss. 295.03, 295.04, and 295.05 shall apply.

Section 10. 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 who 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 *Department* ~~Division~~ of Veterans' Affairs ~~of the Department of Administration~~ in accordance with ~~the provisions of~~ s. 295.17, 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.

(2) The provisions of ss. 295.03, 295.04, and 295.05 shall apply.

Section 11. Section 295.11, Florida Statutes, is amended to read:

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

(1) The *Department* ~~director of the Division~~ of Veterans' Affairs or *its designee* ~~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 *department* ~~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 nonveteran and the person feels himself aggrieved under ~~the provisions of~~ this *chapter* ~~law~~. Such investigation shall be accomplished within existing amounts appropriated to the *department* ~~division~~.

(2) Upon completion of the investigation, the *department* ~~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 *department* ~~division director~~ or *its* ~~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 Relations Commission for appropriate administrative determination.

Section 12. Section 295.124, Florida Statutes, is amended to read:

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

Section 13. Section 295.16, Florida Statutes, is amended to read:

295.16 Disabled veterans exempt from certain license or permit fee.—No totally and permanently disabled veteran who is a resident of Florida and honorably discharged from the Armed Forces, who has been issued a valid identification card by the *Department of Veterans' Affairs* ~~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 service-connected 100-percent disability rating for compensation, or who has been determined to have a service-connected disability rating of 100 percent and is in receipt of disability retirement pay from any branch of the uniformed armed services, shall be required to pay any license or permit fee, by whatever name known, to any county or municipality in order to make improvements upon a mobile home owned by the veteran which is used as the veteran's residence; provided such improvements are limited to ramps, widening of doors, and similar improvements for the purpose of making the mobile home habitable for veterans confined to wheelchairs.

Section 14. Section 295.17, Florida Statutes, is amended to read:

295.17 Identification cards.—

(1)(a) The *Department* ~~Division~~ of Veterans' Affairs *may* ~~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 100-percent, service-connected permanent and total disability rating for compensation, or who 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 veter-

ans, 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.

(b) The *department is* ~~division shall be~~ responsible for design and content of the identification card and shall *adopt* ~~develop and promulgate~~ rules and procedures relating to the eligibility and application for, and issuance and control of, identification cards. There shall be a service charge of $1 for each identification card issued by the *department* ~~division~~.

(2) Such identification card shall be valid for 4 years after the date of issuance; however, the *department* ~~division~~ may, if necessary, issue an identification card which is valid for less than 4 years. Each veteran who holds an identification card issued by the *department* ~~division~~ may apply to the *department* ~~division~~ to renew such card.

(3) It is unlawful for any person to:

(a) Display, cause or permit to be displayed, or have in his possession any fictitious, fraudulently altered, or fraudulently obtained identification card.

(b) Lend his identification card to any person or knowingly permit the use thereof by another.

(c) Display or represent any identification card which has not been issued to him as being his card.

(d) Permit any unlawful use of an identification card issued to him.

(e) Photograph, photostat, duplicate, or in any way reproduce any identification card or facsimile thereof in such a manner that the photograph, photostat, duplicate, reproduction, or facsimile could be mistaken for a valid identification card or display or have in his possession any such photograph, photostat, duplicate, reproduction, or facsimile.

(f) Display, or cause or permit to be displayed, his identification card after such card has expired.

(4) Any person *who violates* ~~found in violation of~~ any provision of *subsection (3) is* ~~this section shall be~~ guilty of a noncriminal violation and shall be punished by a fine of $200.

Section 15. Subsection (2) of section 320.084, Florida Statutes, is amended to read:

320.084 Free motor vehicle license plate to certain disabled veterans.—

(2) The production by a veteran of a valid identification card issued by the *Department* ~~Division~~ of Veterans' Affairs ~~of the Department of Administration~~ in accordance with ~~the provisions of~~ s. 295.17 or a letter from the Veterans Administration or any branch of the uniformed Armed Services certifying a service-connected disability rating of 100 percent for the veteran is prima facie evidence of the veteran's eligibility for the benefits contained in subsection (1).

Section 16. 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 *Department* ~~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 17. Section 626.833, Florida Statutes, is amended to read:

626.833 Veterans Administration employees disqualified.—*A* ~~No~~ person *who is* employed by the Veterans Administration or the *Department* ~~Division~~ of Veterans' Affairs *may not* ~~of the Department of Administration shall~~ be licensed as a health agent. The license of any person who accepts such employment will automatically terminate when the employment commences.

Section 18. Section 744.421, Florida Statutes, is amended to read:

744.421 Petition for support of ward's dependents.—Any person dependent on the ward for support may petition for an order directing the guardian of the property to contribute to the support of the dependent person from the property of the ward. The court may enter an order for suitable support and education of the dependent person out of the ward's property. The grant or denial of an order for support shall not preclude a further petition for increase, decrease, modification, or termination of allowance for support by either the petitioner or the guardian. The order for support shall be valid for payments made pursuant to it, but no valid payments can be made after the termination of the guardianship. The receipt of the petitioner shall be a sufficient release of the guardian for payments made pursuant to the order. If the property of the ward is derived in whole or in part from payments of compensation, adjusted compensation, pension, insurance, or other benefits made directly to the guardian by the Veterans Administration, notice of the application for support shall be given by the applicant to the office of the Veterans Administration having jurisdiction over the area in which the court is located and the chief attorney for the *Department* ~~Division~~ of Veterans' Affairs ~~of the Department of Administration~~ in this state at least 15 days before the hearing on the application.

Section 19. The administrative rules of the Division of Veterans' Affairs of the Department of Administration that are in effect immediately prior to the effective date of this section shall remain in effect until specifically changed in the manner provided by law.

Section 20. This act shall take effect on the effective date of an amendment to the State Constitution approved by the electors at the general election to be held in November 1988 which authorizes, or removes impediment to, enactment by the Legislature of the provisions of this act.

Amendment 2—On page 1, in the title, line 2, strike everything before the enacting clause and insert: An act relating to state government; creating s. 20.37, F.S.; creating a Department of Veterans' Affairs and providing for its organization; transferring specified powers, duties, records, personnel, property, and appropriations, allocations, and funds from the Department of Education to the Department of Veterans' Affairs; transferring the Florida Commission on Veterans' Affairs from the Executive Office of the Governor to the Department of Veterans' Affairs; transferring the Division of Veterans' Affairs from the Department of Administration to the Department of Veterans' Affairs; providing that department personnel may not be required to move their households solely because of the reorganization effected by this act; amending s. 20.31, F.S.; eliminating the Division of Veterans' Affairs from the Department of Administration; amending s. 292.04, F.S.; assigning the Florida Commission on Veterans' Affairs to the department; amending s. 292.05, F.S.; providing for the duties of the department; amending s. 295.124, F.S.; providing that the department is the state approving agency for purposes of certain veterans' education and training; repealing s. 292.07, F.S., relating to the appointment of veterans' affairs officers; amending ss. 292.11, 295.01, 295.016, 295.11, 295.16, 295.17, 320.084, 322.21, 626.833, and 744.421, F.S.; amending provisions to conform to the reorganization made by this act; providing that administrative rules of the Division of Veterans' Affairs of the Department of Administration shall remain in effect; providing an effective date.

Amendment 3—On page 10, between lines 3 and 4, insert:

Section 7. Paragraph (m) of subsection (2) of section 110.205,Florida Statutes, is amended to read:

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(m)1. In addition to those positions exempted by other paragraphs of this subsection, each department head may designate a maximum of 10 policymaking positions as being exempt from the Career Service System; provided, however, the secretary of the Department of Health and Rehabilitative Services may designate a maximum of 20 policymaking positions as being exempt from the Career Service System. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules of the Selected Exempt Service; provided, however, that if the agency head certifies to the department that the general counsel, chief cabinet aide, *public information adminis-*

trator or comparable position for a cabinet officer, inspector general, or legislative affairs director has both policymaking and managerial responsibilities and if the department determines that any such position has both policymaking and managerial responsibilities, the salary and benefits for each such position shall be set by the department in accordance with the rules of the Senior Management Service.

2. If otherwise exempt, employees of the Public Employees Relations Commission, the Commission on Human Relations, and the Unemployment Appeals Commission, upon the certification of their respective commission heads, may be provided for under this paragraph as members of the Senior Management Service, if otherwise qualified. However, the deputy general counsels of the Public Employees Relations Commission shall be compensated as members of the Selected Exempt Service.

(Renumber subsequent sections.)

Amendment 4—On page 1, in the title, line 31, after the semicolon ";" insert: amending section 110.205 to add public information administrator or comparable position for a cabinet officer;

On motions by Senator Grant, 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.

SPECIAL ORDER

CS for HB's 1574, 1422, 1430, 1438, 1439 and 1567—A bill to be entitled An act relating to the correctional system; amending s. 242.68, F.S.; revising membership of the Board of Correctional Education; providing additional responsibilities of the board; providing requirements relating to the provision of adult basic education for inmates meeting certain criteria; providing responsibilities of the education program manager; providing standards for vocational training programs; providing requirements of contract educational services for inmates; mandating the use of career service instructors in certain circumstances; requiring the Secretary of Corrections to notify the Governor when the inmate population reaches a certain amount; authorizing the secretary to grant provisional credits to specified inmates upon an acknowledgment by the Governor that the inmate population has reached such amount; requiring the department to establish a provisional release date for certain inmates based on provisional credits that have been granted; providing for rules; repealing s. 944.276, F.S., relating to administrative gain-time; amending s. 20.32, F.S.; renaming the Parole and Probation Commission as the Parole Commission; providing that the commission retains specified powers, duties, and functions; amending s. 921.001, F.S.; allowing certain incarcerated persons to be released from prison only in specified circumstances; amending s. 944.28, F.S.; authorizing the forfeiture of gain-time in specified circumstances; amending s. 944.291, F.S.; specifying which prisoners may be placed on conditional release; requiring the Department of Corrections to provide specified information to the Parole Commission; repealing s. 944.30, F.S., relating to clemency for state prisoners; amending s. 944.705, F.S., to delete a cross-reference; amending s. 947.005, F.S.; defining the term "tentative release date"; amending s. 947.01, F.S.; changing the name of the Parole and Probation Commission to Parole Commission; increasing the number of commissioners, effective at a specified future date; deleting an obsolete provision; amending s. 947.071, F.S.; specifying certain rulemaking procedures; repealing s. 947.13(3), F.S.; eliminating the commission's responsibility to perform specific research functions; creating ss. 947.1405 and 947.141, F.S.; creating the "Conditional Release Program Act"; establishing procedures for granting and revoking conditional release; creating s. 947.1655, F.S.; specifying which inmates are and are not eligible for parole; amending s. 947.174, F.S.; prescribing the content of certain parole-related guidelines that the commission must make available to inmates; amending s. 947.1745, F.S.; authorizing the delay of a parole date in certain circumstances; amending ss. 947.175, 947.177, 947.181, and 947.185, F.S.; conforming said sections to the change in name of the commission; amending s. 947.24. F.S.: requiring the commission to periodically review the progress of parolees; amending ss. 20.315, 39.12, 112.011, 186.003, 186.005, 215.3205, 255.502, 282.502, 322.16, 397.12, 775.089, 784.07, 843.01, 843.02, 843.08, 921.16, 921.20, 921.21, 921.22, 940.05, 940.06, 941.23, 943.06, 944.012, 944.02, 944.598, 944.605, 945.091, 945.10, 945.25, 945.30, 945.47, 947.02, 948.10, 949.05, 960.001, and 960.17, F.S.; conforming said sections to the change of name of the commission; amending ss. 947.10 and 947.26, F.S.; deleting references to the Board of Clemency Review; repealing ss. 947.005(6), 947.082, and 947.25, F.S., relating to the Board of Clemency Review; repealing s. 947.095, F.S., relating to hearing examiners who make recommendations with respect to certain parole release dates; repealing s. 34 of ch. 83-131, Laws of Florida, as amended; abrogating the repeal of ch. 947, F.S.; repealing s. 35 of ch. 83-131, Laws of Florida, relating to legislative review of the commission; creating s. 947.1747, F.S.; allowing community control as special condition of parole; amending s. 948.01, F.S., relating to when court may place defendant on probation or into community control, to conform; amending s. 948.03, F.S., establishing minimum standards for electronic monitoring devices; amending s. 948.03, F.S.; providing for random drug testing; amending s. 945.30, F.S.; providing for payment for costs of urinalysis drug testing as part of cost of supervision; amending s. 921.18, F.S.; providing for sentencing to county residential probation centers or Department of Corrections probation and restitution centers; amending s. 921.187, F.S.; authorizing placement in a county residential probation facility as a condition of probation or community control; amending s. 951.23, F.S.; defining "county residential probation center"; creating s. 951.231, F.S.; providing for county residential probation programs; providing program components and authorizing facilities to contract for services; authorizing local governments to establish county residential probation facilities; providing for funding; amending s. 39.09, F.S.; providing a judicial priority placement option for a juvenile boot camp training program; creating s. 39.113, F.S.; requiring the Department of Health & Rehabilitative Services to operate a boot camp; requiring screening for boot camp admission; requiring participation in activities, work assignments, and education and treatment programs; requiring an aftercare component; providing rulemaking authority; requiring an outcome evaluation study by 1991; providing authorization for contracting with private companies; amending s. 39.112; providing that escape from boot camp is a third degree felony; creating s. 944.19, F.S.; requiring the classification of inmates pursuant to an objective classification scheme; specifying factors to be included in the Initial Inmate Classification Questionnaire and the Inmate Reclassification Questionnaire; providing for cross-validation of such questionnaires; providing effective dates.

—was read the second time by title.

The Committee on Corrections, Probation and Parole recommended the following amendment which was moved by Senator Stuart:

Amendment 1—On page 5, line 15, strike everything after the enacting clause and insert:

Section 1. Paragraphs (a) and (b) of subsection (13) of section 20.315, Florida Statutes, are amended to read:

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

(13) DEPARTMENTAL BUDGETS.—

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

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 budget requests of all departmental activities. *Departmental activities do not include the Correctional Education School Authority. The budget procedure for the authority shall be pursuant to s. 242.68.* 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.

Section 2. Paragraphs (a) and (h) of subsection (2) and paragraphs (e) and (s) of subsection (4) of section 242.68, Florida Statutes, are amended to read:

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

(2)(a) There is hereby established a Board of Correctional Education attached to the Department of Corrections, which shall be composed of seven voting members and two nonvoting members. Membership shall be as follows:

1. Two voting ex officio members, who shall be the Commissioner of Education *or his designee* and the Secretary of Corrections *or his designee.*

2. Five voting members appointed by the Governor and confirmed by the Senate in regular session. Appointed members shall represent the community at large and shall have knowledge of educational or correctional issues. The Commissioner of Education and the Secretary of Corrections may submit recommendations for appointment to the Governor for his consideration. The Governor may remove any member for cause and shall fill vacancies, as appropriate.

3. Two nonvoting ex officio members, who shall be the secretary of the Department of Labor and Employment Security and the President of Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).

(h) The responsibilities of the board shall be to:

1. Adopt and enforce all necessary rules for the management and operation of education programs within the Department of Corrections. In adopting rules the board shall consider the Department of Corrections operating procedures and goals of correctional education. Rules adopted by the board shall not conflict with Department of Corrections rules relating to security or any applicable rules adopted by the Department of Education as specified in the Florida School Code.

2. Develop written cooperative agreements with the Department of Corrections outlining the duties and responsibilities of the school authority and its staff and Department of Corrections institutional personnel.

3. Establish a task force to plan, organize, and implement the transition to ensure a smooth transfer of responsibilities.

4. Develop guidelines for the school authority staff concerning the behavioral control of inmates while in education programs and the reporting of behavioral problems.

5. Survey the facilities of existing education programs within the institutions and determine the need, extent, and cost of renovation and remodeling.

6. In cooperation with the Department of Education, pursuant to s. 229.565, monitor and assess all inmate education program services and report the results of such evaluation in the board's annual report of its activities.

7. *Establish and adopt criteria to annually evaluate the Director of Correctional Education and* set the compensation and salary of the director ~~of Correctional Education~~.

8. Adopt rules governing the compensation and salary of teachers and other education personnel under annual or term contracts.

9. Visit and inspect schools at reasonably frequent intervals.

10. Approve education programs of the appropriate levels and types in the correctional institutions and adopt rules for the admission of inmate students thereto.

11. Enter into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out its duties and responsibilities. Agreements and contracts for instructional services shall expressly prescribe the qualifications of and the board's expectations for instructors and the educational objectives to be met. *All tangible personal property purchased with state funds is the property of the state and is subject to chapter 273.*

12. Review and approve the budget request for the correctional education program. *The approved budget shall be forwarded to the Department of Corrections for inclusion in the department budget pursuant to s. 20.315.*

13. Review and approve the 5-year comprehensive plan for correctional education.

14. Review and approve goals and objectives relating to all phases of the correctional education program.

15. Report the board's annual activities to the Secretary of Corrections, the Commissioner of Education, the Governor, and the Legislature.

16. Ensure that correctional education programs comply with the policies set by the board and with public policies and goals and objectives of the state, which include, in the following order of priority:

a. Providing every inmate who has an expectation of release from custody within 5 years with the opportunity to achieve functional literacy, specifically the ability to read and write the English language and the ability to perform routine mathematical functions prior to his release or expiration of his sentence.

b. Providing every inmate who has an expectation of release from custody within 5 years, and who has demonstrated the intellectual capacity to benefit therefrom, with the opportunity to obtain the equivalent of a public high school education. Inmates who wish to receive a standard high school diploma shall be required to meet the graduation requirements provided for in ss. 232.246 and 232.247. The highest priority in achieving this goal shall be focused on those institutions housing youthful offenders as defined in chapter 958.

c. Ensuring that every inmate who has an expectation of release from custody within 5 years be released possessing at least entry-level marketable vocational skills in one or more occupational fields for which there is a demonstrable demand in the economy of this state.

d. Ensuring that every inmate be released possessing life management skills which will allow him to function successfully in a free society.

e. Providing that inmates who demonstrate college-level aptitudes be provided the opportunity to participate in college-level academic programs which may be offered within correctional facilities. Associated costs shall be borne by the inmate.

f. Providing that training in the fundamentals of physical education and personal health be an integral part of all academic and vocational education programs. Such training shall include instruction in personal hygiene, general health, and the importance of rules and discipline in athletic contests. Regular vigorous physical exercise shall be emphasized in those correctional facilities housing youthful offenders as defined in chapter 958.

17. Beginning January 1, 1989, ensure that every inmate who has 2 years or more remaining to serve on his sentence at the time that he is received at an institution and who lacks basic and functional literacy skills as defined in s. 228 0713 attends not fewer than 150 hours of sequential instruction in a correctional adult basic education program. The basic and functional literacy level of an inmate shall be determined by the average composite test score obtained on a test approved for this purpose by the State Board of Education.

a. Upon completion of the 150 hours of instruction, the inmate shall be retested and, if a composite test score of functional literacy is not attained, the inmate shall be encouraged, and may be required, to remain in the instructional program.

b. Highest priority of inmate participation shall be focused on youthful offenders and those inmates nearing release from the correctional system.

c. An inmate shall be required to attend the 150 hours of adult basic education instruction unless such inmate:

(I) Is serving a life sentence or is under sentence of death.

(II) Is specifically exempted for security or health reasons.

(III) Is housed at a community correctional center, road prison, work camp, or vocational center.

(IV) Attains a functional literacy level after attendance in fewer than 150 hours of adult basic education instruction.

(V) Is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.

d. The Correctional Education School Authority shall provide classes to accommodate those inmates assigned to correctional or public work programs after normal working hours.

e. If an inmate attends and actively participates in the 150 hours of instruction, the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of up to 6 additional days of incentive gain-time, which must be credited and applied as provided by law. Active participation means, at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

(4) There is hereby established the position of Director of Correctional Education who shall be appointed by the board and shall serve at the discretion of the board. The director shall:

(e) In concurrence with the institution superintendent, recommend the institution education program manager, *who shall be the chief education administrator responsible for the daily operation and administration of the institution educational program,* to the board for appointment. After consultation with the institution education program manager and the institution superintendent, approve all staff responsible for providing education programs.

(s) Ensure that vocational training programs complement existing PRIDE programs whenever possible. *Such vocational training programs shall be in accordance with standards established by the Department of Education.*

Section 3. *The Correctional Education School Authority shall conduct a study by July 1, 1989, to determine the feasibility of providing a power lineman vocational training program.*

Section 4. Subsection (6) is added to section 242.68, Florida Statutes, to read:

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

(6) Contract educational services may be provided every inmate with the opportunity to: achieve functional literacy; develop marketable entry-level vocational skills; or develop abilities to live in a law-abiding and democratic society. The contract must be with a school district, community college, or licensed accredited private postsecondary educational institution. Contracts for these services must show cost estimates; course titles; course descriptions; number of inmate students to be served; total instructional hours per week per course; number of full-time equivalent students per course; full-time equivalent unit cost; description, quantity, and cost of miscellaneous goods or services; and total cost of services with total full-time equivalent students by program. The contract must name the correctional institution and the educational provider. No contract shall be made unless the positions specified in the contract cannot be filled by career service instructors.

(a) The educational provider shall agree in the contract to:

1. Designate a liaison person.

2. Give priority to hiring qualified, adversely affected Correctional Education School Authority educational personnel.

3. Provide an educational package that includes instruction by qualified instructors having mastery of the courses or skills being taught.

4. Arrange for qualified substitutes in the case of absence of instructors.

5. Require instructors to assume instructional and supervisory responsibilities for inmates in their classes.

6. Provide the correctional institution's education program manager with reports on inmate progress and performance.

7. Coordinate teaching schedules that take into consideration the institution's inmate schedule.

8. Comply with Department of Corrections and Correctional Education School Authority written rules and reasonable directives, and local policies of the institution, regarding security and safety.

9. Not discriminate against student inmates because of race, color, religion, sex, or national origin.

10. Submit education reports provided for in the contract.

(b) The Correctional Education School Authority and correctional institution shall agree in the contract to:

1. Provide an education program manager and a secretary to coordinate the educational programs with the educational provider.

2. Provide a sufficient number of properly selected eligible students for membership in each course.

3. Provide institutional orientation for educational provider staff.

4. Supply all classroom and shop laboratory facilities and standard utilities, including water, lights, phones, heat, and air conditioning.

5. Provide the normal configuration of audio-visual equipment, as available, and incidentals such as chalk, erasers, photocopying services, student paper, and pencils.

6. Provide janitorial and maintenance services.

7. Provide for the safety of all instructors.

8. Provide adequate library services and clerical support.

9. Provide staff support and recordkeeping.

(c) The parties shall agree on other supplies, services, consumables, laboratory materials, and textbooks as necessary. Both parties shall agree that the education program manager is responsible for coordination of the education program and shall participate in selecting and evaluating instructional personnel sent in to serve the institutions and collaborate in developing operational procedures for efficient management of the education programs. The contract must be signed by the Director of Correctional Education and the superintendent of the correctional institution or his designee; the college president or school superintendent, as applicable, or his designee; the education program manager; and the educational provider's dean or director.

Section 5. *Provisional credits.—*

(1) Whenever the inmate population of the correctional system reaches 97.5 percent of lawful capacity as defined in s. 944.096, Florida Statutes, the Secretary of Corrections shall certify to the Governor that such condition exists. When the Governor acknowledges such condition in writing, the secretary may grant up to 60 days of provisional credits equally to each inmate who is earning incentive gain-time, except to an inmate who:

(a) Is serving a sentence which includes a mandatory minimum provision for a capital offense or drug trafficking offense and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2), Florida Statutes;

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or a lewd or indecent assault or act;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of the offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; or

(g) Is sentenced, or has previously been sentenced, under s. 775.084, Florida Statutes, or has been sentenced at any time in another jurisdiction as an habitual offender.

(2) The secretary's authority to grant provisional credits in increments not exceeding 60 days will continue until the inmate population of the correctional system reaches 97 percent of lawful capacity, at which time the authority granted to the secretary will cease; and the secretary shall notify the Governor in writing of the cessation of such authority.

(3) At such time as provisional credits are granted, the Department of Corrections shall establish a provisional release date for each eligible inmate incarcerated, which will be the tentative release date less any provisional credits granted.

(4) Any eligible inmate who is incarcerated on the effective date of an award of provisional credits shall receive such credits. Any inmate who is under any type of release supervision program of the department is not eligible for an award of provisional credits.

(5) Any inmate who is serving one or more sentences of imprisonment imposed as a result of an offense that occurred on or after July 1, 1988, and who receives 30 or more days of provisional credits must be released into the provisional release supervision program on his provisional release date, unless such inmate is also serving a sentence for an offense that occurred before July 1, 1988. Inmates who are released into the provisional release supervision program are not eligible for any additional gain-time. If an inmate has received a term of probation or community control to be served after his release from incarceration, the period of probation or community control supervision must be substituted for the period of supervision under the provisional release supervision program.

(6) The terms and conditions of provisional release supervision must be specified in writing, and a copy must be given to the inmate at the time of his release from incarceration. The term of supervision must be equal to the number of provisional credits accrued, but may not exceed 90 days unless extended as provided in subsection (7).

(7) If an inmate violates any term or condition of provisional release supervision, the Department of Corrections may take any of the following actions:

(a) Continue provisional release supervision.

(b) Extend the term of supervision not to exceed the total number of provisional credits the inmate has accumulated.

(c) Terminate the provisional release supervision and return the inmate to prison. If an inmate is returned to prison, credits accumulated as of the date of release to the provisional release supervision program may be canceled as prescribed by department rule.

(8) If an inmate absconds from provisional release supervision, the Department of Corrections may issue a warrant for his arrest as provided by s. 944.405, Florida Statutes. The failure of an inmate to report to the designated parole and probation office within 10 days after his release from incarceration constitutes a violation of the provisional release supervision program and will result in issuance of a warrant for arrest of the inmate.

(9) The Department of Corrections shall adopt rules to implement the provisional release supervision program.

Section 6. *Section 944.276, Florida Statutes, is hereby repealed.*

Section 7. Section 20.32, Florida Statutes, is amended to read:

20.32 Parole ~~and Probation~~ Commission.—

(1) The Parole and Probation Commission~~,~~ authorized by s. 8(c), Art. IV, State Constitution of 1968, is continued and *renamed the Parole Commission. The commission* retains its powers, duties, and functions *with respect to the granting and revoking of parole.*

(2) All powers, duties, and functions ~~of the Board of Commissioners of State Institutions~~ relating to the appointment of the Parole ~~and Probation~~ Commission as provided in s. 947.02~~,~~ shall be exercised and performed by the Governor and the Cabinet. Each appointment shall be made from among the first three eligible persons on the list of the persons eligible for said position.

Section 8. Subsection (10) of section 921.001, Florida Statutes, is amended, and subsection (11) is added to said section, to read:

921.001 Sentencing Commission.—

(10) A person *who is* convicted of *a crime* ~~crimes~~ committed on or after October 1, 1983, *but before October 1, 1988,* ~~or any other person sentenced pursuant to sentencing guidelines adopted under this section~~ shall be released from incarceration only:

(a) Upon expiration of his sentence;

(b) Upon expiration of his sentence as reduced by accumulated gain-time; ~~or~~

(c) As directed by an executive order granting clemency*; or.*

(d) Upon attaining the provisional release date.

The provisions of chapter 947 shall not be applied to such person.

(11) A person who is convicted of a crime committed on or after October 1, 1988, shall be released from incarceration only:

(a) Upon expiration of his sentence;

(b) Upon expiration of his sentence as reduced by accumulated gain-time;

(c) As directed by an executive order granting clemency;

(d) Upon the granting of parole pursuant to s. 947.1655;

(e) Upon attaining the provisional release date; or

(f) Upon placement in a conditional release program pursuant to s. 947.1405.

Section 9. Subsection (1) of section 944.28, Florida Statutes, is amended to read:

944.28 Forfeiture of gain-time and the right to earn gain-time in the future.—

(1) If a prisoner is convicted of escape, or if the clemency, *conditional release as described in chapter 947,* or parole granted to him is revoked, the department may, without notice or hearing, declare a forfeiture of all gain-time earned according to the provisions of law by such prisoner prior to such escape or his release under such clemency, *conditional release,* or parole~~, as the case may be~~.

Section 10. Section 944.291, Florida Statutes, is amended to read:

944.291 Prisoner released by reason of gain-time allowances.—

(1) A prisoner who has served his term or terms, less allowable ~~statutory~~ gain-time deductions ~~and extra good time allowances,~~ as provided by law, *may* ~~shall not~~, upon release, be *placed* under further supervision and control of the department and ~~shall not be~~ subject to any statute relating to parole. ~~However,~~ Any ~~such~~ released prisoner *who is not under further supervision and control of the department or who is not subject to any statute relating to parole* shall be eligible, on a voluntary basis, for any assistance available to him through any parole or probation office under the department.

(2) Any prisoner who is convicted of a crime committed on or after October 1, 1988, which crime is contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure, and who has served at least one prior felony commitment at a state or federal correctional institution, or is sentenced as a habitual or violent habitual offender pursuant to s. 775.084, may only be released under conditional release supervision as described in chapter 947. Not fewer than 90 days prior to the tentative release date, the department shall provide the commission with the name and inmate identification number for each eligible inmate.

Section 11. *Section 944.30, Florida Statutes, is hereby repealed.*

Section 12. Section 944.705, Florida Statutes, is amended to read:

944.705 *Release* ~~Pre-release~~ orientation program.—

(1) ~~At least 30 days prior to release from department custody,~~ the department shall provide participation in a standardized *release* ~~pre-release~~ orientation program to every eligible inmate.

(2) The *release* ~~pre-release~~ orientation *program* shall consist of not *fewer* ~~less~~ than *40* ~~120~~ hours of *pre-release or post-release instruction that must include* ~~classroom instruction in life and employment skills, including~~, but *is* not limited to:

(a) *Employment skills* ~~Job interviews~~.

(b) *Money management skills* ~~Consumer banking and credit~~.

(c) *Special needs* ~~Housing and family economics~~.

(d) Community reentry concerns.

(e) Community reentry support.

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

(3) Any inmate who claims to be a victim of spouse abuse shall receive, as part of the release orientation program, referral to the nearest domestic violence center certified under ss. 415.601-415.608.

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

(5)~~(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.

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

Section 13. *Section 12 of chapter 87-298, Laws of Florida, is hereby repealed.*

Section 14. Section 947.005, Florida Statutes, is amended to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(1) "Commission" means the Parole ~~and Probation~~ Commission.

(2) "Department" means the Department of Corrections.

(3) "Secretary" means the Secretary of Corrections.

(4) "Presumptive parole release date" means the tentative parole release date as determined by objective parole guidelines.

(5) "Effective parole release date" means the actual parole release date as determined by the presumptive parole release date, satisfactory institutional conduct, and an acceptable parole plan.

(6) *"Tentative release date" means the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited pursuant to s. 944.275(3)(a).* ~~"Board" means the Board of Clemency Review.~~

Section 15. Section 947.01, Florida Statutes, is amended to read:

947.01 Parole ~~and Probation~~ Commission; creation; number of members.—

(1)(a) A Parole ~~and Probation~~ Commission is created to consist of *seven* ~~nine~~ members who are residents of the state.

(b) Effective *November* ~~July~~ 1, *1988* ~~1987~~, the membership of the commission shall be *seven* ~~six~~ members. ~~Commission members whose terms expire after October 1, 1986, and on or before July 1, 1987, shall not be reappointed unless upon expiration of any such term there are fewer than six commissioners.~~

(2) The Secretary of Corrections shall act in a liaison capacity between the commission and the Department of Corrections.

Section 16. Section 947.02, Florida Statutes, is amended to read:

947.02 Parole ~~and Probation~~ Commission; members, appointment.—

(1) The members of the Parole ~~and Probation~~ Commission shall be appointed by the Governor and Cabinet from a list of eligible applicants submitted by a parole ~~and probation~~ qualifications committee. The appointments of members of the commission shall be certified to the Senate by the Governor and Cabinet for confirmation.

(2) A parole ~~and probation~~ qualifications committee shall consist of five persons who are appointed by the Governor and Cabinet. One member shall be designated as chairman by the Governor and Cabinet. The committee shall provide for statewide advertisement and the receiving of applications for any position or positions on the commission and shall devise a plan for the determination of the qualifications of the applicants by investigations and comprehensive evaluations, including, but not limited to, investigation and evaluation of the character, habits, and philosophy of each applicant. Each parole ~~and probation~~ qualifications committee shall exist for 2 years. If additional vacancies on the commission occur during this 2-year period, the committee may advertise and accept additional applications; however, all previously submitted applications shall be considered along with the new applications, according to the previously established plan for the evaluation of the qualifications of applicants.

(3) Whenever a vacancy occurs on the commission pursuant to s. 947.03(3) or by reason of the resignation, retirement, or death of a commissioner, the Governor and Cabinet shall appoint a parole ~~and probation~~ qualifications committee if one has not been appointed during the previous 2 years. The committee shall consider applications for the commission seat according to the provisions of subsection (2) and shall submit the names of three eligible applicants, without recommendation, to the Governor and Cabinet for appointment to the commission for the remainder of the unexpired term or until a successor is appointed and qualified. If more than one seat is vacant, the committee shall submit the names of three eligible applicants for each seat; however, the names submitted shall not be distinguished by seat, and each submitted applicant shall be considered eligible for each vacancy.

(4) Whenever a vacancy occurs on the commission by reason of expiration of a commissioner's term, the Governor and Cabinet shall appoint a parole ~~and probation~~ qualifications committee if one has not been appointed during the previous 2 years. The committee shall consider applications for the commission seat according to the provisions of subsection (2). If a commissioner whose term has expired or will expire does not seek reappointment, the terms of subsection (3) apply. If a commissioner whose term has expired or will expire seeks reappointment, the parole ~~and probation~~ qualifications committee shall recommend to the Governor and Cabinet one of the following:

(a) That the incumbent member be reappointed to the commission. If the committee selects this option, only the name of the incumbent commissioner shall be submitted to the Governor and Cabinet.

(b) That the incumbent be considered along with other eligible persons. If the committee selects this option, the name of the incumbent and two eligible applicants shall be submitted to the Governor and Cabinet without recommendation.

(c) That the incumbent not be considered for reappointment. If the committee selects this option, the provisions of subsection (3) apply.

Except for a recommendation under paragraph (a), if two or more terms expire at the same time, the names submitted shall not be distinguished by seat and each submitted applicant shall be considered eligible for each vacancy.

(5) Upon receiving a list of eligible persons from the parole ~~and probation~~ qualifications committee, the Governor and Cabinet may reject the list. The committee shall reinitiate the application and examination procedure according to the provisions of subsection (2).

(6) The provisions of s. 120.53 and chapters 119 and 286 apply to all activities and proceedings of a parole ~~and probation~~ qualifications committee.

Section 17. Section 947.071, Florida Statutes, is amended to read:

947.071 Rulemaking procedures; indexing of orders.—

(1) It is the intent of the Legislature that all rulemaking procedures by the commission be conducted pursuant to the Administrative Procedure Act, chapter 120.

(2) The only final orders of the commission which shall be indexed pursuant to chapter 120 are:

(a) Orders granting parole.

(b) Orders revoking parole.

(c) Orders restoring to supervision.

(d) Orders releasing from custody and further supervision.

(e) Early parole termination orders.

(f) Orders granting conditional release.

(g) Orders revoking conditional release.

Section 18. *Subsection (3) of section 947.13, Florida Statutes, is hereby repealed.*

Section 19. Section 947.1405, Florida Statutes, is created to read:

947.1405 Conditional release program.—

(1) This section and s. 947.141 may be cited as the "Conditional Release Program Act."

(2) Any inmate who is convicted of a crime committed on or after October 1, 1988, which crime is contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure, and who has served at least one prior felony commitment at a state or federal correctional institution or is sentenced as a habitual or violent habitual offender pursuant to s. 775.084 shall, upon reaching the tentative release date established by the Department of Corrections, be released under supervision subject to specified terms and conditions. If an inmate has received a term of probation or community control supervision to be served after release from incarceration, the period of probation or community control must be substituted for the conditional release supervision. The commission shall establish the terms and conditions of any such release. The commission shall also determine whether the terms and conditions of such release have been violated and whether such violation warrants revocation of the conditional release.

(3) As part of the conditional release process, the commission shall determine:

(a) The amount of reparation or restitution.

(b) The consequences of the offense as reported by the aggrieved party.

(c) The aggrieved party's fear of the inmate or concerns about the release of the inmate.

(4) The commission shall provide to the aggrieved party information regarding the manner in which notice of any developments concerning the status of the inmate during the term of conditional release may be requested.

(5) Within 180 days prior to the tentative release date, a representative of the commission shall interview the inmate. The commission representative shall review the inmate's program participation, disciplinary record, psychological and medical records, and any other information pertinent to the impending release. A commission representative shall conduct a personal interview with the inmate for the purpose of determining the details of the inmate's release plan, including his planned residence and employment. The results of the interview must be forwarded to the commission in writing.

(6) Upon receipt of notice, as required under s. 947.175, the commission shall conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The commission may impose any special conditions it considers warranted from its review of the record. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. The length of supervision must not exceed the maximum penalty imposed by the court.

Section 20. Section 947.141, Florida Statutes, is created to read:

947.141 Violations of conditional release.—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender released under s. 947.1405 has violated the terms and conditions of his release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee.

(2) Within 45 days after the arrest of a releasee charged with a violation of the terms and conditions of conditional release, the releasee must be afforded a hearing conducted by a commissioner or a duly authorized representative thereof. If the releasee elects to proceed with a hearing, he must be informed, orally and in writing, of the following:

(a) The alleged violation with which he is charged.

(b) His right to be represented by counsel.

(c) His right to be heard in person.

(d) His right to secure, present, and compel the attendance of witnesses relevant to the proceeding.

(e) His right to produce documents on his own behalf.

(f) His right of access to all evidence used against him and to confront and cross-examine adverse witnesses.

(g) His right to waive the hearing.

(3) Within a reasonable time following the hearing, the commissioner or his duly authorized representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A majority of the commission shall enter an order determining whether the charge of violation of conditional release has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the commission shall revoke conditional release and thereby return the releasee to prison to serve the sentence imposed upon him, reinstate the original order granting conditional release, or enter such other order as it considers proper.

(4) Whenever a conditional release is revoked by the commission and the releasee is ordered by the commission to be returned to prison, the releasee, by reason of his misconduct, may be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of his conditional release. This subsection does not deprive the prisoner of his right to gain-time or commutation of time for good conduct, as provided by law, from the date on which he is returned to prison.

Section 21. Section 947.1655, Florida Statutes, is created to read:

947.1655 Eligibility for parole; initial parole interviews; powers and duties of commission.—An inmate who is convicted of a crime committed on or after October 1, 1988, and sentenced pursuant to sentencing guidelines for a cumulative term of less than 10 years is ineligible for parole consideration. An inmate who is sentenced pursuant to sentencing guidelines for a term of not less than 10 years is eligible for parole consideration as follows:

(1)(a) An inmate who has been sentenced pursuant to sentencing guidelines for a cumulative term of at least 10 years but not more than 20 years shall have a parole interview conducted by a hearing examiner within 36 months prior to the tentative release date as determined by the Department of Corrections.

(b) An inmate who has been sentenced pursuant to sentencing guidelines for a term in excess of 20 years shall have an interview conducted by a hearing examiner only after having served a minimum of 5 calendar years minus any jail-time credit awarded by the court, except that an inmate who is serving a life sentence shall have an interview conducted only after having served a minimum of 15 years.

(2) An inmate who is sentenced pursuant to sentencing guidelines is not subject to the objective parole guidelines.

(3) At the time of the parole interview, the hearing examiner shall make inquiry into the inmate's criminal history, social background, medical history, and any other information pertinent to the inmate's possible release on parole. Within 10 days after the parole interview, the hearing examiner shall forward his written recommendation to the commission.

(4) Within 45 days after receipt of the hearing examiner's recommendation, the commission shall reach a decision whether to parole the inmate. The inmate must be notified in writing, within 21 days after the date of commission action, of the decision reached by the commission.

(5) An inmate may not be placed on parole unless the commission determines that there is a reasonable probability that, if placed on parole, he will live and conduct himself as a respectable and law-abiding person and that his release will be compatible with his own welfare and the welfare of society.

(6) An inmate who is paroled pursuant to this section and who is charged with having violated the terms and conditions of his parole is subject to ss. 947.21-947.23.

Section 22. Subsection (5) of section 947.174, Florida Statutes, is amended to read:

947.174 Subsequent interviews.—

(5) For purposes of this section, the commission shall develop and make available to all inmates guidelines which ~~shall~~:

(a) Define what *constitutes* ~~shall constitute~~ an unsatisfactory institutional record. In developing such guidelines, the commission shall consult with the department.

(b) Define what constitutes a satisfactory release plan *and what constitutes verification of the plan prior to placement on parole.*

Section 23. Subsection (3) of section 947.1745, Florida Statutes, is amended to read:

947.1745 Establishment of effective parole release date.—If the inmate's institutional conduct has been satisfactory, the presumptive parole release date shall become the effective parole release date as follows:

(3) An effective date of parole may be delayed by a commissioner for up to 60 days without a hearing based on:

(a) New information not available at the time of the effective parole release date interview.

(b) Unsatisfactory institutional conduct which occurred subsequent to the effective parole release date interview.

(c) The lack of a verified parole release plan.

Section 24. Subsection (1) of section 947.175, Florida Statutes, is amended to read:

947.175 Notice to local agencies.—

(1) The Parole ~~and Probation~~ Commission shall, upon establishing the effective parole release date of an inmate, notify the county law enforcement agency in the county in this state in which the inmate is scheduled to be released and any other criminal justice agency which, in writing, requests the commission to provide such notice.

Section 25. Section 947.177, Florida Statutes, is amended to read:

947.177 Inmate release; notice by Department of Corrections or Parole ~~and Probation~~ Commission.—Within 90 days after the anticipated release of an inmate from the custody of the Department of Corrections by expiration of sentence under s. 944.275, or parole under this chapter, notification of such release date shall be made known by the appropriate agency to the original sentencing judge, the appropriate state attorney, the original arresting law enforcement agency, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. If the original sentencing judge is no longer available, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced. In addition, if requested by the victim or the personal representative of the victim, the state attorney shall notify such person of the inmate's anticipated release date. For the purposes of this section, the appropriate agency for parole releases is the Parole ~~and Probation~~ Commission and the appropriate agency for releases by expiration of sentence is the Department of Corrections. The Department of Corrections and the Parole ~~and Probation~~ Commission shall adopt rules to provide for the timely notification of releases under s. 944.598. This section shall not be construed to imply any repeal or modification of any provision of law relating to notification of victims.

Section 26. Section 947.181, Florida Statutes, is amended to read:

947.181 Victim restitution as condition of parole.—

(1)(a) The Parole ~~and Probation~~ Commission shall require, as a condition of parole, reparation or restitution to the aggrieved party for the damage or loss caused by the offense for which the parolee was imprisoned unless the commission finds reasons to the contrary. If the commission does not order restitution, or orders only partial restitution, the commission shall state on the record the reasons therefor. The amount of such reparation or restitution shall be determined by the Parole ~~and Probation~~ Commission.

(b) If the parolee fails to make the reparation or restitution to the aggrieved party, as authorized in paragraph (a), it shall be considered by the commission as a violation of parole as specified in s. 947.21 and may be cause for revocation of his parole.

(2) If a defendant is paroled, any restitution ordered under s. 775.089 shall be a condition of such parole. The Parole ~~and Probation~~ Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke parole, the Parole ~~and Probation~~ Commission shall consider the defendant's employment status, earning ability, and financial resources; the willfulness of the defendant's failure to pay; and any other special circumstances that may have a bearing on the defendant's ability to pay.

Section 27. Section 947.185, Florida Statutes, is amended to read:

947.185 Application for mental retardation services as condition of parole.—The Parole ~~and Probation~~ Commission may require, as a condition of parole, that any inmate who has been diagnosed as mentally retarded as defined in s. 393.063 shall, upon release, apply for retardation services from the Department of Health and Rehabilitative Services.

Section 28. Section 947.24, Florida Statutes, is amended to read:

947.24 Discharge from parole.—

(1) When a person is placed on parole, the commission shall determine the period of time the person shall be on parole in the following manner:

(a)~~(1)~~ If the person is being paroled on a single or concurrent sentence, the period of time the person shall be on parole shall not exceed 2 years unless the commission designates a longer period of time, in which case it will advise the parolee in writing of the reasons for the extended period. In any event, the period of parole shall not exceed the maximum period for which the person has been sentenced.

(b)~~(2)~~ If the person is being paroled on a consecutive sentence or sentences, the period of time the person shall be on parole shall be for the maximum period for which the person was sentenced. ~~The commission, after having retained jurisdiction of a person for a sufficient length of time to evidence satisfactory rehabilitation and cooperation, may discharge the person from parole, may relieve a person on parole from making further reports, or may permit such person to leave the state or country, upon determination that such action is in the best interests of the person and of society.~~

(2) The commission shall review the progress of each person who has been placed on parole after 2 years of supervision in the community and biennially thereafter. Such review must include consideration of whether to modify the reporting schedule, thereby authorizing the paroled person to submit reports quarterly, semiannually, or annually. The commission, after having retained jurisdiction of a person for a sufficient length of time to evidence satisfactory rehabilitation and cooperation, may further modify the terms and conditions of the person's parole, may discharge the person from parole, may relieve the person from making further reports, or may permit the person to leave the state or country, upon determining that such action is in the best interests of the person and of society.

(3) This section does not affect the rights of a parolee to request modification of the terms and conditions of parole pursuant to s. 947.19.

Section 29. Subsections (19) and (20) of section 20.315, Florida Statutes, are amended to read:

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

(19) FORM OF COMMITMENT; NOTICE OF PAROLE VIOLATION.—All commitments shall state the statutory authority therefor. The Secretary of Corrections shall have the authority to prescribe the form to be used for commitments. Nothing in this act shall be construed to abridge the authority and responsibility of the Parole ~~and Probation~~ Commission with respect to the granting and revocation of parole. The Department of Corrections shall notify the Parole ~~and Probation~~ Commission of all violations of parole conditions and provide reports connected thereto as may be requested by the commission. The commission shall have the authority to issue orders dealing with supervision of specific parolees, and such orders shall be binding on all parties.

(20) SINGLE INFORMATION AND RECORDS SYSTEM.—There shall be only one offender-based information and records system maintained by the Department of Corrections for the joint use of the department and the Parole ~~and Probation~~ Commission. The department shall develop, in consultation with the commission, such offender-based information system designed to serve the needs of both agencies. The department shall notify the commission of all violations of parole and the circumstances thereof.

Section 30. Subsections (4) and (5) of section 39.12, Florida Statutes, are amended to read:

39.12 Oaths; records; confidential information.—

(4) The clerk shall keep all official records required by this statute separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. All official records required by this act shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents or legal custodians of the child and their attorneys, law enforcement agencies, the department and its designees, the Parole ~~and Probation~~ Commission, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.

(5) Except as provided in subsections (3) and (8), all information obtained pursuant to this chapter in the discharge of official duty by any judge, any employee of the court, any authorized agent of the department, the Parole ~~and Probation~~ Commission, the Department of Corrections, or any law enforcement agent shall be confidential and shall not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, the Department of Corrections, the Parole ~~and Probation~~ Commission, law enforcement agents, and others entitled under this chapter to receive that information, except upon order of the court.

Section 31. Paragraph (b) of subsection (2) of section 112.011, Florida Statutes, is amended to read:

112.011 Felons; removal of disqualifications for employment, exceptions.—

(2)

(b) This section shall not be applicable to the employment practices of any fire department relating to the hiring of firemen. An applicant for employment with any fire department with a prior felony conviction shall be excluded from employment for a period of 4 years after expiration of sentence or final release by the Parole ~~and Probation~~ Commission unless the applicant, prior to the expiration of the 4-year period, has received a full pardon or has had his civil rights restored.

Section 32. Subsection (6) of section 186.003, Florida Statutes, is amended to read:

186.003 Definitions.—As used in ss. 186.001-186.031 and 186.801-186.911, the term:

(6) "State agency" means the Executive Office of the Governor, each executive department, the Game and Fresh Water Fish Commission, the Parole ~~and Probation~~ Commission, and the Department of Military Affairs.

Section 33. Subsection (1) of section 186.005, Florida Statutes, is amended to read:

186.005 Designation of departmental planning officer.—

(1) ~~On or before September 29, 1972,~~ The head of each executive department and the Public Service Commission, the Game and Fresh Water Fish Commission, the Parole ~~and Probation~~ Commission, and the Department of Military Affairs shall select from within such agency a person to be designated as the planning officer for such agency. The planning officer shall be responsible for coordinating with the Executive Office of the Governor and with the planning officers of other agencies all activities and responsibilities of such agency relating to planning.

Section 34. Paragraph (d) of subsection (1) of section 215.3205, Florida Statutes, is amended to read:

215.3205 Trust funds; schedule for abolition; legislative review.—

(1) Except for those trust funds specified in subsection (2):

(d) All trust funds of the Department of Corrections, the Department of Health and Rehabilitative Services, the Department of Labor and Employment Security, the Department of Law Enforcement, the Department of Professional Regulation, the Game and Fresh Water Fish Commission, and the Parole ~~and Probation~~ Commission are abolished on October 1, 1988.

Section 35. Subsection (3) of section 255.502, Florida Statutes, is amended to read:

255.502 Definitions.—As used in this act, the following words and terms shall have the following meanings unless the context otherwise requires:

(3) "Agency" means any department created by chapter 20, the Executive Office of the Governor, the Game and Fresh Water Fish Commission, the Parole ~~and Probation~~ Commission, the State Board of Administration, the Department of Military Affairs, or the Legislative Branch or the Judicial Branch of state government.

Section 36. Subsection (1) of section 282.502, Florida Statutes, is amended to read:

282.502 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.

Section 37. Paragraph (c) of subsection (1) of section 322.16, Florida Statutes, is amended to read:

322.16 Restricted licenses.—

(1)

(c) The department may further, at any time, impose other restrictions on the use of the license with respect to time and purpose of use or impose any other condition or restriction upon recommendation of any court, the ~~Florida~~ Parole ~~and Probation~~ Commission, or the Department of Corrections with respect to any individual under its jurisdiction, supervision, or control on probation or parole.

Section 38. Section 397.12, Florida Statutes, is amended to read:

397.12 Reference to drug abuse program.—When any person, including any juvenile, has been charged with or convicted of a violation of any provision of chapter 893, or of a violation of any law committed under the influence of a controlled substance, the court, Department of Health and Rehabilitative Services, Department of Corrections, or Parole ~~and Probation~~ Commission, whichever has jurisdiction over that person, may in its discretion require the person charged or convicted to participate in a drug treatment program licensed by the department under the provisions of this chapter. If referred by the court, the referral may be in lieu of, or in addition to, final adjudication, imposition of any penalty or sentence, or any other similar action. If the accused desires final adjudication, his constitutional right to trial shall not be denied. The court may consult with, or seek the assistance of, any agency, public or private, or any person concerning such a referral. Assignment to a drug program may be contingent upon budgetary considerations and availability of space.

Section 39. Subsection (4) of section 775.089, Florida Statutes, is amended to read:

775.089 Restitution.—

(4) If a defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation, and the Parole ~~and Probation~~ Commission may revoke parole, if the defendant fails to comply with such order.

Section 40. Paragraph (a) of subsection (1) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(1)(a) As used in this section, the term "law enforcement officer" includes, but shall not be limited to, any sheriff; deputy sheriff; municipal police officer; highway patrol officer; beverage enforcement agent; county probation officer; state, county, or municipal correctional officer; officer of the Parole ~~and Probation~~ Commission; parole and probation officer; and law enforcement personnel of the Game and Fresh Water Fish Commission and the Departments of Natural Resources and Law Enforcement.

Section 41. Section 843.01, Florida Statutes, is amended to read:

843.01 Resisting officer with violence to his person.—Whoever knowingly and willfully resists, obstructs, or opposes any sheriff~~,~~; deputy sheriff~~,~~; officer of the Florida Highway Patrol~~,~~; municipal police officer~~,~~; *state,* county, or municipal correctional officer~~,~~; beverage enforcement agent~~,~~; officer of the Game and Fresh Water Fish Commission~~,~~; officer of the Department of Natural Resources~~,~~; weight and safety officer of the Department of Transportation~~,~~; member of the ~~Florida~~ Parole ~~and Probation~~ Commission or any administrative aide or supervisor employed by said commission~~,~~; parole and probation supervisor or parole and probation officer employed by the Department of Corrections~~,~~; county probation officer~~,~~; personnel or representative of the Department of Law Enforcement~~,~~; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized 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 42. Section 843.02, Florida Statutes, is amended to read:

843.02 Resisting officer without violence to his person.—Whoever shall obstruct or oppose any such officer, beverage enforcement agent, weight and safety officer of the Department of Transportation, member of the ~~Florida~~ Parole ~~and Probation~~ Commission or any administrative aide or supervisor employed by said commission, parole and probation supervisor or parole and probation officer employed by the Department of Corrections, personnel or representative of the Department of Law Enforcement, or legally authorized person in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 43. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—Whoever falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Game and Fresh Water Fish Commission, officer of the Department of Natural Resources, deputy sheriff, coroner, police officer, beverage enforcement agent, or watchman, or any member of the ~~Florida~~ Parole ~~and Probation~~ Commission and any administrative aide or supervisor employed by said commission, or any personnel or representative of the Department of Law Enforcement, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be deemed guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 44. Subsection (2) of section 921.16, Florida Statutes, is amended to read:

921.16 When sentences to be concurrent and when consecutive.—

(2) A county court or circuit court of this state may direct that the sentence imposed by such court be served concurrently with a sentence imposed by a court of another state or of the United States. In such case, the Department of Corrections may designate the correctional institution of the other jurisdiction as the place for reception and confinement of such person and may also designate the place in Florida for reception and confinement of such person in the event that confinement in the other jurisdiction terminates before the expiration of the Florida sentence. Upon imposing such a sentence, the court shall notify the ~~Florida~~ Parole ~~and Probation~~ Commission as to the jurisdiction in which the sentence is to be served. Any prisoner so released to another jurisdiction shall be eligible for consideration for parole by the ~~Florida~~ Parole ~~and Probation~~ Commission pursuant to the provisions of chapter 947, except that the commission shall determine the presumptive parole release date and the effective parole release date by requesting such person's file from the receiving jurisdiction. Upon receiving such records, the commission shall determine these release dates based on the relevant information in that file and shall give credit toward reduction of the Florida sentence for gain-time granted by the jurisdiction where the inmate is serving the sentence. The Parole ~~and Probation~~ Commission may concur with the parole release decision of the jurisdiction granting parole and accepting supervision.

Section 45. Section 921.20, Florida Statutes, is amended to read:

921.20 Classification summary; Parole ~~and Probation~~ Commission.—As soon as possible after a prisoner has been placed in the custody of the Department of Corrections, the classification board shall furnish a classification summary to the Parole ~~and Probation~~ Commission for use as provided in s. 947.14. The summary shall include the criminal, personal, social, and environmental background and other relevant factors considered in classifying the prisoner for a penal environment best suited for his rapid rehabilitation.

Section 46. Section 921.21, Florida Statutes, is amended to read:

921.21 Progress reports to Parole ~~and Probation~~ Commission.—From time to time the Department of Corrections shall submit to the Parole ~~and Probation~~ Commission progress reports and recommendations regarding prisoners sentenced under s. 921.18. When the classification board of the Department of Corrections determines that justice and the public welfare will best be served by paroling or discharging a prisoner, it shall transmit its finding to the Parole ~~and Probation~~ Commission. The commission shall have the authority to place the prisoner on parole as provided by law or give him a full discharge from custody. The period of a parole granted by the Parole ~~and Probation~~ Commission shall be in its discretion, but the parole period shall not exceed the maximum term for which the prisoner was sentenced.

Section 47. Section 921.22, Florida Statutes, is amended to read:

921.22 Determination of exact period of imprisonment by Parole ~~and Probation~~ Commission.—Upon the recommendation of the Department of Corrections, the Parole ~~and Probation~~ Commission shall have the authority to determine the exact period of imprisonment to be served by defendants sentenced under the provisions of s. 921.18, but a prisoner shall not be held in custody longer than the maximum sentence provided for the offense.

Section 48. Section 940.05, Florida Statutes, is amended to read:

940.05 Restoration of civil rights.—Any person who has been convicted of a felony may be entitled to the restoration of all the rights of citizenship enjoyed by him prior to his conviction if he has:

(1) Received a full pardon from the board of pardons~~,~~;

(2) Served the maximum term of the sentence imposed upon him~~,~~; or

(3) Been granted his final release by the Parole ~~and Probation~~ Commission.

Section 49. Section 940.06, Florida Statutes, is amended to read:

940.06 Submission of names of qualified persons.—The Parole ~~and Probation~~ Commission shall submit to the Governor and Cabinet the names of persons who qualify for the restoration of civil rights in accordance with s. 940.05.

Section 50. Subsection (2) of section 941.10, Florida Statutes, is amended to read:

941.10 Rights of accused person; application for writ of habeas corpus.—

(2) *A warrant issued under s. 941.07 must be presumed to be valid; and, unless a court finds that the person in custody is not the same person named in the warrant, or that the person is not a fugitive from justice or otherwise subject to extradition under s. 941.06, or that there is no criminal charge or criminal proceeding pending against the person in the demanding state, or that the documents are not on their face in order, the person named in the warrant must be held in custody at all times and is not eligible for release on bail.* ~~Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge of a court of record in this state before whom the prisoner has been taken, or any other judicial officer having power of commitment in this state, including the judge before whom an application may be filed~~

~~for a writ of habeas corpus, may, in his discretion, admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him or before the judge to whom a writ of habeas corpus may be returnable, to abide the outcome of habeas corpus proceedings and any consequent appeal therefrom.~~

Section 51. Subsections (2) and (3) of section 941.23, Florida Statutes, are amended to read:

941.23 Application for issuance of requisition; by whom made; contents.—

(2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation, or parole, the state attorney of the county in which the offense was committed, the Parole ~~and Probation~~ Commission, the Department of Corrections, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the Governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement, or of the breach of the terms of his bail, probation, or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge, stating the offense with which the accused is charged, or of the judgment of conviction, or of the sentence. The prosecuting officer, Parole ~~and Probation~~ Commission, Department of Corrections, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the Department of State, to remain of record in that office. The other copies of all papers shall be forwarded with the Governor's requisition.

Section 52. Subsection (1) of section 943.06, Florida Statutes, is amended to read:

943.06 Criminal Justice Information Systems Council.—There is created a Criminal Justice Information Systems Council within the department.

(1) The council shall be composed of 10 members, consisting of the Attorney General or a designated assistant; the secretary of the Department of Corrections or a designated assistant; the chairman of the Parole ~~and Probation~~ Commission or a designated assistant; the State Courts Administrator or a designated assistant; and 6 members, to be appointed by the Governor, consisting of 2 sheriffs, 2 police chiefs, 1 public defender, and 1 state attorney.

Section 53. Subsection (5) of section 944.012, Florida Statutes, is amended to read:

944.012 Legislative intent.—The Legislature hereby finds and declares that:

(5) In order to make the correctional system an efficient and effective mechanism, the various agencies involved in the correctional process must coordinate their efforts. Where possible, interagency offices should be physically located within major institutions and should include representatives of the Florida State Employment Service, the vocational rehabilitation programs of the Department of Health and Rehabilitative Services, and the Parole ~~and Probation~~ Commission. Duplicative and unnecessary methods of evaluating offenders must be eliminated and areas of responsibility consolidated in order to more economically utilize present scarce resources.

Section 54. Subsection (3) of section 944.02, Florida Statutes, is amended to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(3) "Commission" means the Parole ~~and Probation~~ Commission.

Section 55. Subsection (3) of section 944.598, Florida Statutes, is amended to read:

944.598 Emergency release of prisoners.—

(3) If a state of emergency still exists 15 days after the credit of gain-time pursuant to subsection (2), the secretary of the department and the Parole ~~and Probation~~ Commission, as appropriate to their respective functions, shall authorize, prior to scheduled release by parole, gain-time, or expiration of sentence, the early termination of incarceration for those inmates confined in state correctional facilities and serving sentences of 3 years or less, unless sentenced pursuant to s. 775.087 or s. 893.135, who are within the last 60 days prior to release by parole, gain-time, or expiration of sentence. The secretary and the commission shall release such inmates by applying, in 5-day increments, credit for time served to all in this category.

Section 56. Section 944.605, Florida Statutes, is amended to read:

944.605 Inmate release; notice by Department of Corrections or Parole ~~and Probation~~ Commission.—Within 90 days after the anticipated release of an inmate from the custody of the Department of Corrections by expiration of sentence under s. 944.275, or parole under chapter 947, notification of such release date shall be made known by the appropriate agency to the original sentencing judge, the appropriate state attorney, the original arresting law enforcement agency, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. If the original sentencing judge is no longer available, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced. In addition, if requested by the victim or the personal representative of the victim, the state attorney shall notify such person of the inmate's anticipated release date. For the purposes of this section, the appropriate agency for parole releases is the Parole ~~and Probation~~ Commission and the appropriate agency for releases by expiration of sentence is the Department of Corrections. The Department of Corrections and the Parole ~~and Probation~~ Commission shall adopt rules to provide for the timely notification of releases under s. 944.598. This section shall not be construed to imply any repeal or modification of any provision of law relating to notification of victims.

Section 57. Paragraph (b) of subsection (1) and paragraph (b) of subsection (6) of section 945.091, Florida Statutes, are amended to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(1) The department is authorized to adopt regulations permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that he will honor his trust by authorizing him, under prescribed conditions and following investigation and approval by the secretary, who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(b) Work at paid employment, participate in an education or a training program, or voluntarily serve a public or nonprofit agency in the community, while continuing as an inmate of the institution or facility in which he is confined, except during the hours of his employment, education, training, or service and traveling thereto and therefrom. An inmate may participate in paid employment only during the last 18 months of his confinement, unless sooner requested by the Parole ~~and Probation~~ Commission.

(6)

(b) An offender who is required to provide restitution or reparation may petition the circuit court to amend the amount of restitution or reparation required or to revise the schedule of repayment established by the department or the Parole ~~and Probation~~ Commission.

Section 58. Subsection (1) of section 945.10, Florida Statutes, is amended to read:

945.10 Investigations; information confidential.—

(1) Except as provided below, information in a presentence investigation report made by the Department of Corrections shall be confidential and shall be available only to officers and employees of the court, the Legislature, the Parole ~~and Probation~~ Commission, the Department of Health and Rehabilitative Services, the Department of Corrections, and public law enforcement agencies in the performance of a public duty or,

with the written permission of the Department of Corrections, to parties establishing legitimate research purposes. The Department of Corrections shall promulgate rules and regulations stating what portions of its files, reports, or records are considered confidential and subject to restricted view. The Department of Corrections shall promulgate rules and regulations to prevent the disclosure of confidential information to unauthorized parties, except as provided above. However, nothing in this subsection shall alter other provisions of the law relating to the accessibility of inmate records.

Section 59. Subsection (4) of section 945.25, Florida Statutes, is amended to read:

945.25 Records.—

(4) The department may make such rules as to the privacy or privilege of such information and its use by others than the department or the Parole ~~and Probation~~ Commission and its staff as may be deemed expedient in the performance of their duties.

Section 60. Subsection (1) of section 945.30, Florida Statutes, is amended to read:

945.30 Payment for cost of supervision and rehabilitation.—

(1) Any person under community control, probation, or parole supervision or under supervision in the pretrial supervision program pursuant to chapter 944 shall be required to contribute no less than $30 or more than $50 per month as decided by the sentencing court or, with respect to pretrial intervention, by the state attorney to a court-approved public or private entity providing him with supervision and rehabilitation. Any failure to pay such contribution may constitute a ground for the revocation of probation by the court, the revocation of parole by the Parole ~~and Probation~~ Commission, or removal from the pretrial intervention program by the state attorney. The Department of Corrections may exempt a person from the payment of all or any part of the foregoing contribution if it finds any of the following factors to exist:

(a) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to make such payments.

(b) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the Secretary of Corrections by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the secretary.

(d) The offender's age prevents him from obtaining employment.

(e) The offender is responsible for the support of dependents, and the payment of such contribution constitutes an undue hardship on the offender.

(f) The offender has been transferred outside the state under an interstate compact adopted pursuant to chapter 949.

(g) There are other extenuating circumstances, as determined by the secretary.

Section 61. Subsection (3) of section 945.47, Florida Statutes, is amended to read:

945.47 Discharge of inmate from mental health treatment.—

(3) At any time that an inmate who has received mental health treatment while in the custody of the department becomes eligible for release on parole, a complete record of his treatment shall be provided to the Parole ~~and Probation~~ Commission and to the Department of Health and Rehabilitative Services. The record shall include, at least, the inmate's diagnosis, length of stay in treatment, clinical history, prognosis, prescribed medication, and treatment plan and recommendations for aftercare services. In the event that the inmate is released on parole, the record shall be provided to the parole officer who shall assist the inmate in applying for services from a professional or an agency in the community. The application for treatment and continuation of treatment by the inmate may be made a condition of parole, as provided in s. 947.19(1); and a failure to participate in prescribed treatment may be a basis for initiation of parole violation hearings.

Section 62. Section 947.10, Florida Statutes, is amended to read:

947.10 Business and political activity upon part of members and full-time employees of commission.—No member of the commission and no full-time employee thereof shall, during his service upon or under the commission, engage in any other business or profession or hold any other public office; nor shall he serve as the representative of any political party, or any executive committee or other governing body thereof, or as an executive officer or employee of any political committee, organization, or association or be engaged on the behalf of any candidate for public office in the solicitation of votes or otherwise. However, this shall not be deemed to exclude the appointment of the Secretary of Corrections to the commission under the terms and conditions set forth in this chapter~~, nor shall this be deemed to exclude the appointment of commissioners to the board~~.

Section 63. Section 947.26, Florida Statutes, is amended to read:

947.26 Cooperation of custodian of prisoner; right of access.—The superintendent, warden, or jailer of any jail or prison in which persons convicted of crime may be confined, and all officers or employees thereof, shall at all times cooperate with the commission ~~or board~~, and upon its request shall furnish it with such information as they may have respecting any person inquired about as will enable the commission ~~or board~~ properly to perform its duties. Such officials shall at all reasonable times, when the public safety permits, give the members of the commission~~, the board,~~ and its authorized agents and employees access to all prisoners in their charge.

Section 64. Subsection (1) of section 948.10, Florida Statutes, is amended to read:

948.10 Community control programs.—

(1) The Department of Corrections shall develop and administer a community control program. Such community control program and required manuals shall be developed in consultation with the Florida Conference of Circuit Court Judges and the Office of the State Court Administrator. This complementary program shall be rigidly structured and designed to accommodate offenders who, in the absence of such a program, would have been incarcerated. The program shall focus on the provision of sanctions and consequences which are commensurate with the seriousness of the crime. The program shall offer the courts and the Parole ~~and Probation~~ Commission an alternative, community-based method to punish an offender in lieu of incarceration when the offender is a member of one of the following target groups:

(a) Probation violators charged with technical violations or misdemeanor violations.

(b) Parole violators charged with technical violations or misdemeanor violations.

(c) Individuals found guilty of felonies, who, due to their criminal backgrounds or the seriousness of the offenses, would not be placed on regular probation.

Section 65. Subsection (2) of section 949.05, Florida Statutes, is amended to read:

949.05 Constitutionality.—

(2) If the method of selecting the commission members as herein provided is found to be invalid by reason of the vesting of the appointing power in the Governor and the Cabinet, the members of the Parole ~~and Probation~~ Commission herein provided for shall be appointed by the Governor.

Section 66. Subsection (1) of section 960.001, Florida Statutes, is amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice system.—

(1) ~~No later than January 1, 1985,~~ The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole ~~and Probation~~ Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and are designed to achieve, as much as possible and within the limits of resources available, the following objectives:

(a) Information concerning services available to victims of crime.—Witness coordination offices as provided in s. 43.35 shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure that victims are routinely given information about:

1. The availability of crime victim compensation, when applicable;

2. Community-based victim treatment programs;

3. The role of the victim in the criminal justice process, including what the victim may expect from the system as well as what the system expects from the victim; and

4. The stages in the criminal justice process which are of significance to a crime victim and the manner in which information about such stages can be obtained.

(b) Information concerning protection available to victim or witness.—A victim or witness shall routinely be furnished with information on steps that are available to law enforcement officers and state attorneys to protect victims and witnesses from intimidation.

(c) Notification of scheduling changes.—Each victim or witness who has been scheduled to attend a criminal justice proceeding shall be notified as soon as possible by the agency scheduling his appearance of any change in scheduling which will affect his appearance.

(d) Advance notification to victim, witness, or relative of victim concerning judicial proceedings.—Any victim, witness, relative of a minor who is a victim or witness, or relative of a homicide victim shall, if such person provides the appropriate agency as identified in this paragraph with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to his case, including:

1. The arrest of an accused;

2. The release of the accused pending judicial proceedings; and

3. Proceedings in the prosecution of the accused, including the arraignment, disposition of the accusatory instrument, trial, sentencing, appellate review, and, when a term of imprisonment or involuntary commitment is imposed, the release of the defendant from such imprisonment or commitment.

The appropriate agency with respect to notification under subparagraph 1. is the arresting law enforcement agency and the appropriate agency with respect to notification under subparagraphs 2. and 3. is the state attorney, unless the notification relates to the release of the accused from imprisonment, in which case the appropriate agency is the Department of Corrections.

(e) Consultation with victim or guardian or family of victim.—In addition to being notified of the provisions of s. 921.143, the victim of a felony involving physical or emotional injury or trauma or, in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal case brought as a result of such crime, including the views of the victim or family about:

1. The release of the accused pending judicial proceedings;

2. Plea agreements; and

3. Participation in pretrial diversion programs.

(f) Return of property to victim.—Law enforcement agencies and the state attorney shall promptly return a victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it. The trial court exercising jurisdiction over the criminal proceeding may enter appropriate orders to implement the provisions of this subsection.

(g) Notification to employer and explanation to creditors of victim or witness.—A victim or witness who so requests shall be assisted by law enforcement agencies and the state attorney in informing his employer that the need for victim and witness cooperation in the prosecution of the case may necessitate the absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of his cooperation with law enforcement agencies or a state attorney, is subjected to serious financial strain shall be assisted by such agencies and state attorney in explaining to the creditors of such victim or witness the reason for such serious financial strain.

(h) Local witness coordination office.—The requirements for notification provided for in paragraphs (c), (d), and (g) may be performed by the local witness coordinating office established by s. 43.35, as appropriate.

(i) Victim assistance education and training.—Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities and to state attorneys so that victims may be promptly, properly, and completely assisted.

(j) General victim assistance.—Victims and witnesses shall be provided with such other assistance, such as transportation, parking, separate pretrial waiting areas, and translator services in attending court, as is practicable.

Section 67. Subsection (3) of section 960.17, Florida Statutes, is amended to read:

960.17 Award constitutes debt owed to state.—

(3) The Parole ~~and Probation~~ Commission shall make the payment of the debt to the state a condition of parole under chapter 947, unless the commission finds reasons to the contrary. If the commission does not order payment, or orders only partial payment, it shall state on the record the reasons therefor.

Section 68. *Subsection (6) of section 947.005, Florida Statutes; section 947.082, Florida Statutes; sections 947.095 and 947.25, Florida Statutes; section 34 of chapter 83-131, Laws of Florida, as amended by section 37 of chapter 86-183, Laws of Florida; and section 35 of chapter 83-131, Laws of Florida, are hereby repealed.*

Section 69. Section 947.1747, Florida Statutes, is created to read:

947.1747 Community control as a special condition of parole.—Upon the establishment of an effective parole release date as provided for in ss. 947.1745 and 947.1746, the commission may, as a special condition of parole, require an inmate to be placed in the community control program of the Department of Corrections, as described in s. 948.10, for a period not exceeding 6 months. In every case in which the commission decides to place an inmate on community control as a special condition of parole, the commission shall provide a written explanation of the reasons for its decision.

Section 70. Subsection (12) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(12) An offender shall not be placed in community control if:

(a) Convicted for a forcible felony as defined in s. 776.08, and

(b) Previously convicted of a forcible felony as defined in s. 776.08.

Nothing in this subsection shall be construed to prohibit placement of certain inmates on community control pursuant to s. 947.1747. For the purposes of this subsection, a forcible felony shall not include manslaughter or burglary.

Section 71. Subsection (9) is added to section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation or community control.—

(9) Pursuant to chapter 287, the department shall issue a request for proposal for electronic monitoring devices by August 1, 1988, to be utilized by the department for purposes of electronic monitoring under this section or any other section of law which authorizes electronic monitoring. Electronic monitoring devices certified for use by the department must meet the following minimum standards:

(a) Be capable of maintaining full operation on a backup power source for 8 hours;

(b) Contain a tamper-resistant strap which will guard against removal and an antenna system which guards against body shielding from the RF signal;

(c) Transmitter must weigh no more than 6 ounces and be sealed, water resistant, and shockproof; and

(d) Such other necessary and vital specifications as may be set by the department for efficient and economical usage.

The provisions of this subsection do not apply to passive devices.

Section 72. Paragraph (j) is added to subsection (1) of section 948.03, Florida Statutes, to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control and may include among them the following, that the probationer or offender in community control shall:

(j) Submit to random testing as directed by the supervising officer or the professional staff of the treatment center where he is receiving treatment to determine the presence or use of alcohol or controlled substances.

Section 73. Section 947.18, Florida Statutes, is amended to read:

947.18 Conditions of parole.—No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until and unless the commission finds that there is reasonable probability that, if he is placed on parole, he will live and conduct himself as a respectable and law-abiding person and that his release will be compatible with his own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he will be suitably employed in self-sustaining employment or that he will not become a public charge. The commission shall determine the terms upon which such person shall be granted parole *and one of the conditions must be that the person submit to random testing as directed by the supervising officer or the professional staff of any treatment center where he is receiving treatment to determine the presence or use of alcohol or controlled substances.* In addition to any other lawful condition of parole, the commission may make the payment of the debt due and owing to the state under s. 960.17 or the payment of the attorney's fees and costs due and owing to a county under s. 27.56 a condition of parole, subject to modification based on change of circumstances.

Section 74. Subsection (4) is added to section 945.30, Florida Statutes, to read:

945.30 Payment for cost of supervision and rehabilitation.—

(4) In addition to the contributions under subsection (1), the department, at its discretion, may require offenders under supervision to submit to and pay for urinalysis testing to identify drug usage as part of the rehabilitation program. Any failure to make such payment, or participate, may be considered a ground for revocation by the court or the Parole Commission or for removal from the pretrial intervention program by the state attorney. The department may exempt a person from such payment if it determines that any of the factors specified in subsection (1) exist.

Section 75. Section 921.18, Florida Statutes, is amended to read:

921.18 Sentence for indeterminate period for noncapital felony.—The court in its discretion may sentence a defendant convicted of a noncapital felony to the custody of the Department of Corrections for an indeterminate period of 6 months to a maximum period of imprisonment. The maximum sentence may be less than the maximum prescribed by law, but shall not be less than the minimum, if any, prescribed for the offense. *After July 1, 1990, the court shall consider sentencing a defendant to serve his sentence in a county residential probation center facility as described in s. 951.23 for the county residential probation program as provided in s. 951.231 only if the defendant has not been previously convicted of a felony or twice convicted of a misdemeanor and the existing local facility has available capacity.* This section shall not apply to sentences imposed under s. 775.084 or any other statute providing for punishment of habitual criminals.

Section 76. Paragraph (a) of subsection (2) of section 944.026, Florida Statutes, is amended to read:

944.026 Community-based facilities and programs.—

(2) The following facilities or services shall be provided or contracted for by the department:

(a)*1.* Residential facilities in Dade, Broward, Palm Beach, Duval, Escambia, Leon, Orange, Brevard, Hillsborough, Pinellas, Sarasota (or Manatee), and Polk Counties, in which probationers, participants in pretrial intervention programs, and others committed to or under the supervision of the department may reside while working or attending school. ~~A plan shall be established for the phasing in of these residential facilities over a period of 5 years from July 1, 1974.~~ The purpose of these facilities and services is to provide the court with an alternative to commitment to other state correctional institutions and to assist in the supervision of probationers.

2. The department shall develop and implement procedures to diagnose offenders during the prison intake process in order to recommend to the sentencing courts, during the period of retained jurisdiction, suitable candidates for placement in a probation and restitution center.

Section 77. Present paragraph (q) of subsection (1) of section 944.09, Florida Statutes, is relettered as paragraph (r), and a new paragraph (q) is added to said subsection to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(1) The department shall adopt rules governing the administration of the correctional system and the operation of the department, which rules shall relate to:

(q) The determination of restitution, including the amount and to whom it should be paid. The rules shall provide necessary explanation to support recommendations regarding restitution.

Section 78. Paragraph (d) of subsection (1) of section 921.187, Florida Statutes, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The following alternatives for the disposition of criminal cases shall be used in a manner which will best serve the needs of society, which will punish criminal offenders, and which will provide the opportunity for rehabilitation. A court may:

(d) Impose, as a condition of probation or community control, a period of treatment which shall be restricted to either a county facility, a Department of Corrections probation and restitution center, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs pursuant to the Community Control Implementation Manual, which assessment and recommendations shall be considered by the court in ordering such placements. Placement in such a facility, *except for a county residential probation facility,* may not exceed 364 days. *Placement in a county residential probation facility may not exceed 3 years.* Early termination of placement shall be recommended to the court, when appropriate, by the center supervisor.

Section 79. Subsection (1) of section 951.23, Florida Statutes, is amended to read:

951.23 County and municipal detention facilities; definitions; administration; standards and requirements.—

(1) DEFINITIONS.—As used in this section:

(a) The term "county detention facility" means a county jail, a county stockade, a county prison camp, *a county residential probation center,* and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either felony or misdemeanor.

(b) The term "county residential probation center" means a county-operated facility housing offenders serving misdemeanor sentences or first-time felony sentences. Such facilities shall provide or contract for the provision of the programs established under s. 951.231.

(c)~~(b)~~ The term "county prisoner" means a person who is detained in a county detention facility by reason of being charged with or convicted of either felony or misdemeanor.

(d)~~(c)~~ The term "municipal detention facility" means a city jail, a city stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinances.

(e)~~(d)~~ The term "municipal prisoner" means a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance.

(f)~~(e)~~ The term "reduced custody housing area" means that area of a county detention facility or municipal detention facility which is designed to hold a large number of prisoners in a dormitory or barracks-type setting. The area may or may not have a security exterior and limited access.

Section 80. Section 951.231, Florida Statutes, is created to read:

951.231 County residential probation program.—

(1) Any prisoner who has been sentenced under s. 921.18 to serve a sentence in a county residential probation center as described in s. 951.23 shall:

(a) Reside at the center at all times other than during employment hours and reasonable travel time to and from his place of employment, except that supervisory personnel at a county residential probation center may extend the limits of confinement to include, but not be limited to, probation, community control, or other appropriate supervisory techniques.

(b) Seek and obtain employment on an 8-hours-a-day basis and retain employment throughout the period of time he is housed at the center.

(c) Participate in and complete the program required by s. 958.04(4), if required by the supervisor of the center.

(d) Participate in the education program provided at the center, if required by the supervisor of the center.

(e) Participate in the drug treatment program provided at the center, if required by the supervisor of the center.

(2) The center participating in the county residential probation program must provide or contract to provide for the programs established under subsection (1), as well as provide or contract to provide for necessary health care for the period of time the prisoner is housed at the center.

(3) A local government having an existing Department of Corrections probation and restitution center within its boundaries with current available capacity may contract with the Department of Corrections to house prisoners sentenced in accordance with s. 921.18.

(4) A local government having an existing Department of Corrections probation and restitution center within its boundaries without current available capacity, or a local government not having an existing Department of Corrections probation and restitution center within its boundaries, may provide facilities either through construction, purchase, or lease of new facilities or purchase, renovation, or lease of existing facilities.

(5) Local governments participating in this program may apply to the Department of Corrections for funding. The department shall allocate the funding for this program to the extent authorized in the General Appropriations Act.

Section 81. Effective January 1, 1989, paragraph (e) of subsection (3) of section 39.09, Florida Statutes, is amended to read:

39.09 Hearings.—

(3) DISPOSITION HEARING FOR DELINQUENCY CASES.— When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(e) If the court determines that the child should be adjudicated as having committed a delinquent act and that he should be committed to the department, such determination shall be in writing or on the record of the hearing. The determination shall include a specific finding on reasons for the decision to adjudicate and to commit the child to the department. If the court decides to commit a child to the department, the department shall furnish the court, in order of the preference of the department, a list of not less than three options for programs in which the child may be placed. The court shall rank the options presented by the department in order of the preference of the court. The recommendation of the court shall be reviewed by the department and shall be given primary consideration. *However, if the court chooses to recommend placement in a boot camp training program described in s. 39.113, that recommendation must be given primary consideration.* The recommendation of the court shall be followed if the commitment resource is available. The court may also require that the child be placed in a community control program following the child's discharge from commitment. Community-based sanctions may be imposed by the court at the disposition hearing or at any time prior to the child's release from commitment. Community-based sanctions may include, but are not limited to, rehabilitative restitution; curfew; revocation or suspension of the driver's license of the child; community service; the limitation of the child from nonessential activities or privileges; or other appropriate restraints on the child's liberty.

Section 82. Effective January 1, 1989, section 39.113, Florida Statutes, is created to read:

39.113 Juvenile boot camp.—

(1) Contingent upon specific appropriation, the department shall implement and operate a juvenile boot camp to provide an intensive basic training and rehabilitative program for juveniles.

(2) A juvenile may be placed in such program if he is between 14 years of age and 18 years of age at the time of adjudication and has been committed to the department for:

(a) A capital, life, first-degree, or second-degree felony; or

(b) A third-degree felony with at least two prior felony commitments.

(3) The department shall screen offenders sent to the juvenile boot camp program. Only those offenders having medical and psychological profiles conducive to successfully completing an intensive work and disciplinary program may be admitted to the basic training program. The department shall adopt rules for screening such admissions.

(4) The program must include marching drills, work assignments, and physical training exercises. Offenders shall participate in educational and vocational programs. Additional training in decisionmaking, life skills, and substance-abuse education must be provided to program participants.

(5) The department shall provide an aftercare component for monitoring and assisting the release of basic training participants into the community.

(6) The department shall adopt rules for the basic training and aftercare program. The rules must provide for at least 6 months of offender participation in the basic training and aftercare program for successful completion. The rules must also provide disciplinary sanctions and restrictions on the privileges of the general commitment population in the boot camp program.

(7) The department shall keep records and monitor criminal activity and employment placement of boot camp basic training participants after their release from the program. An outcome evaluation study must be published no later than December 31, 1991, which must include a comparison of criminal activity and employment placements of offenders completing the boot camp basic training program with the criminal activity and employment records of youths completing other programs for juvenile offenders.

(8) If a juvenile in the boot camp basic training program becomes unmanageable or medically ineligible, the department shall remove the juvenile from the boot camp basic training program. Notwithstanding any other provision of law, an unmanageable offender may be placed in secure detention until he is transferred to an equally restrictive commitment program.

(9) The department may contract with private companies for the operation of the intensive boot camp basic training and rehabilitative program.

(10) The department shall either establish criteria for training contract staff or provide a special training program for department staff selected for the intensive boot camp program, which shall include appropriate methods of dealing with minors.

Section 83. Effective January 1, 1989, section 39.112, Florida Statutes, is amended to read:

39.112 Escapes from a juvenile facility.—An escape from any halfway house, training school, *boot camp,* or secure detention facility maintained for the treatment, rehabilitation, or detention of children who are alleged or found to have committed delinquent acts or violations of law constitutes escape within the intent and meaning of s. 944.40 and is a felony in the third degree.

Section 84. Effective July 1, 1989, section 944.1905, Florida Statutes, is created to read:

944.1905 Initial inmate classification; inmate reclassification.—The Department of Corrections shall classify inmates pursuant to an objective classification scheme. The initial inmate classification questionnaire and the inmate reclassification questionnaire must cover both aggravating and mitigating factors.

(1) In scoring either the initial inmate classification questionnaire or the inmate reclassification questionnaire, points must be added to the inmate's overall score for factors indicating the inmate's custody risk. Such factors may include:

(a) The severity of the crime;

(b) The length of the sentence; and

(c) The verified history involving intentional violence.

(2) In scoring the initial inmate classification questionnaire, points may be deducted from the inmate's overall score for factors indicating the inmate's stability. Such factors may include:

(a) Age 30 or over;

(b) High school diploma or G.E.D. received; and

(c) Full-time employment, full-time school attendance, or part-time employment and part-time school attendance for 6 months or longer at the time of arrest.

(3) Points may be deducted from the inmate's overall score on the inmate reclassification questionnaire for continuous positive behavior. Continuous positive behavior may include:

(a) Lack of any major penalties for a specified period of time;

(b) Completion of any correctional programs aimed at self-betterment, such as drug or alcohol counseling, vocational training, or academic programs;

(c) Above-average behavior or progress on work squads outside the perimeter of the institution; or

(d) Above-average behavior or progress in any employment inside the perimeter of the institution.

(4) The department shall cross-validate the initial inmate classification questionnaire and the inmate reclassification questionnaire using custody score sheets from other states to determine the validity of the Florida model. If any items prove to be invalid, the department may revise either questionnaire as needed.

Section 85. Subsection (6) of section 20.315, Florida Statutes, is amended to read:

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

(6) ASSISTANT SECRETARY FOR HEALTH SERVICES.—The Assistant Secretary for Health Services shall be a physician licensed under chapter 458, ~~or~~ a doctor of public health, *or a professionally trained manager having at least 5 years' experience in health care administration;* shall be responsible for coordination and provision of comprehensive department-wide health services~~,~~ and shall oversee the following areas:

(a) Medical and surgical.

(b) Dental.

(c) Psychiatric.

(d) Psychological.

(e) Sanitation.

(f) Food services.

The Assistant Secretary for Health Services shall have direct professional authority over health care personnel~~; and~~ shall develop a program to prevent as well as treat various disorders in order to ensure an acceptable level of inmate health and well-being; *and shall implement a quality-assurance, risk-management, utilization-review system, and a credentialling process for all health care professions.* He shall serve at the pleasure of the secretary.

Section 86. Section 381.4945, Florida Statutes, is amended to read:

381.4945 Certificate-of-need exemption.—Any inmate health care facility built by *or for the exclusive use of* the Department of Corrections pursuant to this act *is* ~~with state funds and owned by the state shall be~~ exempt from the certificate-of-need requirements of this chapter. *This exemption expires when the facility is converted to other purposes.*

Section 87. Section 945.603, Florida Statutes, is amended to read:

945.603 Powers of authority.—The purpose of the authority is to assist in the delivery of health care services for inmates in the Department of Corrections and to advise the department on the professional conduct of primary, convalescent, dental, and mental health care and the management of costs consistent with quality care. For this purpose, the authority may:

(1) Review and make recommendations regarding health care for the delivery of health care services including, but not limited to, acute hospital-based services and facilities, primary and tertiary care services, quality assurance and peer review services, ancillary and clinical services, dental services, mental health services, intake and screening services, medical transportation services, and the use of nurse practitioner and physician assistant personnel to act as physician extenders.

(2) Resolve medical treatment disputes between the Department of Corrections and any health care provider under contract to the department.

(3) Develop and recommend to the Governor and the Legislature an annual budget for all or part of the operation of the prison health care system.

(4) Approve contracts for quality assurance programs, peer review which continuously assesses standards for the quality of care, and the appropriate utilization of health care services and accounts for the expenditure of public funds.

(5) Review the projected medical needs of the inmate population to permit adaptation to changing circumstances in the internal and external environment.

(6) Establish and approve preservice, inservice, and continuing medical education programs for all health care personnel.

(7) Identify the professional incentives that will be required to attract and retain qualified professional health care staff.

(8) Coordinate the development of prospective payment arrangements as described in s. 395.515 when appropriate for the acquisition of inmate health care services.

(9)~~(8)~~ Assist in the developing and implementing of a health services plan.

(10)~~(9)~~ Adopt an official seal and alter the same at pleasure.

(11)~~(10)~~ Sue and be sued in its own name and plead and be impleaded.

(12)~~(11)~~ Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions under this act.

(13)~~(12)~~ Employ or contract with health care providers, medical personnel, management consultants, consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees, entities, or agents as may be necessary in its judgment and fix their compensation.

(14)~~(13)~~ Do all things necessary to carry out the purposes of this act.

(15)~~(14)~~ Not later than 18 months after creation, render a report to the Governor indicating the opinion of the authority as to whether the department or an outside health care provider under contract to the department should provide basic medical services at each individual institution.

(16) Recommend to the Legislature such performance and financial audits of the office of health services in the Department of Corrections as the authority considers advisable.

Section 88. *The Department of Corrections may enter into continuing contracts with licensed health care providers, including hospitals and health maintenance organizations, for the provision of inmate health care services which the department is unable to provide in its facilities.*

Section 89. Subsection (2) of section 945.48, Florida Statutes, is amended to read:

945.48 Rights of inmate provided treatment.—

(2) RIGHT TO EXPRESS AND INFORMED CONSENT.—Any inmate provided psychiatric treatment within the department shall be asked to give his express and informed written consent for such treatment. "Express and informed written consent" or "consent" means consent voluntarily given in writing after a conscientious and sufficient explanation and disclosure of the purpose of the proposed treatment; the common side effects of the treatment, if any; the expected duration of the treatment; and the alternative treatment available. The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress or any other form of constraint or coercion. If an inmate is a patient in a mental health treatment facility by the order of a court and refuses such treatment as is deemed to be necessary for the appropriate care of the inmate and the safety of the inmate or others, such treatment may be provided under the following circumstances:

(a) In an emergency situation in which there is immediate danger to the health and safety of the inmate or other inmates, such treatment may be provided upon the written order of a physician for a period not to exceed 48 hours, excluding weekends and legal holidays. *If, after the 48-hour period, the inmate has not given express and informed consent to the treatment initially refused, the administrator shall, within 48 hours, excluding weekends and legal holidays, petition the circuit court serving the county in which the facility is located for an order authorizing the continued treatment of the inmate. In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others.* ~~Within that 48 hours, the administrator shall petition the court for an order authorizing the continued treatment of the inmate.~~

(b) In a situation other than an emergency situation, the administrator shall petition the court for an order authorizing the treatment of the inmate. The order shall allow such treatment for a period not to exceed 90 days *from the date of the order. Unless the court is notified in writing that the inmate has provided express and informed consent in writing, that he has been transferred to another institution of the department, or that he is no longer in need of treatment, the administrator shall, prior to the expiration of the initial 90-day order, petition the court for an order authorizing the continuation of treatment for another 90-day period. This procedure must be repeated until the inmate provides consent, is no longer at the mental health treatment facility, or is no longer in need of treatment. Treatment may be continued pending a hearing after the filing of any petition.*~~, at which time the administrator shall petition for a second 90-day period of treatment or shall notify the court that the inmate has provided express and informed written consent to treatment or that the inmate will be transferred to another institution of the department where he may be offered outpatient treatment.~~

(c) At the hearing on the issue of whether the court should authorize treatment for which an inmate has refused to give express and informed consent, the court shall determine by clear and convincing evidence that the inmate is mentally ill as defined in this chapter, that such treatment is essential to the care of the inmate, and that the treatment is not experimental and does not present an unreasonable risk of serious, hazardous, or irreversible side effects. In arriving at the substitute judgment decision, the court must consider at least the following:

1. The inmate's expressed preference regarding treatment;

2. The probability of adverse side effects;

3. The prognosis for the inmate without treatment; and

4. The prognosis for the inmate with treatment.

The inmate and his representative must be provided with a copy of the petition and the date, time, and location of the hearing. The inmate may have an attorney represent him at the hearing, and, if he is indigent, the court shall appoint the office of the public defender to represent him at the hearing. The inmate may testify or not, as he chooses, may cross-examine witnesses testifying on behalf of the facility, and may present his own witnesses.

(d)~~(c)~~ In addition to the *foregoing* provisions ~~of paragraphs (a) and (b)~~, when the permission of the inmate cannot be obtained, the administrator of a mental health treatment facility, or his designated representative, with the concurrence of the inmate's attending physician, may authorize emergency surgical or nonpsychiatric medical treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

Section 90. Paragraph (b) of subsection (1) of section 945.091, Florida Statutes, is amended to read:

945.091 Extension of the limits of confinement; restitution by employed inmates.—

(1) The department is authorized to adopt regulations permitting the extension of the limits of the place of confinement of an inmate as to whom there is reasonable cause to believe that he will honor his trust by authorizing him, under prescribed conditions and following investigation and approval by the secretary, who shall maintain a written record of such action, to leave the confines of that place unaccompanied by a custodial agent for a prescribed period of time to:

(b) Work at paid employment, participate in an education or a training program, or voluntarily serve a public or nonprofit agency in the community, while continuing as an inmate of the institution or facility in which he is confined, except during the hours of his employment, education, training, or service and traveling thereto and therefrom. An inmate may participate in paid employment only during the last *24* ~~18~~ months of his confinement, unless sooner requested by the Parole and Probation Commission.

Section 91. Subsection (1) of section 946.513, Florida Statutes, is amended to read:

946.513 Private employment of inmates; disposition of compensation received.—

(1) Notwithstanding the provisions of any other law, an inmate may be employed by the corporation or by any other private entity operating on the grounds of a correctional institution prior to the last *24* ~~18~~ months of his confinement. Compensation received for such employment shall be credited by the department to an account for the inmate and shall be used to reimburse the state for lodging expenses, food expenses, and other expenses incurred for sustaining the inmate, according to rules adopted by the department, and to make any court-ordered payments. The department rules shall provide that a portion of such compensation be credited by the department in the manner provided in *s. 946.512* ~~s. 946.10~~.

Section 92. Section 951.26, Florida Statutes, is amended to read:

951.26 County correctional planning committees.—

(1) Each county shall have a county correctional planning committee consisting of the state attorney or his designated assistant state attorney, the public defender or his designated assistant public defender, the chief circuit judge or another circuit judge as his designee, the chief county judge or his designee, the chief correctional officer, and the chairman of the board of county commissioners *or his designee*. In addition, if the county has such program available, the committee must include the director of any county probation or pretrial intervention program. *The chairman of the board of county commissioners shall serve as the chairman of the committee.*

(2) The committee shall meet at *the call of the chairman* ~~least monthly~~ for the purpose of assessing the population status of all correctional facilities owned by the county and formulating recommendations to ensure that the authorized capacities of such facilities, as established

by the Department of Corrections, are not exceeded. Such recommendations shall include an assessment of the availability of pretrial intervention or probation programs, work-release programs, gain-time schedules, applicable bail bond schedules, and the confinement status of the inmates housed within each facility owned by the county.

(3) The committee *may* ~~shall~~ also develop a local correctional facilities plan for future construction needs. The components of the plan shall cover at least a 5-year period. The plan *may* ~~shall~~ be submitted for consideration to the local planning agency for the county at least 120 days before the adoption of the comprehensive plan for the county by the local planning agency pursuant to s. 163.3184.

Section 93. Except as otherwise provided herein, this act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

Senator Woodson offered the following amendments to Amendment 1 which were moved by Senator Stuart and adopted:

Amendment 1A—On page 15, strike all of lines 27 and 28 and reletter subsequent paragraphs.

Amendment 1B—On page 26, line 5, through page 27, line 18, strike all of said lines and renumber subsequent sections.

Amendment 1C—On page 42, line 30, through page 43, line 24, strike all of said lines and renumber subsequent sections.

Amendment 1D—On page 57, strike all of lines 15-19 and insert: *Statutes; section 947.082, Florida Statutes; and sections 947.095 and 947.25, Florida Statutes, are hereby repealed.*

Section 69. Section 34 of Chapter 83-131, Laws of Florida, is amended to read:

Section 34. Chapter 947, Florida Statutes, consisting of sections 947.001, 947.002, 947.005, 947.01, 947.02, 947.03, 947.04, 947.05, 947.06, 947.07, 947.071, 947.09, 947.095, 947.10, 947.11, 947.12, 947.13, 947.15, 947.16, 947.165, 947.172, 947.173, 947.174, 947.1745, 947.175, 947.18, 947.181, 947.19, 947.20, 947.21, 947.22, 947.23, 947.24, 947.25, 947.26, and 947.275 is repealed on *July 1, 1990,* ~~July 1, 1989,~~ and shall be reviewed by the Legislature pursuant to section 35 of this act.

(Renumber subsequent sections.)

Amendment 1E—On page 74, line 15, through page 77, line 10, strike all of said lines and renumber subsequent sections.

Senator Malchon offered the following amendment to **Amendment 1** which was moved by Senator Stuart and adopted:

Amendment 1F—On page 79, between lines 20 and 21, insert:

Section 93. (1) The Department of Corrections shall implement a program to address the critical turnover problem of employees at Broward Correctional Institution by establishing a child care center for dependents and children of the employees of the institution. The child care center must be located on or adjacent to the grounds of the institution and must be located outside the compound area where inmates are housed.

(2) The contract child care providers shall:

(a) Provide child care at a rate comparable to the market rate in the geographical area;

(b) Adhere to all state purchase-of-service standards and other statutory standards for the licensure coverage; and

(c) Assume financial and legal responsibility for the operation of the centers.

(3) Neither the provider nor any personnel employed by or at the centers may be deemed employees of the state.

(4) The Department of Corrections shall provide adequate space to accommodate the child care center and shall provide the center with furniture and equipment reasonably necessary for the numbers and ages of the children to be served. In addition, the department shall be responsible for the maintenance, utilities, and other operating costs associated with the physical facility of the child care center.

(5) The Department of Corrections shall carry out the provisions of this act with appropriated funds available within the department's budget.

(Renumber subsequent section.)

Amendment 1 as amended was adopted.

On motion by Senator Stuart, the Senate reconsidered the vote by which Amendment 1 as amended was adopted.

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

Amendment 1G—On page 6, lines 29 and 30, strike "inmate shall be encouraged, and may be required" and insert: authority is authorize to require

Amendment 1 as amended was adopted.

The Committee on Corrections, Probation and Parole recommended the following amendment which was moved by Senator Stuart:

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to the correctional system; amending s. 20.315, F.S.; correcting the number of budget entities within the Department of Corrections; providing the budget procedure for the Correctional Education School Authority; amending s. 242.68, F.S.; revising membership of the Board of Correctional Education; providing additional responsibilities of the board; providing requirements relating to the provision of adult basic education for inmates meeting certain criteria; providing responsibilities of the education program manager; providing standards for vocational training programs; providing for a feasibility study concerning provision of a power lineman vocational training program; providing requirements of contract educational services for inmates; mandating the use of career service instructors in certain circumstances; requiring the Secretary of Corrections to notify the Governor when the inmate population reaches a certain level; authorizing the secretary to grant provisional credits to specified inmates upon an acknowledgment by the Governor that the inmate population has reached that level; requiring the department to establish a provisional release date for certain inmates based on provisional credits that have been granted; providing for the release of certain inmates into the provisional release supervision program prior to the expiration of sentence; providing for terms and conditions of conditional release supervision; authorizing the department to terminate provisional release supervision under certain circumstances; providing for rules; repealing s. 944.276, F.S., relating to administrative gain-time; amending s. 20.32, F.S.; renaming the Parole and Probation Commission as the Parole Commission; providing that the commission retains specified powers, duties, and functions; deleting a provision that has had its effect; amending s. 921.001, F.S.; allowing certain incarcerated persons to be released from prison only in specified circumstances; amending s. 944.28, F.S.; authorizing the forfeiture of gain-time in specified circumstances; amending s. 944.291, F.S.; specifying which prisoners may be placed on conditional release; requiring the Department of Corrections to provide specified information to the Parole Commission; repealing s. 944.30, F.S., relating to clemency for state prisoners; amending s. 944.705, F.S., relating to the pre-release orientation program; revising the program; providing for pre-release and post-release instruction; repealing s. 12, ch. 87-298, Laws of Florida, relating to the future repeal and review of the Transition Assistance Program Act; amending s. 947.005, F.S.; defining the term "tentative release date" and updating other definitions; amending s. 947.01, F.S.; changing the name of the Parole and Probation Commission to Parole Commission; decreasing the number of commissioners; deleting an obsolete provision; amending s. 947.071, F.S.; revising the list of which commission orders must be indexed; repealing s. 947.13(3), F.S.; eliminating the commission's responsibility to perform specific research functions; creating ss. 947.1405, 947.141, F.S.; creating the "Conditional Release Program Act"; establishing procedures for granting and revoking conditional releases; creating s. 947.1655, F.S.; specifying which inmates are and are not eligible for parole; amending s. 947.174, F.S.; prescribing the content of certain parole-related guidelines that the commission must make available to inmates; amending s. 947.1745, F.S.; authorizing the delay of a parole date under certain circumstances; amending ss. 947.175, 947.177, 947.181, 947.185, F.S.; conforming said sections to the change in name of the commission; amending s. 947.24, F.S.; deleting certain authority of the commission relating to discharge from parole; requiring the commission to periodically review the progress of parolees; amending ss. 20.315, 39.12, 112.011, 186.003, 186.005, 215.3205, 255.502, 282.502, 322.16, 397.12, 775.089, 784.07, 843.02, 843.08, 921.16, 921.20, 921.21, 921.22, 940.05, 940.06, 941.23, 943.06, 944.012, 944.02, 944.598, 944.605, 945.091, 945.10, 945.25, 945.30, 945.47, 947.02, 948.10, 949.05, 960.001,

960.17, F.S.; conforming said sections to the change of name of the commission; deleting obsolete provisions; amending s. 843.01, F.S.; revising the offense of resisting an officer with violence to his person; providing penalties; conforming said section to the change of name of the commission; amending s. 941.10, F.S.; deleting certain provisions relating to bail with respect to a writ of habeas corpus; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; amending ss. 947.10, 947.26, F.S.; deleting references to the Board of Clemency Review; repealing ss. 947.005(6), 947.082, 947.25, F.S., relating to the Board of Clemency Review; repealing s. 947.095, F.S., relating to hearing examiners who make recommendations with respect to certain parole release dates; repealing s. 34 of ch. 83-131, Laws of Florida, as amended; abrogating the future repeal of ch. 947, F.S.; repealing s. 35 of ch. 83-131, Laws of Florida, relating to legislative review of the commission; creating s. 947.1747, F.S.; allowing community control as a special condition of parole; amending s. 948.01, F.S., relating to when court may place a defendant on probation or into community control, to conform to the act; amending s. 948.03, F.S.; establishing minimum standards for electronic-monitoring devices; amending ss. 948.03, 947.18, F.S.; providing for random testing for the presence or use of alcohol or controlled substances; amending s. 945.30, F.S.; providing for payment for costs of urinalysis drug testing as part of cost of supervision; amending s. 921.18, F.S.; providing for sentencing of convicted defendants to county residential probation centers or Department of Corrections probation and restitution centers; amending s. 944.026, F.S.; providing for recommendation of offenders for placement in probation and restitution centers; amending s. 944.09, F.S.; authorizing the Department of Corrections to adopt rules relating to restitution; amending s. 921.187, F.S.; providing for placement in a county residential probation facility as a condition of probation or community control; amending s. 951.23, F.S.; defining the term "county residential probation center" and redefining the term "county detention facility" to include such a center; creating s. 951.231, F.S.; providing for county residential probation programs; specifying program components and authorizing facilities to contract for services; authorizing local governments to establish county residential probation facilities; providing for funding; amending s. 39.09, F.S.; providing a judicial placement option for a juvenile boot camp training program; creating s. 39.113, F.S.; requiring the Department of Health and Rehabilitative Services to operate a juvenile boot camp; requiring screening for boot camp admission; requiring participation in activities, work assignments, and education and treatment programs; requiring an aftercare component; providing rulemaking authority; requiring an outcome evaluation study; authorizing the department to contract with private companies for operation of the program; amending s. 39.112, F.S.; providing a penalty for escape from a boot camp; creating s. 944.1905, F.S.; requiring the classification of inmates pursuant to an objective classification scheme; specifying factors to be included in the initial inmate classification questionnaire and the inmate reclassification questionnaire; providing for cross-validation of such questionnaires; amending s. 20.315, F.S.; prescribing alternative qualifications and additional duties for the Assistant Secretary for Health Services of the Department of Corrections; amending s. 381.4945, F.S.; exempting certain facilities providing inmate health care services from certificate-of-need requirements for health-related projects; providing for removal of certificate-of-need exemptions given to inmate health care facilities; amending s. 945.603, F.S.; prescribing additional duties for the Correctional Medical Authority; authorizing the Department of Corrections to contract for certain inmate health care services; amending s. 945.48, F.S.; providing procedures for court-ordered treatment orders for inmates who refuse consent for the treatment of mental illness; providing for notice, appointment of counsel, and a standard of proof; amending s. 945.091, F.S.; extending the period of time during which an inmate may be allowed to work at certain paid employment before release from confinement; amending s. 946.513, F.S.; increasing the period of time during which an inmate may be employed on the grounds of a correctional institution before release; amending s. 951.26, F.S.; prescribing the chairman of the county correctional planning committees; providing for frequency of meetings; revising duties with respect to a local plan; providing effective dates.

Senator Woodson offered the following amendments to Amendment 2 which were moved by Senator Stuart and adopted:

Amendment 2A—In title, on page 4, strike all of lines 22-29 and insert: ss. 947.10, 947.26,

Amendment 2B—In title, on page 5, strike all of lines 5-9 and insert: release dates; amending s. 34 of ch. 83-131, Laws of Florida, as amended; delaying the future repeal of ch. 947, F.S.; creating

Amendment 2C—In title, on page 7, strike all of lines 19-23 and insert: s.

Amendment 2D—In title, on page 8, line 4, after the semicolon (;) insert: mandating the establishment of a child care center for certain department employees; specifying certain contract elements;

Amendment 2E—In title, on page 3, strike all of lines 25 and 26

Amendment 2 as amended was adopted.

On motion by Senator Stuart, by two-thirds vote CS for HB's 1574, 1422, 1430, 1438, 1439 and 1567 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Vote after roll call:

Yea—Jennings

Consideration of **SB 999** was deferred.

On motions by Senator Margolis, by two-thirds vote CS for HB 929 was withdrawn from the Committees on Governmental Operations and Appropriations.

On motion by Senator Margolis—

CS for HB 929—A bill to be entitled An act relating to financial matters; creating ss. 27.38 and 27.60, F.S.; authorizing state attorneys and public defenders to transfer certain appropriations between certain budget entities and within a budget entity; providing requirements with respect thereto; providing an effective date.

—a companion measure, was substituted for CS for SB 703 and read the second time by title. On motion by Senator Margolis, by two-thirds vote CS for HB 929 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
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
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Crawford

CS for SB 376—A bill to be entitled An act relating to the judiciary; amending s. 35.06, F.S.; increasing the number of judges for specified district courts of appeal; amending s. 26.031, F.S.; increasing the number of judges for specified judicial circuits; amending s. 34.022, F.S.; increasing the number of judges for specified county courts; providing effective dates.

—was read the second time by title.

Senator Langley moved the following amendments which were adopted:

Amendment 1—On page 2, strike line 10

Amendment 2—On page 2, line 1, strike "(5),"

On motion by Senator Langley, by two-thirds vote CS for SB 376 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Langley, by two-thirds vote HB 1049 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Langley—

HB 1049—A bill to be entitled An act relating to costs of judicial proceedings; amending ss. 27.34 and 27.54, F.S.; providing for counties to pay to state attorneys and public defenders specified costs certified as necessary in the prosecution or defense of criminal proceedings; amending s. 27.3455, F.S., relating to collection and distribution of additional court costs in criminal proceedings; providing for such costs to be part of plea agreements; providing for deposit in a special trust fund of the county; providing for an annual financial statement to the Comptroller and the Auditor General; providing for review by an independent certified public accountant; providing for enforcement by the Comptroller; providing for priority of distribution and use of surplus funds; providing rulemaking authority; providing for future repeal; repealing section 3 of chapter 85-213, Laws of Florida, relating to future repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 377 and read the second time by title. On motion by Senator Langley, by two-thirds vote HB 1049 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
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
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Crawford

CS for CS for SB 487—A bill to be entitled An act relating to child support; amending s. 28.24, F.S.; deleting a use for service charges collected by the clerk; amending s. 28.241, F.S.; deleting a filing charge for trial and appellate proceedings; amending s. 48.193, F.S.; providing for long-arm jurisdiction in paternity cases; amending s. 61.13, F.S.; deleting a requirement that the clerk of court transmit certain information from support orders to the Secretary of State; amending s. 61.1301, F.S.; providing that the court may order more than 20 percent of a support obligor's periodic support obligation to be withheld to reduce arrearages; providing which law and procedures control interstate income deduction orders; providing a procedure for initiating an interstate income deduction order with the local depository; providing legislative intent; amending s. 61.14, F.S.; providing for the modification of a judgment by operation of law; providing for notice and an opportunity for a hearing on limited grounds; providing that the court shall hold a hearing within certain time limits; providing that the judgment by operation of law includes the amount of the delinquency and all other amounts which thereafter become due, plus costs and a $5 fee; amending s. 88.151, F.S.; providing that the state, its political subdivisions, and the support obligee are not responsible for costs incurred pursuant to the Revised Uniform Reciprocal Enforcement of Support Act; amending s. 319.24, F.S.; providing a procedure for the perfection of a lien on motor vehicles by the director of the state child support enforcement program; amending s. 328.15, F.S.; providing a procedure for the perfection of a lien on vessels by the director of the state child support enforcement program; amending s. 409.2554, F.S.; defining the term "public assistance" to include money assistance paid on the basis of Title XIX, Social Security Act; providing a definition for the term "administrative costs"; amending s. 409.2561, F.S.; providing for the collection and release of certain medical insurance information by the IV-D agency in public assistance cases; requiring notification of termination of coverage by insurance companies; amending s. 409.2567, F.S.; reducing the application fee for IV-D services; providing that the court is to order payment of administrative costs without corroborating evidence; providing that the obligee is not responsible for IV-D administrative costs; amending s. 409.2569, F.S.; providing for continuation of child support enforcement services under certain circumstances; creating s. 409.2575, F.S.; providing a procedure whereby the director of the IV-D program can place a lien on motor vehicles and vessels for delinquent child support payments; providing for enforcement of the procedure; amending s. 409.2577, F.S.; providing sources of information from whom or from which the department shall receive information for its parent locator service; providing to whom parent locator service information may be provided; creating s. 409.2579, F.S.; specifying IV-D case file information which is exempt from public record disclosure requirements; requiring future legislative review of such exemptions pursuant to the Open Government Sunset Review Act; providing a penalty; amending s. 689.02, F.S.; providing for the inclusion of social security numbers on warranty deeds; providing legislative intent with respect to the repeal of certain provisions in the Florida Statutes; providing for the transfer of certain fees collected by the clerk of the court; repealing s. 61.1352, F.S., relating to a statewide lien system for delinquent child support payments; providing for the applicability of certain provisions of the act; providing an effective date.

—was read the second time by title.

Senator Langley moved the following amendments which were adopted:

Amendment 1—On page 12, line 11, and on page 12, line 15, strike *"set aside, alter, or modify"* and insert: *alter or modify*

Amendment 2—On page 17, strike all of lines 16-20 and insert:

Section 10. Subsections (2) and (7) of section 409.2554, Florida Statutes, are amended and subsection (11) is added to said section to read:

(2) "Dependent child" means any unemancipated person under the age of 18, any person under the age of 21 and still in school, or any person who is mentally or physically incapacitated *when such incapacity began prior to such person reaching the age of 18.* This definition ~~shall not apply to chapter 61 or chapter 742, and~~ shall not be construed to impose an obligation for child support beyond the child's attainment of majority except as imposed in s. 409.2561.

Amendment 3—On page 24, line 31, after the period (.) insert:

Section . Subsection (2) of section 743.07, Florida Statutes, is amended to read:

743.07 Rights, privileges, and obligations of persons 18 years of age or older.—

(2) This section shall not prohibit any court of competent jurisdiction from requiring support for a dependent person beyond the age of 18 years *when such dependency is because of a mental or physical incapacity which began prior to such person reaching majority*; and any crippled child as defined in chapter 391 shall receive benefits under the provisions of said chapter until age 21, the provisions of this section to the contrary notwithstanding.

Amendment 4—On page 24, line 31, after the period (.) insert:

Section . Subsections (2) and (3) of section 319.27, Florida Statutes, are amended to read:

319.27 Notice of lien on motor vehicles or mobile homes; notation on certificate; recording of lien.—

(2) No lien for purchase money or as security for a debt in the form of a security agreement, retain title contract, conditional bill of sale, chattel mortgage, or other similar instrument upon a motor vehicle or mobile home upon which a Florida certificate of title has been issued shall be enforceable in any of the courts of this state against creditors or subsequent purchasers for a valuable consideration and without notice, unless a sworn notice of such lien has been filed in the department and such lien has been noted upon the certificate of title of the motor vehicle or mobile home. Such notice shall be effective as constructive notice when filed. *No interest of a statutory nonpossessory lienor, the interest of a nonpossessory execution, attachment or equitable lienor, or the interest of a lien creditor as defined in s. 679.301(3), if non possessory, shall be enforceable against creditors or subsequent purchasers for a valuable consideration unless such interest becomes a possessory lien or is noted upon the certificate of title for the subject motor vehicle or mobile home prior to the occurrence of the subsequent transaction. Provided the provisions of this subsection relating to a nonpossessory statutory lienor, a nonpossessory execution, attachment or equitable lienor, or the interest of a lien creditor as defined in s. 679.301(3) shall not apply to liens validly perfected prior to October 1, 1988.* The notice of lien shall provide the following information:

(a) The date of the lien;

(b) The name and address of the registered owner;

(c) A description of the motor vehicle or mobile home, showing the make, type, and vehicle identification number; and

(d) The name and address of the lienholder.

(3) As applied to a determination of the respective rights of a secured party under this chapter and a lien creditor as defined by s. 679.301(3), or a nonpossessory statutory lienor, a security interest under this chapter shall be perfected upon the filing of the notice of lien with the department, the county tax collector, or their agents. *Provided, if the filing of the notice of lien is to perfect a purchase money security interest, the date of perfection shall be the same date as the execution of the security agreement or other like instrument if the notice of lien is filed in accordance with this subsection within 15 days after the debtor receives possession of the collateral and executes such security agreement.* The date of filing of the notice of lien shall be the date of its receipt by the department central office in Tallahassee, if first filed there, or otherwise by the office of the county tax collector, or their agents.

(Renumber subsequent sections.)

Senator D. Childers moved the following amendment which was adopted:

Amendment 5—On page 26, between lines 2 and 3, insert:

Section 21. Subsection (5) of section 61.181, Florida Statutes, is amended to read:

61.181 Central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; fees.—

(5) The depository shall accept a support payment tendered in the form of a *money order* ~~check drawn on the account of a payor or obligor. The proceeds of the check need not be disbursed prior to payment of the check. Notwithstanding the provisions of s. 28.243, the administrator of the depository shall not be personally liable if the check tendered by the payor or obligor is not paid by the bank.~~

(Renumber subsequent section.)

Senator Langley moved the following amendments which were adopted:

Amendment 6—In title, on page 2, line 10, after the semicolon (;) insert: defining the term "dependent child" to include a person who is mentally or physically incapacitated when such incapacity began prior to reaching the age of 18;

Amendment 7—In title, on page 3, line 23, after the semicolon (;) insert: amending s. 743.07, F.S.; providing that a court is not prohibited from requiring support for a dependent person beyond the age of 18 under certain circumstances;

Amendment 8—In title, on page 3, line 23, after the semicolon (;) insert: amending s. 319.27, F.S.; providing that certain liens shall be enforceable against subsequent creditors and purchasers for value only upon reduction to a possessory status or upon recording same upon the certificate of title for the related motor vehicle or mobile home; providing for perfection of a purchase money security interest simultaneously with execution of a related security agreement under certain circumstances;

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

Amendment 9—In title, on page 1, strike line 2 and insert: An act relating to alimony, support, maintenance, and child support; amending s.

Amendment 10—In title, on page 3, between lines 21 and 22, insert: amending s. 61.181; providing that support payments paid into the depository in the office of the clerk of the court must be accepted if tendered in the form of a money order; deleting requirement that such payments must be accepted if tendered in the form of a check;

Pending further consideration of CS for CS for SB 487 as amended, on motion by Senator Langley, by two-thirds vote HB 1484 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Langley, HB 1484, a companion measure, was substituted for **CS for CS for SB 487**.

Reconsideration

On motions by Senator Langley, the Senate reconsidered the vote by which **HB 1484** was substituted for **CS for CS for SB 487** and the vote by which HB 1484 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Langley, by two-thirds vote CS for CS for SB 487 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Gordon	Kiser	Ros-Lehtinen
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
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford, Stuart

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

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 amended Senate Amendments 1 and 2, concurred in same as amended and passed CS for CS for HB 819, as amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for HB 819—A bill to be entitled An act relating to medical incidents; reenacting and amending chapter 88-1, Laws of Florida; providing legislative findings and intent regarding regulatory reform; amending s. 20.30, F.S.; creating the Division of Medical Quality Assurance within the Department of Professional Regulation; providing duties of the division; placing the licensing boards for various health care professions within the division; amending s. 395.0115, F.S.; providing antitrust

immunity through establishment of a state-mandated peer review process; requiring licensed facilities to provide for peer review of physicians who provide health care services at such facilities and providing procedures therefor; requiring report of final disciplinary actions to the Division of Medical Quality Assurance for further investigation; providing for peer review panel immunity and for confidentiality of records; creating s. 395.0146, F.S.; requiring a certificate of need from the Department of Health and Rehabilitative Services for termination or reduction of emergency or trauma services; amending s. 395.017, F.S.; providing maximum charge for copying records; providing access to confidential patient records for certain proceedings of the Department of Professional Regulation; limiting public access thereto; amending s. 395.041, F.S.; expanding internal risk management education and training requirements; requiring report of certain incidents to the Department of Professional Regulation; limiting public access; requiring certain incident reports relating to surgical procedures; providing for department review and investigation of incidents which may involve conduct subject to discipline; providing administrative fines for violation of reporting requirements; providing for annual review of risk management programs; protecting risk managers from liability for implementation of risk management programs; requiring a report to the Legislature; amending s. 395.504, F.S., to correct a cross-reference; amending s. 455.225, F.S.; providing for proceedings for restriction of a license; providing civil immunity and prohibition from discharge to persons reporting with respect to incompetence, impairment, or unprofessional conduct of specified health care providers; providing penalties; amending s. 455.241, F.S.; providing for reports in lieu of certain psychiatric patient records; providing for transfer of records; providing for assertion of psychiatrist-patient privilege; limiting public access to records; providing maximum copying charges; creating s. 455.2415, F.S.; providing for disclosure of patient communications under certain circumstances; amending s. 455.242, F.S.; providing for disposition of records of physicians who terminate practice or relocate; amending s. 455.245, F.S.; providing conditions for considering emergency suspension or restriction of a license; creating s. 455.247, F.S.; requiring physicians, osteopathic physicians, podiatrists, and dentists to report professional liability claims and actions to the department; specifying contents; creating s. 455.28, F.S.; requiring reporting of certain physicians for violation of grounds for disciplinary action; providing a penalty; requiring investigation of probable disciplinary violations; amending s. 458.303, F.S.; revising exemption of certain commissioned medical officers from specified medical practice provisions; amending s. 458.307, F.S.; modifying membership of the Board of Medicine; specifying composition of probable cause panels; providing for a training program; providing for completion of a panel's work; amending s. 458.311, F.S., relating to requirements for licensure of physicians by examination; providing for an investigative process; providing for restricted licenses; amending s. 458.313, F.S.; providing for an investigative process for licensure by endorsement; requiring certain active practice; providing for supervised practice; providing for restricted licenses; amending s. 458.315, F.S.; prohibiting issuance of temporary certificates for practice in areas of critical need to certain persons by endorsement; amending s. 458.3165, F.S.; providing for biennial renewal of public psychiatry certificates; amending s. 458.319, F.S.; increasing the maximum fee for renewal of a license to practice medicine; requiring evidence of active practice for license renewal; providing for supervised practice; amending ss. 458.320 and 459.0085, F.S.; authorizing physicians and osteopathic physicians to use risk retention groups to meet financial responsibility requirements; amending s. 458.327, F.S.; providing a penalty for leading the public to believe that one is licensed as a medical doctor, or is engaged in the licensed practice of medicine, without a license; creating ss. 458.3295 and 459.0145, F.S.; prohibiting a concerted effort by physicians or osteopathic physicians to refuse emergency room treatment to patients; authorizing a circuit court to enjoin such conduct; providing penalties; amending ss. 458.331 and 459.015, F.S.; providing additional grounds for disciplinary action against physicians and osteopathic physicians; providing penalties and providing priorities for application thereof; establishing the burden of proof for administrative actions against such physicians; providing for injunctive relief; providing for department review and investigation of claims; amending ss. 458.3315 and 459.0155, F.S.; providing that a physician or osteopathic physician who is believed to be impaired must execute a release of his medical records to a consultant retained by the Department of Professional Regulation and limiting the use which the consultant may make of such records; amending s. 458.337, F.S.; specifying requirements for reports by medical organizations and hospitals when the physician has resigned; amending s. 458.345, F.S.; establishing requirements for registration of resident physicians and interns; providing a fee; restricting renewal or extension; prohibiting registration of certain persons; increasing a penalty; amending ss. 458.347 and 459.022, F.S.; allowing extended temporary certification of physician assistants and osteopathic physician assistants; amending s. 459.0055, F.S.; providing for an investigative process for licensure of osteopathic physicians; amending s. 459.008, F.S.; requiring evidence of active practice for license renewal; providing for supervised practice; amending s. 459.0092, F.S.; increasing the maximum fee for renewal of a license to practice osteopathic medicine; amending ss. 460.413, 461.013, 464.018, 465.016, and 466.028, F.S.; providing additional grounds for disciplinary action against chiropractic physicians, podiatrists, nurses, pharmacists, and dentists; providing for certain department review and investigation; amending s. 627.912, F.S.; requiring insurers to report certain claims against dentists; providing for department review and investigation; providing for an annual report; amending s. 641.55, F.S.; providing internal risk management program components and providing for program review; providing for department review and investigation of certain incidents reported by health maintenance organization internal risk management programs; providing specified access to records and limiting public access; providing for administrative fines; requiring report of certain incidents relating to surgical procedures; providing legislative findings and intent as to emergency medical care; amending s. 768.13, F.S.; providing immunity from civil liability to physicians, hospitals, crisis stabilization units, and certain hospital employees rendering medical or mental health care or treatment in response to an emergency within a hospital, trauma center, or crisis stabilization unit; providing exceptions to such immunity; requiring acceptance of emergency and transfer emergency patients; amending s. 768.78, F.S.; providing additional methods of payment of damage awards; providing legislative findings and intent as to presuit investigation and voluntary binding arbitration; providing definitions; providing applicability of and procedure for mandatory presuit investigation and medical expert corroboration of medical negligence claims and defenses by prospective parties; requiring availability of medical records for presuit investigation of claims and defenses and providing penalties; providing for presuit discovery of medical negligence claims and defenses and providing immunity with respect thereto; providing for presuit investigation of medical negligence claims and defenses by the court, and providing penalties for lack of reasonable investigation in filing or in corroborating medical negligence claims or defenses; providing for voluntary binding arbitration of claims for medical negligence; providing for selection of arbitration panels; providing arbitration procedures; providing procedures for hearings; providing for binding arbitration to allocate responsibility among multiple defendants to medical negligence claims; providing disincentives to a party failing to offer or accept voluntary binding arbitration, including prejudgment interest, payment of attorney's fees, and caps on noneconomic damages; providing misarbitration procedure; providing for payment of arbitration award and interest; providing for appeal of award; creating the Florida Birth-Related Neurological Injury Compensation Plan; providing legislative findings and intent; providing definitions; providing exclusiveness of remedy; providing for the hearing of claims by deputy commissioners of the Division of Workers' Compensation of the Department of Labor and Employment Security; providing procedure for the filing of claims and responses; providing for medical disciplinary review; providing for tolling of the statute of limitations; providing for hearings, parties, and discovery; providing for review by a medical advisory panel; providing for determination of claims; providing a presumption as to injury; providing for binding nature of findings; providing for awards for birth-related neurological injuries, and for notice of such awards; providing for conclusiveness of determination or award; providing for appeal; providing for enforcement of awards; providing a limitation on the bringing of claims; providing for administration of the birth-related neurological injury compensation plan by the Florida Birth-Related Neurological Injury Compensation Association pursuant to a plan of operation approved by the Department of Insurance; providing for assessments for participation in the plan; providing an appropriation; providing for actuarial valuation of the plan by the department; providing for membership and a board of directors for the association; providing powers and duties of the association; providing for notice to obstetrical patients of participation in the plan; providing for certain appropriations; providing for assessment by certain boards; amending s. 768.45, F.S.; prescribing matters to be considered by the trier of fact in a claim of negligence for services provided in a hospital emergency room; limiting who may give expert medical testimony; amending s. 768.81, F.S.; providing for damages attributed to a medical teaching hospital; providing for damages attributed to the Board of Regents; requiring medical malpractice insurers to reflect certain savings in rate filings and schedules; providing severability; requesting the Supreme Court to adopt a standard jury instruction; repealing s. 768.66, F.S., relating to a medical malpractice study; providing for legislative

review if premiums savings are not realized; providing applicability; providing for certain members of the Board of Medicine to serve the remainders of their terms; amending s. 95.11, F.S., relating to the statute of limitations; creating s. 395.0116, F.S.; providing that it is unlawful for certain persons to threaten, coerce, intimidate, or discipline any licensed physician or nurse under certain circumstances; providing a penalty; providing for civil actions; amending s. 395.509, F.S., relating to review of hospital budgets, to provide for approval of assessments to fund the birth-related neurological injury compensation plan; amending s. 768.40, F.S.; providing for professional society review of certain physicians; providing for advisory reports to the department; providing confidentiality; providing for review and repeal; providing specified immunity; prohibiting causes of action against health care providers for furnishing certain information; amending s. 768.57, F.S.; requiring notice to the department prior to filing certain malpractice claims; specifying contents; protecting claimants' legal rights; providing for department review and investigation; providing for informal discovery; creating s. 768.67, F.S.; prohibiting settlement agreements from denying parties thereto the right to discuss with or report to the Division of Medical Quality Assurance the events giving rise to the claim; providing effective dates.

House Amendment 1 to Senate Amendment 1—On page 94, line 11, after "is" and on page 102, line 24, after "is" and on page 103, line 8, after "is" insert: reenacted and

House Amendment 2 to Senate Amendment 1—On page 103, line 18, strike *"arbitraion"* and insert: *arbitration*

House Amendment 1 to Senate Amendment 2—On page 1, line 12, through page 10, line 12, strike all of said lines and insert: A bill to be entitled An act relating to medical incidents; amending s. 20.30, F.S.; providing for a director of the Division of Medical Quality Assurance of the Department of Professional Regulation; amending s. 395.0115, F.S.; providing for disciplinary proceedings against hospitals; amending s. 395.041, F.S.; providing for quarterly medical incident reports by licensed health care facilities under the internal risk management program; providing for confidentiality thereof; providing that the report to the Legislature by the Department of Professional Regulation on classifications of adverse incidents include incidents in health maintenance organizations; amending s. 395.509, F.S., relating to review of hospital budgets, to provide for approval of assessments to fund the Florida Birth-Related Neurological Injury Compensation Plan; reenacting and amending s. 455.225, F.S., relating to professional disciplinary proceedings; providing for proceedings for the summary suspension or the restriction of a license of a health care practitioner; providing civil immunity and prohibition from discharge to persons reporting with respect to incompetence, impairment, or unprofessional conduct of specified health care providers; providing penalties; reenacting and amending s. 455.241, F.S.; providing for reports in lieu of certain psychiatric patient records; providing for transfer of records; providing for assertion of psychiatrist-patient privilege; authorizing the Department of Professional Regulation to obtain certain patient records pursuant to subpoena under certain circumstances; limiting public access to records; providing maximum copying charges; reenacting s. 458.313, F.S.; providing for an investigative process for licensure by endorsement under the medical practice act; requiring certain active practice for such licensure; providing for supervised practice as a condition of licensure under the medical practice act; providing for restricted licenses under the medical practice act; amending s. 458.315, F.S.; prohibiting issuance of temporary certificates for the practice of medicine in areas of critical need to certain persons; amending ss. 458.3295, 459.0145, F.S.; as created by ch. 88-1, Laws of Florida; prohibiting a concerted effort by physicians or osteopathic physicians to refuse emergency room treatment to patients; authorizing injunctions against such conduct; providing penalties; amending s. 458.3315, F.S.; providing for disciplinary proceedings against persons licensed under the medical practice act; amending s. 459.0085, F.S.; specifying additional entities that the department must notify when an osteopathic physician's license has been suspended for failure to comply with certain financial responsibility requirements; amending s. 459.015, F.S.; providing for review of closed claim reports submitted by health care practitioners to the Department of Professional Regulation; reenacting s. 459.0155, F.S.; providing that an osteopathic physician who is believed to be impaired must execute a release of his medical records to a consultant retained by the Department of Professional Regulation and limiting the use which the consultant may make of such records; reenacting s. 458.347, F.S.; allowing extended temporary certification of physician assistants; amending s. 459.022, F.S.; correcting a reference to the name of a commission; reenacting and amending ss. 460.413, 461.013, 464.018, 465.016, and 466.028, F.S.; specifying grounds for disciplinary action against chiropractic physicians, podiatrists, nurses, pharmacists, and dentists; providing for certain department review and investigation with respect to such practitioners; amending s. 627.912, F.S.; requiring certain insurers to report closed claims to the Department of Insurance and the Department of Professional Regulation; providing for confidentiality of such reports; providing authority for the Department of Insurance to provide information relating to specified health care providers to the Department of Professional Regulation; amending s. 641.55, F.S.; revising requirements pertaining to internal risk management programs maintained by health maintenance organizations; revising prescribed contents of annual reports by such organizations respecting medical incidents; providing for quarterly incident reports to the Department of Professional Regulation; providing for confidentiality of certain reports under internal risk management programs required of health maintenance organizations; authorizing the Department of Insurance to impose administrative fines for violation of certain reporting requirements; authorizing the Department of Insurance and the Department of Professional Regulation to have certain access to health maintenance organization records and deleting such authority with respect to the Department of Health and Rehabilitative Services; providing for confidentiality of records so obtained; providing exceptions; requiring the Department of Insurance to review the risk management program of each health maintenance organization at least annually and to make certain determinations with respect thereto; providing for immunity from liability of risk managers of health maintenance organizations with respect to certain matters; requiring the Department of Insurance to report certain conduct by a provider, staff member, or employee of a health maintenance organization to the appropriate regulatory board for disciplinary action; transferring certain other duties under the program from the Department of Health and Rehabilitative Services to the Department of Insurance; reenacting s. 45 of ch. 88-1, Laws of Florida; providing legislative findings and intent as to emergency medical care; amending s. 768.78, F.S.; prescribing the methods by which payments for future economic losses arising out of medical malpractice must be made; amending s. 50 of ch. 88-1, Laws of Florida; providing for mailing of notice of intent to initiate litigation rather than filing; amending s. 51 of ch. 88-1, Laws of Florida; requiring availability of medical records for presuit investigation of claims and defenses and providing penalties; amending s. 52 of ch. 88-1, Laws of Florida; providing for mailing of notice of intent to initiate litigation rather than filing; providing immunity with respect to presuit investigation; amending s. 53 of ch. 88-1, Laws of Florida; providing for mailing of notice of intent to initiate litigation and response thereto rather than filing; reenacting and amending s. 54 of ch. 88-1, Laws of Florida; providing for voluntary binding arbitration of claims for medical negligence; providing for selection of arbitration panels; providing arbitration procedures; providing procedures for hearings; deleting provisions relating to using procedures prescribed in s. 44.304, F.S., and to certain authority of the chief arbitrator; reenacting and amending s. 55 of ch. 88-1, Laws of Florida; providing for binding arbitration to allocate responsibility among multiple defendants to medical negligence claims; deleting provision granting certain authority to the chief arbitrator; providing for joint and several liability of all defendants in an arbitration proceeding; reenacting and amending s. 56 of ch. 88-1, Laws of Florida; providing disincentives to a party failing to offer or accept voluntary binding arbitration, including prejudgment interest, payment of attorney's fees, and limitations on noneconomic damages; reenacting and amending s. 57 of ch. 88-1, Laws of Florida; providing procedures when agreement cannot be reached by arbitrators; revising provision relating to nomination and appointment of new arbitrators; reenacting and amending s. 58 of ch. 88-1, Laws of Florida; prescribing time when arbitration awards accrue interest; reenacting and amending s. 59 of ch. 88-1, Laws of Florida; providing for appeal of arbitration awards and allocations of financial responsibility; providing for enforceability of court orders by contempt and for issuance of execution on court judgments; amending s. 61 of ch. 88-1, Laws of Florida; revising and providing definitions with respect to the Florida Birth-Related Neurological Injury Compensation Plan; amending s. 62 of ch. 88-1, Laws of Florida; correcting a title; amending s. 72 of ch. 88-1, Laws of Florida; specifying the time within which claims for birth-related neurological injuries must be filed; amending s. 73 of ch. 88-1, Laws of Florida; providing for administration of the Florida Birth-Related Neurological Injury Compensation Plan by the Florida Birth-Related Neurological Injury Compensation Association pursuant to a plan of operation approved by the Department of Insurance; providing for assessments for participation in the plan; providing an appropriation; providing for actuarial valuation of the plan by the department; amending s. 74 of ch. 88-1, Laws of Florida; providing that the association is not a state agency; providing powers and duties of the

board of directors for the association; providing for inspection of books, records, and audits of the plan; providing for fidelity bonds of certain employees of the plan; requiring the association to file certain annual reports; providing for investment of plan funds; amending s. 76 of ch. 88-1, Laws of Florida; providing for appropriations from the Insurance Commissioner's Regulatory Trust Fund to the Florida Birth-Related Neurological Injury Compensation Association; amending s. 768.13, F.S.; redefining the term "reckless disregard" for purposes of the Good Samaritan Act, which provides immunity from civil liability to certain health care providers rendering emergency medical services; requiring acceptance of emergency and transfer emergency patients in order to obtain such immunity; providing for disciplinary action against an emergency care facility that does not accept and treat all emergency care patients within the operational capacity of the facility without regard to their ability to pay; amending s. 768.81, F.S.; providing for damages attributed to a medical teaching hospital in a medical malpractice case; amending s. 80 of ch. 88-1, Laws of Florida; providing for damages attributed to the Board of Regents in a medical malpractice case; reenacting s. 83 of ch. 88-1, Laws of Florida; requesting the Supreme Court to adopt a standard jury instruction for use in certain medical negligence cases; repealing s. 768.66, F.S., which requires a medical malpractice study; amending s. 768.40, F.S.; providing for review of complaints against physicians and osteopathic physicians by professional society medical or peer review committees; providing for advisory reports to the department; providing confidentiality; providing for review and repeal of exemption under the Open Government Sunset Review Act; providing for per diem and travel expenses; providing specified immunity; prohibiting causes of actions against health care providers for furnishing certain information; amending s. 768.57, F.S.; requiring notice to the Department of Professional Regulation prior to filing certain malpractice claims; specifying contents of notice; protecting claimants' legal rights; providing for department review and investigation; providing for informal discovery; creating s. 768.67, F.S.; prohibiting settlement agreements from denying parties thereto the right to discuss with or report to the Division of Medical Quality Assurance the events giving rise to the claim; providing that payments made under certain vocational rehabilitation programs are not collateral source payments under the meaning of ch. 88-1, Laws of Florida; providing inapplicability of act to existing causes of action; providing an effective date.

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

CS for CS for HB 819 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford, Stuart

RECESS

On motion by Senator Barron, the Senate recessed at 12:04 p.m. to reconvene at 1:30 p.m. or upon call of the President.

AFTERNOON SESSION

The Senate was called to order by Senator Hair at 1:40 p.m. A quorum present—37:

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Langley, by two-thirds vote SJR 1060 was withdrawn from the Committee on Rules and Calendar.

Motions

On motion by Senator Jennings, the rules were waived and by two-thirds vote CS for SB 1326 was placed first on the special order calendar.

On motion by Senator Johnson, the rules were waived and by two-thirds vote CS for CS for SB 307 was placed next on the special order calendar.

SPECIAL ORDER

Consideration of **CS for SB 1326** was deferred.

CS for CS for SB 307—A bill to be entitled An act relating to sentencing; amending s. 921.0015, F.S.; 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.; authorizing the commission to develop revised statewide guidelines; authorizing community control or incarceration for certain felony offenders; providing legislative findings and intent as to career criminals; providing for enhanced prosecution of and penalties for career criminals; providing criteria and standards; providing for investigative cooperation among criminal justice agencies; providing for the establishment of career criminal prosecution units in state attorneys' offices; providing guidelines for prosecution; providing for career criminal apprehension programs to be implemented by law enforcement agencies; amending s. 775.084, F.S.; deleting provisions relating to habitual misdemeanants and providing for the sentencing of habitual violent felony offenders; providing a limitation on gain-time for habitual felons; providing for extended terms of imprisonment; providing definitions, procedures, and standards; amending s. 775.021, F.S.; providing legislative intent as to the rules of construction for determining criminal penalties; providing for severability; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 6, line 6, after "guidelines" insert: *and provide them to the President of the Senate and the Speaker of the House of Representatives*

On motion by Senator Johnson, by two-thirds vote CS for CS for SB 307 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

Vote after roll call:

Yea—Crawford

Motion

On motion by Senator Johnson, the rules were waived and by two-thirds vote HB 1653 was placed next on the special order calendar.

HB 1653—A bill to be entitled An act relating to crime prevention; creating Part I of the act, relating to Standards for Sentencing Criminals; amending s. 960.001, F.S.; requiring the institution of confinement to

notify the sheriff of the county where the crime occurred of an offender's escape; requiring the sheriff to notify certain persons of the escape; amending s. 893.13, F.S.; authorizing courts to impose assessments, in addition to fines and other penalties authorized by law, against offenders who violate the criminal provisions of chapter 893, F.S., and providing standards therefor; creating s. 893.16, F.S.; providing that such additional assessments shall be remitted by the clerks of court for use in specified drug abuse programs; creating s. 893.165, F.S.; authorizing the establishment of county drug abuse trust funds to provide assistance grants to designated drug abuse treatment or education programs; providing for administration of such funds by the boards of county commissioners; providing for the remittance and disbursement of additional assessments for drug abuse program purposes; amending s. 921.187, F.S.; authorizing the imposition of such assessments in the disposition of such criminal cases; amending ss. 142.01 and 142.03, F.S.; providing an exception for such assessments from county fine and forfeiture funds; amending s. 921.0015, F.S.; 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.; removing the Supreme Court from the guidelines modification process; changing the reporting date; authorizing the Legislature to revise the guidelines; defining when a departure sentence is justified; amending s. 775.021, F.S.; providing legislative intent as to rules of construction for determining criminal penalties; amending s. 903.133, F.S.; adding violations of s. 794.011(2) and (3), F.S., relating to sexual battery of minors, to the list of offenses for which bail on appeal is prohibited; amending s. 941.10, F.S.; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; providing legislative findings and intent as to career criminals; providing for enhanced prosecution of and penalties for career criminals; providing criteria and standards; providing for investigative cooperation among criminal justice agencies; providing for establishment of career criminal prosecution units in state attorneys' offices; providing guidelines for prosecution; providing for career criminal apprehension programs to be implemented by law enforcement agencies; amending s. 775.084, F.S.; deleting provisions relating to habitual misdemeanants and providing for the sentencing of habitual violent felony offenders; providing for extended terms of imprisonment; providing definitions, procedures, and standards; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; creating Part II of the act, relating to Delinquency Prevention; creating s. 959.31, F.S., the Delinquency Prevention Act of 1988, to authorize delinquency prevention plans and programs thereunder; providing intent and definitions; requiring the establishment of delinquency prevention councils and providing duties thereof; authorizing the Department of Health and Rehabilitative Services to award delinquency prevention program grants and providing application procedures therefor and conditions with respect thereto; amending s. 39.032, F.S.; changing detention procedures to authorize nonsecure detention in certain situations; changing the provisions for detention at a detention hearing; providing arraignment requirements; creating s. 39.0321, F.S.; providing for the prohibited use of detention; creating Part III of the act, relating to Drug Abuse Prevention; amending s. 893.13, F.S.; providing for mandatory sentences with respect to certain drug-related prohibited acts; amending s. 893.135, F.S.; decreasing the amount of cocaine required for the offense of trafficking; creating s. 893.137, F.S.; providing a minimum mandatory sentence for a second or subsequent drug-related felony offense; amending s. 212.0505, F.S.; increasing the tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; providing a surcharge; revising conditions under which the settlement of tax, penalty, or interest is authorized; providing for the waiver of bond requirements and enforcement and recording costs; creating trust funds for deposit of revenues from said tax; amending chapter 87-243, Laws of Florida; adding nonalcohol substance abuse to the subjects to be studied by the Crime Prevention and Law Enforcement Study Commission; amending s. 893.03, F.S.; adding two substances to a list of Schedule I controlled substances of a hallucinogenic nature; creating Part IV of the act, relating to Organized Crime Prevention; amending s. 934.02, F.S.; providing definitions relating to interception of wire, oral, and electronic communications; designating ss. 934.03-934.10, F.S., as part I of chapter 934, F.S.; amending s. 934.03, F.S.; providing when interception and disclosure of such communications is allowed or prohibited and providing civil remedies and criminal penalties; amending s. 934.04, F.S.; providing when manufacture, distribution, or possession of such communications is allowed or prohibited and providing criminal penalties; amending s. 934.05, F.S.; providing for seizure and forfeiture of intercepting devices; amending s. 934.07, F.S.; providing for authorization of interception of communications; amending s. 934.08, F.S.; providing for authorization for disclosure and use of intercepted communications; amending s. 934.09, F.S.; providing procedure for interception of communications; amending s. 934.10, F.S.; providing civil remedies; creating part II of chapter 934, F.S.; creating s. 934.21, F.S.; providing when access to stored communications is allowed or prohibited and providing criminal penalties; creating s. 934.22, F.S.; providing when disclosure of contents of communications is allowed or prohibited; creating s. 934.23, F.S.; providing requirements for governmental access to communications; creating s. 934.24, F.S.; providing for backup preservation of communications and for customer notification and customer challenges, including procedure therefor; providing definitions; providing immunity under certain circumstances; amending s. 934.25, F.S.; authorizing delayed notification in specified instances and providing criteria; providing definitions; creating s. 934.26, F.S.; providing for reimbursement of costs of interception; creating s. 934.27, F.S.; providing for civil actions and remedies; providing a defense to civil or criminal action; creating s. 934.28, F.S.; providing for exclusivity of remedies and sanctions; creating part III of chapter 934, F.S.; creating s. 934.31, F.S.; providing a general prohibition on pen register and trap and trace device use and providing an exception thereto; providing penalties; creating s. 934.32, F.S.; providing for application for an order for such device; creating s. 934.33, F.S.; providing for issuance of such an order; creating s. 934.34, F.S.; requiring assistance in installation and use of such device and providing for compensation; providing immunity from civil or criminal liability; providing a defense; creating s. 92.60, F.S.; providing for admission into evidence of foreign records of regularly conducted business activity, or a copy thereof, and for foreign certification, as an exception to the hearsay rule in criminal proceedings; providing definitions; providing procedure; amending s. 896.102, F.S., relating to currency transaction reports; providing that information received by the Department of Revenue shall be subject to disclosure pursuant to subpoena; amending s. 213.053, F.S., to conform; amending s. 895.06, F.S., relating to the Florida Racketeer Influenced and Corrupt Organization Act; providing applicability of the privilege against self-incrimination in a criminal prosecution to a person who complies with a court order directing that he comply with a subpoena; amending s. 895.09, F.S.; providing that certain funds obtained under RICO forfeiture proceedings shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services to fund specified drug abuse treatment services; prohibiting the use of a telephone to transmit certain obscene communications intrastate; prohibiting a person to allow the use of a telephone or a telephone facility under his control for such purpose and specifying criminal penalties for violations; limiting the provisions to intrastate telephone communications; creating Part V of the act, relating to Property Crime Prevention; amending s. 163.503, F.S.; increasing the percentage of land area used for residential and commercial purposes in a safe neighborhood improvement district; excluding land used for public facilities from land use calculations; adding a definition of "Enterprise Zone"; amending s. 163.504, F.S.; allowing participation in safe neighborhoods programs without planning funds; amending s. 163.506, F.S.; clarifying use of taxes and special assessments; providing an alternative to designating the local governing body as the board of directors; amending s. 163.508, F.S.; providing eligibility for existing property owners' associations; allowing assessment against all properties; amending s. 163.511, F.S.; clarifying use of taxes and special assessments; amending s. 163.514, F.S.; including power to make and collect general assessments; amending s. 163.5151, F.S.; providing for collection of assessments; amending s. 163.521, F.S.; adding clarifying language; creating s. 163.523, F.S.; providing for involvement of community organizations; amending ss. 810.08 and 810.09, F.S., relating to trespass in a structure or conveyance and trespass on property other than a structure or conveyance, respectively, to provide that any such trespasser may be taken into custody and detained; providing immunity from liability; amending s. 810.011, F.S., relating to burglary and trespass; modifying the definition of the term "posted land"; amending s. 810.115, F.S.; expanding provisions relating to willfully and maliciously breaking or injuring fences for which a penalty is provided; providing for compensation to the owner; creating s. 877.19, F.S.; prohibiting certain defacement of property by aerosol spray paint cans and broad-tipped markers; providing penalties; amending s. 806.13, F.S., relating to criminal mischief; providing that perpetrators shall, in addition to any criminal penalty, pay the damage caused thereby; providing penalties; amending s. 715.041, F.S.; providing for information required to be kept by pawnbrokers to be on a form approved by the Department of Law Enforcement; amending s. 715.042, F.S.; providing for a fine; amending s. 538.011, F.S.; providing for information required to be kept by precious metals dealers to be on a form approved by the Department

of Law Enforcement; amending s. 538.018, F.S; providing for a fine; amending s. 68.065, F.S.; removing the maximum limit for triple damages with respect to certain actions to collect worthless checks, drafts, or orders of payment; amending s. 832.05, F.S.; providing, with respect to worthless checks, drafts or debit card orders, that a payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to the payee; amending s. 790.001, F.S.; modifying the definition of "destructive device"; amending s. 790.161, F.S., relating to felony offenses involving destructive devices, to add projecting such a device as a felony, to add activities constituting the attempted offense, providing exceptions for lawful uses; amending s. 790.162, F.S., relating to threatening to use a destructive device, to add threatening to project such a device as an offense; amending s. 806.111, F.S.; modifying the defintion of "fire bomb"; providing penalties; creating Part VI of the act, relating to Prevention of Crimes against Law Enforcement Officers; creating s. 925.055, F.S.; requiring state and local law enforcement agencies which receive certain funds to adopt accountability policies; providing required criteria; amending ss. 843.01, 843.02, and 784.07, F.S.; providing a uniform definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; amending s. 776.05, F.S., relating to justifiable use of force; providing when deadly force may be used; amending s. 784.07, F.S.; providing enhanced penalties for aggravated assault or battery against certain officers and providing a life felony penalty for attempted murder of a law enforcement officer under certain circumstances; creating s. 775.0825, F.S.; providing mandatory minimum imprisonment for attempted murder of a law enforcement officer; amending s. 784.07, F.S., relating to assault and battery; providing for reclassification of penalties if the victim of the assault or battery is a parking enforcement specialist performing his duties as such; amending s. 843.08, F.S.; increasing the penalty for falsely personating a law enforcement officer and enhancing such penalty if false personation as a police officer occurs during the commission of a felony; amending s. 790.001, F.S.; providing a definition; amending s. 790.052, F.S.; providing for the carrying of concealed firearms by off-duty law enforcement officers and correctional officers; amending s. 790.06, F.S.; excepting machine guns from provisions authorizing licenses to carry concealed weapons or concealed firearms and providing an additional condition to such licensure; providing for suspension of license or of application therefor under certain circumstances; providing an exemption from licensing requirements for certain officers; providing for a fingerprint check; prohibiting the carrying of a concealed weapon or firearm into specified parts of an airport and providing an exemption from such prohibition; providing a penalty; amending s. 790.33, F.S.; authorizing adoption of county cooling-off-period ordinances of up to 3 days by majority vote of the county commission; creating Part VII of the act, relating to Protection of Victims of Crime; creating the "Victims' Rights Act of 1988"; amending s. 775.089, F.S.; revising the standards under which a court may limit restitution to a victim of a crime; requiring a court to order certain types of restitution when a victim has suffered bodily injury; requiring a court to consider additional factors in determining the amount of restitution; providing for the issuance of an income deduction order with an order for restitution; providing for enforcement; amending s. 914.21, F.S.; providing a definition; amending s. 914.22, F.S.; prohibiting tampering with a witness, victim, or informant in an official investigation; providing penalties; amending s. 921.001, F.S.; requiring the Sentencing Commission to consider additional factors in developing statewide sentencing guidelines; specifying facts which a court may consider in imposing a sentence that is outside such guidelines; amending s. 921.187, F.S.; providing conforming language; creating s. 943.172, F.S.; requiring the Criminal Justice Standards and Training Commission of the Department of Law Enforcement to establish standards and require a specified amount of instruction for law enforcement officers in victims assistance and rights; amending s. 944.512, F.S.; revising the specified distribution of the proceeds of the sale by a convicted felon of an account of his crime; providing for attachment of a lien on such proceeds; extending the lien to accounts of crimes by persons; amending s. 944.605, F.S.; revising notification requirements of an inmate's anticipated release from incarceration or a person's anticipated release from parole; amending s. 947.06, F.S.; authorizing victims of crime to make certain statements before the Parole and Probation Commission; requiring the commission to adopt rules governing such statements; amending s. 948.03, F.S.; providing conforming language; amending s. 945.091, F.S.; providing that the Department of Corrections may require restitution be made from an inmate's employment proceeds; amending s. 960.001, F.S.; providing implementing language conforming to the provisions of a proposed constitutional amendment; deleting provisions requiring that certain notification be given to a witness of a crime; requiring that notification of certain judicial proceedings be given to a victim and a relative of certain victims; authorizing the state attorney to consult a victim or a victim's guardian or family regarding the sentencing of a person accused of the crime; providing that a victim be notified of certain additional rights; providing for a victim's rights information card or brochure; requiring the Governor to advise state agencies of certain statutory changes; deleting provisions requiring that an explanation be provided to the Governor if certain objectives are not achieved by an agency; requiring the Executive Office of the Governor to review guidelines for the fair treatment of victims adopted by specified agencies; providing for injunctive relief; providing that victims and witnesses are not required to attend certain discovery depositions; creating s. 960.002, F.S.; authorizing the creation of a direct-support organization, with the approval of the Governor, to provide assistance to victims of crime; providing requirements for the operation, financial records, and accounts of such organization; providing for the appointment of a guardian ad litem or other advocate to represent a minor who is involved in criminal proceedings as either a victim or a witness; prescribing powers and duties of the guardian ad litem or other advocate; providing such person immunity from certain liability; providing for issuance of a search warrant upon probable cause that a child is being abused or neglected; authorizing the officer executing such warrant to take the child into protective custody under certain circumstances; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence and providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; providing penalties; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; 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 penalties; providing unlawful acts with respect to such devices; providing an exemption; providing for certification of such devices by the Department of Health and Rehabilitative Services; providing rulemaking authority; amending s. 322.271, F.S., to authorize the Department of Highway Safety and Motor Vehicles to order ignition interlock devices as a condition of reinstatement of driving privilege for certain individuals; amending s. 847.011, F.S.; prohibiting persons who own or operate a motor vehicle from affixing to such vehicle any sticker, decal, emblem or other device containing certain obscene descriptions, photographs or depictions; providing a penalty; providing effective dates and contingent effective dates.

—was read the second time by title.

The Committee on Corrections, Probation and Parole recommended the following amendment which was moved by Senator Johnson:

Amendment 1—Strike everything after the enacting clause and insert:

PART I
STANDARDS FOR SENTENCING CRIMINALS

Section 1. Paragraph (k) is added to subsection (1) of section 960.001, Florida Statutes, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice system.—

(1) No later than January 1, 1985, the Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and are designed to achieve, as much as possible and within the limits of resources available, the following objectives:

(k) Information concerning escape from a state correctional institution, county jail, juvenile detention facility or involuntary commitment facility.—In any case where an offender escapes from a state correctional institution, county jail, juvenile detention facility, or involuntary commitment facility, immediate notification shall be made by the insti-

tution of confinement to the state attorney of the jurisdiction where the criminal charge arose. The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness or immediate relatives of a homicide victim of the escapee. The state attorney shall also notify the sheriff of the county where the criminal charge arose. The sheriff shall offer assistance, upon request.

Section 2. Subsection (4) of section 893.13, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to said section to read:

893.13 Prohibited acts; penalties.—

(4) Notwithstanding any provision to the contrary of the laws of this state, the court may assess any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of this chapter punishable as a criminal offense, in addition to any fine and other penalty provided by law, an amount up to the amount of the fine authorized for the violation. Such additional assessment shall be used for drug abuse programs as provided in s. 893.165. The court is authorized to order a defendant to pay such assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

Section 3. Section 893.16, Florida Statutes, is created to read:

893.16 Assessment for drug abuse programs.—

(1) In addition to any fine imposed by law for any criminal offense under chapter 893, the court shall be authorized, pursuant to the requirements of s. 893.13(4), to impose an additional assessment in an amount up to the amount of the fine authorized for the offense. Such additional assessments shall be deposited for the purpose of providing assistance grants to drug abuse treatment or education programs as provided in s. 893.165.

(2) All assessments authorized by this section shall be collected by the clerk of court and remitted to the jurisdictional county as described in s. 893.165(2) for deposit into the County Drug Abuse Trust Fund or to the Department of Health and Rehabilitative Services for deposit into the department's Community Drug Abuse Services Grants and Donations Trust Fund pursuant to guidelines and priorities developed by the department. If a County Drug Abuse Trust Fund has not been established for any jurisdictional county, assessments collected by the clerk of court shall be remitted to the Department of Health and Rehabilitative Services for deposit into the department's Community Drug Abuse Services Grants and Donations Trust Fund.

Section 4. Section 893.165, Florida Statutes, is created to read:

893.165 County drug abuse treatment or education trust funds.—

(1) Counties in which there is established or in existence a comprehensive drug abuse treatment or education program which meets the standards for qualification of such programs by the Department of Health and Rehabilitative Services are authorized to establish a County Drug Abuse Trust Fund for the purpose of receiving the assessments collected pursuant to s. 893.16 and disbursing assistance grants on an annual basis to such drug abuse treatment or education program.

(2) Assessments collected by the clerks of court pursuant to s. 893.16 shall be remitted to the board of county commissioners of the county in which the indictment was found or the prosecution commenced for payment into the County Drug Abuse Trust Fund. The county commissioners shall require a full report from all clerks of county courts and clerks of circuit courts once each month of the amount of assessments imposed by their courts.

(3)(a) No county shall receive assessments collected pursuant to s. 893.16 in an amount exceeding that county's jurisdictional share as described in subsection (2).

(b) Assessments collected by clerks of circuit courts having more than one county in the circuit, for any county in the circuit which does not have a County Drug Abuse Trust Fund, shall be remitted to the Department of Health and Rehabilitative Services, in accordance with administrative rules adopted by the department, for deposit into the department's Community Drug Abuse Services Grants and Donations Trust Fund for distribution pursuant to the guidelines and priorities developed by the department.

(4) No assessments shall be remitted to a county until the board of county commissioners has submitted documentation to the court substantiating the establishment of its County Drug Abuse Trust Fund.

(5) If the board of county commissioners chooses to establish a County Drug Abuse Trust Fund, the board shall be responsible for the establishment of such fund and its implementation, administration, supervision, and evaluation.

(6) In order to receive assistance grants from the County Drug Abuse Trust Fund, county drug abuse treatment or education programs shall be designated by the board of county commissioners as the chosen program recipients. Designations shall be made annually, based on success of the programs.

(7) A drug abuse treatment or education program recipient shall, in seeking assistance grants from the County Drug Abuse Trust Fund, provide the board of county commissioners with detailed financial information and requests for expenditures.

Section 5. Paragraphs (k) and (l) of subsection (1) of section 921.187, Florida Statutes, are redesignated as paragraphs (l) and (m), respectively, and a new paragraph (k) is added to said subsection to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The following alternatives for the disposition of criminal cases shall be used in a manner which will best serve the needs of society, which will punish criminal offenders, and which will provide the opportunity for rehabilitation. A court may:

(k) Require an offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 893.13(4) and 893.16.

Section 6. Section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund contents.—There shall be in every county of this state a separate fund to be known as the fine and forfeiture fund. Said fund shall consist of all fines and forfeitures collected in the county under the penal laws of the state, except those fines imposed under s. 775.0835(1) *and assessments imposed under ss. 893.13(4) and 893.16*; all costs refunded to the county; all funds arising from the hire or other disposition of convicts; and the proceeds of any special tax that may be levied by the county commissioners for expenses of criminal prosecutions. Said funds shall be paid out only for criminal expenses, fees, and costs, where the crime was committed in the county and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. Any surplus funds remaining in the fine and forfeiture fund at the end of a fiscal year may be transferred to the county general fund.

Section 7. Section 142.03, Florida Statutes, is amended to read:

142.03 Disposition of fines, forfeitures, and civil penalties; reports.—Except as to fines, forfeitures, and civil penalties collected in cases involving violations of municipal ordinances, violations of chapter 316 committed within a municipality, or infractions under the provisions of chapter 318 committed within a municipality, in which cases such fines, forfeitures, and civil penalties shall be fully paid monthly to the appropriate municipality as provided in ss. 34.191, 316.660, and 318.21, and except as to fines imposed under s. 775.0835(1), *and assessments imposed under ss. 893.13(4) and 893.16*, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use of the particular county. The county commissioners of each county shall require a full report from all clerks of county courts and clerks of circuit courts once in each month, within 30 days after the expiration of said month, of the amount of fines imposed by their courts and of bonds forfeited and judgments rendered on said forfeited bonds, and into whose hands they had been paid or placed for collection, the date of conviction in each case, the term of imprisonment, and the name of the officer to whom commitment was delivered. If any clerk of court shall fail to make such report for any month, the board of county commissioners shall immediately report to the Governor any such failure or refusal, and the Governor may, in his discretion, suspend such officer or officers from office. The county commissioners may withhold any fees or costs of any officer until said officer collects and pays over to the depository legally entitled to receive the same all such fines and forfeitures or furnishes a satisfactory excuse for not doing so.

Section 8. Section 903.133, Florida Statutes, is amended to read:

903.133 Bail on appeal; prohibited for certain ~~first-degree~~ felony convictions.—Notwithstanding the provisions of s. 903.132, no person adjudged guilty of a felony of the first degree for a violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s. 806.01, s. 893.13, or s. 893.135, *or adjudged guilty of a violation of s. 794.011(2) or (3)*, shall be admitted to bail pending review either by posttrial motion or appeal.

Section 9. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) of section 941.10, Florida Statutes, is amended to read:

941.10 Rights of accused person; application for writ of habeas corpus.—

(2) *A warrant issued under s. 941.07 shall be presumed to be valid, and unless a court finds that the person in custody is not the same person named in the warrant, or that the person is not a fugitive from justice, or otherwise subject to extradition under s. 941.06, or that there is no criminal charge or criminal proceeding pending against the person in the demanding state, or that the documents are not on their face in order, the person named in the warrant shall be held in custody at all times, and shall not be eligible for release on bail.* ~~Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge of a court of record in this state before whom the prisoner has been taken, or any other judicial officer having power of commitment in this state, including the judge before whom an application may be filed for a writ of habeas corpus, may, in his discretion, admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him or before the judge to whom a writ of habeas corpus may be returnable, to abide the outcome of habeas corpus proceedings and any consequent appeal therefrom.~~

Section 10. Paragraph (k) is added to subsection (5) of section 921.141, Florida Statutes, to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

PART II
DELINQUENCY PREVENTION

Section 11. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 959.31, Florida Statutes, is created to read:

959.31 Delinquency prevention.—

(1) SHORT TITLE.—This section may be cited as the "Delinquency Prevention Act of 1988."

(2) INTENT.—The Legislature recognizes that, despite the large investment of resources committed to address the needs of the criminal justice system of this state, the crime rate continues to increase, overcrowding the state's juvenile detention centers, jails, and prisons and placing the state in jeopardy of being unable to effectively manage these facilities. The economic cost of crime to the state continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support. Therefore, it is the belief of the Legislature that the best investment of the scarce resources available to combat crime is in the prevention of delinquency. Consequently, it is the intent of the Legislature to authorize each of the twenty judicial circuits throughout the state to establish a comprehensive delinquency prevention plan. It is further the intent of the Legislature that cooperative agreements be developed among counties within those circuits and public and private agencies to implement such plans through effective local programs aimed at reducing juvenile crime and increasing the number of juveniles engaged in positive alternatives to crime.

(3) DEFINITIONS.—As used in this section:

(a) "Delinquency prevention programs" means programs designed for the purpose of reducing delinquent acts and juvenile arrest. The term excludes diversionary or mediation programs and community service work or other treatment available subsequent to the commitment of a delinquent act.

(b) "Department" means the Department of Health and Rehabilitative Services.

(c) "Circuit" means any of the twenty judicial circuits as set forth in s. 26.021.

(4) DELINQUENCY PREVENTION COUNCILS.—

(a) Each circuit shall establish a delinquency prevention council composed of at least 12 members to include representatives from law enforcement, the Department of Health and Rehabilitative Services, school districts, state attorney and public defender offices, and the circuit court, and child advocates from the community, business leaders, parents, and a child attending high school. However, those circuits which already have in operation a council of similar composition may designate the existing body as the delinquency prevention council for the purpose of this section. Each such council shall establish bylaws providing for the length of term of its members. The chairman of the council shall be a circuit court judge appointed by the chief judge of the circuit court, and the chairman shall appoint the other members of the council.

(b) The purposes of each delinquency prevention council are to select a delinquency prevention plan which meets the needs of each of the local communities in the circuit, to approve delinquency prevention program grant applications, and to act in an advisory capacity to each of the delinquency prevention programs under such plan.

(5) DELINQUENCY PREVENTION PLAN; PROGRAMS; GRANTS.—

(a) A delinquency prevention plan is authorized in each circuit for the purpose of reducing delinquent acts and juvenile arrests. Delinquency prevention programs under such plan shall be administered by the Department of Health and Rehabilitative Services in cooperation with other appropriate governmental organizations and public and private agencies. A delinquency prevention program under this section may be planned, implemented, and conducted in any circuit pursuant to a proposal developed and approved as specified in subsection (6).

(b) Beginning with the 1988-1989 fiscal year, from funds specifically appropriated by the Legislature for this purpose, the Department of Health and Rehabilitative Services is authorized and directed to award grants on a competitive basis to local public or private entities interested in implementing delinquency prevention programs. Such grants shall be awarded pursuant to subsection (6).

(6) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual delinquency prevention program grant, which may be renewed for up to 2 additional years, shall submit a grant proposal for funding or continued funding to the Department of Health and Rehabilitative Services by December 1, 1988, and by May 1 every year thereafter. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chairman of the delinquency prevention council of the circuit confirming that the grant application has been reviewed and approved and that it conforms to the circuit's delinquency prevention plan.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts such as drug and alcohol abuse prevention, dropout prevention, and child abuse prevention, including hot lines and volunteers that serve the target neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 381.0615.

7. A program budget, including the amount of local resources committed to the budget.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

1. The number of juvenile arrests within the geographical area to be served by the program. Those geographical areas with the highest number of juvenile arrests shall have priority for selection.

2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.

3. The validity and cost-effectiveness of the program.

4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

5. The extent to which the program complements any project approved for funding under the Safe Neighborhoods Act pursuant to chapter 87-243, Laws of Florida.

(c) The department shall make available to anyone wishing to apply for such a grant information on all of the criteria to be used by the department in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval by January 2, 1989, for the 1988-1989 fiscal year and by July 1 of every fiscal year thereafter.

(e) Each entity which is awarded a grant as provided for in this section shall submit an annual evaluation report to the department and the chairman of the delinquency prevention council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 381.0615.

(f) The department is authorized to establish rules and policy provisions necessary to implement the provisions of this section.

(7) RESTRICTIONS.—Nothing in this section shall be construed to prevent a program initiated under a delinquency prevention plan established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, nothing in this section shall be construed to restrict the number of programs an entity may apply for or operate.

Section 12. *Legislative intent.—*

(1) The Legislature recognizes the need for a secure placement for certain youth alleged to have committed a delinquent act. The Legislature also recognizes that in order for detention to fulfill its intended role in the juvenile justice system, under the provisions of part I of chapter 39, Florida Statutes, it must operate at the highest standards of effectiveness and efficiency. These facts underscore the need to reduce the overcrowding in detention, the need to reduce inappropriate placements in detention, the need for appropriate preadjudication services, the need for qualified, well trained staff and a commitment to meet nationally recognized standards and practices. In achieving these goals it is the intent of the Legislature that detention under the provisions of part I of chapter 39, Florida Statutes, be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate. It is further the intent of the Legislature that decisions to detain be based in part on a prudent assessment of risk, and that decisions to detain be limited to situations where there is clear and compelling evidence that a child presents a danger to himself or the community or presents a risk of failing to appear, or is likely to commit a subsequent law violation prior to adjudication and disposition.

Section 13. Section 39.032, Florida Statutes, is amended to read:

39.032 Detention.—

(1) The intake officer shall receive custody of the child from the law enforcement agency and shall review the facts in the law enforcement report or complaint and make such further inquiry as may be necessary to determine whether detention care is required. During the period of time from the taking of the child into custody by the department to the date of the detention hearing, the initial decision as to the child's *placement in secure* detention *or nonsecure detention* or release from custody shall be made jointly by the intake officer and the law enforcement agency that took custody of the child. *The intake officers shall base their decision to detain on an assessment of risk in accordance with procedures developed by the department and the criteria in subsection (2).* If the intake officer and the law enforcement agency disagree as to whether the criteria for detention are met or as to whether secure detention *or nonsecure detention* should be required, the department shall contact the state attorney, who shall decide, on a case by case basis, whether the child shall be detained and whether the child shall be placed in secure *detention* or *on* nonsecure detention. If the intake officer or the law enforcement agency, or both, determine that a child who meets the criteria in subsection (2) should be released, the intake officer shall contact the state attorney, who may authorize release. If detention care is not authorized, the child may be released by the intake officer in accordance with s. 39.03(2). Under no circumstances shall the intake officer or the state attorney authorize the detention of any child in a jail or other facility intended or used for the detention of adults.

(2) Subject to the provisions of subsection (1), a child taken into custody *may* ~~shall~~ be placed *on nonsecure detention* or detained in *secure* detention care prior to *a detention hearing* ~~disposition~~ by the court if:

(a) The child is taken into custody for the alleged commission of an act which, if committed by an adult, would be a felony;

(b) The child is alleged to be an escapee or absconder from detention care, probation, parole, furlough, a community control program, a delinquency commitment program, or the custody of a law enforcement agency in this or any other state;

(c) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony or misdemeanor in such jurisdiction;

(d) The child is taken into custody for the alleged commission of an act which, if committed by an adult, would be a violation of law and requests protection in circumstances that appear to present an immediate threat to his personal safety and there are no crisis or shelter homes available in which to place the child. Such a child shall be released upon the child's request;

(e) The child is alleged to have committed an offense which, if committed by an adult, would be a crime of violence; or

(f) The child is taken into custody for the alleged commission of an act which, if committed by an adult, would be a violation of law, and any of the following applies:

1. The child is already detained or has been released and is awaiting a hearing on another case;

2. There are reasonable grounds to believe that the child will fail to appear at any hearing;

3. The child has previously been found to have committed a delinquent act involving a crime of violence;

4. The child has previously been found to have committed a delinquent act which is defined by state law as a felony;

5. The child has previously been found to have committed a delinquent act involving property;

6. The child is presently in a community control program or committed to the department; or

7. There are reasonable grounds to believe that the child may physically harm or has threatened to physically harm witnesses, victims, other persons, or property.

A child who is detained under this subsection ~~or subsection (3)~~ shall be given a detention hearing within 24 hours of his being taken into custody to determine the existence of probable cause to believe that the child has committed such delinquent act or violation of law and the need for continued detention. *The court shall consider the results of the intake officer's assessment of risk and the criteria in subsection (3) in determining the need for continued detention.* The circuit court, or the county court if previously designated by order of the chief judge of the circuit court, shall hold the detention hearing.

(3) ~~Notwithstanding the criteria in subsection (2),~~ A child ~~may be~~ placed *on nonsecure detention* or detained in ~~a~~ secure ~~or nonsecure~~ detention *subject to the provisions of subsection (2) may continue to be detained by the court if:* ~~facility if the child is alleged or found to be in contempt of court.~~

(a) The child is an escapee from a commitment program or an absconder from a community control program or furlough/aftercare supervision, or the child is wanted by another jurisdiction for an offense which, if committed by an adult, would be a violation of law;

(b) The child requests protection, through appointed counsel, in circumstances that appear to present an immediate threat to his personal safety;

(c) The child is charged with a capital felony, life felony or felony of the first degree; or a crime of violence, e.g., murder in the third degree, manslaughter, sexual battery, robbery, aggravated battery, or aggravated assault; or the child is charged with two or more serious property crimes arising out of separate transactions;

(d) The child is charged with a serious property crime as defined in s. 810.02(2) and (3); or with the possession, sale, or manufacture of or trafficking in a controlled substance, which if committed by an adult would be a felony, and:

1. He is already detained or has been released and is awaiting final disposition of his case;

2. He has a record of failure to appear at court hearings;

3. He has a record of law violations prior to court hearings;

4. He has a record of violent conduct resulting in physical injury to others; or

5. He has a record of adjudications for serious property offenses; or

(e) The court considers the child a clear and present danger to himself or the community, in which case the court may detain the child through a written order. The written order shall specify the need for detention and the benefits derived by the child or the community by placement in detention. Such placement in secure detention shall not be contrary to s. 39.0321.

(4) Except in emergency situations, a child shall not be placed or transported in any police car or other similar vehicle which at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(5) The court may order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this chapter; or

(b) When a child taken into custody in this state is wanted by another jurisdiction as an adult; or

(c) When the court determines, upon *a motion by* ~~the recommendation of~~ the superintendent of the detention home, *and after affording the child a hearing within 24 hours of the superintendent's motion* that the child is beyond the control of the detention home staff. *For juveniles transferred to county detention facilities pursuant to this subsection, the department shall reimburse the county detention facility the average cost per day for housing a person as established by the Department of Corrections. The county detention facility may treat such reimbursement as a current refund for operational costs if expended within the same fiscal year.*

If the child is being held in detention by order of the court solely for an allegation of, or a finding of, contempt of court for a violation of a dependency *or a child in need of services* court order, the child shall not be delivered to a jail or other facility intended for the detention of adults. The receiving facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Nothing in this paragraph shall prohibit the placing of two or more children in the same cell. Under no circumstances shall a child be placed in the same cell as an adult.

(6)(a) No child shall be *placed on nonsecure detention or* held in *secure* detention care or shelter care longer than 24 hours unless the court orders *nonsecure or secure* detention care or shelter care in accordance with the provisions of ~~subsection (2) or~~ subsection (3). The decision as to the release of the child from *nonsecure or secure* detention care or from shelter care shall be made by the court. The order shall be a final order and shall be reviewable by appeal pursuant to s. 39.14 and the Florida Appellate Rules.

(b) No child shall be held in *nonsecure or secure* detention care or a crisis home under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) No child shall be held in *nonsecure or secure* detention care or a crisis home for more than 15 days following the entry of an order of adjudication unless an order of disposition pursuant to s. 39.11 has been entered by the court or unless a continuance, which shall not exceed 15 days, has been granted for good cause. The detention home superintendent shall request that the court order the release of any child held beyond 15 days without a grant of continuance.

(d) The time limits in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for good cause shown on motion of the child or his counsel or of the state, or upon motion of the court.

(7) When any child is placed in *nonsecure* detention *or in secure detention* or shelter care or a crisis home pursuant to a court order following a detention hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay to the department or institution having custody of the child fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(8) If a child is detained and a petition for delinquency is filed, the child shall be arraigned in accordance with Florida Rules of Juvenile Procedure within 48 hours of the filing of the petition for delinquency.

Section 14. Section 39.0321, Florida Statutes, is created to read:

39.0321 Prohibited use of secure detention.—A child alleged to have committed a delinquent act shall not be placed in secure detention for the following reasons:

(1) To punish, treat, or rehabilitate the child.

(2) To allow a parent to avoid his or her legal responsibility.

(3) To permit more convenient administrative access to the juvenile.

(4) To facilitate further interrogation or investigation.

(5) Due to a lack of more appropriate facilities.

PART III
DRUG ABUSE PREVENTION

Section 15. Section 212.0505, Florida Statutes, is amended to read:

212.0505 Taxation of unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances.—

(1)*(a)* Every person is exercising a taxable privilege who engages in this state in the unlawful sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage of any medicinal drug, as defined in chapter 465, cannabis, as defined in s. 893.02, or controlled substance enumerated in s. 893.03. For the exercise of such privilege, a tax is levied on each taxable transaction or incident, including each occasional or isolated unlawful sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage, at the rate of *50* ~~20~~ percent of the estimated retail price of the medicinal drug, cannabis, or controlled substance involved in the transaction or incident.

(b) In addition to any other tax there shall also be a 25 percent surcharge on the estimated price of the transaction or incident taxable under paragraph (a).

(2) The sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage of any medicinal drug, as defined in chapter 465, cannabis, as defined in s. 893.02, or controlled substance enumerated in s. 893.03 by a federal, state, or local government officer or employee, or his agent, acting in his official capacity is exempt from the tax imposed by this section.

(3) The taxes imposed under this section are subject to the same interest and penalties and the same procedures for collection and enforcement as other taxes imposed under this part, except that a dealer's credit under s. 212.12(1) is not allowed. The department may adopt rules for administering the taxes imposed by this section.

(4) Neither this section nor the assessment or collection of taxes under this section shall be construed as making lawful the transaction or incident which is the subject of the tax.

(5) Any assessment made pursuant to this section shall be deemed prima facie correct in any judicial or administrative proceeding in this state. The suppression of evidence on any ground by a court in a criminal case involving a transaction or incident taxable under this section or the dismissal of criminal charges in such a case shall not affect any assessment made under this section.

(6) The department shall notify the state attorney of the appropriate circuit of an assessment made under this section. The department or executive director may settle or compromise any tax, penalty, or interest imposed under this section only when requested by the state attorney, *the statewide prosecutor, or the Attorney General,* in writing, to do so and only when the department or executive director finds that it is in the best interest of the state to do so. A request by the state attorney, *statewide prosecutor, or Attorney General* under this subsection shall specify the reasons for the request. The request and all information and documents furnished by the state attorney, *statewide prosecutor, or Attorney General* in support of such request are confidential and exempt from the provisions of chapter 119 and are subject to the provisions of s. 213.053.

(7) The department shall not be required to furnish any bond or to make a deposit or to pay any costs or fees of any court or officer thereof in any legal proceedings or in connection with the recordation in any county of any notice or other document filed by the department pursuant to the provisions of this section.

(8) Two trust funds are created, known as the "Drug Abuse Education Trust Fund" and the "Drug Enforcement Trust Fund." Any amounts collected by the Department of Revenue as taxation on unlawful sales, use, and other transactions involving drugs, cannabis, or controlled substances under this section shall be transferred into the trust funds as follows: 50 percent of the funds shall be transferred into the Drug Enforcement Trust Fund, which shall be administered by the Department of Revenue, and 50 percent shall be transferred into the Drug Abuse Education Trust Fund, which shall be administered at the discretion of the Legislature.

Section 16. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (4) and (5) of section 54 of chapter 87-243, Laws of Florida, are amended to read:

Section 54. Crime Prevention and Law Enforcement Study Commission; membership; duties.—

(4) The commission shall study the current sentencing practices, available penalties, methods of funding the criminal justice and corrections systems, *the social, demographic, economic, and other causes, effects and costs of nonalcohol substance abuse, methods of preventing substance abuse, methods of minimizing the social and economic costs of substance abuse, the appropriateness of employee drug testing,* and alternative sentencing and funding methods. No later than January 1, *1990* ~~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. *By January 1, 1989, the commission shall provide a preliminary report of 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.

(e) Appropriate sentencing, penalties and treatment methods for habitual substance abusers.

(f) Obstacles to the restoration of controlled substance abusers to a productive role in society.

(5) The Governor shall consider *the preliminary recommendations of the commission in the development of his recommended budget to the Legislature for the 1989-1990 fiscal year, and shall consider* and include appropriate *final* recommendations of the commission in his recommended budget to the Legislature for the *1990-1991* ~~1989-1990~~ fiscal year.

PART IV
ORGANIZED CRIME PREVENTION

Section 17. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 92.60, Florida Statutes, is created to read:

92.60 Foreign records of regularly conducted business activity.—

(1) For the purposes of this section:

(a) "Foreign record of regularly conducted business activity" means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country.

(b) "Foreign certification" means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted business activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country.

(c) "Business" means any business, institution, association, profession, occupation, or calling of any kind, whether or not conducted for profit.

(2) In a criminal proceeding in a court of the State of Florida, a foreign record of regularly conducted business activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that:

(a) Such record was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(b) Such record was kept in the course of a regularly conducted business activity;

(c) The business activity made such a record as a regular practice; and

(d) If such record is not the original, it is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

(3) A foreign certification under this section shall authenticate such record or duplicate.

(4) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted business activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

Section 18. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) of section 896.102, Florida Statutes, is amended to read:

896.102 Currency more than $10,000 received in trade or business; report required; noncompliance penalties.—

(2) The Department of Revenue shall have the duty to enforce compliance with the provisions of subsection (1) and shall be the custodian of all information and documents filed pursuant to subsection (1). Such information *and documents* shall be confidential; however, the *information shall be subject to disclosure pursuant to subpoena as provided in s. 213.053(8)* ~~provisions of s. 213.053 do not apply to information submitted pursuant to this subsection, and any law enforcement agency as defined in s. 934.02, 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.

Section 19. Effective July 1, 1988, or upon becoming a law, whichever occurs later, paragraph (c) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(8) The Department of Revenue shall provide returns, reports, accounts, or declarations received by the department, including investigative reports and information, or information contained in such documents, pursuant to an order of a judge of a court of competent jurisdiction or pursuant to a subpoena duces tecum only when the subpoena is:

(c) Issued by a state attorney, the Department of Legal Affairs, a United States attorney, or a court in the course of a civil investigation or a civil judicial proceeding under the state or federal racketeer influenced and corrupt organization act *or under chapter 896.*

Section 20. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (5) of section 895.06, Florida Statutes, is amended to read:

895.06 Civil investigative subpoenas.—

(5) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena *issued under this section or a subpoena issued in the course of a civil proceeding instituted pursuant to s. 895.05*, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court *in which such civil proceeding is pending or, if no civil proceeding is pending, to the circuit court* for the judicial circuit in which such person or enterprise resides, is found, or transacts business for an order compelling compliance. *Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or material after asserting a privilege against self-incrimination to which he is entitled by law shall not have the testimony or material so provided, or evidence derived therefrom, received against him in any criminal investigation or proceeding.*

Section 21. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (2) and (5) of section 895.09, Florida Statutes, are amended to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(2)(a) Following satisfaction of all valid claims under subsection (1), *25* ~~50~~ percent of the remainder of the funds obtained in the forfeiture proceedings pursuant to s. 895.05(2) shall be deposited in the Forfeited Property Trust Fund of the Department of Natural Resources, *and 25 percent shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services, established under s. 397.19.* The other 50 percent of the remainder shall be deposited in the general fund of the county or municipality ~~responsible for the forfeiture~~ *whose law enforcement agency contributed significantly to the forfeiture of the property.* If law enforcement personnel of several counties or municipalities contributed significantly to the forfeiture of the property, the court which entered the judgment of forfeiture shall make a pro rata apportionment among such counties and municipalities. If a state law enforcement agency is responsible for the forfeiture, 50 percent of the funds shall be deposited into the general fund of the county in which the court entering the judgment of forfeiture is located.

(b) The Department of Health and Rehabilitative Services shall, in accordance with chapter 397, distribute funds obtained by it pursuant to paragraph (a) or paragraph (c) to public and private nonprofit organizations licensed by the department to provide drug abuse treatment and rehabilitation centers or drug prevention and youth orientation programs, in the service district in which the final order of forfeiture is entered by the court.

(c)~~(b)~~ On a quarterly basis, any excess funds, including interest, over $1,000,000 deposited in the Forfeited Property Trust Fund in accordance with this subsection shall be deposited in the *Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services* ~~General Revenue Fund of the state~~.

(5) The "actual expenses" for which a state attorney's office or a law enforcement agency may be reimbursed pursuant to paragraph (1)(e) include all taxable costs; costs of protecting, maintaining, and forfeiting the property; *compensation for overtime* and such other costs as are determined by the court to be directly attributable to the action. However such reimbursement shall not include employees' *base* salaries.

Section 22. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 895.055, Florida Statutes, is hereby repealed.

Section 23. *Prohibition of certain obscene telephone communications; penalty.—*

(1) For purposes of this section, the term:

(a) "Obscene" means that status of a communication which:

1. The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interests;

2. Describes, in a patently offensive way, deviate sexual intercourse, sadomasochistic abuse, sexual battery, bestiality, sexual conduct, or sexual excitement; and

3. Taken as a whole, lacks serious literary, artistic, political, or scientific value.

(b) "Deviate sexual intercourse" means sexual conduct between persons consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(c) "Sadomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(d) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.

(e) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(f) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; or any act or conduct which constitutes sexual battery.

(g) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(2)(a) A subscriber of a telephone service who makes any obscene or indecent communication by means of a telephone, in person or through an electronic recording device, in exchange for remuneration is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes, regardless of whether he placed, initiated, or received the telephone call.

(b) A subscriber of telephone service who knowingly permits the use of a telephone or a telephone facility under his control to make any obscene or indecent communication prohibited under paragraph (a) is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes, if the telephone or telephone facility is connected to a local exchange telephone.

(c) For purposes of this subsection, each day of a violation constitutes a separate offense.

(d) Any telephone company which transmits any public announcement service over the telephone network, and bills for such service on its regular telephone bills to its subscribers shall have the right (but not the obligation) to approve any and all advertising, by whatever means, of such public announcement service. Failure of any public announcement service provider to obtain the approval of the telephone company for its advertising of any public announcement service transmitted over the telephone network shall be full and sufficient grounds for immediate disconnection by the telephone company of the public announcement service provider's telephone service. No telephone company shall be liable for any damages, penalty, or forfeiture, whether civil or criminal, for disconnecting such public announcement service subscriber who violates this subsection.

(3) This section does not apply to a telephone communication that crosses state lines.

PART V
PROPERTY CRIME PREVENTION

Section 24. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (1) of section 163.503, Florida Statutes, is amended, and a new subsection (8) is added to said section, to read:

163.503 Safe neighborhoods; definitions.—

(1) "Safe neighborhood improvement district," *"district," or "neighborhood improvement district"* means a district located in an area in which more than 75 ~~50~~ percent of the land is used for residential purposes, or in an area in which more than 75 ~~50~~ percent of the land is used for commercial, office, business, or industrial purposes, *excluding the land area used for public facilities,* and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques. *Nothing in this section shall preclude the inclusion of public land in a neighborhood improvement district although the amount of land used for public facilities is excluded from the land use acreage calculations.*

(8) "Enterprise zone" means an area approved pursuant to s. 290.0065.

Section 25. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (3) is added to section 163.504, Florida Statutes, to read:

163.504 Safe neighborhood improvement districts; planning funds.—

(3) Municipalities and counties may implement the provisions of this section without planning funds from the Department of Community Affairs. However, nothing in this section shall be construed to exempt any district from the requirements of providing a safe neighborhood improvement plan pursuant to s. 163.516.

Section 26. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 163.506, Florida Statutes, is amended to read:

163.506 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) *Authorizes the local government neighborhood improvement district to levy an ad valorem tax on real and personal property of up to 2 mills annually.* ~~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) Authorizes the use of special assessments pursuant to chapter 170 to support planning and implementation of district improvements. For the purposes of making such assessments, the terms "municipality" and "governing board of the municipality" used in said chapter shall mean the district and board, respectively.

(e)~~(d)~~ Designates the local governing body as the board of directors of the district.

(f)~~(e)~~ Establishes an advisory council to the board of directors comprised of property owners or residents of the district.

(g)~~(f)~~ May prohibit the use of any district power authorized by s. 163.514.

(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) As an alternative to designating the local governing body as the board of directors, a majority of the local governing body of a city or county may appoint a board of three to seven directors for the district who shall be residents of the proposed area and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners in a commercial neighborhood improvement district. The directors shall be appointed for staggered terms of 3 years. The initial appointments shall be as follows: one director for a 1-year term; one director for a 2-year term; and one director for a 3-year term. If more than three directors are to be appointed, the additional members shall initially be appointed for 3-year terms. Vacancies shall be filled for the unexpired portion of a term in the same manner as the initial appointments were made. Each director shall hold office until his successor is appointed and qualified unless the director ceases to be qualified or is removed from office. Upon appointment and qualification and in January of each year, the directors shall organize by electing from their number a chairman and a secretary.

(4)~~(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 27. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) and paragraph (c) of subsection (3) of section 163.508, Florida Statutes, are amended to read:

163.508 Property owners' association neighborhood improvement districts; creation; powers and duties; duration.—

(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, *or use an existing property owners' 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 ss. 163.501-163.522 shall have the power:

(c) To make and collect assessments *against all property within the boundaries of the district* and to lease, maintain, repair, and reconstruct any privatized street, land, or common area within the district upon dedication thereof to the association.

Section 28. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (1), (2), (3), (4), and (5) of section 163.511, Florida Statutes, are amended to read:

163.511 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 *neighborhood* 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) *Authorizes the special neighborhood improvement district to levy an ad valorem tax on real and personal property of* ~~Limits the taxing power of a special neighborhood improvement district to~~ up to 2 mills annually.

(c) Authorizes *the use of* special assessments *pursuant to chapter 170* to support planning and implementation of district improvements. *For the purpose of making such assessments, the terms "municipality" and "governing board of the municipality" shall mean the district and board, respectively.*

(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 chapters 73 and 74. 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 s. 163.514.

(2) A referendum to implement a special ~~neighborhood~~ residential or business *neighborhood* 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 *neighborhood* 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 *neighborhood* improvement district area or 20 percent of the property owners of a proposed special ~~neighborhood~~ business *neighborhood* 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 *neighborhood* improvement district should be created in such proposed area.

(3)(a) The referendum to implement a special ~~neighborhood~~ residential *neighborhood* 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 *neighborhood* 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 *neighborhood* improvement districts; and

b. Immediately following said information, the following:

"Do you favor the creation of the . . . . . Special ~~Neighborhood~~ Residential *Neighborhood* 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 *Neighborhood* Improvement District.

. . . . No, against the Special ~~Neighborhood~~ Residential *Neighborhood* 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 *neighborhood 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 freeholders in the proposed special ~~neighborhood~~ business *neighborhood 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 *neighborhood* 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 *neighborhood* 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 *Neighborhood* 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 *Neighborhood* Improvement District.

. . . . No, against the Special ~~Neighborhood~~ Business *Neighborhood* 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 *neighborhood* 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) *Neighborhood* 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)

. . . (Signature of Official) . . .

. . . (Address) . . . . . (City/State) . . .

Or

2. Two Witnesses 18 Years of Age or Older as provided in Item 6.a. of the Instruction Sheet.

. . . (First Witness) . . .

. . . (Address) . . . . . (City/State) . . .

. . . (Second Witness) . . .

. . . (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.

Section 29. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (18) of section 163.514, Florida Statutes, is renumbered as subsection (19), and a new subsection (18) is added to said section, to read:

163.514 Powers of neighborhood improvement districts.—Unless prohibited by ordinance, the board of any district shall be empowered to:

(18) Make and collect general assessments to finance any of the improvements to the district authorized in this section.

Section 30. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (4) is added to section 163.5151, Florida Statutes, to read:

163.5151 Fiscal management; budget preparation.—

(4) At the option of the county property appraiser for the county within which the neighborhood improvement district is located, the assessments levied by the district shall be collected in the same manner as all ad valorem taxes if so requested by the local governing body pursuant to s. 197.363.

Section 31. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 163.521, Florida Statutes, is amended to read:

163.521 Neighborhood improvement district inside enterprise zone; funding.—The local governing body of any municipality or county *in* which ~~creates a neighborhood improvement district inside~~ the boundaries of an enterprise zone *include a neighborhood improvement district* 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 32. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 163.523, Florida Statutes, is created to read:

163.523 Safe neighborhood districts; cooperation and involvement of community organizations.—To the extent possible, local governments may cooperate and seek the involvement of community organizations such as churches, chambers of commerce, community development corporations, civic associations, neighborhood housing services, urban leagues, and other not-for-profit organizations in the creation of safe neighborhood improvement districts under this part. Any neighborhood improvement district may enter into agreements with any of such community organizations to undertake any of the activities authorized under this part, except the preparation of safe neighborhood improvement plans. To this end, the district may compensate any such organization for the value of its service. However, such compensation shall not exceed 1 percent of the total annual budget of the district. The community organization may also contract with the district to provide maintenance services for projects implemented in the district. The fee for such services shall not exceed two percent of the total budget for the district's project for which services are to be rendered. All service agreements made with community organizations shall have a renewable term of no longer than 3 years. A district may receive funds from such organizations in connection with the performance of any of the functions authorized in this part.

Section 33. Effective July 1, 1988 or upon becoming a law, whichever occurs later, paragraph (c) of subsection (2) of section 810.08, Florida Statutes, is amended to read:

810.08 Trespass in structure or conveyance.—

(2)

(c) If the offender is armed with a firearm or other dangerous weapon, or arms himself with such while in the structure or conveyance, the trespass in a structure or conveyance is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he reasonably believes that a violation of this paragraph has been or is being committed, and he reasonably believes that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable*

after the person has been taken into custody. The taking into custody and detention by such person, if done in compliance with the requirements of this paragraph, shall not render such person criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

Section 34. Paragraph (c) of subsection (2) of section 810.09, Florida Statutes, is amended to read:

810.09 Trespass on property other than structure or conveyance.—

(2)

(c) If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance, he is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he reasonably believes that a violation of this paragraph has been or is being committed, and he reasonably believes that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention by such person, if done in compliance with the requirements of this paragraph, shall not render such person criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.*

Section 35. Section 810.115, Florida Statutes, is amended to read:

810.115 Breaking or injuring fences.—Whoever willfully and maliciously breaks down, mars, injures, *defaces,* ~~or~~ cuts, *or otherwise creates or causes to be created an opening, gap, interruption, or break in* any fence, or any part thereof, belonging to or enclosing land not his own, or whoever causes to be broken down, marred, injured, *defaced,* or cut any fence belonging to or enclosing land not his own, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, *and the court may require full compensation to the owner of such fence for any and all damages or losses resulting directly or indirectly from such act or commission pursuant to s. 775.089.*

Section 36. Section 877.19, Florida Statutes, is created to read:

877.19 Defacement of property; possession of aerosol paint cans and broad-tipped markers; penalties.—

(1) No person shall write, paint, or draw any inscription, figure, or mark of any type on any public or private building or other structure, or any other real or personal property owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof or by any person, firm, or corporation, unless the express permission of the owner or operator of the property has been obtained.

(2) No person shall carry an aerosol spray paint can or broad-tipped indelible marker into any public building or other public facility with the intent to violate the provisions of subsection (1).

(3) For the purpose of this section, the term "broad-tipped indelible marker" means any felt-tip marker, or similar implement, which contains a fluid that is not water soluble and which has a flat or angled writing surface one-half inch or greater.

(4) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 37. Section 806.13, Florida Statutes, is amended to read:

806.13 Criminal mischief.—

(1)(a) A person commits the offense of criminal mischief if he willfully and maliciously injures or damages by any means any real or personal property belonging to another, *including but not limited to the placement of graffiti thereon or other acts of vandalism thereto.*

(b)1. If the damage to such property is $200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the damage to such property is greater than $200 but less than $1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. If the damage is $1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs $1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully and maliciously defaces, injures, or damages by any means any church, synagogue, mosque, or other place of worship, or any religious article contained therein, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to the property is greater than $200.

(3) Whoever, without the consent of the owner thereof, willfully destroys or substantially damages any public telephone, or telephone cables, wires, fixtures, antennas, amplifiers, or any other apparatus, equipment, or appliances, which destruction or damage renders a public telephone inoperative or which opens the body of a public telephone, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; provided, however, that a conspicuous notice of the provisions of this subsection and the penalties provided shall have been posted on or near the destroyed or damaged instrument and visible to the public at the time of the commission of the offense.

(4) Any person who violates a provision of this section may, in addition to any other criminal penalty, be required to pay for the damage caused by such offense.

Section 38. Section 741.24, Florida Statutes, is amended to read:

741.24 Civil action against parents; willful destruction or theft of property by minor.—

(1) Any municipal corporation, county, school district, or department of Florida; any person, partnership, corporation, or association; or any religious organization, whether incorporated or unincorporated, shall be entitled to recover damages in an appropriate action at law ~~in an amount not to exceed $2,500~~, in a court of competent jurisdiction, from the parents of any minor under the age of 18 years, living with the parents, who ~~shall~~ maliciously or willfully *destroys* ~~destroy~~ or *steals* ~~steal~~ property, real, personal, or mixed, belonging to such municipal corporation, county, school district, department of the state, person, partnership, corporation, association, or religious organization.

(2) The recovery shall be limited to the actual damages ~~in an amount not to exceed $2,500~~, in addition to taxable court costs.

Section 39. Subsection (1) of 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. Such record shall be on a form *approved by the Department of Law Enforcement, and the pawnbroker shall include all of the relevant information required on the form* ~~8.5 inches wide by 7 inches long~~. This record shall be made available to the local sheriff or chief of police or their delegate or any law enforcement officer having statewide jurisdiction, acting in his official capacity, upon request.

Section 40. Section 715.042, Florida Statutes, is amended to read:

715.042 Penalty for violation of s. 715.04 or s. 715.041.—Any person who violates any of the provisions of s. 715.04 or s. 715.041 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 *and by a fine not to exceed $10,000.*

Section 41. Subsection (2) of section 538.011, Florida Statutes, is amended to read:

538.011 Precious metals dealers; records and reports of purchases.—

(2) A copy of the records of any purchase of precious metal *shall be entered on a form approved by the Department of Law Enforcement and* shall be submitted within 24 hours after the purchase to the sheriff of the county in which the business is operated and to the municipal police department of the municipality in which the business is operated.

Section 42. Section 538.018, Florida Statutes, is amended to read:

538.018 Penalties for violations by precious metals dealers.—Any person who violates s. 538.011(1), s. 538.012, or s. 538.014 or who refuses to allow a law enforcement officer to make an inspection required by s. 538.016 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 *and by a fine not to exceed $10,000.*

Section 43. Subsection (3) of section 68.065, Florida Statutes, is amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.—

(3) Before recovery under subsection (1) or subsection (2) may be claimed, a written demand shall be delivered by certified or registered mail, evidenced by return receipt, to the maker or drawer of the check, draft, or order of payment. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered . . . . issued by you on . . . (date) . . ., drawn upon . . . (name of bank) . . ., and payable to . . . . , has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of $10 or 5 percent of the face amount of the check, whichever is greater, the total amount due being $. . . . and . . . . cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than $50 ~~or more than $2500~~, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

Section 44. Paragraph (a) of subsection (4) of section 832.05, Florida Statutes, is amended to read:

832.05 Knowingly drawing, making, uttering, issuing, delivering, or using worthless checks, drafts, and debit card orders; obtaining property in return for worthless instruments; penalty; duty of drawee; evidence.—

(4) OBTAINING PROPERTY OR SERVICES IN RETURN FOR WORTHLESS CHECKS, DRAFTS, OR DEBIT CARD ORDERS; PENALTY.—

(a) It is unlawful for any person, firm, or corporation to obtain any services, goods, wares, or other things of value by means of a check, draft, or other written order upon any bank, person, firm, or corporation, knowing at the time of the making, drawing, uttering, issuing, or delivering of such check or draft that the maker thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation. However, no crime may be charged in respect to the giving of any such check or draft or other written order when the payee knows, has been expressly notified, or has reason to believe that the drawer did not have on deposit or to his credit with the drawee sufficient funds to ensure payment thereof. *A payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to him.*

Section 45. Subsection (4) of section 790.001, Florida Statutes, is amended to read:

790.001 Definitions.—The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this chapter, except where the context otherwise requires:

(4) "Destructive device" means any *bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an* explosive, incendiary, or poison gas bomb, *and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms* ~~grenade, mine, rocket, missile, or similar device and includes~~ any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and has a barrel with a bore of one-half inch or more in diameter and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" does not include:

(a) A device which is not designed, redesigned, used, or intended for use as a weapon;

(b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;

(c) Any shotgun other than a short-barreled shotgun; or

(d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

Section 46. Section 790.161, Florida Statutes, is amended to read:

790.161 Making, possessing, throwing, placing, *projecting,* or discharging any destructive device or attempt so to do, felony; penalties.—

(1) A person who makes, possesses, throws, places, *projects,* discharges, or attempts to *throw, place, project, or* discharge any destructive device, with intent to do bodily harm to any person or with intent *wrongfully* to do damage to property.

(a)~~(1)~~ Shall be guilty of a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084.

(b)~~(2)~~ If the act results in a disruption of governmental operations, commerce, or the private affairs of another person, shall be guilty of a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084, and the person shall be required to serve a term of imprisonment of not less than 5 calendar years before becoming eligible for parole.

(c)~~(3)~~ If the act results in bodily harm to another person or in property damage, shall be guilty of a felony of the first degree, punishable as provided in s. 775.082 or s. 775.084, and the person shall be required to serve a term of imprisonment of not less than 10 calendar years before becoming eligible for parole.

(d)~~(4)~~ If the act results in the death of another person, shall be guilty of a capital felony, punishable by death. In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment, and such person shall be required to serve a term of imprisonment of not less than 25 calendar years before becoming eligible for parole.

Section 47. Section 790.162, Florida Statutes, is amended to read:

790.162 Threat to throw, place, *project,* or discharge any destructive device, felony; penalty.—It is unlawful for any person to threaten to throw, place, *project,* or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person, and any person convicted thereof shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Paragraph (b) of subsection (2) of section 806.111, Florida Statutes, is amended to read:

806.111 Fire bombs.—

(1) Any person who possesses, manufactures, transports, or disposes of a fire bomb with intent that such fire bomb be willfully and unlawfully used to damage by fire or explosion any structure or property is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) For the purposes of this section:

(a) "Disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

(b) "Fire bomb" means a container containing flammable or combustible liquid, *or any incendiary chemical mixture or compound* ~~with a flash point of 200° Fahrenheit or less~~, having a wick or similar device capable of being ignited or other means capable of causing ignition; but no device commercially manufactured primarily for the purpose of illumination, heating, or cooking shall be deemed to be such a fire bomb.

Section 49. Section 768.075, Florida Statutes, is created to read:

768.075 Liability for injury to trespassers on real property.—No person or organization owning or controlling an interest in real property, nor an agent thereof, shall be liable for the death of, or injury or damage to any trespasser upon such property resulting from or arising by reason of the commission of the offense of trespass, as defined in s. 810.08 or s. 810.09, unless the gross negligence or willful and wanton misconduct of the person or organization owning or controlling the property is the primary and proximate cause of the death, injury, or damage to the trespasser.

Section 50. Section 772.11, Florida Statutes, is amended to read:

772.11 Civil remedy for theft.—Any person who proves by clear and convincing evidence that he has been injured in any fashion by reason of any violation of the provisions of ss. 812.012-812.037 or s. 812.081 has a cause of action for threefold the actual damages sustained and, in any such action, is entitled to ~~minimum damages in the amount of $200, and~~ reasonable attorney's fees and court costs in the trial and appellate courts. In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorney's fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support. In awarding attorney's fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorney's fees or costs provided under other provisions of law.

PART VI
PREVENTION OF CRIMES AGAINST
LAW ENFORCEMENT OFFICERS

Section 51. Section 925.055, Florida Statutes, is created to read:

925.055 Law enforcement investigative funds.—

(1) State and local law enforcement agencies which receive investigative and evidence funds from their budgetary authority or which receive special law enforcement trust funds for complex or protracted investigations shall adopt policies which provide for accountability of the expenditures of such funds.

(2) Effective October 1, 1989, the policies of local law enforcement agencies shall provide for an annual financial audit to be performed in conformity with generally accepted government accounting principles. Local and state law enforcement agencies shall not be required to reveal the names of confidential informants to the auditors and the audit report shall not include information exempted in s. 119.07.

Section 52. Section 843.01, Florida Statutes, is amended to read:

843.01 Resisting officer with violence to his person.—Whoever knowingly and willfully resists, obstructs, or opposes any *officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9),* ~~sheriff, deputy sheriff, officer of the Florida Highway Patrol, municipal police officer, county or municipal correctional officer, beverage enforcement agent, officer of the Game and Fresh Water Fish Commission, officer of the Department of Natural Resources, weight and safety officer of the Department of Transportation,~~ member of the Florida Parole and Probation Commission or any administrative aide or supervisor employed by *the* ~~said~~ commission, parole and probation supervisor, ~~or parole and probation officer employed by the Department of Corrections,~~ county probation officer, personnel or representative of the Department of Law Enforcement, or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized 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 53. Section 843.02, Florida Statutes, is amended to read:

843.02 Resisting officer without violence to his person.—Whoever shall *resist,* obstruct, or oppose any ~~such~~ officer *as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9),* ~~beverage enforcement agent, weight and safety officer of the Department of Transportation,~~ member of the Florida Parole and Probation Commission or any administrative aide or supervisor employed by *the* ~~said~~ commission, *county probation officer* parole and probation supervisor, ~~or parole and probation officer employed by the Department of Corrections,~~ personnel or representative of the Department of Law Enforcement, or *other person* legally authorized *to execute process* ~~person~~ in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, *or s. 775.084.*

Section 54. Section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(1)(a) As used in this section, the term "law enforcement officer" includes *a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any,* ~~but shall not be limited to, any sheriff; deputy sheriff; municipal police officer; highway patrol officer; beverage enforcement agent;~~ county probation officer; ~~state, county, or municipal correctional officer;~~ officer of the Parole and Probation Commission; ~~parole and probation officer;~~ and law enforcement personnel of the Game and Fresh Water Fish Commission and the Departments of Natural Resources and Law Enforcement.

(b) "Firefighter" as used in this section shall mean any person employed by any public employer of this state whose duty it is to extinguish fires, to protect life or property, or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer or firefighter, or an intake officer as defined in s. 39.01, while the officer, firefighter, or intake officer is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

Section 55. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 776.05, Florida Statutes, is amended to read:

776.05 Law enforcement officers; use of force in making an arrest.—A law enforcement officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force:

(1) Which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest;

(2) When necessarily committed in retaking felons who have escaped; or

(3) When necessarily committed in arresting felons fleeing from justice. *However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given,* and:

(a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

(b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

~~However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given.~~

No law enforcement agency, municipality, office, or political subdivision of this state shall adopt or promulgate any rule, regulation, or policy which prohibits a law enforcement officer from using that degree of force to apprehend a fleeing felon which is allowed by this section. However, this provision does not preclude any law enforcement agency, municipality, office, or political subdivision of this state from adopting policies which limit the circumstances in which deadly force may be used in order to protect third parties.

Section 56. Section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(1)(a) As used in this section, the term "law enforcement officer" includes, but shall not be limited to, any sheriff; deputy sheriff; municipal police officer; highway patrol officer; beverage enforcement agent; county probation officer; state, county, or municipal correctional officer; officer of the Parole and Probation Commission; parole and probation officer; and law enforcement personnel of the Game and Fresh Water Fish Commission and the Departments of Natural Resources and Law Enforcement.

(b) "Firefighter" as used in this section shall mean any person employed by any public employer of this state whose duty it is to extinguish fires, to protect life or property, or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer or firefighter, or an intake officer as defined in s. 39.01, while the officer, firefighter, or intake officer is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(3) Notwithstanding the provisions of any other section, any person who is convicted of attempted murder of a law enforcement officer engaged in the lawful performance of his duty or who is convicted of attempted murder of a law enforcement officer when the motivation for such attempt was related, all or in part, to the lawful duties of the officer, shall be guilty of a life felony, punishable as provided in s. 775.0825.

Section 57. Section 775.0825, Florida Statutes, is created to read:

775.0825 Attempted murder of law enforcement officer; penalty.—Any person convicted of attempted murder of a law enforcement officer as provided in s. 784.07(3) shall be required to serve no less than 25 years before becoming eligible for parole. Such sentence shall not be subject to the provisions of s. 921.001.

Section 58. Subsection (2) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, *a* ~~or~~ firefighter, ~~or~~ an intake officer as defined in s. 39.01, *or a parking enforcement specialist as defined in s. 316.640,* while the officer, firefighter, ~~or~~ intake officer, *or parking enforcement specialist* is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

Section 59. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—Whoever falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Game and Fresh Water Fish Commission, officer of the Department of Natural Resources, deputy sheriff, *state attorney investigator,* coroner, police officer, beverage enforcement agent, or watchman, or any member of the Florida Parole and Probation Commission and any administrative aide or supervisor employed by said commission, or any personnel or representative of the Department of Law Enforcement, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be deemed guilty of a *felony* ~~misdemeanor~~ of the *third* ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.083*; however, whoever commits a crime proscribed by this section whole in the commission of a separate crime is guilty of a felony of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

PART VII
PROTECTION OF VICTIMS OF CRIME

Section 60. *(1) A guardian ad litem or other advocate shall be appointed by the court to represent a minor in any criminal proceeding if the minor is a victim of or witness to child abuse or neglect or if the minor is a victim of a sexual offense or a witness to a sexual offense committed against another minor. The court may appoint a guardian ad litem or other advocate in any other criminal proceeding in which a minor is involved as either a victim or a witness. The guardian ad litem or other advocate shall have full access to all evidence and reports introduced during the proceedings, may interview witnesses, may make recommendations to the court, shall be noticed and have the right to appear on behalf of the minor at all proceedings, and may request additional examinations by medical doctors, psychiatrists, or psychologists. It is the duty of the guardian ad litem or other advocate to perform the following services:*

(a) To explain, in language understandable to the minor, all legal proceedings in which the minor shall be involved;

(b) To act, as a friend of the court, to advise the judge, whenever appropriate, of the minor's ability to understand and cooperate with any court proceeding; and

(c) To assist the minor and the minor's family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the minor is involved.

(2) Any person participating in a judicial proceeding as a guardian ad litem or other advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

Section 61. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;

(2) Stolen or embezzled property is contained therein;

(3) It is being used to carry on gambling;

(4) It is being used to perpetrate frauds and swindles;

(5) The law relating to narcotics or drug abuse is being violated therein;

(6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;

(7) One or more of the following misdemeanor child abuse offenses is being committed there:

(a) Interference with custody, in violation of s. 787.03.

(b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.

(c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8)~~(7)~~ It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boarding, or lodging house;

(9)~~(8)~~ It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or

(10)~~(9)~~ The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to s. 415.506. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodging house. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 62. Subsection (6) of section 316.193, Florida Statutes, as amended by chapter 88-5, Laws of Florida, is amended to read:

316.193 Driving under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction thereof, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. In lieu of such participation, the court may order that any defendant pay an additional fine of $10 for each hour of public service or community work otherwise required, if, after consideration of the residence or location of the defendant at the time such public service or community work is required, payment of the fine is in the best interests of the state. However, in no event may the total period of probation and incarceration exceed 1 year.

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

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

For the purposes of this section, a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028, or a previous conviction outside this state for any substantially similar alcohol-related or drug-related traffic offense, shall also be considered a previous conviction for violation of this section. Notwithstanding any other provision of this section, *$100* ~~$25~~ shall be added to any fine imposed pursuant to this section, *of* which *one-quarter* ~~$25~~ shall be deposited in the Emergency Medical Services Trust Fund created in s. 401.34(4), *one-half shall be deposited in the Administrative Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Crime Laboratories and Staff Services in conducting the statewide criminal analysis laboratory system established in s. 943.32, and one-quarter shall be deposited in the Impaired Drivers and Speeders Trust Fund created in s. 413.613.* However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court shall not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

Section 63. Section 943.361, Florida Statutes, is created to read:

943.361 Statewide criminal analysis laboratory system; funding through driving under influence fine surcharge.—

(1) Funds deposited pursuant to s. 316.193(6) for the statewide criminal analysis laboratory system shall be used for state reimbursements to local county-operated crime laboratories enumerated in s. 943.35(1), and for the equipment, health, safety, and training of member crime laboratories of the statewide criminal analysis laboratory system.

(2) Moneys deposited pursuant to s. 316.193(6) for the statewide criminal analysis laboratory system shall be appropriated by the Legislature in accordance with the provisions of chapter 216 and with the purposes stated in subsection (1).

Section 64. Section 413.613, Florida Statutes, is created to read:

413.613 Impaired Drivers and Speeders Trust Fund.—

(1) There is created in the State Treasury the Impaired Drivers and Speeders Trust Fund. Moneys in the fund shall be appropriated beginning in fiscal year 1989-1990 to the Division of Vocational Rehabilitation of the Department of Labor and Employment Security for the following purposes:

(a) Providing cost of care for spinal cord and head injury as a payer of last resort to residents of the State of Florida, for multilevel programs of care established pursuant to ss. 413.601-413.605 and ss. 413.611-413.612.

1. Authorization of expenditures for spinal cord injury care and head injury care shall be made only by the Division of Vocational Rehabilitation of the Department of Labor and Employment Security.

2. Authorized expenditures include acute care, rehabilitation, transitional living, and equipment necessary for activities of daily living.

(b) Public information, prevention, education and research.

(2) The Division of Vocational Rehabilitation shall issue a report to the President of the Senate and the Speaker of the House of Representatives by March 1 of each year, summarizing the activities supported by the trust fund.

Section 65. *Definitions.—As used in sections 65 through 68 of this act:*

(a) "Adult" means a person not legally prohibited by reason of age from possessing alcoholic beverages pursuant to chapter 562, Florida Statutes.

(2) "Alcoholic beverage" means distilled spirits and any beverage containing one-half of one percent or more alcohol by volume. The percentage of alcohol by volume shall be determined in accordance with the provisions of s. 561.01(4)(b), Florida Statutes.

(3) "Control" means the authority or ability to regulate, direct, or dominate.

(4) "Drug" means a controlled substance, as that term is defined in ss. 893.02(4) and 893.03, Florida Statutes.

(5) "Minor" means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to chapter 562, Florida Statutes.

(6) "Open house party" means a social gathering at a residence.

(7) "Residence" means a home, apartment, condominium, or other dwelling unit.

Section 66. *Responsibility of adults; open house parties.—No adult having control of any residence shall allow an open house party to take place at said residence if any alcoholic beverage or drug is possessed or consumed at said residence by any minor where the adult knew or reasonably should have known that an alcoholic beverage or drug was in the possession of or being consumed by a minor at said residence, and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug.*

Section 67. *Exception.—The provisions of sections 65 through 68 of this act shall not apply to the use of alcoholic beverages at legally protected religious observances or activities.*

Section 68. *Penalties.—Any person who violates any of the provisions of section 66 of this act is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.*

Section 69. 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 a finding of a separate subsequent 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 finding to the department. A person other than a probationer who violates subsection (6), in addition to any other penalty provided by law, is guilty of a noncriminal violation, punishable by a fine of not less than $250 or more than $500 per each such violation. If the person does not pay the fine, the fine shall become a lien against the motor vehicle used in violation of subsection (6) and payment shall be made pursuant to s. 316.3025(4).

(6) It is unlawful for any person to commit any of the following acts. In the case of a probationer, refraining from such acts 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 the accuracy and precision of the breath testing component of the ignition interlock devices as required by s. 316.1936, and shall publish a list of approved devices, together with rules governing the accuracy and precision of the breath testing component 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.

Section 70. Paragraph (d) is added to subsection (2) of section 322.271, Florida Statutes, to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(2)

(d) The department, based upon review of the licensee's application for reinstatement, may require use of an ignition interlock device pursuant to s. 316.1936.

Section 71. Subsection (2) of section 847.011, Florida Statutes, is amended to read:

847.011 Prohibition of certain acts in connection with obscene, lewd, etc., materials; penalty.—

(2) A person who knowingly has in his possession, custody, or control any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion-picture film, film, *any sticker, decal, emblem or other device attached to a motor vehicle containing obscene descriptions, photographs, or depictions, any* figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose, without intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise the same, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted of violating this subsection, thereafter violates any of its provisions is guilty of a misdemeanor of the first degree, punishable as

provided in s. 775.082, s. 775.083, or s. 775.084. In any prosecution for such possession, it shall not be necessary to allege or prove the absence of such intent.

Section 72. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 73. Except as otherwise expressly provided in this act, this act shall take effect October 1, 1988.

The Committee on Appropriations recommended the following substitute amendment which was moved by Senator Johnson:

Amendment 2—Strike everything after the enacting clause and insert:

PART I
STANDARDS FOR SENTENCING CRIMINALS

Section 1. Paragraph (k) is added to subsection (1) of section 960.001, Florida Statutes, to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice system.—

(1) No later than January 1, 1985, the Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole and Probation Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and are designed to achieve, as much as possible and within the limits of resources available, the following objectives:

(k) Information concerning escape from a state correctional institution, county jail, juvenile detention facility or involuntary commitment facility.—In any case where an offender escapes from a state correctional institution, county jail, juvenile detention facility, or involuntary commitment facility, immediate notification shall be made by the institution of confinement to the state attorney of the jurisdiction where the criminal charge arose. The state attorney shall thereupon make every effort to notify the victim, material witness, parents or legal guardian of a minor who is a victim or witness or immediate relatives of a homicide victim of the escapee. The state attorney shall also notify the sheriff of the county where the criminal charge arose. The sheriff shall offer assistance, upon request.

Section 2. Subsection (4) of section 893.13, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to said section to read:

893.13 Prohibited acts; penalties.—

(4) Notwithstanding any provision to the contrary of the laws of this state, the court may assess any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of this chapter punishable as a criminal offense, in addition to any fine and other penalty provided by law, an amount up to the amount of the fine authorized for the violation. Such additional assessment shall be used for drug abuse programs as provided in s. 893.165. The court is authorized to order a defendant to pay such assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

Section 3. Section 893.16, Florida Statutes, is created to read:

893.16 Assessment for drug abuse programs.—

(1) In addition to any fine imposed by law for any criminal offense under chapter 893, the court shall be authorized, pursuant to the requirements of s. 893.13(4), to impose an additional assessment in an amount up to the amount of the fine authorized for the offense. Such additional assessments shall be deposited for the purpose of providing assistance grants to drug abuse treatment or education programs as provided in s. 893.165.

(2) All assessments authorized by this section shall be collected by the clerk of court and remitted to the jurisdictional county as described in s. 893.165(2) for deposit into the County Drug Abuse Trust Fund or to the Department of Health and Rehabilitative Services for deposit into the department's Community Drug Abuse Services Grants and Donations Trust Fund pursuant to guidelines and priorities developed by the department. If a County Drug Abuse Trust Fund has not been established for any jurisdictional county, assessments collected by the clerk of court shall be remitted to the Department of Health and Rehabilitative Services for deposit into the department's Community Drug Abuse Services Grants and Donations Trust Fund.

Section 4. Section 893.165, Florida Statutes, is created to read:

893.165 County drug abuse treatment or education trust funds.—

(1) Counties in which there is established or in existence a comprehensive drug abuse treatment or education program which meets the standards for qualification of such programs by the Department of Health and Rehabilitative Services are authorized to establish a County Drug Abuse Trust Fund for the purpose of receiving the assessments collected pursuant to s. 893.16 and disbursing assistance grants on an annual basis to such drug abuse treatment or education program.

(2) Assessments collected by the clerks of court pursuant to s. 893.16 shall be remitted to the board of county commissioners of the county in which the indictment was found or the prosecution commenced for payment into the County Drug Abuse Trust Fund. The county commissioners shall require a full report from all clerks of county courts and clerks of circuit courts once each month of the amount of assessments imposed by their courts.

(3)(a) No county shall receive assessments collected pursuant to s. 893.16 in an amount exceeding that county's jurisdictional share as described in subsection (2).

(b) Assessments collected by clerks of circuit courts having more than one county in the circuit, for any county in the circuit which does not have a County Drug Abuse Trust Fund, shall be remitted to the Department of Health and Rehabilitative Services, in accordance with administrative rules adopted by the department, for deposit into the department's Community Drug Abuse Services Grants and Donations Trust Fund for distribution pursuant to the guidelines and priorities developed by the department.

(4) No assessments shall be remitted to a county until the board of county commissioners has submitted documentation to the court substantiating the establishment of its County Drug Abuse Trust Fund.

(5) If the board of county commissioners chooses to establish a County Drug Abuse Trust Fund, the board shall be responsible for the establishment of such fund and its implementation, administration, supervision, and evaluation.

(6) In order to receive assistance grants from the County Drug Abuse Trust Fund, county drug abuse treatment or education programs shall be designated by the board of county commissioners as the chosen program recipients. Designations shall be made annually, based on success of the programs.

(7) A drug abuse treatment or education program recipient shall, in seeking assistance grants from the County Drug Abuse Trust Fund, provide the board of county commissioners with detailed financial information and requests for expenditures.

Section 5. Paragraphs (k) and (l) of subsection (1) of section 921.187, Florida Statutes, are redesignated as paragraphs (l) and (m), respectively, and a new paragraph (k) is added to said subsection to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The following alternatives for the disposition of criminal cases shall be used in a manner which will best serve the needs of society, which will punish criminal offenders, and which will provide the opportunity for rehabilitation. A court may:

(k) Require an offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 893.13(4) and 893.16.

Section 6. Section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund contents.—There shall be in every county of this state a separate fund to be known as the fine and forfeiture fund. Said fund shall consist of all fines and forfeitures collected in the county under the penal laws of the state, except those fines imposed under s. 775.0835(1) *and assessments imposed under ss. 893.13(4) and 893.16*; all costs refunded to the county; all funds arising from the hire or other disposition of convicts; and the proceeds of any special tax that may be levied by the county commissioners for expenses of criminal prosecutions. Said funds shall be paid out only for criminal expenses, fees, and costs, where the crime was committed in the county and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. Any surplus funds remaining in the fine and forfeiture fund at the end of a fiscal year may be transferred to the county general fund.

Section 7. Section 142.03, Florida Statutes, is amended to read:

142.03 Disposition of fines, forfeitures, and civil penalties; reports.—Except as to fines, forfeitures, and civil penalties collected in cases involving violations of municipal ordinances, violations of chapter 316 committed within a municipality, or infractions under the provisions of chapter 318 committed within a municipality, in which cases such fines, forfeitures, and civil penalties shall be fully paid monthly to the appropriate municipality as provided in ss. 34.191, 316.660, and 318.21, and except as to fines imposed under s. 775.0835(1), *and assessments imposed under ss. 893.13(4) and 893.16*, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use of the particular county. The county commissioners of each county shall require a full report from all clerks of county courts and clerks of circuit courts once in each month, within 30 days after the expiration of said month, of the amount of fines imposed by their courts and of bonds forfeited and judgments rendered on said forfeited bonds, and into whose hands they had been paid or placed for collection, the date of conviction in each case, the term of imprisonment, and the name of the officer to whom commitment was delivered. If any clerk of court shall fail to make such report for any month, the board of county commissioners shall immediately report to the Governor any such failure or refusal, and the Governor may, in his discretion, suspend such officer or officers from office. The county commissioners may withhold any fees or costs of any officer until said officer collects and pays over to the depository legally entitled to receive the same all such fines and forfeitures or furnishes a satisfactory excuse for not doing so.

Section 8. Section 903.133, Florida Statutes, is amended to read:

903.133 Bail on appeal; prohibited for certain ~~first degree~~ felony convictions.—Notwithstanding the provisions of s. 903.132, no person adjudged guilty of a felony of the first degree for a violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s. 806.01, s. 893.13, or s. 893.135, *or adjudged guilty of a violation of s. 794.011(2) or (3)*, shall be admitted to bail pending review either by posttrial motion or appeal.

Section 9. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) of section 941.10, Florida Statutes, is amended to read:

941.10 Rights of accused person; application for writ of habeas corpus.—

(2) *A warrant issued under s. 941.07 shall be presumed to be valid, and unless a court finds that the person in custody is not the same person named in the warrant, or that the person is not a fugitive from justice, or otherwise subject to extradition under s. 941.06, or that there is no criminal charge or criminal proceeding pending against the person in the demanding state, or that the documents are not on their face in order, the person named in the warrant shall be held in custody at all times, and shall not be eligible for release on bail.* ~~Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge of a court of record in this state before whom the prisoner has been taken, or any other judicial officer having power of commitment in this state, including the judge before whom an application may be filed for a writ of habeas corpus, may, in his discretion, admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him or before the judge to whom a writ of habeas corpus may be returnable, to abide the outcome of habeas corpus proceedings and any consequent appeal therefrom.~~

Section 10. Paragraph (k) is added to subsection (5) of section 921.141, Florida Statutes, to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(k) The victim of the capital felony was an elected or appointed public official engaged in the performance of his official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.

PART II
DELINQUENCY PREVENTION

Section 11. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 959.31, Florida Statutes, is created to read:

959.31 Delinquency prevention.—

(1) SHORT TITLE.—This section may be cited as the "Delinquency Prevention Act of 1988."

(2) INTENT.—The Legislature recognizes that, despite the large investment of resources committed to address the needs of the criminal justice system of this state, the crime rate continues to increase, overcrowding the state's juvenile detention centers, jails, and prisons and placing the state in jeopardy of being unable to effectively manage these facilities. The economic cost of crime to the state continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support. Therefore, it is the belief of the Legislature that the best investment of the scarce resources available to combat crime is in the prevention of delinquency. Consequently, it is the intent of the Legislature to authorize each of the twenty judicial circuits throughout the state to establish a comprehensive delinquency prevention plan. It is further the intent of the Legislature that cooperative agreements be developed among counties within those circuits and public and private agencies to implement such plans through effective local programs aimed at reducing juvenile crime and increasing the number of juveniles engaged in positive alternatives to crime.

(3) DEFINITIONS.—As used in this section:

(a) "Delinquency prevention programs" means programs designed for the purpose of reducing delinquent acts and juvenile arrest. The term excludes diversionary or mediation programs and community service work or other treatment available subsequent to the commitment of a delinquent act.

(b) "Department" means the Department of Health and Rehabilitative Services.

(c) "Circuit" means any of the twenty judicial circuits as set forth in s. 26.021.

(4) DELINQUENCY PREVENTION COUNCILS.—

(a) Each circuit may establish a delinquency prevention council composed of at least 12 members to include representatives from law enforcement, the Department of Health and Rehabilitative Services, school districts, state attorney and public defender offices, and the circuit court, and child advocates from the community, business leaders, parents, and a child attending high school. However, those circuits which already have in operation a council of similar composition may designate the existing body as the delinquency prevention council for the purpose of this section. Each such council shall establish bylaws providing for the length of term of its members. The chairman of the council shall be a circuit court judge appointed by the chief judge of the circuit court, and the chairman shall appoint the other members of the council.

(b) The purposes of each delinquency prevention council are to select a delinquency prevention plan which meets the needs of each of the local communities in the circuit, to approve delinquency prevention program grant applications, and to act in an advisory capacity to each of the delinquency prevention programs under such plan.

(5) DELINQUENCY PREVENTION PLAN; PROGRAMS; GRANTS.—

(a) A delinquency prevention plan is authorized in each circuit for the purpose of reducing delinquent acts and juvenile arrests. Delinquency prevention programs under such plan shall be administered by the Department of Health and Rehabilitative Services in cooperation with other appropriate governmental organizations and public and private agencies. A delinquency prevention program under this section may be planned, implemented, and conducted in any circuit pursuant to a proposal developed and approved as specified in subsection (6).

(b) Beginning with the 1988-1989 fiscal year, from funds specifically appropriated by the Legislature for this purpose, the Department of Health and Rehabilitative Services is authorized and directed to award grants on a competitive basis to local public or private entities interested in implementing delinquency prevention programs. Such grants shall be awarded pursuant to subsection (6).

(6) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual delinquency prevention program grant, which may be renewed for up to 2 additional years, shall submit a grant proposal for funding or continued funding to the Department of Health and Rehabilitative Services by December 1, 1988, and by May 1 every year thereafter. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chairman of the delinquency prevention council of the circuit confirming that the grant application has been reviewed and approved and that it conforms to the circuit's delinquency prevention plan.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts such as drug and alcohol abuse prevention, dropout prevention, and child abuse prevention, including hot lines and volunteers that serve the target neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 381.0615.

7. A program budget, including the amount of local resources committed to the budget.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

1. The number of juvenile arrests within the geographical area to be served by the program. Those geographical areas with the highest number of juvenile arrests shall have priority for selection.

2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.

3. The validity and cost-effectiveness of the program.

4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

5. The extent to which the program complements any project approved for funding under the Safe Neighborhoods Act pursuant to chapter 87-243, Laws of Florida.

(c) The department shall make available to anyone wishing to apply for such a grant information on all of the criteria to be used by the department in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval by January 2, 1989, for the 1988-1989 fiscal year and by July 1 of every fiscal year thereafter.

(e) Each entity which is awarded a grant as provided for in this section shall submit an annual evaluation report to the department and the chairman of the delinquency prevention council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 381.0615.

(f) The department is authorized to establish rules and policy provisions necessary to implement the provisions of this section.

(7) RESTRICTIONS.—Nothing in this section shall be construed to prevent a program initiated under a delinquency prevention plan established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, nothing in this section shall be construed to restrict the number of programs an entity may apply for or operate.

Section 12. *Legislative intent.—*

(1) The Legislature recognizes the need for a secure placement for certain youth alleged to have committed a delinquent act. The Legislature also recognizes that in order for detention to fulfill its intended role in the juvenile justice system, under the provisions of part I of chapter 39, Florida Statutes, it must operate at the highest standards of effectiveness and efficiency. These facts underscore the need to reduce the overcrowding in detention, the need to reduce inappropriate placements in detention, the need for appropriate preadjudication services, the need for qualified, well trained staff and a commitment to meet nationally recognized standards and practices. In achieving these goals it is the intent of the Legislature that detention under the provisions of part I of chapter 39, Florida Statutes, be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate. It is further the intent of the Legislature that decisions to detain be based in part on a prudent assessment of risk, and that decisions to detain be limited to situations where there is clear and compelling evidence that a child presents a danger to himself or the community or presents a risk of failing to appear, or is likely to commit a subsequent law violation prior to adjudication and disposition.

Section 13. Section 39.032, Florida Statutes, is amended to read:

39.032 Detention.—

(1) The intake officer shall receive custody of the child from the law enforcement agency and shall review the facts in the law enforcement report or complaint and make such further inquiry as may be necessary to determine whether detention care is required. During the period of time from the taking of the child into custody by the department to the date of the detention hearing, the initial decision as to the child's *placement in secure* detention *or nonsecure detention* or release from custody shall be made jointly by the intake officer and the law enforcement agency that took custody of the child. *The intake officers shall base their decision to detain on an assessment of risk in accordance with procedures developed by the department and the criteria in subsection (2).* If the intake officer and the law enforcement agency disagree as to whether the criteria for detention are met or as to whether secure detention *or nonsecure detention* should be required, the department shall contact the state attorney, who shall decide, on a case by case basis, whether the child shall be detained and whether the child shall be placed in secure *detention* or *on* nonsecure detention. If the intake officer or the law enforcement agency, or both, determine that a child who meets the criteria in subsection (2) should be released, the intake officer shall contact the state attorney, who may authorize release. If detention care is not authorized, the child may be released by the intake officer in accordance with s. 39.03(2). Under no circumstances shall the intake officer or the state attorney authorize the detention of any child in a jail or other facility intended or used for the detention of adults.

(2) Subject to the provisions of subsection (1), a child taken into custody *may* ~~shall~~ be placed *on nonsecure detention* or detained in *secure* detention care prior to *a detention hearing* ~~disposition~~ by the court if:

(a) The child is taken into custody for the alleged commission of an act which, if committed by an adult, would be a felony;

(b) The child is alleged to be an escapee or absconder from detention care, probation, parole, furlough, a community control program, a delinquency commitment program, or the custody of a law enforcement agency in this or any other state;

(c) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony or misdemeanor in such jurisdiction;

(d) The child is taken into custody for the alleged commission of an act which, if committed by an adult, would be a violation of law and requests protection in circumstances that appear to present an immediate threat to his personal safety and there are no crisis or shelter homes available in which to place the child. Such a child shall be released upon the child's request;

(e) The child is alleged to have committed an offense which, if committed by an adult, would be a crime of violence; or

(f) The child is taken into custody for the alleged commission of an act which, if committed by an adult, would be a violation of law, and any of the following applies:

1. The child is already detained or has been released and is awaiting a hearing on another case;

2. There are reasonable grounds to believe that the child will fail to appear at any hearing;

3. The child has previously been found to have committed a delinquent act involving a crime of violence;

4. The child has previously been found to have committed a delinquent act which is defined by state law as a felony;

5. The child has previously been found to have committed a delinquent act involving property;

6. The child is presently in a community control program or committed to the department; or

7. There are reasonable grounds to believe that the child may physically harm or has threatened to physically harm witnesses, victims, other persons, or property.

A child who is detained under this subsection ~~or subsection (3)~~ shall be given a detention hearing within 24 hours of his being taken into custody to determine the existence of probable cause to believe that the child has committed such delinquent act or violation of law and the need for continued detention. *The court shall consider the results of the intake officer's assessment of risk and the criteria in subsection (3) in determining the need for continued detention.* The circuit court, or the county court if previously designated by order of the chief judge of the circuit court, shall hold the detention hearing.

(3) ~~Notwithstanding the criteria in subsection (3),~~ A child ~~may be~~ placed *on nonsecure detention* or detained in ~~a~~ secure ~~or nonsecure~~ detention *subject to the provisions of subsection (2) may continue to be detained by the court if:* ~~facility if the child is alleged or found to be in contempt of court.~~

(a) The child is an escapee from a commitment program or an absconder from a community control program or furlough/aftercare supervision, or the child is wanted by another jurisdiction for an offense which, if committed by an adult, would be a violation of law;

(b) The child requests protection, through appointed counsel, in circumstances that appear to present an immediate threat to his personal safety;

(c) The child is charged with a capital felony, life felony or felony of the first degree; or a crime of violence, e.g , murder in the third degree, manslaughter, sexual battery, robbery, aggravated battery, or aggravated assault; or the child is charged with two or more serious property crimes arising out of separate transactions;

(d) The child is charged with a serious property crime as defined in s. 810.02(2) and (3); or with the possession, sale, or manufacture of or trafficking in a controlled substance, which if committed by an adult would be a felony, and:

1. He is already detained or has been released and is awaiting final disposition of his case;

2. He has a record of failure to appear at court hearings;

3. He has a record of law violations prior to court hearings;

4. He has a record of violent conduct resulting in physical injury to others; or

5. He has a record of adjudications for serious property offenses; or

(e) The court considers the child a clear and present danger to himself or the community, in which case the court may detain the child through a written order. The written order shall specify the need for detention and the benefits derived by the child or the community by placement in detention. Such placement in secure detention shall not be contrary to s. 39.0321.

(4) Except in emergency situations, a child shall not be placed or transported in any police car or other similar vehicle which at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(5) The court may order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this chapter; or

(b) When a child taken into custody in this state is wanted by another jurisdiction as an adult; or

(c) When the court determines, upon *a motion by* ~~the recommendation of~~ the superintendent of the detention home, *and after affording the child a hearing within 24 hours of the superintendent's motion* that the child is beyond the control of the detention home staff. *For juveniles transferred to county detention facilities pursuant to this subsection, the department shall reimburse the county detention facility the average cost per day for housing a person as established by the Department of Corrections. The county detention facility may treat such reimbursement as a current refund for operational costs if expended within the same fiscal year.*

If the child is being held in detention by order of the court solely for an allegation of, or a finding of, contempt of court for a violation of a dependency *or a child in need of services* court order, the child shall not be delivered to a jail or other facility intended for the detention of adults. The receiving facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Nothing in this paragraph shall prohibit the placing of two or more children in the same cell. Under no circumstances shall a child be placed in the same cell as an adult.

(6)(a) No child shall be *placed on nonsecure detention or* held in *secure* detention care or shelter care longer than 24 hours unless the court orders *nonsecure or secure* detention care or shelter care in accordance with the provisions of ~~subsection (2) or~~ subsection (3). The decision as to the release of the child from *nonsecure or secure* detention care or from shelter care shall be made by the court. The order shall be a final order and shall be reviewable by appeal pursuant to s. 39.14 and the Florida Appellate Rules.

(b) No child shall be held in *nonsecure or secure* detention care or a crisis home under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) No child shall be held in *nonsecure or secure* detention care or a crisis home for more than 15 days following the entry of an order of adjudication unless an order of disposition pursuant to s. 39.11 has been entered by the court or unless a continuance, which shall not exceed 15 days, has been granted for good cause. The detention home superintendent shall request that the court order the release of any child held beyond 15 days without a grant of continuance.

(d) The time limits in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for good cause shown on motion of the child or his counsel or of the state, or upon motion of the court.

(7) When any child is placed in *nonsecure* detention *or in secure detention* or shelter care or a crisis home pursuant to a court order following a detention hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay to the department or institution having custody of the child fees as

established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(8) If a child is detained and a petition for delinquency is filed, the child shall be arraigned in accordance with Florida Rules of Juvenile Procedure within 48 hours of the filing of the petition for delinquency.

Section 14. Section 39.0321, Florida Statutes, is created to read:

39.0321 Prohibited use of secure detention.—A child alleged to have committed a delinquent act shall not be placed in secure detention for the following reasons:

(1) To punish, treat, or rehabilitate the child.

(2) To allow a parent to avoid his or her legal responsibility.

(3) To permit more convenient administrative access to the juvenile.

(4) To facilitate further interrogation or investigation.

(5) Due to a lack of more appropriate facilities.

PART III
DRUG ABUSE PREVENTION

Section 15. Section 212.0505, Florida Statutes, is amended to read:

212.0505 Taxation of unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances.—

(1)*(a)* Every person is exercising a taxable privilege who engages in this state in the unlawful sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage of any medicinal drug, as defined in chapter 465, cannabis, as defined in s. 893.02, or controlled substance enumerated in s. 893.03. For the exercise of such privilege, a tax is levied on each taxable transaction or incident, including each occasional or isolated unlawful sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage, at the rate of *50* ~~20~~ percent of the estimated retail price of the medicinal drug, cannabis, or controlled substance involved in the transaction or incident.

(b) In addition to any other tax there shall also be a 25 percent surcharge on the estimated price of the transaction or incident taxable under paragraph (a).

(2) The sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage of any medicinal drug, as defined in chapter 465, cannabis, as defined in s. 893.02, or controlled substance enumerated in s. 893.03 by a federal, state, or local government officer or employee, or his agent, acting in his official capacity is exempt from the tax imposed by this section.

(3) The taxes imposed under this section are subject to the same interest and penalties and the same procedures for collection and enforcement as other taxes imposed under this part, except that a dealer's credit under s. 212.12(1) is not allowed. The department may adopt rules for administering the taxes imposed by this section.

(4) Neither this section nor the assessment or collection of taxes under this section shall be construed as making lawful the transaction or incident which is the subject of the tax.

(5) Any assessment made pursuant to this section shall be deemed prima facie correct in any judicial or administrative proceeding in this state. The suppression of evidence on any ground by a court in a criminal case involving a transaction or incident taxable under this section or the dismissal of criminal charges in such a case shall not affect any assessment made under this section.

(6) The department shall notify the state attorney of the appropriate circuit of an assessment made under this section. The department or executive director may settle or compromise any tax, penalty, or interest imposed under this section only when requested by the state attorney, *the statewide prosecutor, or the Attorney General,* in writing, to do so and only when the department or executive director finds that it is in the best interest of the state to do so. A request by the state attorney, *statewide prosecutor, or Attorney General* under this subsection shall specify the reasons for the request. The request and all information and documents furnished by the state attorney, *statewide prosecutor, or Attorney General* in support of such request are confidential and exempt from the provisions of chapter 119 and are subject to the provisions of s. 213.053.

(7) The department shall not be required to furnish any bond or to make a deposit or to pay any costs or fees of any court or officer thereof in any legal proceedings or in connection with the recordation in any county of any notice or other document filed by the department pursuant to the provisions of this section.

(8) Two trust funds are created, known as the "Drug Abuse Education Trust Fund" and the "Drug Enforcement Trust Fund." Any amounts collected by the Department of Revenue on unlawful sales, use, and other transactions involving drugs, cannabis, or controlled substances under this section shall be transferred into the trust funds as follows: 50 percent of the funds shall be transferred into the Drug Enforcement Trust Fund, which shall be administered by the Department of Revenue, and 50 percent shall be transferred into the Drug Abuse Education Trust Fund, which shall be administered at the discretion of the Legislature.

Section 16. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (4) and (5) of section 54 of chapter 87-243, Laws of Florida, are amended to read:

Section 54. Crime Prevention and Law Enforcement Study Commission; membership; duties.—

(4) The commission shall study the current sentencing practices, available penalties, methods of funding the criminal justice and corrections systems, *the social, demographic, economic, and other causes, effects and costs of nonalcohol substance abuse, methods of preventing substance abuse, methods of minimizing the social and economic costs of substance abuse, the appropriateness of employee drug testing,* and alternative sentencing and funding methods. No later than January 1, *1990* ~~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. *By January 1, 1989, the commission shall provide a preliminary report of 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.

(e) Appropriate sentencing, penalties and treatment methods for habitual substance abusers.

(f) Obstacles to the restoration of controlled substance abusers to a productive role in society.

(5) The Governor shall consider *the preliminary recommendations of the commission in the development of his recommended budget to the Legislature for the 1989-1990 fiscal year, and shall consider* and include appropriate *final* recommendations of the commission in his recommended budget to the Legislature for the *1990-1991* ~~1989-1990~~ fiscal year.

PART IV
ORGANIZED CRIME PREVENTION

Section 17. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 92.60, Florida Statutes, is created to read:

92.60 Foreign records of regularly conducted business activity.—

(1) For the purposes of this section:

(a) "Foreign record of regularly conducted business activity" means a memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinions, or diagnoses, maintained in a foreign country.

(b) "Foreign certification" means a written declaration made and signed in a foreign country by the custodian of a foreign record of regularly conducted business activity or another qualified person that, if falsely made, would subject the maker to criminal penalty under the laws of that country.

(c) "Business" means any business, institution, association, profession, occupation, or calling of any kind, whether or not conducted for profit.

(2) In a criminal proceeding in a court of the State of Florida, a foreign record of regularly conducted business activity, or a copy of such record, shall not be excluded as evidence by the hearsay rule if a foreign certification attests that:

(a) Such record was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;

(b) Such record was kept in the course of a regularly conducted business activity;

(c) The business activity made such a record as a regular practice; and

(d) If such record is not the original, it is a duplicate of the original; unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

(3) A foreign certification under this section shall authenticate such record or duplicate.

(4) At the arraignment or as soon after the arraignment as practicable, a party intending to offer in evidence under this section a foreign record of regularly conducted business activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but the court for cause shown may grant relief from the waiver.

Section 18. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) of section 896.102, Florida Statutes, is amended to read:

896.102 Currency more than $10,000 received in trade or business; report required; noncompliance penalties.—

(2) The Department of Revenue shall have the duty to enforce compliance with the provisions of subsection (1) and shall be the custodian of all information and documents filed pursuant to subsection (1). Such information *and documents* shall be confidential; however, the *information shall be subject to disclosure pursuant to subpoena as provided in s. 213.053(8)* ~~provisions of s. 213.053 do not apply to information submitted pursuant to this subsection, and any law enforcement agency as defined in s. 934.02, 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.

Section 19. Effective July 1, 1988, or upon becoming a law, whichever occurs later, paragraph (c) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(8) The Department of Revenue shall provide returns, reports, accounts, or declarations received by the department, including investigative reports and information, or information contained in such documents, pursuant to an order of a judge of a court of competent jurisdiction or pursuant to a subpoena duces tecum only when the subpoena is:

(c) Issued by a state attorney, the Department of Legal Affairs, a United States attorney, or a court in the course of a civil investigation or a civil judicial proceeding under the state or federal racketeer influenced and corrupt organization act *or under chapter 896.*

Section 20. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (5) of section 895.06, Florida Statutes, is amended to read:

895.06 Civil investigative subpoenas.—

(5) Upon failure of a person or enterprise, without lawful excuse, to obey a subpoena *issued under this section or a subpoena issued in the course of a civil proceeding instituted pursuant to s. 895.05*, and after reasonable notice to such person or enterprise, the investigative agency may apply to the circuit court *in which such civil proceeding is pending or, if no civil proceeding is pending, to the circuit court* for the judicial circuit in which such person or enterprise resides, is found, or transacts business for an order compelling compliance. *Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or material after asserting a privilege against self-incrimination to which he is entitled by law shall not have the testimony or material so provided, or evidence derived therefrom, received against him in any criminal investigation or proceeding.*

Section 21. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (2) and (5) of section 895.09, Florida Statutes, are amended to read:

895.09 Disposition of funds obtained through forfeiture proceedings.—

(2)(a) Following satisfaction of all valid claims under subsection (1), *25* ~~50~~ percent of the remainder of the funds obtained in the forfeiture proceedings pursuant to s. 895.05(2) shall be deposited in the Forfeited Property Trust Fund of the Department of Natural Resources, *and 25 percent shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services, established under s. 397.19.* The other 50 percent of the remainder shall be deposited in the general fund of the county or municipality ~~responsible for the forfeiture~~ *whose law enforcement agency contributed significantly to the forfeiture of the property.* If law enforcement personnel of several counties or municipalities contributed significantly to the forfeiture of the property, the court which entered the judgment of forfeiture shall make a pro rata apportionment among such counties and municipalities. If a state law enforcement agency is responsible for the forfeiture, 50 percent of the funds shall be deposited into the general fund of the county in which the court entering the judgment of forfeiture is located.

(b) The Department of Health and Rehabilitative Services shall, in accordance with chapter 397, distribute funds obtained by it pursuant to paragraph (a) or paragraph (c) to public and private nonprofit organizations licensed by the department to provide drug abuse treatment and rehabilitation centers or drug prevention and youth orientation programs, in the service district in which the final order of forfeiture is entered by the court.

(c)~~(b)~~ On a quarterly basis, any excess funds, including interest, over $1,000,000 deposited in the Forfeited Property Trust Fund in accordance with this subsection shall be deposited in the *Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services* ~~General Revenue Fund of the state~~.

(5) The "actual expenses" for which a state attorney's office or a law enforcement agency may be reimbursed pursuant to paragraph (1)(e) include all taxable costs; costs of protecting, maintaining, and forfeiting the property; *compensation for overtime* and such other costs as are determined by the court to be directly attributable to the action. However such reimbursement shall not include employees' *base* salaries.

Section 22. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 895.055, Florida Statutes, is hereby repealed.

Section 23. *Prohibition of certain obscene telephone communications; penalty.—*

(1) For purposes of this section, the term:

(a) "Obscene" means that status of a communication which:

1. The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interests;

2. Describes, in a patently offensive way, deviate sexual intercourse, sadomasochistic abuse, sexual battery, bestiality, sexual conduct, or sexual excitement; and

3. Taken as a whole, lacks serious literary, artistic, political, or scientific value.

(b) "Deviate sexual intercourse" means sexual conduct between persons consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(c) "Sadomasochistic abuse" means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(d) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object.

(e) "Sexual bestiality" means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(f) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; or any act or conduct which constitutes sexual battery.

(g) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(2)(a) A subscriber of a telephone service who makes any obscene or indecent communication by means of a telephone, in person or through an electronic recording device, in exchange for remuneration is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes, regardless of whether he placed, initiated, or received the telephone call.

(b) A subscriber of telephone service who knowingly permits the use of a telephone or a telephone facility under his control to make any obscene or indecent communication prohibited under paragraph (a) is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes, if the telephone or telephone facility is connected to a local exchange telephone.

(c) For purposes of this subsection, each day of a violation constitutes a separate offense.

(d) Any telephone company which transmits any public announcement service over the telephone network, and bills for such service on its regular telephone bills to its subscribers shall have the right (but not the obligation) to approve any and all advertising, by whatever means, of such public announcement service. Failure of any public announcement service provider to obtain the approval of the telephone company for its advertising of any public announcement service transmitted over the telephone network shall be full and sufficient grounds for immediate disconnection by the telephone company of the public announcement service provider's telephone service. No telephone company shall be liable for any damages, penalty, or forfeiture, whether civil or criminal, for disconnecting such public announcement service subscriber who violates this subsection.

(3) This section does not apply to a telephone communication that crosses state lines.

PART V
PROPERTY CRIME PREVENTION

Section 24. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (1) of section 163.503, Florida Statutes, is amended, and a new subsection (8) is added to said section, to read:

163.503 Safe neighborhoods; definitions.—

(1) "Safe neighborhood improvement district," *"district," or "neighborhood improvement district"* means a district located in an area in which more than *75* ~~50~~ percent of the land is used for residential purposes, or in an area in which more than *75* ~~50~~ percent of the land is used for commercial, office, business, or industrial purposes, *excluding the land area used for public facilities,* and where there is a plan to reduce crime through the implementation of crime prevention through environmental design, environmental security, or defensible space techniques. *Nothing in this section shall preclude the inclusion of public land in a neighborhood improvement district although the amount of land used for public facilities is excluded from the land use acreage calculations.*

(8) "Enterprise zone" means an area approved pursuant to s. 290.0065.

Section 25. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (3) is added to section 163.504, Florida Statutes, to read:

163.504 Safe neighborhood improvement districts; planning funds.—

(3) Municipalities and counties may implement the provisions of this section without planning funds from the Department of Community Affairs. However, nothing in this section shall be construed to exempt any district from the requirements of providing a safe neighborhood improvement plan pursuant to s. 163.516.

Section 26. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 163.506, Florida Statutes, is amended to read:

163.506 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) *Authorizes the local government neighborhood improvement district to levy an ad valorem tax on real and personal property of up to 2 mills annually.* ~~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) Authorizes the use of special assessments pursuant to chapter 170 to support planning and implementation of district improvements. For the purposes of making such assessments, the terms "municipality" and "governing board of the municipality" used in said chapter shall mean the district and board, respectively.

(e)~~(d)~~ Designates the local governing body as the board of directors of the district.

(f)~~(e)~~ Establishes an advisory council to the board of directors comprised of property owners or residents of the district.

(g)~~(f)~~ May prohibit the use of any district power authorized by s. 163.514.

(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) As an alternative to designating the local governing body as the board of directors, a majority of the local governing body of a city or county may appoint a board of three to seven directors for the district who shall be residents of the proposed area and who are subject to ad valorem taxation in the residential neighborhood improvement district or who are property owners in a commercial neighborhood improvement district. The directors shall be appointed for staggered terms of 3 years. The initial appointments shall be as follows: one director for a 1-year term; one director for a 2-year term; and one director for a 3-year term. If more than three directors are to be appointed, the additional members shall initially be appointed for 3-year terms. Vacancies shall be

filled for the unexpired portion of a term in the same manner as the initial appointments were made. Each director shall hold office until his successor is appointed and qualified unless the director ceases to be qualified or is removed from office. Upon appointment and qualification and in January of each year, the directors shall organize by electing from their number a chairman and a secretary.

(4)~~(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 27. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) and paragraph (c) of subsection (3) of section 163.508, Florida Statutes, are amended to read:

163.508 Property owners' association neighborhood improvement districts; creation; powers and duties; duration.—

(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, *or use an existing property owners' 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 ss. 163.501-163.522 shall have the power:

(c) To make and collect assessments *against all property within the boundaries of the district* and to lease, maintain, repair, and reconstruct any privatized street, land, or common area within the district upon dedication thereof to the association.

Section 28. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (1), (2), (3), (4), and (5) of section 163.511, Florida Statutes, are amended to read:

163.511 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 *neighborhood* 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) *Authorizes the special neighborhood improvement district to levy an ad valorem tax on real and personal property of* ~~Limits the taxing power of a special neighborhood improvement district to~~ up to 2 mills annually.

(c) Authorizes *the use of* special assessments *pursuant to chapter 170* to support planning and implementation of district improvements. *For the purpose of making such assessments, the terms "municipality" and "governing board of the municipality" shall mean the district and board, respectively.*

(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 chapters 73 and 74. 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 s. 163.514.

(2) A referendum to implement a special ~~neighborhood~~ residential or business *neighborhood* 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 *neighborhood* 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 *neighborhood* improvement district area or 20 percent of the property owners of a proposed special ~~neighborhood~~ business *neighborhood* 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 *neighborhood* improvement district should be created in such proposed area.

(3)(a) The referendum to implement a special ~~neighborhood~~ residential *neighborhood* 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 *neighborhood* 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 *neighborhood* improvement districts; and

b. Immediately following said information, the following:

"Do you favor the creation of the . . . . . Special ~~Neighborhood~~ Residential *Neighborhood* 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 *Neighborhood* Improvement District.

. . . . No, against the Special ~~Neighborhood~~ Residential *Neighborhood* 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 *neighborhood 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 freeholders in the proposed special ~~neighborhood~~ business *neighborhood 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 *neighborhood* 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 *neighborhood* 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 *Neighborhood* 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 *Neighborhood* Improvement District.

. . . . No, against the Special ~~Neighborhood~~ Business *Neighborhood* 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 *neighborhood* 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) *Neighborhood* 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)

. . . (Signature of Official) . . .

. . . (Address) . . . . . (City/State) . . .

Or

2. Two Witnesses 18 Years of Age or Older as provided in Item 6.a. of the Instruction Sheet.

. . . (First Witness) . . .

. . . (Address) . . . . . (City/State) . . .

. . . (Second Witness) . . .

. . . (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.

Section 29. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (18) of section 163.514, Florida Statutes, is renumbered as subsection (19), and a new subsection (18) is added to said section, to read:

163.514 Powers of neighborhood improvement districts.—Unless prohibited by ordinance, the board of any district shall be empowered to:

(18) Make and collect general assessments to finance any of the improvements to the district authorized in this section.

Section 30. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (4) is added to section 163.5151, Florida Statutes, to read:

163.5151 Fiscal management; budget preparation.—

(4) At the option of the county property appraiser for the county within which the neighborhood improvement district is located, the assessments levied by the district shall be collected in the same manner as all ad valorem taxes if so requested by the local governing body pursuant to s. 197.363.

Section 31. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 163.521, Florida Statutes, is amended to read:

163.521 Neighborhood improvement district inside enterprise zone; funding.—The local governing body of any municipality or county *in* which ~~creates a neighborhood improvement district inside~~ the boundaries of an enterprise zone *include a neighborhood improvement district* 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 32. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 163.523, Florida Statutes, is created to read:

163.523 Safe neighborhood districts; cooperation and involvement of community organizations.—To the extent possible, local governments may cooperate and seek the involvement of community organizations such as churches, chambers of commerce, community development corporations, civic associations, neighborhood housing services, urban leagues, and other not-for-profit organizations in the creation of safe neighborhood improvement districts under this part. Any neighborhood improvement district may enter into agreements with any of such community organizations to undertake any of the activities authorized under this part, except the preparation of safe neighborhood improvement plans. To this end, the district may compensate any such organization for the value of its service. However, such compensation shall not exceed 1 percent of the total annual budget of the district. The community organization may also contract with the district to provide maintenance services for projects implemented in the district. The fee for such services shall not exceed two percent of the total budget for the district's project for which services are to be rendered. All service agreements made with community organizations shall have a renewable term of no longer than 3 years. A district may receive funds from such organizations in connection with the performance of any of the functions authorized in this part.

Section 33. Effective July 1, 1988 or upon becoming a law, whichever occurs later, paragraph (c) of subsection (2) of section 810.08, Florida Statutes, is amended to read:

810.08 Trespass in structure or conveyance.—

(2)

(c) If the offender is armed with a firearm or other dangerous weapon, or arms himself with such while in the structure or conveyance, the trespass in a structure or conveyance is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he reasonably believes that a violation of this paragraph has been or is being committed, and he reasonably believes that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention by such person, if done in compliance with the requirements of this paragraph, shall not render such person criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.*

Section 34. Paragraph (c) of subsection (2) of section 810.09, Florida Statutes, is amended to read:

810.09 Trespass on property other than structure or conveyance.—

(2)

(c) If the offender is armed with a firearm or other dangerous weapon during the commission of the offense of trespass on property other than a structure or conveyance, he is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. *Any owner or person authorized by the owner may, for prosecution purposes, take into custody and detain, in a reasonable manner, for a reasonable length of time, any person when he reasonably believes that a violation of this paragraph has been or is being committed, and he reasonably believes that the person to be taken into custody and detained has committed or is committing such violation. In the event a person is taken into custody, a law enforcement officer shall be called as soon as is practicable after the person has been taken into custody. The taking into custody and detention by such person, if done in compliance with the requirements of this paragraph, shall not render such person criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.*

Section 35. Section 810.115, Florida Statutes, is amended to read:

810.115 Breaking or injuring fences.—Whoever willfully and maliciously breaks down, mars, injures, *defaces,* ~~or~~ cuts, *or otherwise creates or causes to be created an opening, gap, interruption, or break in* any fence, or any part thereof, belonging to or enclosing land not his own, or whoever causes to be broken down, marred, injured, *defaced,* or cut any fence belonging to or enclosing land not his own, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, *and the court may require full compensation to the owner of such fence for any and all damages or losses resulting directly or indirectly from such act or commission pursuant to s. 775.089.*

Section 36. Section 877.19, Florida Statutes, is created to read:

877.19 Defacement of property; possession of aerosol paint cans and broad-tipped markers; penalties.—

(1) No person shall write, paint, or draw any inscription, figure, or mark of any type on any public or private building or other structure, or any other real or personal property owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof or by any person, firm, or corporation, unless the express permission of the owner or operator of the property has been obtained.

(2) No person shall carry an aerosol spray paint can or broad-tipped indelible marker into any public building or other public facility with the intent to violate the provisions of subsection (1).

(3) For the purpose of this section, the term "broad-tipped indelible marker" means any felt-tip marker, or similar implement, which contains a fluid that is not water soluble and which has a flat or angled writing surface one-half inch or greater.

(4) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent offense constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 37. Section 806.13, Florida Statutes, is amended to read:

806.13 Criminal mischief.—

(1)(a) A person commits the offense of criminal mischief if he willfully and maliciously injures or damages by any means any real or personal property belonging to another, *including but not limited to the placement of graffiti thereon or other acts of vandalism thereto.*

(b)1. If the damage to such property is $200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. If the damage to such property is greater than $200 but less than $1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. If the damage is $1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs $1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully and maliciously defaces, injures, or damages by any means any church, synagogue, mosque, or other place of worship, or any religious article contained therein, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the damage to the property is greater than $200.

(3) Whoever, without the consent of the owner thereof, willfully destroys or substantially damages any public telephone, or telephone cables, wires, fixtures, antennas, amplifiers, or any other apparatus, equipment, or appliances, which destruction or damage renders a public telephone inoperative or which opens the body of a public telephone, shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084; provided, however, that a conspicuous notice of the provisions of this subsection and the penalties provided shall have been posted on or near the destroyed or damaged instrument and visible to the public at the time of the commission of the offense.

(4) Any person who violates a provision of this section may, in addition to any other criminal penalty, be required to pay for the damage caused by such offense.

Section 38. Section 741.24, Florida Statutes, is amended to read:

741.24 Civil action against parents; willful destruction or theft of property by minor.—

(1) Any municipal corporation, county, school district, or department of Florida; any person, partnership, corporation, or association; or any religious organization, whether incorporated or unincorporated, shall be entitled to recover damages in an appropriate action at law ~~in an amount not to exceed $2,500~~, in a court of competent jurisdiction, from the parents of any minor under the age of 18 years, living with the parents, who ~~shall~~ maliciously or willfully *destroys* ~~destroy~~ or *steals* ~~steal~~ property, real, personal, or mixed, belonging to such municipal corporation, county, school district, department of the state, person, partnership, corporation, association, or religious organization.

(2) The recovery shall be limited to the actual damages ~~in an amount not to exceed $2,500~~, in addition to taxable court costs.

Section 39. Subsection (1) of 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. Such record shall be on a form *approved by the Department of Law Enforcement, and the pawnbroker shall include all of the relevant information required on the form* ~~8.5 inches wide by 7 inches long~~. This record shall be made available to the local sheriff or chief of police or their delegate or any law enforcement officer having statewide jurisdiction, acting in his official capacity, upon request.

Section 40. Section 715.042, Florida Statutes, is amended to read:

715.042 Penalty for violation of s. 715.04 or s. 715.041.—Any person who violates any of the provisions of s. 715.04 or s. 715.041 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 *and by a fine not to exceed $10,000.*

Section 41. Subsection (2) of section 538.011, Florida Statutes, is amended to read:

538.011 Precious metals dealers; records and reports of purchases.—

(2) A copy of the records of any purchase of precious metal *shall be entered on a form approved by the Department of Law Enforcement and* shall be submitted within 24 hours after the purchase to the sheriff of the county in which the business is operated and to the municipal police department of the municipality in which the business is operated.

Section 42. Section 538.018, Florida Statutes, is amended to read:

538.018 Penalties for violations by precious metals dealers.—Any person who violates s. 538.011(1), s. 538.012, or s. 538.014 or who refuses to allow a law enforcement officer to make an inspection required by s. 538.016 is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 *and by a fine not to exceed $10,000.*

Section 43. Subsection (3) of section 68.065, Florida Statutes, is amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.—

(3) Before recovery under subsection (1) or subsection (2) may be claimed, a written demand shall be delivered by certified or registered mail, evidenced by return receipt, to the maker or drawer of the check, draft, or order of payment. The form of such notice shall be substantially as follows:

"You are hereby notified that a check numbered . . . . issued by you on . . . (date) . . ., drawn upon . . . (name of bank) . . ., and payable to . . . . , has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of $10 or 5 percent of the face amount of the check, whichever is greater, the total amount due being $. . . . and . . . . cents. Unless this amount is paid in full within the 30-day period. the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than $50 ~~or more than $2500~~, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action."

Section 44. Paragraph (a) of subsection (4) of section 832.05, Florida Statutes, is amended to read:

832.05 Knowingly drawing, making, uttering, issuing, delivering, or using worthless checks, drafts, and debit card orders; obtaining property in return for worthless instruments; penalty; duty of drawee; evidence.—

(4) OBTAINING PROPERTY OR SERVICES IN RETURN FOR WORTHLESS CHECKS, DRAFTS, OR DEBIT CARD ORDERS; PENALTY.—

(a) It is unlawful for any person, firm, or corporation to obtain any services, goods, wares, or other things of value by means of a check, draft, or other written order upon any bank, person, firm, or corporation, knowing at the time of the making, drawing, uttering, issuing, or delivering of such check or draft that the maker thereof has not sufficient funds on deposit in or credit with such bank or depository with which to pay the same upon presentation. However, no crime may be charged in respect to the giving of any such check or draft or other written order when the payee knows, has been expressly notified, or has reason to believe that the drawer did not have on deposit or to his credit with the drawee sufficient funds to ensure payment thereof. *A payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to him.*

Section 45. Subsection (4) of section 790.001, Florida Statutes, is amended to read:

790.001 Definitions.—The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this chapter, except where the context otherwise requires:

(4) "Destructive device" means any *bomb, grenade, mine, rocket, missile, pipebomb, or similar device containing an* explosive, incendiary, or poison gas bomb, *and includes any frangible container filled with an explosive, incendiary, explosive gas, or expanding gas, which is designed or so constructed as to explode by such filler and is capable of causing bodily harm or property damage; any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled; any device declared a destructive device by the Bureau of Alcohol, Tobacco, and Firearms* ~~grenade, mine, rocket, missile, or similar device and includes~~ any type of weapon which will, is designed to, or may readily be converted to expel a projectile by the action of any explosive and has a barrel with a bore of one-half inch or more in diameter and ammunition for such destructive devices, but not including shotgun shells or any other ammunition designed for use in a firearm other than a destructive device. "Destructive device" does not include:

(a) A device which is not designed, redesigned, used, or intended for use as a weapon;

(b) Any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, line-throwing, safety, or similar device;

(c) Any shotgun other than a short-barreled shotgun; or

(d) Any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game.

Section 46. Section 790.161, Florida Statutes, is amended to read:

790.161 Making, possessing, throwing, placing, *projecting,* or discharging any destructive device or attempt so to do, felony; penalties.—

(1) A person who makes, possesses, throws, places, *projects,* discharges, or attempts to *throw, place, project, or* discharge any destructive device, with intent to do bodily harm to any person or with intent *wrongfully* to do damage to property.

(a)~~(1)~~ Shall be guilty of a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084.

(b)~~(2)~~ If the act results in a disruption of governmental operations, commerce, or the private affairs of another person, shall be guilty of a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084, and the person shall be required to serve a term of imprisonment of not less than 5 calendar years before becoming eligible for parole.

(c)~~(3)~~ If the act results in bodily harm to another person or in property damage, shall be guilty of a felony of the first degree, punishable as provided in s. 775.082 or s. 775.084, and the person shall be required to serve a term of imprisonment of not less than 10 calendar years before becoming eligible for parole.

(d)~~(4)~~ If the act results in the death of another person, shall be guilty of a capital felony, punishable by death. In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment, and such person shall be required to serve a term of imprisonment of not less than 25 calendar years before becoming eligible for parole.

Section 47. Section 790.162, Florida Statutes, is amended to read:

790.162 Threat to throw, place, *project,* or discharge any destructive device, felony; penalty.—It is unlawful for any person to threaten to throw, place, *project,* or discharge any destructive device with intent to do bodily harm to any person or with intent to do damage to any property of any person, and any person convicted thereof shall be guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 48. Paragraph (b) of subsection (2) of section 806.111, Florida Statutes, is amended to read:

806.111 Fire bombs.—

(1) Any person who possesses, manufactures, transports, or disposes of a fire bomb with intent that such fire bomb be willfully and unlawfully used to damage by fire or explosion any structure or property is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) For the purposes of this section:

(a) "Disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

(b) "Fire bomb" means a container containing flammable or combustible liquid, *or any incendiary chemical mixture or compound* ~~with a flash point of 200° Fahrenheit or less~~, having a wick or similar device capable of being ignited or other means capable of causing ignition; but no device commercially manufactured primarily for the purpose of illumination, heating, or cooking shall be deemed to be such a fire bomb.

Section 49. Section 768.075, Florida Statutes, is created to read:

768.075 Liability for injury to trespassers on real property.—No person or organization owning or controlling an interest in real property, nor an agent thereof, shall be liable for the death of, or injury or damage to any trespasser upon such property resulting from or arising by reason of the commission of the offense of trespass, as defined in s. 810.08 or s. 810.09, unless the gross negligence or willful and wanton misconduct of the person or organization owning or controlling the property is the primary and proximate cause of the death, injury, or damage to the trespasser.

Section 50. Section 772.11, Florida Statutes, is amended to read:

772.11 Civil remedy for theft.—Any person who proves by clear and convincing evidence that he has been injured in any fashion by reason of any violation of the provisions of ss. 812.012-812.037 or s. 812.081 has a cause of action for threefold the actual damages sustained and, in any such action, is entitled to ~~minimum damages in the amount of $200, and~~ reasonable attorney's fees and court costs in the trial and appellate courts. In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorney's fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support. In awarding attorney's fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorney's fees or costs provided under other provisions of law.

PART VI
PREVENTION OF CRIMES AGAINST
LAW ENFORCEMENT OFFICERS

Section 51. Section 925.055, Florida Statutes, is created to read:

925.055 Law enforcement investigative funds.—

(1) State and local law enforcement agencies which receive investigative and evidence funds from their budgetary authority or which receive special law enforcement trust funds for complex or protracted investigations shall adopt policies which provide for accountability of the expenditures of such funds.

(2) Effective October 1, 1989, the policies of local law enforcement agencies shall provide for an annual financial audit to be performed in conformity with generally accepted government accounting principles. Local and state law enforcement agencies shall not be required to reveal the names of confidential informants to the auditors and the audit report shall not include information exempted in s. 119.07.

Section 52. Section 843.01, Florida Statutes, is amended to read:

843.01 Resisting officer with violence to his person.—Whoever knowingly and willfully resists, obstructs, or opposes any *officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9),* ~~sheriff, deputy sheriff, officer of the Florida Highway Patrol, municipal police officer, county or municipal correctional officer, beverage enforcement agent, officer of the Game and Fresh Water Fish Commission, officer of the Department of Natural Resources, weight and safety officer of the Department of Transportation,~~ member of the Florida Parole and Probation Commission or any administrative aide or supervisor employed by *the* ~~said~~ commission, parole and probation supervisor, ~~or parole and probation officer employed by the Department of Corrections,~~ county probation officer, personnel or representative of the Department of Law Enforcement, or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized 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 53. Section 843.02, Florida Statutes, is amended to read:

843.02 Resisting officer without violence to his person.—Whoever shall *resist,* obstruct, or oppose any ~~such~~ officer *as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9),* ~~beverage enforcement agent, weight and safety officer of the Department of Transportation,~~ member of the Florida Parole and Probation Commission or any administrative aide or supervisor employed by *the* ~~said~~ commission, *county probation officer* parole and probation supervisor, ~~or parole and probation officer employed by the Department of Corrections,~~ personnel or representative of the Department of Law Enforcement, or *other person* legally authorized *to execute process* ~~person~~ in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, *or s. 775.084.*

Section 54. Section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(1)(a) As used in this section, the term "law enforcement officer" includes *a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, and any,* ~~but shall not be limited to, any sheriff; deputy sheriff; municipal police officer; highway patrol officer; beverage enforcement agent;~~ county probation officer; ~~state, county, or municipal correctional officer;~~ officer of the Parole and Probation Commission; ~~parole and probation officer;~~ and law enforcement personnel of the Game and Fresh Water Fish Commission and the Departments of Natural Resources and Law Enforcement.

(b) "Firefighter" as used in this section shall mean any person employed by any public employer of this state whose duty it is to extinguish fires, to protect life or property, or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer or firefighter, or an intake officer as defined in s. 39.01, while the officer, firefighter, or intake officer is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

Section 55. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 776.05, Florida Statutes, is amended to read:

776.05 Law enforcement officers; use of force in making an arrest.—A law enforcement officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force:

(1) Which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest;

(2) When necessarily committed in retaking felons who have escaped; or

(3) When necessarily committed in arresting felons fleeing from justice. *However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given,* and:

(a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

(b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

~~However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given.~~

No law enforcement agency, municipality, office, or political subdivision of this state shall adopt or promulgate any rule, regulation, or policy which prohibits a law enforcement officer from using that degree of force to apprehend a fleeing felon which is allowed by this section. However, this provision does not preclude any law enforcement agency, municipality, office, or political subdivision of this state from adopting policies which limit the circumstances in which deadly force may be used in order to protect third parties.

Section 56. Section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(1)(a) As used in this section, the term "law enforcement officer" includes, but shall not be limited to, any sheriff; deputy sheriff; municipal police officer; highway patrol officer; beverage enforcement agent; county probation officer; state, county, or municipal correctional officer; officer of the Parole and Probation Commission; parole and probation officer; and law enforcement personnel of the Game and Fresh Water Fish Commission and the Departments of Natural Resources and Law Enforcement.

(b) "Firefighter" as used in this section shall mean any person employed by any public employer of this state whose duty it is to extinguish fires, to protect life or property, or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires.

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer or firefighter, or an intake officer as defined in s. 39.01, while the officer, firefighter, or intake officer is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(3) Notwithstanding the provisions of any other section, any person who is convicted of attempted murder of a law enforcement officer engaged in the lawful performance of his duty or who is convicted of attempted murder of a law enforcement officer when the motivation for such attempt was related, all or in part, to the lawful duties of the officer, shall be guilty of a life felony, punishable as provided in s. 775.0825.

Section 57. Section 775.0825, Florida Statutes, is created to read:

775.0825 Attempted murder of law enforcement officer; penalty.—Any person convicted of attempted murder of a law enforcement officer as provided in s. 784.07(3) shall be required to serve no less than 25 years before becoming eligible for parole. Such sentence shall not be subject to the provisions of s. 921.001.

Section 58. Subsection (2) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, or intake officers; reclassification of offenses.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, *a* ~~or~~ firefighter, ~~or~~ an intake officer as defined in s. 39.01, *or a parking enforcement specialist as defined in s. 316.640,* while the officer, firefighter, ~~or~~ intake officer, *or parking enforcement specialist* is engaged in the lawful performance of his duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

Section 59. Section 843.08, Florida Statutes, is amended to read:

843.08 Falsely personating officer, etc.—Whoever falsely assumes or pretends to be a sheriff, officer of the Florida Highway Patrol, officer of the Game and Fresh Water Fish Commission, officer of the Department of Natural Resources, deputy sheriff, *state attorney investigator,* coroner, police officer, beverage enforcement agent, or watchman, or any member of the Florida Parole and Probation Commission and any administrative aide or supervisor employed by said commission, or any personnel or representative of the Department of Law Enforcement, and takes upon himself to act as such, or to require any person to aid or assist him in a matter pertaining to the duty of any such officer, shall be deemed guilty of a *felony* ~~misdemeanor~~ of the *third* ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.083. *However, whoever commits a crime proscribed by this section while in the commission of a separate crime is guilty of a felony of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

PART VII PROTECTION OF VICTIMS OF CRIME

Section 60. *(1) A guardian ad litem or other advocate shall be appointed by the court to represent a minor in any criminal proceeding if the minor is a victim of or witness to child abuse or neglect or if the minor is a victim of a sexual offense or a witness to a sexual offense committed against another minor. The court may appoint a guardian ad litem or other advocate in any other criminal proceeding in which a minor is involved as either a victim or a witness. The guardian ad litem or other advocate shall have full access to all evidence and reports introduced during the proceedings, may interview witnesses, may make recommendations to the court, shall be noticed and have the right to appear on behalf of the minor at all proceedings, and may request addi-*

tional examinations by medical doctors, psychiatrists, or psychologists. It is the duty of the guardian ad litem or other advocate to perform the following services:

(a) To explain, in language understandable to the minor, all legal proceedings in which the minor shall be involved;

(b) To act, as a friend of the court, to advise the judge, whenever appropriate, of the minor's ability to understand and cooperate with any court proceeding; and

(c) To assist the minor and the minor's family in coping with the emotional effects of the crime and subsequent criminal proceedings in which the minor is involved.

(2) Any person participating in a judicial proceeding as a guardian ad litem or other advocate shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

Section 61. Section 933.18, Florida Statutes, is amended to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(1) It is being used for the unlawful sale, possession, or manufacture of intoxicating liquor;

(2) Stolen or embezzled property is contained therein;

(3) It is being used to carry on gambling;

(4) It is being used to perpetrate frauds and swindles;

(5) The law relating to narcotics or drug abuse is being violated therein;

(6) A weapon, instrumentality, or means by which a felony has been committed, or evidence relevant to proving said felony has been committed, is contained therein;

(7) One or more of the following misdemeanor child abuse offenses is being committed there:

(a) Interference with custody, in violation of s. 787.03.

(b) Commission of an unnatural and lascivious act with a child, in violation of s. 800.02.

(c) Exposure of sexual organs to a child, in violation of s. 800.03.

(8)~~(7)~~ It is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boarding, or lodging house;

(9)~~(8)~~ It is being used for the unlawful sale, possession, or purchase of wildlife, saltwater products, or freshwater fish being unlawfully kept therein; or

(10)~~(9)~~ The laws in relation to cruelty to animals have been or are being violated therein, except that no search pursuant to such a warrant shall be made in any private dwelling after sunset and before sunrise unless specially authorized by the judge issuing the warrant, upon a showing of probable cause. Property relating to the violation of such laws may be taken on a warrant so issued from any private dwelling in which it is concealed or from the possession of any person therein by whom it shall have been used in the commission of such offense or from any person therein in whose possession it may be.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to s. 415.506. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodging house. No warrant shall be issued for the search of any private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 62. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (6) of section 316.193, Florida Statutes, as amended by chapter 88-5, Laws of Florida, is amended to read:

316.193 Driving under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction thereof, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours. In lieu of such participation, the court may order that any defendant pay an additional fine of $10 for each hour of public service or community work otherwise required, if, after consideration of the residence or location of the defendant at the time such public service or community work is required, payment of the fine is in the best interests of the state. However, in no event may the total period of probation and incarceration exceed 1 year.

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

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

For the purposes of this section, a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028, or a previous conviction outside this state for any substantially similar alcohol-related or drug-related traffic offense, shall also be considered a previous conviction for violation of this section. Notwithstanding any other provision of this section, *$100* ~~$25~~ shall be added to any fine imposed pursuant to this section, *of* which *one-quarter* ~~$25~~ shall be deposited in the Emergency Medical Services Trust Fund created in s. 401.34(4), *one-half shall be deposited in the Administrative Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Crime Laboratories and Staff Services in conducting the statewide criminal analysis laboratory system established in s. 943.32, and one-quarter shall be deposited in the Impaired Drivers and Speeders Trust Fund created in s. 413.613.* However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court shall not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

Section 63. Subsection (8) is added to section 318.18, Florida Statutes, to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14(1), (2), and (4) are as follows:

(8) Two dollars for every mile per hour over the lawful speed limit for violations for unlawful speed shall be assessed in addition to the penalties set forth in subsection (3). Funds collected pursuant hereto shall be deposited in the Impaired Drivers and Speeders Trust Fund for the purposes set forth in s. 413.613, after 5 percent is deducted by the clerk of the court for administrative costs.

Section 64. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 943.361, Florida Statutes, is created to read:

943.361 Statewide criminal analysis laboratory system; funding through driving under influence fine surcharge.—

(1) Funds deposited pursuant to s. 316.193(6) for the statewide criminal analysis laboratory system shall be used for state reimbursements to local county-operated crime laboratories enumerated in s. 943.35(1), and for the equipment, health, safety, and training of member crime laboratories of the statewide criminal analysis laboratory system.

(2) Moneys deposited pursuant to s. 316.193(6) for the statewide criminal analysis laboratory system shall be appropriated by the Legislature in accordance with the provisions of chapter 216 and with the purposes stated in subsection (1).

Section 65. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 413.613, Florida Statutes, is created to read:

413.613 Impaired Drivers and Speeders Trust Fund.—

(1) There is created in the State Treasury the Impaired Drivers and Speeders Trust Fund. Moneys in the fund shall be appropriated beginning in fiscal year 1989-1990 to the Division of Vocational Rehabilitation of the Department of Labor and Employment Security for the following purposes:

(a) Providing cost of care for spinal cord and head injury as a payer of last resort to residents of the State of Florida, for multilevel programs of care established pursuant to ss. 413.601-413.605 and ss. 413.611-413.612.

1. Authorization of expenditures for spinal cord injury care and head injury care shall be made only by the Division of Vocational Rehabilitation of the Department of Labor and Employment Security.

2. Authorized expenditures include acute care, rehabilitation, transitional living, and equipment necessary for activities of daily living.

(b) Public information, prevention, education and research.

(2) The Division of Vocational Rehabilitation shall issue a report to the President of the Senate and the Speaker of the House of Representatives by March 1 of each year, summarizing the activities supported by the trust fund.

Section 66. *Definitions.—As used in sections 66 through 69 of this act:*

(a) "Adult" means a person not legally prohibited by reason of age from possessing alcoholic beverages pursuant to chapter 562, Florida Statutes.

(2) "Alcoholic beverage" means distilled spirits and any beverage containing one-half of one percent or more alcohol by volume. The percentage of alcohol by volume shall be determined in accordance with the provisions of s. 561.01(4)(b), Florida Statutes.

(3) "Control" means the authority or ability to regulate, direct, or dominate.

(4) "Drug" means a controlled substance, as that term is defined in ss. 893.02(4) and 893.03, Florida Statutes.

(5) "Minor" means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to chapter 562, Florida Statutes.

(6) "Open house party" means a social gathering at a residence.

(7) "Residence" means a home, apartment, condominium, or other dwelling unit.

Section 67. *Responsibility of adults; open house parties.—No adult having control of any residence shall allow an open house party to take place at said residence if any alcoholic beverage or drug is possessed or consumed at said residence by any minor where the adult knew that an alcoholic beverage or drug was in the possession of or being consumed by a minor at said residence, and where the adult failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug.*

Section 68. *Exception.—The provisions of sections 66 through 69 of this act shall not apply to the use of alcoholic beverages at legally protected religious observances or activities.*

Section 69. *Penalties.—Any person who violates any of the provisions of section 67 of this act is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.*

Section 70. Subsection (2) of section 847.011, Florida Statutes, is amended to read:

847.011 Prohibition of certain acts in connection with obscene, lewd, etc., materials; penalty.—

(2) A person who knowingly has in his possession, custody, or control any obscene book, magazine, periodical, pamphlet, newspaper, comic book, story paper, written or printed story or article, writing, paper, card, picture, drawing, photograph, motion-picture film, film, *any sticker, decal, emblem or other device attached to a motor vehicle containing obscene descriptions, photographs, or depictions, any* figure, image, phonograph record, or wire or tape or other recording, or any written, printed, or recorded matter of any such character which may or may not require mechanical or other means to be transmuted into auditory, visual, or sensory representations of such character, or any article or instrument for obscene use, or purporting to be for obscene use or purpose, without intent to sell, lend, give away, distribute, transmit, show, transmute, or advertise the same, is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who, after having been convicted of violating this subsection, thereafter violates any of its provisions is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In any prosecution for such possession, it shall not be necessary to allege or prove the absence of such intent.

Section 71. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 72. Except as otherwise expressly provided in this act, this act shall take effect October 1, 1988.

Senator Johnson moved the following amendments to **Amendment 2** which were adopted:

Amendment 2A—On page 50, lines 29 and 30; on page 51, lines 1-30; on page 52, lines 1-31; and on page 53, lines 1-6, strike all of said lines and renumber subsequent sections.

Amendment 2B—On page 60, strike all of lines 5-16 and renumber subsequent sections.

Amendment 2C—On page 61, between lines 5 and 6, insert:

Section 51. Subsection (6) is added to section 372.99, Florida Statutes, to read:

372.99 Illegal taking and possession of deer and wild turkey; evidence; penalty.—

(6) Any person who enters upon private property and shines lights upon such property, without the express permission of the owner of the property and with the intent to take deer by utilizing such shining lights, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(Renumber subsequent sections.)

Amendment 2D—On page 64, between lines 7 and 8, insert:

Section 55. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (10) is added to section 901.15, Florida Statutes, to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(10) He is employed by the State of Florida as a law enforcement officer, as defined in s. 943.10(1), or part-time law enforcement officer, as defined in s. 943.10(6), and:

(a) He reasonably believes that a felony involving violence has been or is being committed and that the person to be arrested has committed or is committing the felony,

(b) While engaged in the exercise of his state law enforcement duties, he reasonably believes that a felony has been or is being committed, or

(c) A felony warrant for the arrest has been issued and is being held for execution by another peace officer.

Notwithstanding any other provision of law, the authority of an officer pursuant to this subsection is statewide. This subsection does not limit the arrest authority conferred on such officer by any other law.

(Renumber subsequent sections.)

Amendment 2E—On page 67, lines 30 and 31, and on page 68, lines 1-16, strike all of said lines and renumber subsequent sections.

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

Amendment 2F—On page 77, between lines 7 and 8, insert:

Section 71. Section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended or revoked.—

(1) Any person whose operator's or chauffeur's license or driving privilege has been canceled, suspended, or revoked as provided by law, except persons defined in s. 322.264, and who drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, upon conviction of a first offense, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, and any person convicted of a second or subsequent charge of driving while his license is canceled, suspended, or revoked shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person whose operator's or chauffeur's license has been revoked pursuant to s. 322.264 (habitual offender) and who drives any motor vehicle upon the highways of this state while such license is revoked is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person whose operator's or chauffeur's license has been canceled, suspended, or revoked pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (5) and who operates a motor vehicle while his operator's or chauffeur's license is canceled, suspended, or revoked and who by careless or negligent operation thereof causes the death of or serious bodily injury to another human being, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(Renumber subsequent sections.)

Amendment 2 as amended was adopted.

The Committee on Corrections, Probation and Parole recommended the following amendment which was moved by Senator Johnson:

Amendment 3—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to crime prevention; creating Part I of the act, relating to Standards for Sentencing Criminals; amending s. 960.001, F.S.; requiring the institution of confinement to notify the state attorney of the county where the crime occurred of an offender's escape; requiring the state attorney to notify certain persons of the escape; amending s. 893.13, F.S.; authorizing courts to impose assessments, in addition to fines and other penalties authorized by law, against offenders who violate the criminal provisions of chapter 893, F.S., and providing standards therefor; creating s. 893.16, F.S.; providing that such additional assessments shall be remitted by the clerks of court for use in specified drug abuse programs; creating s. 893.165, F.S.; authorizing the establishment of county drug abuse trust funds to provide assistance grants to designated drug abuse treatment or education programs; providing for administration of such funds by the boards of county commissioners; providing for the remittance and disbursement of additional assessments for drug abuse program purposes; amending s. 921.187, F.S.; authorizing the imposition of such assessments in the disposition of such criminal cases; amending ss. 142.01 and 142.03, F.S.; providing an exception for such assessments from county fine and forfeiture funds; amending s. 903.133, F.S.; adding violations of s. 794.011(2) and (3), F.S., relating to sexual battery of minors, to the list of offenses for which bail on appeal is prohibited; amending s. 941.10, F.S.; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; creating Part II of the act, relating to Delinquency Prevention; creating s. 959.31, F.S., the Delinquency Prevention Act of 1988, to authorize delinquency prevention plans and programs thereunder; providing intent and definitions; requiring the establishment of delinquency prevention councils and providing duties thereof; authorizing the Department of Health and Rehabilitative Services to award delinquency prevention program grants and providing application procedures therefor and conditions with respect thereto; amending s. 39.032, F.S.; changing detention procedures to authorize nonsecure detention in certain situations; changing the provisions for detention at a detention hearing; providing arraignment requirements; creating s. 39.0321, F.S.; providing for the prohibited use of detention; creating Part III of the act, relating to Drug Abuse Prevention; amending s. 212.0505, F.S.; increasing the tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; providing a surcharge; revising conditions under which the settlement of tax, penalty, or interest is authorized; providing for the waiver of bond requirements and enforcement and recording costs; creating trust funds for deposit of revenues from said tax; amending chapter 87-243, Laws of Florida; adding nonalcohol substance abuse to the subjects to be studied by the Crime Prevention and Law Enforcement Study Commission; extending reporting requirement; providing for a preliminary report; creating Part IV of the act, relating to Organized Crime Prevention; creating s. 92.60, F.S.; providing for admission into evidence of foreign records of regularly conducted business activity, or a copy thereof, and for foreign certification, as an exception to the hearsay rule in criminal proceedings; providing definitions; providing procedure; amending s. 896.102, F.S., relating to currency transaction reports; providing that information received by the Department of Revenue shall be subject to disclosure pursuant to subpoena; amending s. 213.053, F.S., to conform; amending s. 895.06, F.S., relating to the Florida Racketeer Influenced and Corrupt Organization Act; providing applicability of the privilege against self-incrimination in a criminal prosecution to a person who complies with a court order directing that he comply with a subpoena; amending s. 895.09, F.S.; providing that certain funds obtained under RICO forfeiture proceedings shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services to fund specified drug abuse treatment services; prohibiting the use of a telephone to transmit certain obscene or indecent communications intrastate; prohibiting a person to allow the use of a telephone or a telephone facility under his control for such purpose and specifying criminal penalties for violations; limiting the provisions to intrastate telephone communications; creating Part V of the act, relating to Property Crime Prevention; amending s. 163.503, F.S.; increasing the percentage of land area used for residential and commercial purposes in a safe neighborhood improvement district; excluding land used for public facilities from land use calculations; adding a definition of "Enterprise Zone"; amending s. 163.504, F.S.; allowing participation in safe neighborhoods programs without planning funds; amending s. 163.506, F.S.; clarifying use of taxes and special assessments; providing an alternative to designating the local governing body as the board of directors; amending s. 163.508, F.S.; providing eligibility for existing property owners' associations; allowing assessment against all properties; amending s. 163.511, F.S.; clarifying use of taxes and special assessments; amending s. 163.514, F.S.; including power to make and collect general assessments; amending s. 163.5151, F.S.; providing for collection of assessments; amending s. 163.521, F.S.; adding clarifying language; creating s. 163.523, F.S.; providing for involvement of community organizations; amending ss. 810.08 and 810.09, F.S., relating to trespass in a structure or conveyance and trespass on property other than a structure or conveyance, respectively, to provide that any such trespasser may be taken into custody and detained; providing immunity from liability; amending s. 810.115, F.S.; expanding provisions relating to willfully and maliciously breaking or injuring fences for which a penalty is provided; providing for compensation to the owner; creating s. 877.19, F.S.; prohibiting certain defacement of property by aerosol spray paint cans and broad-tipped markers; providing penalties; amending s. 806.13, F.S., relating to criminal mischief; providing that perpetrators shall, in addition to any criminal penalty, pay the damage caused thereby; providing penalties; amending s. 741.24, F.S.; removing the $2,500 limitation on the liability of parents for destruction or theft of property committed by their minor children; amending s. 715.041, F.S.; providing for information required to be kept by pawnbrokers to be on a form approved by the Department of Law Enforcement; amending s. 715.042, F.S.; providing for a fine; amending s. 538.011, F.S.; providing for information required to be kept by precious metals dealers to be on a form approved by the Department of Law Enforcement; amending s. 538.018, F.S; providing for a fine; amending s. 68.065, F.S.; removing the maximum limit for triple damages with respect to certain actions to collect worthless checks, drafts, or orders of payment; amending s. 832.05, F.S.; providing, with respect to worthless checks, drafts or debit card orders, that a payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to the payee; amending s. 790.001, F.S.; modifying the definition of "destructive device"; amending s. 790.161, F.S., relating to felony offenses involving destructive devices, to add projecting such a device as a felony, to add activities constituting the attempted offense, providing exceptions for lawful uses; amending s. 790.162, F.S., relating to threatening to use a destructive device, to add threatening to project such a device as an offense; amending s. 806.111, F.S.; modifying the definition of "fire bomb"; providing penalties; amending s. 768.075, F.S.; limiting liability of real property owners for any death or injury to trespassers under certain circumstances; amending s. 772.11, F.S.; removing minimum damages for civil theft; creating Part VI of the act, relating to Prevention of Crimes against Law Enforcement Officers; creating s.

925.055, F.S.; requiring state and local law enforcement agencies which receive certain funds to adopt accountability policies; providing required criteria; amending ss. 843.01, 843.02, and 784.07, F.S.; providing a uniform definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; amending s. 776.05, F.S., relating to justifiable use of force; providing when deadly force may be used; prohibiting the adoption of policies restricting the use of force by law enforcement; amending s. 784.07, F.S.; providing enhanced penalties for aggravated assault or battery against certain officers and providing a life felony penalty for attempted murder of a law enforcement officer under certain circumstances; creating s. 775.0825, F.S.; providing mandatory minimum imprisonment for attempted murder of a law enforcement officer; amending s. 784.07, F.S., relating to assault and battery; providing for reclassification of penalties if the victim of the assault or battery is a parking enforcement specialist performing his duties as such; amending s. 843.08, F.S.; increasing the penalty for falsely personating certain law enforcement officers and other persons; enhancing such penalty if false personation occurs during the commission of a crime; providing for the appointment of a guardian ad litem or other advocate to represent a minor who is involved in criminal proceedings as either a victim or a witness; prescribing powers and duties of the guardian ad litem or other advocate; providing such person immunity from certain liability; amending s. 933.18, F.S.; adding specified misdemeanor child abuse offense violations to the list of violations authorizing issuance of a warrant to search a private dwelling; authorizing the officer conducting such search to take the child into protective custody under certain circumstances; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence; providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system and the Impaired Drivers and Speeders Trust Fund for funding of certain injuries; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; creating s. 413.613, F.S.; creating the Impaired Drivers and Speeders Trust Fund; providing for uses of the fund; providing for a report; providing penalties; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; 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 penalties; providing unlawful acts with respect to such devices; providing an exemption; providing for certification of such devices by the Department of Health and Rehabilitative Services; providing rulemaking authority; amending s. 322.271, F.S., to authorize the Department of Highway Safety and Motor Vehicles to order ignition interlock devices as a condition of reinstatement of driving privilege for certain individuals; amending s. 847.011, F.S.; prohibiting persons who own or operate a motor vehicle from affixing to such vehicle any sticker, decal, emblem or other device containing certain obscene descriptions, photographs or depictions; providing a penalty; providing severability; providing effective dates.

The Committee on Appropriations recommended the following substitute amendment which was moved by Senator Johnson:

Amendment 4—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to crime prevention; creating Part I of the act, relating to Standards for Sentencing Criminals; amending s. 960.001, F.S.; requiring the institution of confinement to notify the state attorney of the county where the crime occurred of an offender's escape; requiring the state attorney to notify certain persons of the escape; amending s. 893.13, F.S.; authorizing courts to impose assessments, in addition to fines and other penalties authorized by law, against offenders who violate the criminal provisions of chapter 893, F.S., and providing standards therefor; creating s. 893.16, F.S.; providing that such additional assessments shall be remitted by the clerks of court for use in specified drug abuse programs; creating s. 893.165, F.S.; authorizing the establishment of county drug abuse trust funds to provide assistance grants to designated drug abuse treatment or education programs; providing for administration of such funds by the boards of county commissioners; providing for the remittance and disbursement of additional assessments for drug abuse program purposes; amending s. 921.187, F.S.; authorizing the imposition of such assessments in the disposition of such criminal cases; amending ss. 142.01 and 142.03, F.S.; providing an exception for such assessments from county fine and forfeiture funds; amending s. 903.133, F.S.; adding violations of s. 794.011(2) and (3), F.S., relating to sexual battery of minors, to the list of offenses for which bail on appeal is prohibited; amending s. 941.10, F.S.; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; creating Part II of the act, relating to Delinquency Prevention; creating s. 959.31, F.S., the Delinquency Prevention Act of 1988, to authorize delinquency prevention plans and programs thereunder; providing intent and definitions; authorizing the establishment of delinquency prevention councils and providing duties thereof; authorizing the Department of Health and Rehabilitative Services to award delinquency prevention program grants and providing application procedures therefor and conditions with respect thereto; amending s. 39.032, F.S.; changing detention procedures to authorize nonsecure detention in certain situations; changing the provisions for detention at a detention hearing; providing arraignment requirements; creating s. 39.0321, F.S.; providing for the prohibited use of detention; creating Part III of the act, relating to Drug Abuse Prevention; amending s. 212.0505, F.S.; increasing the tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; providing a surcharge; revising conditions under which the settlement of tax, penalty, or interest is authorized; providing for the waiver of bond requirements and enforcement and recording costs; creating trust funds for deposit of revenues from said tax; amending chapter 87-243, Laws of Florida; adding nonalcohol substance abuse to the subjects to be studied by the Crime Prevention and Law Enforcement Study Commission; extending reporting requirement; providing for a preliminary report; creating Part IV of the act, relating to Organized Crime Prevention; creating s. 92.60, F.S.; providing for admission into evidence of foreign records of regularly conducted business activity, or a copy thereof, and for foreign certification, as an exception to the hearsay rule in criminal proceedings; providing definitions; providing procedure; amending s. 896.102, F.S., relating to currency transaction reports; providing that information received by the Department of Revenue shall be subject to disclosure pursuant to subpoena; amending s. 213.053, F.S., to conform; amending s. 895.06, F.S., relating to the Florida Racketeer Influenced and Corrupt Organization Act; providing applicability of the privilege against self-incrimination in a criminal prosecution to a person who complies with a court order directing that he comply with a subpoena; amending s. 895.09, F.S.; providing that certain funds obtained under RICO forfeiture proceedings shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services to fund specified drug abuse treatment services; prohibiting the use of a telephone to transmit certain obscene or indecent communications intrastate; prohibiting a person to allow the use of a telephone or a telephone facility under his control for such purpose and specifying criminal penalties for violations; limiting the provisions to intrastate telephone communications; creating Part V of the act, relating to Property Crime Prevention; amending s. 163.503, F.S.; increasing the percentage of land area used for residential and commercial purposes in a safe neighborhood improvement district; excluding land used for public facilities from land use calculations; adding a definition of "Enterprise Zone"; amending s. 163.504, F.S.; allowing participation in safe neighborhoods programs without planning funds; amending s. 163.506, F.S.; clarifying use of taxes and special assessments; providing an alternative to designating the local governing body as the board of directors; amending s. 163.508, F.S.; providing eligibility for existing property owners' associations; allowing assessment against all properties; amending s. 163.511, F.S.; clarifying use of taxes and special assessments; amending s. 163.514, F.S.; including power to make and collect general assessments; amending s. 163.5151, F.S.; providing for collection of assessments; amending s. 163.521, F.S.; adding clarifying language; creating s. 163.523, F.S.; providing for involvement of community organizations; amending ss. 810.08 and 810.09, F.S., relating to trespass in a structure or conveyance and trespass on property other than a structure or conveyance, respectively, to provide that any such trespasser may be taken into custody and detained; providing immunity from liability; amending s. 810.115, F.S.; expanding provisions relating to willfully and maliciously breaking or injuring fences for which a penalty is provided; providing for compensation to the owner; creating s. 877.19, F.S.; prohibiting certain defacement of property by aerosol spray paint cans and broad-tipped markers; providing penalties; amending s. 806.13, F.S., relating to criminal mischief; providing that perpetrators shall, in addition to any criminal penalty, pay the damage caused thereby; providing penalties; amending s. 741.24, F.S.; removing the $2,500 limitation on the liability of parents for destruction or theft of property committed by their minor children; amending s. 715.041, F.S.; providing for information

required to be kept by pawnbrokers to be on a form approved by the Department of Law Enforcement; amending s. 715.042, F.S.; providing for a fine; amending s. 538.011, F.S.; providing for information required to be kept by precious metals dealers to be on a form approved by the Department of Law Enforcement; amending s. 538.018, F.S; providing for a fine; amending s. 68.065, F.S.; removing the maximum limit for triple damages with respect to certain actions to collect worthless checks, drafts, or orders of payment; amending s. 832.05, F.S.; providing, with respect to worthless checks, drafts or debit card orders, that a payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to the payee; amending s. 790.001, F.S.; modifying the definition of "destructive device"; amending s. 790.161, F.S., relating to felony offenses involving destructive devices, to add projecting such a device as a felony, to add activities constituting the attempted offense, providing exceptions for lawful uses; amending s. 790.162, F.S., relating to threatening to use a destructive device, to add threatening to project such a device as an offense; amending s. 806.111, F.S.; modifying the definition of "fire bomb"; providing penalties; amending s. 768.075, F.S.; limiting liability of real property owners for any death or injury to trespassers under certain circumstances; amending s. 772.11, F.S.; removing minimum damages for civil theft; creating Part VI of the act, relating to Prevention of Crimes against Law Enforcement Officers; creating s. 925.055, F.S.; requiring state and local law enforcement agencies which receive certain funds to adopt accountability policies; providing required criteria; amending ss. 843.01, 843.02, and 784.07, F.S.; providing a uniform definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; amending s. 776.05, F.S., relating to justifiable use of force; providing when deadly force may be used; prohibiting the adoption of policies restricting the use of force by law enforcement; amending s. 784.07, F.S.; providing enhanced penalties for aggravated assault or battery against certain officers and providing a life felony penalty for attempted murder of a law enforcement officer under certain circumstances; creating s. 775.0825, F.S.; providing mandatory minimum imprisonment for attempted murder of a law enforcement officer; amending s. 784.07, F.S., relating to assault and battery; providing for reclassification of penalties if the victim of the assault or battery is a parking enforcement specialist performing his duties as such; amending s. 843.08, F.S.; increasing the penalty for falsely personating certain law enforcement officers and other persons; enhancing such penalty if false personation occurs during the commission of a crime; providing for the appointment of a guardian ad litem or other advocate to represent a minor who is involved in criminal proceedings as either a victim or a witness; prescribing powers and duties of the guardian ad litem or other advocate; providing such person immunity from certain liability; amending s. 933.18, F.S.; adding specified misdemeanor child abuse offense violations to the list of violations authorizing issuance of a warrant to search a private dwelling; authorizing the officer conducting such search to take the child into protective custody under certain circumstances; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence; providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system and the Impaired Drivers and Speeders Trust Fund for funding of certain injuries; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; amending s. 318.18, F.S.; providing an additional surcharge on civil penalties for unlawful speed; providing for disposition; creating s. 413.613, F.S.; creating the Impaired Drivers and Speeders Trust Fund; providing for uses of the fund; providing for a report; providing penalties; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; amending s. 847.011, F.S.; prohibiting persons who own or operate a motor vehicle from affixing to such vehicle any sticker, decal, emblem or other device containing certain obscene descriptions, photographs or depictions; providing a penalty; providing severability; providing effective dates.

Senator Johnson moved the following amendments to Amendment 4 which were adopted:

Amendment 4A—In title, on page 6, strike all of lines 1-8 and insert: compensation to the owner; amending s.

Amendment 4B—In title, on page 7, lines 12-15, after "penalties;" strike all of said lines

Amendment 4C—In title, on page 7, line 17, after the semicolon (;) insert: amending s. 372.99, F.S.; prohibiting the shining of lights on private property with the intent to take deer; providing a penalty;

Amendment 4D—In title, on page 7, line 27, after "officers;" insert: amending s. 901.15, F.S.; providing statewide jurisdictional warrantless arrest powers to state law enforcement officers under certain circumstances;

Amendment 4E—In title, on page 8, strike all of lines 13-17

Senator Lehtinen moved the following amendment to Amendment 4 which was adopted.

Amendment 4F—In title, on page 10, line 13, after the second semicolon (;) insert: amending s. 322.34, F.S.; providing that it is a felony to operate a motor vehicle without a valid license under specified circumstances;

Amendment 4 as amended was adopted.

On motion by Senator Johnson, by two-thirds vote HB 1653 as amended was read the third time by title.

On motion by Senator Frank, the Senate reconsidered the vote by which HB 1653 was read the third time.

On motion by Senator Frank, the Senate reconsidered the vote by which Amendment 2 as amended was adopted.

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

Amendment 2G—On page 77, between lines 7 and 8, insert:

Section 77. Section 784.046, Florida Statutes, is created to read:

784.046 Action by victim of repeat violence for protective injunction; petition; notice and hearing; temporary injunction; issuance; enforcement.—

(1) As used in this section, the term:

(a) "Violence" means any assault, battery, or sexual battery.

(b) "Repeat violence" means two incidents of violence committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's spouse, children, or parents.

(2) There is created a cause of action for an injunction for protection in cases of repeat violence.

(a) Any person who is the victim of repeat violence has standing to seek, in the circuit court by a sworn petition, an injunction for protection against repeat violence.

(b) An injunction may be sought whether or not any other petition, complaint, or cause of action is currently available or pending between the parties.

(c) This cause of action for an injunction does not require that the petitioner be represented by an attorney.

(3)(a) The clerk of the court shall provide a copy of this section, simplified forms, and clerical assistance for the preparation and filing of such a petition by any person who is not represented by an attorney.

(b) If the person seeking an injunction pursuant to this section does not have sufficient funds with which to pay filing fees to the clerk of the court or service fees to the sheriff, and signs an affidavit so stating, the fees shall be waived by the clerk of the court or the sheriff to the extent necessary to process the petition and serve the injunction, subject to a subsequent order of the court with respect to the payment of such fees.

(c) Bond may not be required by the court for the entry of an injunction.

(d) The clerk of the court shall provide the petitioner with a certified copy of any injunction for protection against repeat violence entered by the court.

(4)(a) The sworn petition must allege the incidents of repeat violence and must include the specific facts and circumstances which form the basis upon which relief is sought.

(b) The sworn petition must be in substantially the following form:

PETITION FOR INJUNCTION FOR
PROTECTION AGAINST REPEAT VIOLENCE

Before me, the undersigned authority, personally appeared Petitioner . . . (Name). . . , who has been sworn and says that the following statements are true:

1. Petitioner resides at . . . (address). . .

2. Respondent resides at . . . (address). . .

3. Petitioner has suffered repeat violence as demonstrated by the fact that the respondent has: . . . (enumerate incidents of violence) . . ..

4. Petitioner genuinely fears repeat violence by the respondent.

5. Petitioner seeks an immediate injunction against the respondent, enjoining him from committing any further act of repeat violence; an injunction enjoining the respondent from committing any further act of repeat violence; and an injunction providing any terms the court deems necessary for the protection of the petitioner and his immediate family, including any injunctions or directives to law enforcement agencies.

(5) Upon the filing of the petition, the court shall set a hearing to be held at the earliest possible time. The respondent shall be personally served with a copy of the petition, notice of hearing, and temporary injunction, if any, prior to the hearing.

(6)(a) When it appears to the court that an immediate and present danger of repeat violence exists, the court may grant a temporary injunction, which may be granted in an ex parte hearing, pending a full hearing, and may grant an injunction to enjoin the respondent from committing any act of repeat violence.

(b) In an ex parte hearing for a temporary injunction, no evidence other than the verified pleading or affidavit may be admitted. However, if the court determines that an ex parte hearing is not appropriate, the respondent is to be given notice and may appear and other evidence may be presented.

(c) Any such ex parte temporary injunction shall be effective for a fixed period not to exceed 30 days. A full hearing, as provided by this section, shall be set for a date no later than the date when the temporary injunction expires. The court may grant a continuance before or during a hearing, for good cause shown by any party.

(7)(a) Upon notice and hearing, the court may grant such relief as the court deems proper, including an injunction:

1. Enjoining the respondent from committing any act of violence.

2. Ordering such other relief as the court deems necessary for the protection of the petitioner, including injunctions or directives to law enforcement agencies, as provided in this section.

(b) Any relief granted by the injunction shall be granted for a fixed period not to exceed 1 year, unless upon petition of the victim the court extends the injunction for successive fixed periods not to exceed 1 year. Such relief may be granted in addition to other civil or criminal remedies.

(8)(a) The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff of the county where the respondent resides or can be found, and the sheriff shall serve it upon the respondent as soon thereafter as possible.

(b) When an injunction is issued, if the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner and assist in the execution or service of the injunction.

(c) A copy of the injunction shall be forwarded by the clerk of court, within 24 hours after its entry, to the local law enforcement agency which has jurisdiction over the residence of the petitioner. Each appropriate law enforcement agency shall make available to other law enforcement officers, through a system for verification, information as to the existence and status of any such injunction.

(9)(a) The court shall enforce through contempt proceedings compliance by the respondent with the injunction, which enforcement may include the imposition of a fine. Any such fine shall be collected and deposited in the Crimes Compensation Trust Fund established in s. 960.21.

(b) If the respondent is arrested by a peace officer under the authority of s. 901.15(8) for committing an act of repeat violence in violation of an injunction against repeat violence, the respondent shall be held in custody and brought before the court as expeditiously as possible for the purpose of enforcing the injunction.

(10) The petitioner or the respondent may move the court to modify or dissolve an injunction at any time.

Section 78. Present subsections (8) and (9) of section 901.15, Florida Statutes, are renumbered as subsections (9) and (10), respectively, and a new subsection (8) is added to said section, to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(8) He has probable cause to believe that the person has knowingly committed an act of repeat violence in violation of an injunction for protection from repeat violence entered pursuant to s. 784.046.

(Renumber subsequent sections.)

Senator Weinstein moved the following amendments to Amendment 2 which were adopted:

Amendment 2H—On page 77, between lines 7 and 8, insert:

Section 71. 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

a finding of a separate subsequent 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 finding to the department. A person other than a probationer who violates subsection (6), in addition to any other penalty provided by law, is guilty of a noncriminal violation, punishable by a fine of not less than $250 or more than $500 per each such violation. If the person does not pay the fine, the fine shall become a lien against the motor vehicle used in violation of subsection (6) and payment shall be made pursuant to s. 316.3025(4).

(6) It is unlawful for any person to commit any of the following acts. In the case of a probationer, refraining from such acts 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 the accuracy and precision of the breath testing component of the ignition interlock devices as required by s. 316.1936, and shall publish a list of approved devices, together with rules governing the accuracy and precision of the breath testing component 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.

Section 72. Paragraph (d) is added to subsection (2) of section 322.271, Florida Statutes, to read:

322.271 Authority to modify revocation, cancellation, or suspension order.—

(2)

(d) The department, based upon review of the licensee's application for reinstatement, may require use of an ignition interlock device pursuant to s. 316.1936.

(Renumber subsequent section.)

Amendment 2I—On page 77, between lines 13 and 14, insert:

Section 72. There is established within the office of the state attorney in each judicial circuit in the state the State Attorney's Forfeiture and Investigative Support Trust Fund. Revenues received by a state attorney as a result of forfeiture proceedings, as provided under s. 932.704, Florida Statutes, shall be deposited into the fund to be used for the investigation of crime, prosecution of criminals, or other law enforcement purposes.

Section 73. 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 school resource officer, crime prevention, or drug education programs or for other law enforcement purposes. 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 requests for expenditures shall include a statement describing anticipated recurring costs for the agency for subsequent fiscal years. 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 school resource officer, crime prevention, or drug abuse education programs or such other law enforcement 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 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*; and, if the seizing law enforcement agency is a state attorney's office acting within its judicial circuit, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the State Attorney's Forfeiture and Investigative Support Trust Fund to be used for the investigation of crime and prosecution of criminals.*

(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 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. *If the seizing agency is a state attorney's office acting within its judicial circuit, the court shall direct that the proceeds be deposited into the State Attorney's Forfeiture and Investigative Support Trust Fund. If the Department of Natural Resources together with a state attorney's office acting within its judicial circuit are substantially involved in effecting the forfeiture, the court having jurisdiction over the forfeiture proceeding shall equitably distribute the proceeds to the Motorboat Revolving Trust Fund and the State Attorney's Forfeiture and Investigative Support Trust Fund.*

(Renumber subsequent section.)

On motion by Senator Johnson, the Senate reconsidered the vote by which **Amendment 2H** was adopted. **Amendment 2H** failed.

Senators Girardeau, Meek and Gordon offered the following amendment to Amendment 2 which was moved by Senator Girardeau and adopted:

Amendment 2J—On page 65, strike all of lines 12-20

The vote was:

Yeas—15

Barron	Gordon	Margolis	Thurman
Brown	Grant	Meek	Weinstein
Frank	Hill	Plummer	Weinstock
Girardeau	Malchon	Thomas	

Nays—12

Beard	Hollingsworth	Kirkpatrick	Peterson
Childers, D.	Jennings	Langley	Scott
Hair	Johnson	Myers	Woodson

Vote after roll call:

Yea—Jenne, Stuart

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

Amendment 2K—On page 77, between lines 7 and 8, insert:

Section 71. Subsection (7) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14(1), (2), and (4) are as follows:

(7)*(a)* Any person who fails to comply with the court's requirements or who fails to pay the civil penalties specified in this section within the 30-day period provided for in s. 318.14 shall be required to pay an additional civil penalty of $12, which additional civil penalty shall be distributed as provided in s. 318.21.

(b) Any person who fails to comply with the court's requirements as to civil penalties specified in this section due to demonstrable financial hardship shall be authorized to satisfy such civil penalties by public works or community service. Each hour of such service shall be applied, at the rate of the minimum wage, toward payment of the person's civil penalties; provided, however, that if the person has a trade or profession for which there is a community service need and application, the rate for each hour of such service shall be the average standard wage for such trade or profession. Any person who fails to comply with the court's requirements as to such civil penalties who does not demonstrate financial hardship may also, at the discretion of the court, be authorized to satisfy such civil penalties by public works or community service in the same manner.

(Renumber subsequent section.)

Amendment 2 as amended was adopted.

On motion by Senator Johnson, the Senate reconsidered the vote by which Amendment 4 was adopted.

Senator Frank moved the following amendment to Amendment 4 which was adopted:

Amendment 4G—In title, on page 10, line 13, after the second semicolon (;) insert: creating s. 784.046, F.S.; providing for the issuance of restraining orders, without the necessity of legal representation, in cases in which acts of repeat violence are alleged; providing definitions; providing duties of the clerk of court; providing for waiver of fees for indigents; providing a form for petition for injunction; providing for service of process; providing for ex parte temporary injunction; providing for injunctive relief of 1 year; providing for extension of such relief; providing for dissemination and verification of injunction; providing for enforcement through contempt proceedings and imposition of fine; providing for arrest for violation of injunction; providing for modification or dissolution of injunction; amending s. 901.15, F.S.; authorizing warrantless arrest by law enforcement officer for violation of repeat violence injunction;

Senator Weinstein moved the following amendment to Amendment 4 which was adopted:

Amendment 4H—In title, on page 9, line 30, after the semicolon (;) insert: creating a State Attorney's Forfeiture and Investigative Support Trust Fund within the office of state attorney in each judicial circuit; amending s. 932.704, F.S.; providing for the deposit of certain funds obtained through forfeiture proceedings into such trust funds; providing for the division of certain forfeited funds;

Senators Girardeau and Meek offered the following amendment to Amendment 4 which was moved by Senator Girardeau and adopted:

Amendment 4I—In title, on page 7, strike all of lines 29-31 and insert: when deadly force may be used; amending s. 784.07,

Senator Weinstock moved the following amendment to Amendment 4 which was adopted:

Amendment 4J—In title, on page 9, line 29, after the second semicolon (;) insert: amending s. 318.18, F.S.; providing for satisfaction of civil penalties by doing public works or community service;

Amendment 4 as amended was adopted.

Further consideration of **HB 1653** as amended was deferred.

Reconsideration

On motion by Senator Myers, the Senate reconsidered the vote by which—

CS for HB 7—A bill to be entitled An act relating to criminal history records; amending s. 943.058, F.S.; providing that a court may deny a request for sealing or expunging certain criminal history records; authorizing the expunction of certain criminal history records without requiring a prior sealing; authorizing access to certain sealed records by specified persons; providing penalties for disclosure of the existence of or information in sealed or expunged records under certain circumstances; requiring certain notification of petitions for the expunction or sealing of such records; adding a circumstance under which a person whose records have been sealed or expunged may not lawfully deny the events in the record; expanding the statement which the petitioner for a record sealing or expunction must complete; providing penalties for furnishing false information on such sworn statement; prohibiting the expunction of certain records under certain circumstances; creating s. 943.0535, F.S.; requiring clerks of courts to furnish to appropriate federal immigration officers upon official request, without charge, certified copies of court records of aliens convicted of felonies; providing effective dates.

—passed June 2.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Myers and adopted by two-thirds vote:

Amendment 1—On page 6, strike lines 7-14, and insert: *the Department of Health and Rehabilitative Services or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children or the developmentally disabled or the aged or elderly as provided in s. 110.1127(3), s. 393.063(1), s. 394.455(20), s. 396.032(8), s. 397.021(8), s. 402.302(8), s. 402.313(3), s. 409.175(2)(h), s. 415.102(4), s. 415.103, chapter 400, or s. 959.06, or to be employed or licensed by the*

On motion by Senator Myers, CS for HB 7 as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—29

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

Nays—None

Vote after roll call:

Yea—Crawford, Dudley

On motion by Senator Johnson, by unanimous consent—

HB 1397—A bill to be entitled An act relating to law enforcement officers; amending ss. 843.01, 843.02, and 784.07, F.S.; revising the definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; revising provisions relating to penalty for resisting an officer without violence; amending s. 901.15, F.S.; providing statewide jurisdictional warrantless arrest powers to state law enforcement officers under certain circumstances; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Johnson, by two-thirds vote HB 1397 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29

Beard	Grizzle	Margolis	Thomas
Brown	Hair	McPherson	Thurman
Childers, D.	Hollingsworth	Meek	Weinstein
Childers, W. D.	Jennings	Myers	Weinstock
Crenshaw	Johnson	Peterson	Woodson
Dudley	Kirkpatrick	Plummer	
Frank	Langley	Scott	
Grant	Malchon	Stuart	

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Hollingsworth, by two-thirds vote CS for HB 836 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

On motion by Senator Hollingsworth—

CS for HB 836—A bill to be entitled An act relating to the State Group Insurance Program; amending s. 110.123, F.S., providing definitions; providing legislative intent; eliminating authorization for competitive bidding to contract with health maintenance organizations; authorizing the Department of Administration to request competitive bids from and negotiate contracts with health maintenance organizations to service members of the state group insurance program; establishing a minimum benefit package and criteria to be used in negotiating health maintenance organization contracts; requiring submission of certain data elements by health maintenance organizations contracting with the state; deleting a requirement that additional costs of membership in a health maintenance organization be borne by the officer or employee who is a member; providing for confidentiality; providing an effective date.

—a companion measure, was substituted for SB 999 and read the second time by title.

Senator Hollingsworth moved the following amendment which was adopted:

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

Section 1. Subsections (2) and (3), paragraph (b) of subsection (4), and subsection (9) of section 110.123, Florida Statutes, are amended to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in this section, unless the context otherwise requires, the term:

(a) "Department" means the Department of Administration.

(b) "Enrollee" means all state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees enrolled in an insurance plan offered by the state group insurance program.

(c)~~(a)~~ "Full-time state employees" includes all full-time employees of all branches or agencies of state government holding salaried positions and paid by state warrant or from agency funds, and employees paid from regular salary appropriations for 8 months' employment, including university personnel on academic contracts, but in no case shall "state employee" or "salaried position" include persons paid from other-personal-services (OPS) funds.

(d)~~(b)~~ "Health maintenance organization" *or "HMO"* means an entity certified under part II of chapter 641.

(e)~~(c)~~ "Part-time state employee" means any employee of any branch or agency of state government paid by state warrant from salary appropriations or from agency funds, and who is employed for less than the normal full-time work week established by the department or, if on academic contract or seasonal or other type of employment which is less than year-round, is employed for less than 8 months during any 12-month period, but in no case shall "part-time" employee include a person paid from other-personal-services (OPS) funds.

(f)~~(d)~~ "Retired state officer or employee" or "retiree" means any state officer or state employee who retires under a state retirement system or is placed on disability retirement, and who was insured under the state group insurance program at the time of retirement, and who will continue to receive a monthly state warrant after retirement.

(g)~~(e)~~ "State agency" or "agency" means any branch, department, or agency of state government.

(h)~~(f)~~ "State group health insurance *plan* ~~plans~~" means *the state self-insured* ~~the~~ health insurance *plan* ~~plans~~ offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section.

(i)~~(g)~~ "State group insurance program" or "programs" means the package of insurance plans offered to state officers and employees, retired state officers and employees, and surviving spouses of deceased state officers and employees pursuant to this section, including the state group health insurance *plan, health maintenance organization* plans and other plans required or authorized by this section.

(j)~~(h)~~ "State officer" means any constitutional state officer, any elected state officer paid by state warrant, or any appointed state officer who is commissioned by the Governor and who is paid by state warrant.

(k)~~(i)~~ "Surviving spouse" means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan *or a health maintenance organization plan* established pursuant to this section at the time of the death of the deceased officer, employee, or retiree. "Surviving spouse" also means any widow or widower who is receiving or eligible to receive a monthly state warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979. For the purposes of this section, any such widow or widower shall cease to be a surviving spouse upon his or her remarriage.

(3) STATE GROUP INSURANCE PROGRAM.—

(a) *It is the intent of the Legislature to offer a comprehensive package of health insurance benefits for state employees which are provided in a cost-efficient and prudent manner, and to allow state employees the option to choose benefit plans which best suit their individual needs. Therefore,* ~~There is established~~ the state group insurance program *is established* which may include the state group health insurance plan, *health maintenance organization plans,* ~~a~~ group life insurance *plans* ~~plan, and a~~ group accidental death and dismemberment *plans* ~~plan~~, and~~, on and after July 1, 1981, a~~ group disability insurance *plans* ~~plan~~. Furthermore, the Department of Administration is additionally authorized to establish and provide as part of the state group insurance program any other group insurance *plans* ~~plan~~ which *are* ~~is~~ consistent with the provisions of this section.

(b) *Except as provided for in subparagraph (d)2.*, the percentage of state contribution toward the cost of any plan in the state group insurance program shall be uniform with respect to all state employees in state collective bargaining units participating in the same plan or any similar plan. Nothing contained within this section prohibits the development of separate benefit plans for officers and employees exempt from collective bargaining or the development of separate benefit plans for each collective bargaining unit.

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

(d)1. A person eligible to participate in the state group health insurance plan may be authorized by rules adopted by the Department of Administration, in lieu of participating in the state group health insurance plan, to exercise an option to elect membership in a health maintenance organization *plan* which is *under contract with the state* ~~qualified~~ in accordance with criteria established by *this section and by* said rules. The offer of optional membership in a health maintenance organization *plan* permitted by this paragraph may be limited or conditioned by rule as may be necessary to meet the requirements of *state and* federal *laws* ~~law~~.

2. ~~Effective January 1, 1988,~~ The Department of Administration shall~~, by rule,~~ contract with health maintenance organizations to participate in the state group ~~health~~ insurance *program through a request for proposal based upon a premium and a minimum benefit package as follows:* ~~plan through the competitive bid process based on cost, service area, plan benefits, and accessibility. Effective January 1, 1988, all employees participating in the state group health insurance plan, irrespective of whether or not the member participates in a health maintenance organization, shall be subject to the same total premium, regardless of the state or employee share.~~

a. The department shall establish a minimum benefit package to be provided by a participating HMO which shall include: physician services; inpatient and outpatient hospital services; emergency medical services, including out-of-area emergency coverage; diagnostic laboratory and diagnostic and therapeutic radiologic services; mental health, alcohol and chemical dependency treatment services meeting the minimum requirements of state and federal law; skilled nursing facilities and services; prescription drugs; and other benefits as may be required by the department. Additional services may be provided subject to the contract between the department and the HMO.

b. The department may establish a uniform schedule for deductibles and copayments for all participating HMOs.

c. Based upon the minimum benefit package and copayments and deductibles contained in sub-subparagraphs a. and b., the department shall issue a request for proposal for all HMOs which are interested in participating in the state group insurance program. Upon receipt of all proposals, the department may, as it deems appropriate, enter into contract negotiations with HMOs submitting bids. As part of the request for proposal process, the department may require detailed financial data from each HMO which participates in the bidding process for the purpose of determining the financial stability of the HMO.

d. In determining which HMOs to contract with, the department shall, at a minimum, consider: each proposed contractor's previous experience and expertise in providing prepaid health benefits; each proposed contractor's historical experience in enrolling and providing health care services to participants in the state group insurance program; the cost of the premiums; the plan's ability to adequately provide service coverage and administrative support services as determined by the department; plan benefits in addition to the minimum benefit package; accessibility to providers; and the financial solvency of the plan. Nothing shall preclude the department from negotiating regional or statewide contracts with health maintenance organization plans when this is cost-effective and when the department determines the plan has the best overall benefit package for the service areas involved. However, no HMO shall be eligible for a contract if the HMO's retiree Medicare premium exceeds the retiree rate as set by the department for the state group health insurance plan.

e. The department may limit the number of HMOs that it contracts with in each service area based on the nature of the bids it receives, the number of state employees in the service area, and any unique geographical characteristics of the service area. The department shall establish, by rule, service areas throughout the state.

f. All persons participating in the state group insurance program who are subject to contribute towards a total state group health premium shall be subject to the same dollar contribution regardless of whether the enrollee enrolls in the state group health insurance plan or in an HMO plan.

3. All enrollees in the state group health insurance plan or any health maintenance organization plan shall have the option of changing to any other health plan which is offered by the state within any open enrollment period designated by the department. Open enrollment shall be held at least once each calendar year.

4. Any HMO participating in the state group insurance program shall, upon the request of the department, submit to the department standardized data for the purpose of comparison of the appropriateness, quality and efficiency of care provided by the HMO. Such standardized data shall include: membership profiles; inpatient and outpatient utilization by age and sex, type of service, provider type, and facility; and emergency care experience. Requirements and timetables for submission of such standardized data and such other data as the department deems necessary to evaluate the performance of participating HMOs shall be promulgated by rule.

(e) The benefits of the insurance authorized by this section shall not be in lieu of any benefits payable under chapter 440, the Workers' Compensation Law. The insurance authorized by this law shall not be deemed to constitute insurance to secure workers' compensation benefits as required by chapter 440.

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

(b) If a state officer or full-time state employee selects membership in a health maintenance organization as authorized by paragraph (3)(d), the officer or employee shall be entitled to a state contribution toward individual and dependent membership as provided by the Legislature through the appropriations act. ~~Any additional cost of such membership shall be borne by the officer or employee.~~

(9) PUBLIC RECORDS LAW; EXEMPTION.—Patient medical records and medical claims records of state employees, former employees, and eligible dependents in the custody or control of the *state group insurance program* ~~State Employees Group Health Self-Insurance Plan~~ are confidential and exempt from s. 119.07(1). Such records shall not be furnished to any person other than the employee or his legal representative, except upon written authorization of the employee, but may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the employee or his legal representative by the party seeking such records.

Section 2. This act shall take effect upon becoming a law.

On motion by Senator Langley, the Senate reconsidered the vote by which **Amendment 1** was adopted.

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

Amendment 1A—On page 8, between lines 23 and 24, insert:

Section 2. Paragraph (d) of subsection (6) of section 641.19, Florida Statutes, is amended and paragraph (e) is added to subsection (6) of section 641.19, Florida Statutes, to read:

641.19 Definitions.—As used in this part:

(6) "Health maintenance organization" means any organization authorized under this part which:

Amendment 1B—In title, on page 1, lines 2 and 3, strike "the State Group Insurance Program;" and insert: health insurance; amending paragraph (d) of subsection (6) of section 641.19, Florida Statutes; adding paragraph (e) to subsection (6) of section 641.19, Florida Statutes; redefining the term "health maintenance organization" for purposes of part II of ch. 641, F.S.;

Amendment 1 as amended was adopted.

On motion by Senator Hollingsworth, by two-thirds vote CS for HB 836 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Crawford, Stuart, Thurman

CS for SB 1326—A bill to be entitled An act relating to the Beverage Law; amending s. 561.19, F.S.; providing additional criteria with respect to license issuance; amending s. 561.29, F.S.; providing additional grounds for revocation or suspension of license; amending s. 561.50; clarifying the definition of the word "sold"; amending s. 561.57, F.S.; revising language with respect to deliveries by licensees; amending s. 561.07, F.S.; providing exceptions to the prohibition in the transportation of alcoholic beverages; amending s. 563.06, F.S.; describing an additional method by which the stamp may be placed on the crown, can bottom, or can lid of malt beverages; amending the contents of the stamp thereon; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 10, strike line 8, and insert:

Section 7. The Legislature finds and determines that the authorized transportation and importation into the state of alcoholic beverages described in chapters 564 and 565, Florida Statutes, requires strict enforcement of state statutes regulating and administering the manufacture, distribution and sale of alcoholic beverages are greater than for those alcoholic beverages not imported; the production of lower quality alcoholic beverages should be discouraged; and in order to protect the health, safety, welfare and economic integrity of the state, the costs of ensuring compliance with relevant state laws should be included in the taxes imposed upon said alcoholic beverages.

Section 8. Section 564.06, Florida Statutes, is amended to read:

564.06 Excise *and import* taxes on wines and beverages~~; exemptions.~~—

(1)*(a)* As to beverages including wines, except natural sparkling wines and malt beverages, containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of *$.25* ~~$2.25~~ per gallon.

(b) In addition to the tax imposed under paragraph (a), there shall be imposed upon the importation into this state of all beverages including wines, except natural sparkling wines, containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol by volume, an import tax in the amount of $2.00 per gallon to be paid by manufacturers and distributors.

(c) The taxes imposed under paragraphs (a) and (b) shall be paid together in order to facilitate the collection of these taxes and to ensure that these taxes will only be collected once in accordance with s. 561.50.

(2)*(a)* As to all wines, except natural sparkling wines, containing ~~0.5 percent or more alcohol by volume and less than~~ 17.259 percent *or more* alcohol by volume, *there shall be paid by manufacturers and distributors a tax at the rate of $.50 per gallon.* ~~of which the alcoholic content is manufactured exclusively from citrus fruits or varieties of the species Vitis rotundifolia, Vitis aestivalis ssp. simpsoni, Vitis aestivalis ssp. smalliana, Vitis shuttleworthii, Vitis munsoniana, or Vitis berlandieri, or from concentrates thereof, except for flavoring extracts, and upon all other such beverages, except malt beverages, containing 0.5 percent or more alcohol by volume and less than 17.259 percent alcohol by volume, of which the alcoholic content is manufactured exclusively from citrus fruits, varieties of the species Vitis rotundifolia, Vitis aestivalis ssp. simpsoni, Vitis aestivalis ssp. smalliana, Vitis shuttleworthii, Vitis munsoniana, or Vitis berlandieri, citrus products, citrus byproducts, sugarcane, or sugarcane byproducts, or from concentrates thereof, except for flavoring extracts, the tax imposed by subsection (1) shall not apply.~~

(b) In addition to the tax imposed under paragraph (a), there shall be imposed upon the importation into this state of all wines, except natural sparkling wines, containing 17.259 percent or more alcohol by volume, an import tax in the amount of $2.50 per gallon to be paid by manufacturers and distributors.

(c) The taxes imposed under paragraphs (a) and (b) shall be paid together in order to facilitate the collection of these taxes and to ensure that these taxes will only be collected once in accordance with s. 561.50.

(3)*(a)* As to ~~all wines, except~~ natural sparkling wines ~~containing 17.259 percent or more alcohol by volume~~, there shall be paid by *all* manufacturers and distributors a tax at the rate of *$1.50* ~~$3~~ per gallon~~, except that this tax shall not be required to be paid upon all wines of which the alcoholic content is manufactured exclusively from citrus fruits or varieties of the species Vitis rotundifolia, Vitis aestivalis ssp. simpsoni, Vitis aestivalis ssp. smalliana, Vitis shuttleworthii, Vitis munsoniana, or Vitis berlandieri, or from concentrates thereof, except for flavoring extracts, and containing 17.259 percent or more of alcohol by volume~~.

(b) In addition to the tax imposed under paragraph (a), there shall be imposed upon the importation into this state of natural sparkling wines an import tax in the amount of $2.00 per gallon to be paid by manufacturers and distributors.

(c) The taxes imposed under paragraphs (a) and (b) shall be paid together in order to facilitate the collection of these taxes and to ensure that these taxes will only be collected once in accordance with s. 561.50.

(4)*(a)* As to *wine coolers, which are a combination of wines containing 0.5 percent or more alcohol by volume, carbonated water, and flavors or fruit juices and preservatives and which contain 1 to 6 percent alcohol content by volume,* ~~natural sparkling wines,~~ there shall be paid by all manufacturers and distributors a tax at the rate of *$.75* ~~$3.50~~ per gallon~~, except that this tax shall not be required to be paid upon all natural sparkling wines of which the alcoholic content is manufactured exclusively from citrus fruits or varieties of the species Vitis rotundifolia, Vitis aestivalis ssp. simpsoni, Vitis aestivalis ssp. smalliana, Vitis shuttleworthii, Vitis munsoniana, or Vitis berlandieri, or from concentrates thereof, except for flavoring extracts~~.

(b) In addition to the tax imposed under paragraph (a), there shall be imposed upon the importation into this state of wine coolers as described in paragraph (a) an import tax in the amount of $1.50 per gallon to be paid by manufacturers and distributors.

(c) The taxes imposed under paragraphs (a) and (b) shall be paid together in order to facilitate the collection of these taxes and to ensure that these taxes will only be collected once in accordance with s. 561.50.

(5) Wine used by any established church as sacramental wine or in connection with religious services is hereby expressly exempted from the provisions of this section.

(6) Every distributor selling wine within the state shall pay the tax to the division monthly on or before the 10th day of the following month, less 1.9 percent of the tax due, which shall be withheld by the distributor for keeping prescribed records, furnishing bond, and properly accounting for and remitting taxes due to the state. However, no allowance shall be granted or permitted when the tax is delinquent at the time of payment.

(7) *All beverages taxed under paragraphs (1)(a), (2)(a), (3)(a), or (4)(a) and manufactured within this state for sale in this state shall be made or fortified with alcohol distilled above 185 proof. All wines taxed under paragraphs (1)(a) or (3)(a) and manufactured within this state for sale in the state shall be made from fresh fruit.* ~~The exemption from the payment of taxes provided in subsections (2), (3), and (4) does not preclude the division from making periodic inspections necessary to carry out the provisions of this section.~~

(8) The excise *and import* taxes required to be paid by this section are not required to be paid upon any alcoholic beverage sold to a post exchange, ship service store, or base exchange located in a military, naval, or air force reservation within this state.

(9) The department is authorized to promulgate rules to effectuate the provisions of this section.

~~(9) The exemptions from payment of taxes provided in subsections (2), (3), and (4) or the tax rates set forth in subsection (10) shall not apply:~~

~~(a) To alcoholic beverages manufactured in states, territories, or countries which impose discriminatory taxes or requirements on alcoholic beverages manufactured or bottled outside of their boundaries;~~

~~(b) To alcoholic beverages manufactured or bottled in states, territories, or countries which provide agricultural price supports or other economic incentives or advantages exclusively for alcoholic beverages produced within their boundaries; or~~

~~(c) To alcoholic beverages manufactured or bottled in states, territories, or countries which provide export subsidies for agricultural products used in making said alcoholic beverages.~~

~~Funding for research purposes or retail sale of wine at licensed wineries shall not be construed as an "economic incentive or advantage" within the meaning of this subsection.~~

~~(10)(a) For the months of July and August each year the tax rate for the products specified in subsection (2), except for wine coolers which are defined below in paragraph (b), shall be $2.25 per gallon. Otherwise, the tax rate for these products, except wine coolers, will be determined as follows:~~

~~1. By the 20th of each month (hereinafter, the "time of calculation"), commencing August 20, 1985, the Department of Business Regulation shall determine the prior month's gallonage sales of the products specified in subsection (2).~~

~~2. The total of sales referred to in subparagraph 1. of this paragraph, except wine coolers, shall determine the sole tax rate applicable for all gallons sold in the month after the time of calculation according to the table set forth below:~~

~~Total gallons sold in the month prior to the time of calculation~~	~~The new per gallon tax rate for all gallons sold in the month following the time of calculation~~
~~0 – 10,000~~	~~0.00~~
~~10,001 – 20,000~~	~~0.35~~
~~20,001 – 30,000~~	~~0.55~~
~~30,001 – 40,000~~	~~0.75~~
~~40,001 – 50,000~~	~~0.95~~
~~50,001 – 60,000~~	~~1.15~~
~~60,001 – 70,000~~	~~1.25~~
~~70,001 – 80,000~~	~~1.45~~
~~80,001 – 90,000~~	~~1.65~~
~~90,001 – 100,000~~	~~1.85~~
~~100,001 – 110,000~~	~~2.05~~
~~Above 110,000~~	~~2.25~~

~~(b) For the months of July and August 1985, 40 cents per gallon will be the tax for wine coolers; a combination of wine, as described in subsection (2); carbonated water; and flavors or fruit juices and preservatives containing 1 to 6 percent alcohol content by volume. Thereafter, the tax rate for wine coolers will be determined as follows:~~

~~1. By the 20th of each month (hereinafter, the "time of calculation"), commencing August 20, 1985, the Department of Business Regulation shall determine the prior month's gallonage sales of wine coolers.~~

~~2. The total of sales referred to in subparagraph 1. of this paragraph shall determine the sole tax rate applicable to all gallons sold in the month after the time of calculation according to the table set forth below:~~

~~Sales of wine coolers in the month prior to the time of calculation for each month for the 6-month period of March, April, May, June, July, and August~~	~~The new per gallon tax rate for all gallons sold in the month following the time of calculation~~
~~0 – 250,000~~	~~0.40~~
~~250,001 – 275,000~~	~~0.65~~
~~275,001 – 300,000~~	~~0.90~~
~~300,001 – 325,000~~	~~1.15~~
~~325,001 – 350,000~~	~~1.40~~
~~350,001 – 375,000~~	~~1.65~~
~~375,001 – 400,000~~	~~1.90~~
~~Above 400,000~~	~~2.25~~

~~Sales of wine coolers in the month prior to the time of calculation for each month for the 6-month period of September, October, November, December, January, and February~~	~~The new per gallon tax rate for all gallons sold in the month following the time of calculation~~
~~0 – 100,000~~	~~0.40~~
~~100,001 – 125,000~~	~~0.65~~
~~125,001 – 150,000~~	~~0.90~~
~~150,001 – 175,000~~	~~1.15~~
~~175,001 – 200,000~~	~~1.40~~
~~200,001 – 225,000~~	~~1.65~~
~~225,001 – 250,000~~	~~1.90~~
~~250,001 – 275,000~~	~~2.15~~
~~Above 275,000~~	~~2.25~~

~~(c) For the months of July and August each year, the tax rate for the products specified in subsection (3) shall be $3 per gallon. Thereafter, the tax rate for these products will be determined as follows:~~

~~1. By the 20th of each month (hereinafter, the "time of calculation"), commencing August 20, 1985, the Department of Business Regulation shall determine the prior month's gallonage sales of these products.~~

~~2. The total of sales referred to in subparagraph 1. of this paragraph shall determine the sole tax rate applicable for all gallons sold in the month after the time of calculation according to the table set forth below:~~

~~Total gallons sold in the month prior to the time of calculation~~	~~The new per gallon tax rate for all gallons sold in the month following the time of calculation~~
~~0 – 12,500~~	~~1.50~~
~~Above 12,500~~	~~3.00~~

~~(d) For the months of July and August each year, the tax rate for the products specified in subsection (4) shall be $3.50 per gallon. Thereafter, the tax rate for these products will be determined as follows:~~

~~1. By the 20th of each month (hereinafter, the "time of calculation"), commencing August 20, 1985, the Department of Business Regulation shall determine the prior month's gallonage sales of these products.~~

~~2. The total of sales referred to in subparagraph 1. of this paragraph shall determine the sole tax rate applicable for all gallons sold in the month after the time of calculation according to the table set forth below:~~

~~Total gallons sold in the month prior to the time of calculation~~	~~The new per gallon tax rate for all gallons sold in the month following the time of calculation~~
~~0 – 2,000~~	~~1.50~~
~~2,001 – 4,000~~	~~2.00~~

~~4,001 – 6,000 ..... 2.50~~

~~6,001 – 8,000 ..... 3.00~~

~~Above 8,000 ..... 3.50~~

~~(c) By the 25th of each month, the Department of Business Regulation shall notify all distributors in the state of the new tax rates applicable for the following month based on preceding paragraphs (10)(a), (b), (c), and (d).~~

~~(11) Any new applicant for the tax exemptions provided in subsection (2), subsection (3), or subsection (4), or for the tax rates set forth in paragraph (10)(a), paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), shall apply for those rates between July 1 and July 31 of each year, and shall pay an annual nonrefundable application fee of $3,000. The division shall adopt appropriate rules of practice and procedure to establish a method of qualification for affected parties.~~

~~(12) Each manufacturer authorized to do business under the tax exemptions provided in subsection (2), subsection (3), or subsection (4), or for the tax rates set forth in paragraph (10)(a), paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), shall pay an annual license fee of $1,000 plus travel expenses of the Department of Business Regulation to audit the manufacturer's records. Each qualifying applicant shall report monthly the source of raw materials used to manufacture the products eligible for the tax exemptions or rates set forth in subsection (2), subsection (3), or subsection (4), or paragraph (10)(a), paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d).~~

~~(13) All revenue collected pursuant to subsections (11) and (12) shall go directly to the Department of Business Regulation to provide funds to administer the provisions contained herein.~~

Section 9. Section 565.12, Florida Statutes, is amended to read:

565.12 Excise *and import* tax on liquors and beverages.—

(1)(a) As to beverages containing 17.259 percent or more of alcohol by volume and not more than 55.780 percent of alcohol by volume, except wines, there shall be paid by every manufacturer *and*~~,~~ distributor~~, and vendor~~ a tax at the rate of *$4.75* ~~$6.50~~ per gallon. As to beverages containing less than 17.259 percent of alcohol by volume, there shall be paid by every manufacturer *and*~~,~~ distributor~~, and vendor~~ a tax at the rate provided in chapter 564.

(b) *In addition to the tax imposed under paragraph (a), there shall be imposed upon the importation into this state of beverages containing 17.259 percent or more of alcohol by volume and not more than 55.780 percent of alcohol by volume, an import tax in the amount of $1.75 per gallon to be paid by every manufacturer and distributor.* ~~As to all such beverages of which the distilled spirits are manufactured exclusively from citrus products, citrus byproducts, sugarcane, and sugarcane byproducts, except for flavoring extracts, the tax imposed by paragraph (a) does not apply. However, in lieu thereof there shall be paid by every manufacturer and distributor a tax at the rate of $4.35 per gallon.~~

(c) *The taxes imposed under paragraphs (a) and (b) shall be paid together in order to facilitate the collection of these taxes and to ensure that these taxes will only be collected once in accordance with s. 561.50.* ~~The tax rate provided in paragraph (b) shall not apply:~~

~~1. To alcoholic beverages manufactured in states, territories, or countries which impose discriminatory taxes or requirements on alcoholic beverages manufactured or bottled outside of their boundaries;~~

~~2. To alcoholic beverages manufactured or bottled in states, territories, or countries which provide agricultural price supports or other economic incentives or advantages exclusively for alcoholic beverages produced within their boundaries; or~~

~~3. To alcoholic beverages manufactured or bottled in states, territories, or countries which provide export subsidies for agricultural products used in making said alcoholic beverages.~~

~~Those beverages shall be taxed at the rate set forth in paragraph (a).~~

(2)(a) As to beverages containing more than 55.780 percent of alcohol by volume, there shall be paid by every manufacturer *and*~~,~~ distributor~~, and vendor~~ a tax at the rate of *$5.95* ~~$9.53~~ per gallon.

(b) *In addition to the tax imposed under paragraph (a), there shall be imposed upon the importation into this state of beverages containing more than 55.780 percent of alcohol by volume, an import tax in the amount of $3.58 per gallon to be paid by every manufacturer and distributor.* ~~As to all such beverages of which the distilled spirits are manufactured exclusively from citrus products, citrus byproducts, sugarcane, and sugarcane byproducts, except for flavoring extracts, the tax imposed by paragraph (a) does not apply. However, in lieu thereof there shall be paid by every manufacturer and distributor a tax at the rate of $4.95 per gallon.~~

(c) *The taxes imposed under paragraphs (a) and (b) shall be paid together in order to facilitate the collection of these taxes and to ensure that these taxes will only be collected once in accordance with s. 561.50.* ~~The tax rate provided in paragraph (b) shall not apply:~~

~~1. To alcoholic beverages manufactured in states, territories, or countries which impose discriminatory taxes or requirements on alcoholic beverages manufactured or bottled outside of their boundaries;~~

~~2. To alcoholic beverages manufactured or bottled in states, territories, or countries which provide agricultural price supports or other economic incentives or advantages exclusively for alcoholic beverages produced within their boundaries; or~~

~~3. To alcoholic beverages manufactured or bottled in states, territories, or countries which provide export subsidies for agricultural products used in making said alcoholic beverages.~~

~~Those beverages shall be taxed at the rate set forth in paragraph (a).~~

~~(3) The use of the words "and vendor" in paragraphs (1)(a) and (2)(a) shall not be construed as imposing a new excise tax based upon sale at retail, but shall only be construed as applying the increase in tax rates to vendors' inventories of stock on June 1, 1968.~~

(3)~~(4)~~ The excise *and import* taxes required to be paid by this section are not required to be paid upon any alcoholic beverage sold to a post exchange, ship service store, or base exchange located in a military, naval, or air force reservation within this state.

(4) All beverages distilled in this state for sale in this state shall be distilled above 185 proof.

(5) The department is authorized to promulgate rules to effectuate the provisions of this section.

~~(5) For the months of July and August every year the tax rate for products specified in paragraph (1)(b) will be $6.50 per gallon and the tax rate for the products specified in (2)(b) will be $9.53 per gallon. Thereafter the tax rate for the products in paragraph (1)(b) and in paragraph (2)(b) will be determined in paragraph (6).~~

~~(6) By the 20th of each month (hereinafter, the time of calculation) commencing August 20, 1985, the Department of Business Regulation shall determine the increase or decrease in the sales of alcoholic beverage gallonage taxed at the rates provided in paragraph (1)(b) or paragraph (2)(b) for the prior month in comparison to that month of the year before. If that gallonage has increased, the percentage amount of said increase in excess of 5 percent shall be the percentage increase in the tax rates provided in paragraph (1)(b) or paragraph (2)(b) for the gallonage sales for the month following the "time of calculation." If the gallonage has decreased, the percentage amount of said decrease in excess of 5 percent shall be the percentage decrease in the tax rates provided in paragraph (1)(b) or paragraph (2)(b) for the gallonage sales for the month following "the time of calculation." However, the tax rate provided in paragraph (1)(b) shall not decrease below $4.35 per gallon or increase above $6.50 per gallon, and the tax rate provided in paragraph (2)(b) shall not decrease below $4.95 per gallon or increase above $9.53 per gallon.~~

~~(7) By the 25th of each month, the Department of Business Regulation shall notify all distributors in the state of the new tax rates applicable for the following month based on subsection (6).~~

~~(8) All revenue collected pursuant to subsections (9) and (10) shall go directly to the Department of Business Regulation to provide funds to administer the provisions contained herein.~~

~~(9) Any manufacturer or importer applying for the tax rate provided in paragraph (1)(b) or paragraph (2)(b) shall apply for that rate between July 1 and July 31 of each year and shall pay a nonrefundable application fee of $5,000. The department shall adopt appropriate rules of practice and procedure to establish a method of qualification for affected parties.~~

~~(10) Each manufacturer authorized to do business under the tax rates imposed under paragraph (1)(b) or paragraph (2)(b) shall pay an annual license fee of $3,000, plus travel expenses of the Department of Business Regulation to audit the manufacturer's records. Each qualifying applicant shall report monthly the source of raw materials used to manufacture the products eligible for the tax rates provided in paragraphs (1)(b) and (2)(b).~~

Section 10. If any provision of section 8 or section 9 of this act or the application of such provision to any person or circumstance is held invalid by the Florida Supreme Court, all of the provisions of section 8 and section 9 of this act shall be invalid and to that extent are declared to be not severable.

Section 11. Sections 1 through 6 of this act shall take effect October 1, 1988 and this section and sections 7 through 10 shall take effect July 1, 1988.

The Committee on Appropriations recommended the following amendments to **Amendment 1** which were moved by Senator Jennings and adopted:

Amendment 1A—On page 2, line 5, insert: *and malt beverages*

Amendment 1B—On page 5, line 9, strike *"or (3)(a)"* and insert: *, (2)(a), (3)(a) or (4)(a)*

Amendment 1C— On page 5, line 8, and on page 15, line 5, after *"proof"* insert: *except for flavoring extracts*

Amendment 1D—On page 16, strike all of lines 26-31 and insert:

Section 10. In the event that a court of competent jurisdiction determines any of the provisions of s. 564.06 or s. 565.12 as amended by this act to be unconstitutional, it is the intent of the legislature that the amendments to s. 564.06 and s. 565.12 contained in this act shall be null and void and that those sections revert to the language existing in said sections on June 30, 1988.

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

Amendment 1E—On page 2, line 6, after "wines" insert: and malt beverages

Amendment 1 as amended was adopted.

The Committee on Appropriations recommended the following amendment which was moved by Senator Jennings and adopted:

Amendment 2—On page 10, between lines 7 and 8, insert:

Section 7. Paragraphs (a) and (h) of subsection (2) and paragraph (c) of subsection (7) of section 561.20, Florida Statutes, are amended to read:

561.20 Limitation upon number of licenses issued.—

(2)(a) No such limitation of the number of licenses as herein provided shall henceforth prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court of not fewer than 100 guest rooms; or any bona fide hotel or motel of fewer than 100 guest rooms which derives at least 51 percent of its gross revenue from the rental of hotel or motel rooms, which is licensed as a public lodging establishment by the Division of Hotels and Restaurants, and which is listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, or is within and contributes to a registered historic district pursuant to 26 U.S.C. 48(g)(3)(B), or has been found to meet the criteria of historical significance of the Division of Historical Resources of the Department of State, as certified by that division or by a locally established historic preservation board or commission, or like body, which has been granted authority to designate historically significant properties by the jurisdiction within which the hotel or motel is located; provided that the provisions of this subparagraph shall supersede local laws requiring a greater number of hotel rooms;

2. Any condominium accommodation of which no fewer than 100 condominium units are wholly rentable to transients and which is licensed under the provisions of chapter 509, except that the license shall be issued only to the person or corporation which operates the hotel or motel operation and not to the association of condominium owners; or

3. Any condominium accommodation of which no fewer than 50 condominium units are wholly rentable to transients, which is licensed under the provisions of chapter 509, and which is located in any county having home rule under s. 10 or s. 11, Art. VIII of the Constitution of 1885, as amended, and incorporated by reference in s. 6(e), Art. VIII of the State Constitution, except that the license shall be issued only to the person or corporation which operates the hotel or motel operation and not to the association of condominium owners; or

4.~~3.~~ Any restaurant having 2,500 square feet of service area and equipped to serve 150 persons full-course meals at tables at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages; however, no restaurant granted a special license on or after January 1, 1958, pursuant to general or special law shall operate as a package store, nor shall intoxicating beverages be sold under such license after the hours of serving food have elapsed. However, any license heretofore issued to any such hotel, motel, motor court, or restaurant or hereafter issued to any such hotel, motel, or motor court, including a condominium accommodation, under the general law shall not be moved to a new location, such license being valid only on the premises of such hotel, motel, motor court, or restaurant. Licenses issued to hotels, motels, motor courts, or restaurants under the general law and held by such hotels, motels, motor courts, or restaurants on May 24, 1947, shall be counted in the quota limitation contained in subsection (1). Any license issued for any hotel, motel, or motor court under the provisions of this law shall be issued only to the owner of the hotel, motel, or motor court or, in the event the hotel, motel, or motor court is leased, to the lessee of the hotel, motel, or motor court; and the license shall remain in the name of the owner or lessee so long as the license is in existence. Any special license now in existence heretofore issued under the provisions of this law cannot be renewed except in the name of the owner of the hotel, motel, motor court, or restaurant or, in the event the hotel, motel, motor court, or restaurant is leased, in the name of the lessee of the hotel, motel, motor court, or restaurant in which the license is located and must remain in the name of the owner or lessee so long as the license is in existence. Any license issued under this section shall be marked "Special," and nothing herein provided shall limit, restrict, or prevent the issuance of a special license for any restaurant or motel which shall hereafter meet the requirements of the law existing immediately prior to the effective date of this act, if construction of such restaurant has commenced prior to the effective date of this act and is completed within 30 days thereafter, or if an application is on file for such special license at the time this act takes effect; and any such licenses issued under this proviso may be annually renewed as now provided by law. Nothing herein prevents an application for transfer of a license to a bona fide purchaser of any hotel, motel, motor court, or restaurant by the purchaser of such facility or the transfer of such license pursuant to law.

(h) In addition to any special licenses issued under the Beverage Law, the division may issue a special license for consumption on the premises only to any civic center authority *or sports arena authority* which is authorized by state law or by a local government ordinance or which civic center *or sports arena* is otherwise owned by a political subdivision of this state~~, hereinafter "civic center."~~ The license may be transferred to a qualified applicant authorized by contract with the *authority* ~~civic center~~ to provide food service for the *facility* ~~civic center~~. The license shall at all times remain the exclusive property of the *authority* ~~civic center~~, and upon termination by any manner of the contract between the *authority* ~~civic center~~ and the applicant concerning the furnishing of food service, the license shall revert to the *authority* ~~civic center~~ by operation of law.

(Renumber subsequent sections.)

The Committee on Appropriations recommended the following amendment which was moved by Senator Jennings:

Amendment 3—On page 10, strike line 8 and insert:

Section 7. Section 563.021, Florida Statutes, is created to read:

563.021 Malt beverages; exclusive sales territories.—

(1) No distributor shall sell any brand or brands of malt beverages in this state to any retail vendor whose place of business is outside of the distributor's restricted exclusive sales territory for such products. The restricted exclusive sales territory shall be mutually agreed upon by the manufacturer or importer and each distributor, and shall be embodied in a formal written agreement between the manufacturer or importer and each distributor, which agreement shall designate the specified brand or brands for which the territory is granted and set forth the exact geographical area of the territory. Where a manufacturer or importer sells

several brands, the agreement may apply to all brands sold by the manufacturer or importer or may apply to one brand or several brands so long as each brand is covered by an exclusive territorial agreement. No manufacturer or importer shall provide by such written agreement for the distribution of a brand to more than one distributor for all or any part of the designated territory. All such agreements shall be filed with the division.

(2) Upon a prima facie showing of a violation of this section, the division, on its own motion or on complaint of a manufacturer or distributor, may pursue appropriate administrative remedies provided by law, including the revocation or suspension of licenses, the imposition of fines or any combination of the foregoing.

(3) No provision of any written agreement required by this section shall expressly, or by implication, or in its own operation, establish or maintain the resale price of any brand or brands of beer sold by the malt beverage distributor.

Section 8. 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 of applications of the act which can be given effect without the invalid provision of application, and to this end the provisions of this act are declared severable.

Section 9. This act shall take effect October 1, 1988, except that section 7 of this act shall take effect upon becoming a law.

Senator Deratany moved the following amendment to Amendment 3 which was adopted:

Amendment 3A—On page 1, line 15, following "sell" insert: or deliver

Senator Jennings moved the following amendment to Amendment 3 which was adopted:

Amendment 3B—On page 2, lines 12 and 13, insert:

(4) Nothing in this section, or within a formal agreement authorized pursuant to this section, shall restrict affiliated retail vendors, having places of business in more than one exclusive sales territory, from transferring for retail sale purchases made from one exclusive sales territory to a place of business located in another exclusive sales territory.

Amendment 3 as amended was adopted.

Senator Jennings moved the following amendment which was adopted:

Amendment 4—On page 9, line 12, after "*or 'FL.'*" insert: *All such beverages shall also have printed or lithographed or ink jet sprayed on the crown, can bottom or can lid thereof, a clear easily decipherable notification of the freshness expiration date of said product.*

Senator Thurman moved the following amendment which was adopted:

Amendment 5—On page 10, between lines 7 and 8, insert:

Section 7. Section 599.012, Florida Statutes, is created to read:

599.012 Viticulture Trust Fund; creation.—

(1) There is established the Viticulture Trust Fund within the Department of Agriculture and Consumer Services. The department shall use the moneys in the trust fund to:

(a) Develop and coordinate the implementation of the State Viticulture Plan;

(b) Promote viticulture products manufactured from products grown in the state; and

(c) Provide grants for viticultural research.

(2) Fifty percent of the revenues collected from the excise taxes imposed under s. 564.06 on wine produced by Florida manufacturers from products grown in the state will be deposited in the Viticulture Trust Fund in accordance with that section.

(3) This section expires at midnight, September 30, 1994. Any funds then remaining in the Viticulture Trust Fund will revert to the General Revenue Fund unallocated.

Section 8. Section 561.12, Florida Statutes, is amended to read:

561.12 Deposit of revenue.—Except as provided in s. 561.025 *and s. 564.06*, all funds collected by the state under the Beverage Law shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 9. Subsection (13) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages; exemptions.—

(13) *Until October 1, 1994, 50 percent of all revenues collected from the excise taxes imposed by this section on wine produced by Florida manufacturers from products grown in the state must be deposited into the Viticulture Trust Fund established pursuant to s. 599.012.* All revenue collected pursuant to subsections (11) and (12) shall go directly to the Department of Business Regulation to provide funds to administer the provisions contained herein.

(Renumber subsequent section.)

The Committee on Appropriations recommended the following amendments which were moved by Senator Jennings and adopted:

Amendment 6—In title, on page 1, line 17, after the semicolon (;) insert: amendment s. 561.20, F.S.; providing an additional exception for specified counties to the limitation upon the number of beverage licenses that may be issued; providing for beverage licenses to be issued to sports arena authorities;

Amendment 7—In title, on page 1, line 17, after the semicolon (;) insert: creating s. 563.021, F.S.; requiring exclusive sales territories of malt beverage distributors; providing a severability clause

Senator Thurman moved the following amendments which were adopted:

Amendment 8—In title, on page 1, strike line 2 and insert: An act relating to alcoholic beverages; amending

Amendment 9—In title, on page 1, between lines 15 and 16, insert: creating s. 599.012, F.S.; establishing, for a limited period, the Viticulture Trust Fund within the Department of Agriculture and Consumer Services; specifying the uses of the moneys in the trust fund; providing a continuing appropriation of the moneys in the trust fund to the department for the specified uses; amending ss. 561.12, 564.06, F.S.; providing for deposit, into the Viticulture Trust Fund during a limited period, of a specified percentage of the revenues collected from the excise taxes imposed under s. 564.06, F.S., on wines produced by Florida manufacturers;

On motion by Senator Jennings, by two-thirds vote CS for SB 1326 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

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

Nays—3

Childers, D.	Langley	Peterson

On motions by Senator Thurman, by two-thirds vote CS for HB 158 was withdrawn from the Committees on Judiciary-Civil and Appropriations.

On motion by Senator Thurman—

CS for HB 158—A bill to be entitled An act relating to state warrants and other abandoned property; amending s. 17.26, F.S.; making funds represented by a stale state warrant abandoned property; providing an exception where such treatment would result in loss of federal funds; providing limited retroactive application; permitting recovery of funds by payee of such stale warrants; amending s. 717.118, F.S.; deleting requirement of second publication of notice and mailing of notice to last known owner of abandoned property prior to placement of abandoned property

in the custody of the Department of Banking and Finance; providing an effective date.

—a companion measure, was substituted for CS for SB 906 and read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for HB 158 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Stuart

On motion by Senator Johnson, by two-thirds vote HB 32 was withdrawn from the Committee on Commerce.

On motion by Senator Johnson—

HB 32—A bill to be entitled An act relating to motor vehicle insurance; amending s. 627.0652, F.S.; reducing the age required of an insured in order to receive a reduction in motor vehicle insurance premiums after passing a motor vehicle accident prevention course; providing an effective date.

—a companion measure, was substituted for SB 71 and read the second time by title. On motion by Senator Johnson, by two-thirds vote HB 32 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Motions

On motion by Senator Barron, the rules were waived and the following revised special order calendar was established for this day: SB 266, CS for CS for SB 916, CS for CS for SB 127, CS for CS for SB's 1107, 776, 798 and 1180, HB 1473, HB 1432, CS for SB 749, CS for SB 786, CS for SB 844, SB 978, CS for SB 522, CS for SB 983, CS for SB 1181, CS for SB 150, CS for SB 199, SB 360, SB 1058, SB 1060, CS for SB 1350, HB 1717, SB 1160, CS for SB 1355, CS for SB 1158, SB 649, CS for SB 914, CS for SB 34, SB 489, CS for CS for CS for SB 633, SB 728, SB 920, HB 1182, CS for SB 1124, CS for SB 1348, CS for SB 1134, CS for SB 1255, SB 1137, SB 1013, CS for SB 1014, SB 1048 and SB 1049.

On motion by Senator Ros-Lehtinen, by two-thirds vote HB 484 was withdrawn from the Committee on Commerce.

On motion by Senator Ros-Lehtinen—

HB 484—A bill to be entitled An act relating to military code; amending s. 250.482, F.S., providing for clarification of the employment and reemployment rights of Florida National Guardsmen called into state active duty; providing an effective date.

—a companion measure, was substituted for SB 276 and read the second time by title. On motion by Senator Ros-Lehtinen, by two-thirds vote HB 484 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

Senator Stuart presiding

On motions by Senator Frank, by two-thirds vote—

HB 467—A bill to be entitled An act relating to education; authorizing a comprehensive traffic education program in kindergarten through grade 6; providing duties of the Department of Transportation and the Department of Education; providing for rules; providing an effective date.

—a companion measure, was substituted for SB 706 and by two-thirds vote read the second time by title.

Senator Frank moved the following amendments which were adopted:

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

Section 1. Section 1 of HB 429, as passed in the Regular Session of the 1988 Legislature, is amended to read:

Section 1. The State of Florida is authorized to develop and coordinate the implementation of a kindergarten through grade 6 comprehensive traffic education program that provides specific early developmental skills in walking, bicycling, school bus safety, use of mass transit, and early motor vehicle safety awareness training.

(1) The program shall be centered in the State Bicycle and Pedestrian Program of the Department of Transportation. Effective *July 1, 1991* ~~the 1991-1992 school year~~, the comprehensive traffic education program shall be *centered* ~~located~~ in the Department of Education.

(2) *The Department of Transportation or* the Department of Education may contract with a university in the State University System for a development team to prepare or adapt a kindergarten through grade 6 traffic skills development course, an instructor's training course, and all needed video, slide, workbook, curriculum, and associated training aids and materials for students and instructors.

Section 2. This act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

Amendment 2—In title, on page 1, strike lines 7 and 8, and insert: funds; providing an effective date.

On motion by Senator Frank, by two-thirds vote HB 467 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Crawford

Consideration of **CS for SB 157** was deferred.

On motion by Senator Thurman, by two-thirds vote CS for HB 495 was withdrawn from the Committee on Natural Resources and Conservation.

On motions by Senator Thurman, by two-thirds vote—

CS for HB 495—A bill to be entitled An act relating to environmental regulation; amending s. 376.303, F.S.; extending the deadline for filing information with the Department of Environmental Regulation in order to participate in the Early Detection Incentive Program; amending s. 376.3071, F.S.; providing that moneys in the Inland Protection Trust Fund may be used to pay for the provisions of the Florida Petroleum Liability Insurance Program; providing a criterion by which the department establishes priority for the cleanup of contamination sites; extending the period of operation of the Early Detection Incentive Program; creating s. 376.3072, F.S.; creating the Florida Petroleum Liability Insurance Program to be administered by the Department of Environmental Regulation; specifying the scope and type of insurance coverage under the program; providing for the payment of restoration costs through the Inland Protection Trust Fund; providing eligibility for participation; providing for charging of premiums; specifying participant's liability under a certain type of coverage; authorizing department assessments of participants under certain circumstances; providing for self-insurance; specifying criteria for self-insurance; providing for disposition of the premiums collected; providing for the purchase of insurance management or underwriting services and certain management services and tank registration compliance verification services by the department; providing for the reporting of third-party liability claims; authorizing the department to adopt rules and to establish criteria for certain storage tanks; amending s. 376.3073, F.S.; requiring the department to contract with local governments to administer ss. 376.3072 and 376.3077, F.S., under certain circumstances; transferring, renumbering, and amending s. 526.3055, F.S.; requiring the department to enforce certain provisions relating to the deposit of motor fuels into certain tanks; authorizing the department to contract with the Department of Agriculture and Consumer Services to enforce such provisions; amending s. 376.317, F.S.; revising criteria regarding the authorization of county governments to adopt ordinances regulating underground storage tanks; amending s. 376.319, F.S.; extending the time period for the statutory indemnification of certain response action contractors; directing the Department of Professional Regulation to adopt rules for the certification of response action contractors; providing an exemption from certification; providing appropriations to the Department of Environmental Regulation for contracting with counties for verification and enforcement of compliance with certain rules, for contracting with businesses for certain services, and for implementation of the Florida Petroleum Liability Insurance Program; directing the Department of Insurance to compile a report on the availability and cost of pollution liability insurance issued by private insurers; providing an effective date.

—a companion measure, was substituted for CS for SB 285 and by two-thirds vote read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for HB 495 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

Consideration of **CS for SB 478** was deferred.

On motions by Senator Crenshaw, by two-thirds vote CS for HB's 302, 434 and 863 was withdrawn from the Committees on Health and Rehabilitative Services; Judiciary-Criminal; and Appropriations.

On motion by Senator Crenshaw—

CS for HB's 302, 434 and 863—A bill to be entitled An act relating to juvenile offenders; amending s. 39.01, F.S.; defining "serious habitual juvenile offender"; amending ss. 39.015 and 39.423, F.S.; correcting references; amending s. 39.09, F.S.; providing for determination whether serious habitual juvenile offender placement is required; creating s. 39.115, F.S.; providing for a program to rehabilitate serious habitual juvenile offenders; authorizing the Department of Health and Rehabilitative Services to conduct such program and to place such offenders in the program; creating s. 39.117, F.S.; providing that sheriffs are encouraged to maintain central identification files on such offenders and those at risk of becoming such offenders; providing for contents of such files and authorizing certain persons and agencies to provide such information; providing for multiagency information sheets; providing application of confidentiality requirements; providing for multiagency task forces; providing an effective date.

—a companion measure, was substituted for CS for SB's 381 and 532 and read the second time by title. On motion by Senator Crenshaw, by two-thirds vote CS for HB's 302, 434 and 863 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Margolis, by two-thirds vote HB 748 was withdrawn from the Committees on Judiciary-Criminal and Judiciary-Civil.

On motion by Senator Margolis—

HB 748—A bill to be entitled An act relating to battery; creating s. 784.046, F.S.; providing for the issuance of restraining orders, without the necessity of legal representation, in cases where acts of repeat violence are alleged; providing definitions; providing duties of the clerk of court; providing for waiver of fees for indigents; providing a form for petition for injunction; providing for service of process; providing for ex parte temporary injunction; providing for injunctive relief of 1 year; providing for extension of such relief; providing for dissemination and verification of injunction; providing for enforcement through contempt proceedings and imposition of fine; providing for arrest for violation of injunction; providing for modification or dissolution of injunction; amending s. 901.15, F.S.; authorizing warrantless arrest by law enforcement officer for violation of repeat violence injunction; amending s. 784.045, F.S.; providing that battery upon a victim who was pregnant shall constitute aggravated battery; providing an effective date.

—a companion measure, was substituted for SB 1239 and read the second time by title. On motion by Senator Margolis, by two-thirds vote HB 748 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

Senator Hair presiding

On motions by Senator Malchon, by two-thirds vote CS for CS for HB 299 was withdrawn from the Committees on Health and Rehabilitative Services; Commerce; and Appropriations.

On motion by Senator Malchon—

CS for CS for HB 299—A bill to be entitled An act relating to smoking in public places; amending s. 386.203, F.S.; providing definitions; amending s. 386.207, F.S.; providing for enforcement by the Department of Health and Rehabilitative Services and the Division of Hotels and Restaurants of the Department of Business Regulation; requiring public agencies to report violations; providing enforcement procedures; providing for civil penalties; providing for exemptions; specifying use of fine moneys; providing for the adoption of rules; providing an effective date.

—a companion measure, was substituted for CS for SB 46 and read the second time by title.

Senator Beard moved the following amendment:

Amendment 1—On page 3, line 2, strike "for children's medical services programs pursuant to the provisions of part I of chapter 391" and insert: of Business Regulation for the enforcement and collection of cigarette taxes levied pursuant to section 210.30 and on line 11, strike "upon becoming a law." and insert: October 1, 1989

Further consideration of **CS for CS for HB 299** was deferred.

On motions by Senator Kirkpatrick, by two-thirds vote CS for HB 227 was withdrawn from the Committees on Judiciary-Civil; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Kirkpatrick—

CS for HB 227—A bill to be entitled An act relating to remedies against business organizations for failure to comply with registered agent and registered office requirements and related subpoena provisions; amending ss. 607.325, 620.192, F.S.; authorizing the state to bid, at any judicial sale to enforce its judgment lien against real property owned by a domestic or foreign corporation, alien business organization, or domestic or foreign limited partnership for failure to maintain a registered office and a registered agent or for failure to comply with a subpoena issued by the Department of Legal Affairs to produce certain testimony and records, an amount up to the amount of the judgment lien on the property; providing for the disposition and distribution of moneys recovered from the enforcement of these provisions; amending s. 253.03, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to manage and sell all real property acquired by the state at such judicial sales; providing for the disposition and distribution of the proceeds from such sales; providing for application of act to certain pending proceedings; providing for reimbursement of certain expenditures from the Internal Improvement Trust Fund with respect to real property acquired under s. 607.325 or s. 620.192, F.S., prior to the effective date of the act; providing for reimbursement of interest earnings lost to that fund by virtue of such expenditures; providing an effective date.

—a companion measure, was substituted for CS for SB 157 and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote CS for HB 227 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Crawford, Kirkpatrick

CS for SB 478—A bill to be entitled An act relating to onsite sewage disposal systems; amending s. 381.272, F.S.; providing requirements pertaining to construction permits and operating permits for such systems; providing prerequisites to the issuance of certain building permits and certificates of occupancy; requiring annual system operating permits; requiring certain owners or tenants to disclose specified information to the Department of Health and Rehabilitative Services; providing penalties for the disposal of toxic or hazardous chemicals through such systems; amending s. 381.273, F.S.; setting fees related to such systems and provides for the deposit and use of the collected funds; amending s. 381.112, F.S.; providing for administrative fines; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 2, line 10, after *"capability."* insert: *An existing onsite sewage disposal system may be repaired, expanded, or replaced provided a public-owned or investor-owned sewer system is not available within 500 feet of the building sewer stub-out, total sewage flow from the building does not exceed an average of 5,000 gallons per day, and system construction standards are met.*

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 478 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

The Senate resumed consideration of—

HB 1653—A bill to be entitled An act relating to crime prevention; creating Part I of the act, relating to Standards for Sentencing Criminals; amending s. 960.001, F.S.; requiring the institution of confinement to notify the sheriff of the county where the crime occurred of an offender's escape; requiring the sheriff to notify certain persons of the escape; amending s. 893.13, F.S.; authorizing courts to impose assessments, in addition to fines and other penalties authorized by law, against offenders who violate the criminal provisions of chapter 893, F.S., and providing standards therefor; creating s. 893.16, F.S.; providing that such additional assessments shall be remitted by the clerks of court for use in specified drug abuse programs; creating s. 893.165, F.S.; authorizing the establishment of county drug abuse trust funds to provide assistance grants to designated drug abuse treatment or education programs; providing for administration of such funds by the boards of county commissioners; providing for the remittance and disbursement of additional assessments for drug abuse program purposes; amending s. 921.187, F.S.; authorizing the imposition of such assessments in the disposition of such criminal cases; amending ss. 142.01 and 142.03, F.S.; providing an exception for such assessments from county fine and forfeiture funds; amending s. 921.0015, F.S.; 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.; removing the Supreme Court from the guidelines modification process; changing the reporting date; authorizing the Legislature to revise the guidelines; defining when a departure sentence is justified; amending s. 775.021, F.S.; providing legislative intent as to rules of construction for determining criminal penalties; amending s. 903.133, F.S.; adding violations of s. 794.011(2) and (3), F.S., relating to sexual battery of minors, to the list of offenses for which bail on appeal is prohibited; amending s. 941.10, F.S.; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; providing legislative findings and intent as to career criminals; providing for enhanced prosecution of and penalties for career criminals; providing criteria and standards; providing for investigative cooperation among criminal justice agencies; providing for establishment of career criminal prosecution units in state attorneys' offices; providing guidelines for prosecution; providing for career criminal apprehension programs to

be implemented by law enforcement agencies; amending s. 775.084, F.S.; deleting provisions relating to habitual misdemeanants and providing for the sentencing of habitual violent felony offenders; providing for extended terms of imprisonment; providing definitions, procedures, and standards; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; creating Part II of the act, relating to Delinquency Prevention; creating s. 959.31, F.S., the Delinquency Prevention Act of 1988, to authorize delinquency prevention plans and programs thereunder; providing intent and definitions; requiring the establishment of delinquency prevention councils and providing duties thereof; authorizing the Department of Health and Rehabilitative Services to award delinquency prevention program grants and providing application procedures therefor and conditions with respect thereto; amending s. 39.032, F.S.; changing detention procedures to authorize nonsecure detention in certain situations; changing the provisions for detention at a detention hearing; providing arraignment requirements; creating s. 39.0321, F.S.; providing for the prohibited use of detention; creating Part III of the act, relating to Drug Abuse Prevention; amending s. 893.13, F.S.; providing for mandatory sentences with respect to certain drug-related prohibited acts; amending s. 893.135, F.S.; decreasing the amount of cocaine required for the offense of trafficking; creating s. 893.137, F.S.; providing a minimum mandatory sentence for a second or subsequent drug-related felony offense; amending s. 212.0505, F.S.; increasing the tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; providing a surcharge; revising conditions under which the settlement of tax, penalty, or interest is authorized; providing for the waiver of bond requirements and enforcement and recording costs; creating trust funds for deposit of revenues from said tax; amending chapter 87-243, Laws of Florida; adding nonalcohol substance abuse to the subjects to be studied by the Crime Prevention and Law Enforcement Study Commission; amending s. 893.03, F.S.; adding two substances to a list of Schedule I controlled substances of a hallucinogenic nature; creating Part IV of the act, relating to Organized Crime Prevention; amending s. 934.02, F.S.; providing definitions relating to interception of wire, oral, and electronic communications; designating ss. 934.03-934.10, F.S., as part I of chapter 934, F.S.; amending s. 934.03, F.S.; providing when interception and disclosure of such communications is allowed or prohibited and providing civil remedies and criminal penalties; amending s. 934.04, F.S.; providing when manufacture, distribution, or possession of such communications is allowed or prohibited and providing criminal penalties; amending s. 934.05, F.S.; providing for seizure and forfeiture of intercepting devices; amending s. 934.07, F.S.; providing for authorization of interception of communications; amending s. 934.08, F.S.; providing for authorization for disclosure and use of intercepted communications; amending s. 934.09, F.S.; providing procedure for interception of communications; amending s. 934.10, F.S.; providing civil remedies; creating part II of chapter 934, F.S.; creating s. 934.21, F.S.; providing when access to stored communications is allowed or prohibited and providing criminal penalties; creating s. 934.22, F.S.; providing when disclosure of contents of communications is allowed or prohibited; creating s. 934.23, F.S.; providing requirements for governmental access to communications; creating s. 934.24, F.S.; providing for backup preservation of communications and for customer notification and customer challenges, including procedure therefor; providing definitions; providing immunity under certain circumstances; amending s. 934.25, F.S.; authorizing delayed notification in specified instances and providing criteria; providing definitions; creating s. 934.26, F.S.; providing for reimbursement of costs of interception; creating s. 934.27, F.S.; providing for civil actions and remedies; providing a defense to civil or criminal action; creating s. 934.28, F.S.; providing for exclusivity of remedies and sanctions; creating part III of chapter 934, F.S.; creating s. 934.31, F.S.; providing a general prohibition on pen register and trap and trace device use and providing an exception thereto; providing penalties; creating s. 934.32, F.S.; providing for application for an order for such device; creating s. 934.33, F.S.; providing for issuance of such an order; creating s. 934.34, F.S.; requiring assistance in installation and use of such device and providing for compensation; providing immunity from civil or criminal liability; providing a defense; creating s. 92.60, F.S.; providing for admission into evidence of foreign records of regularly conducted business activity, or a copy thereof, and for foreign certification, as an exception to the hearsay rule in criminal proceedings; providing definitions; providing procedure; amending s. 896.102, F.S., relating to currency transaction reports; providing that information received by the Department of Revenue shall be subject to disclosure pursuant to subpoena; amending s. 213.053, F.S., to conform; amending s. 895.06, F.S., relating to the Florida Racketeer Influenced and Corrupt Organization Act; providing applicability of the privilege against self-incrimination in a criminal prosecution to a person who complies with a court order directing that he comply with a subpoena; amending s. 895.09, F.S.; providing that certain funds obtained under RICO forfeiture proceedings shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services to fund specified drug abuse treatment services; prohibiting the use of a telephone to transmit certain obscene communications intrastate; prohibiting a person to allow the use of a telephone or a telephone facility under his control for such purpose and specifying criminal penalties for violations; limiting the provisions to intrastate telephone communications; creating Part V of the act, relating to Property Crime Prevention; amending s. 163.503, F.S.; increasing the percentage of land area used for residential and commercial purposes in a safe neighborhood improvement district; excluding land used for public facilities from land use calculations; adding a definition of "Enterprise Zone"; amending s. 163.504, F.S.; allowing participation in safe neighborhoods programs without planning funds; amending s. 163.506, F.S.; clarifying use of taxes and special assessments; providing an alternative to designating the local governing body as the board of directors; amending s. 163.508, F.S.; providing eligibility for existing property owners' associations; allowing assessment against all properties; amending s. 163.511, F.S.; clarifying use of taxes and special assessments; amending s. 163.514, F.S.; including power to make and collect general assessments; amending s. 163.5151, F.S.; providing for collection of assessments; amending s. 163.521, F.S.; adding clarifying language; creating s. 163.523, F.S.; providing for involvement of community organizations; amending ss. 810.08 and 810.09, F.S., relating to trespass in a structure or conveyance and trespass on property other than a structure or conveyance, respectively, to provide that any such trespasser may be taken into custody and detained; providing immunity from liability; amending s. 810.011, F.S., relating to burglary and trespass; modifying the definition of the term "posted land"; amending s. 810.115, F.S.; expanding provisions relating to willfully and maliciously breaking or injuring fences for which a penalty is provided; providing for compensation to the owner; creating s. 877.19, F.S.; prohibiting certain defacement of property by aerosol spray paint cans and broad-tipped markers; providing penalties; amending s. 806.13, F.S., relating to criminal mischief; providing that perpetrators shall, in addition to any criminal penalty, pay the damage caused thereby; providing penalties; amending s. 715.041, F.S.; providing for information required to be kept by pawnbrokers to be on a form approved by the Department of Law Enforcement; amending s. 715.042, F.S.; providing for a fine; amending s. 538.011, F.S.; providing for information required to be kept by precious metals dealers to be on a form approved by the Department of Law Enforcement; amending s. 538.018, F.S; providing for a fine; amending s. 68.065, F.S.; removing the maximum limit for triple damages with respect to certain actions to collect worthless checks, drafts, or orders of payment; amending s. 832.05, F.S.; providing, with respect to worthless checks, drafts or debit card orders, that a payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to the payee; amending s. 790.001, F.S.; modifying the definition of "destructive device"; amending s. 790.161, F.S., relating to felony offenses involving destructive devices, to add projecting such a device as a felony, to add activities constituting the attempted offense, providing exceptions for lawful uses; amending s. 790.162, F.S., relating to threatening to use a destructive device, to add threatening to project such a device as an offense; amending s. 806.111, F.S.; modifying the defintion of "fire bomb"; providing penalties; creating Part VI of the act, relating to Prevention of Crimes against Law Enforcement Officers; creating s. 925.055, F.S.; requiring state and local law enforcement agencies which receive certain funds to adopt accountability policies; providing required criteria; amending ss. 843.01, 843.02, and 784.07, F.S.; providing a uniform definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; amending s. 776.05, F.S., relating to justifiable use of force; providing when deadly force may be used; amending s. 784.07, F.S.; providing enhanced penalties for aggravated assault or battery against certain officers and providing a life felony penalty for attempted murder of a law enforcement officer under certain circumstances; creating s. 775.0825, F.S.; providing mandatory minimum imprisonment for attempted murder of a law enforcement officer; amending s. 784.07, F.S., relating to assault and battery; providing for reclassification of penalties if the victim of the assault or battery is a parking enforcement specialist performing his duties as such; amending s. 843.08, F.S.; increasing the penalty for falsely personating a law enforcement officer and enhancing such penalty if false personation as a police officer occurs during the commission of a felony; amending s. 790.001, F.S.; providing a definition; amending s. 790.052, F.S.; providing for the carrying of concealed firearms by off-duty law enforcement officers and correctional

officers; amending s. 790.06, F.S.; excepting machine guns from provisions authorizing licenses to carry concealed weapons or concealed firearms and providing an additional condition to such licensure; providing for suspension of license or of application therefor under certain circumstances; providing an exemption from licensing requirements for certain officers; providing for a fingerprint check; prohibiting the carrying of a concealed weapon or firearm into specified parts of an airport and providing an exemption from such prohibition; providing a penalty; amending s. 790.33, F.S.; authorizing adoption of county cooling-off-period ordinances of up to 3 days by majority vote of the county commission; creating Part VII of the act, relating to Protection of Victims of Crime; creating the "Victims' Rights Act of 1988"; amending s. 775.089, F.S.; revising the standards under which a court may limit restitution to a victim of a crime; requiring a court to order certain types of restitution when a victim has suffered bodily injury; requiring a court to consider additional factors in determining the amount of restitution; providing for the issuance of an income deduction order with an order for restitution; providing for enforcement; amending s. 914.21, F.S.; providing a definition; amending s. 914.22, F.S.; prohibiting tampering with a witness, victim, or informant in an official investigation; providing penalties; amending s. 921.001, F.S.; requiring the Sentencing Commission to consider additional factors in developing statewide sentencing guidelines; specifying facts which a court may consider in imposing a sentence that is outside such guidelines; amending s. 921.187, F.S.; providing conforming language; creating s. 943.172, F.S.; requiring the Criminal Justice Standards and Training Commission of the Department of Law Enforcement to establish standards and require a specified amount of instruction for law enforcement officers in victims assistance and rights; amending s. 944.512, F.S.; revising the specified distribution of the proceeds of the sale by a convicted felon of an account of his crime; providing for attachment of a lien on such proceeds; extending the lien to accounts of crimes by persons; amending s. 944.605, F.S.; revising notification requirements of an inmate's anticipated release from incarceration or a person's anticipated release from parole; amending s. 947.06, F.S.; authorizing victims of crime to make certain statements before the Parole and Probation Commission; requiring the commission to adopt rules governing such statements; amending s. 948.03, F.S.; providing conforming language; amending s. 945.091, F.S.; providing that the Department of Corrections may require restitution be made from an inmate's employment proceeds; amending s. 960.001, F.S.; providing implementing language conforming to the provisions of a proposed constitutional amendment; deleting provisions requiring that certain notification be given to a witness of a crime; requiring that notification of certain judicial proceedings be given to a victim and a relative of certain victims; authorizing the state attorney to consult a victim or a victim's guardian or family regarding the sentencing of a person accused of the crime; providing that a victim be notified of certain additional rights; providing for a victim's rights information card or brochure; requiring the Governor to advise state agencies of certain statutory changes; deleting provisions requiring that an explanation be provided to the Governor if certain objectives are not achieved by an agency; requiring the Executive Office of the Governor to review guidelines for the fair treatment of victims adopted by specified agencies; providing for injunctive relief; providing that victims and witnesses are not required to attend certain discovery depositions; creating s. 960.002, F.S.; authorizing the creation of a direct-support organization, with the approval of the Governor, to provide assistance to victims of crime; providing requirements for the operation, financial records, and accounts of such organization; providing for the appointment of a guardian ad litem or other advocate to represent a minor who is involved in criminal proceedings as either a victim or a witness; prescribing powers and duties of the guardian ad litem or other advocate; providing such person immunity from certain liability; providing for issuance of a search warrant upon probable cause that a child is being abused or neglected; authorizing the officer executing such warrant to take the child into protective custody under certain circumstances; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence and providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; providing penalties; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; 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 penalties; providing unlawful acts with respect to such devices; providing an exemption; providing for certification of such devices by the Department of Health and Rehabilitative Services; providing rulemaking authority; amending s. 322.271, F.S., to authorize the Department of Highway Safety and Motor Vehicles to order ignition interlock devices as a condition of reinstatement of driving privilege for certain individuals; amending s. 847.011, F.S.; prohibiting persons who own or operate a motor vehicle from affixing to such vehicle any sticker, decal, emblem or other device containing certain obscene descriptions, photographs or depictions; providing a penalty; providing effective dates and contingent effective dates.

—having been amended this day.

Senator Langley moved the following amendment:

Amendment 5—On page 77, lines 14 and 15, insert:

Section 72. Section 322.2615, Florida Statutes, is created to read:

322.2615 Suspension of license; right to review.—

(1)(a) Any law enforcement officer shall, on behalf of the department, suspend the driving privilege of a person whom the officer has probable cause to believe was in violation of s. 316.193 and who was driving with an unlawful blood alcohol level as provided in s. 316.193 or refused to submit to a blood, breath, or urine test requested by the officer. At the time of a lawful arrest for such violation, the officer shall remove the person's driver's license from his possession, issue the person a temporary permit, which expires after 7 days, and issue the person a notice of suspension.

(b) The notice of suspension shall inform the driver either that:

1. He refused to submit to a lawful breath, blood, or urine test and that his driving privilege is suspended 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 test or tests;

2. He was in violation of s. 316.193 and had an unlawful blood alcohol level as provided in that section and that his driving privilege is suspended for a period of 6 months for a first offense, or for a period of 1 year if the driving privilege has been previously suspended for a violation of s. 316.193;

3. The suspension period shall commence on the date of his arrest;

4. The driver may request a formal or informal review of the suspension by the department within 10 days after the date of the arrest;

5. The temporary permit issued at the time of his arrest will expire at midnight of the seventh day following the date of arrest;

6. The driver may submit to the department any materials relevant to his arrest; and

7. That in the case of an informal review the department will not consider any materials received more than 10 days after the date of the arrest.

(2) The law enforcement officer shall forward to the department, within 5 days after the date of the arrest, a copy of the notice of suspension, the driver's license of the arrested person, and a report of the arrest. Such report shall include, but need not be limited to, an affidavit stating the officer's grounds for belief that the person arrested was in violation of s. 316.193; the results of any breath, blood, or urine tests or an affidavit stating that the arrested person refused to submit to such test requested by a law enforcement officer; a copy of the citation issued to the arrested person; and the officer's description of the person's field sobriety test, if any. The officer may also submit a copy of a videotape of the field sobriety test or the attempt to administer such test.

(3) If the department determines that the license of the arrested person should be suspended pursuant to this section and if the notice of suspension has not already been served upon the person by a law enforcement officer as provided in subsection (1), the department shall issue a notice of suspension and a temporary permit which expires 7 days after the date of issuance.

(4) The department shall conduct an informal review by a hearing officer employed by the department, unless a formal review is requested. The hearing shall consist solely of an examination by the department of

the materials submitted by the officer and by the arrested person. The presence of any officer or witness is not required in the course of this review.

(5) Notice of the department's decision resulting from the informal review which sustains, amends, or invalidates the suspension must be mailed, within 21 days after the expiration of the temporary permit issued pursuant to subsection (1) or subsection (3), to the person at the last known address shown on the department's records and to the address provided in the law enforcement officer's report if such address differs from the address of record.

(6)(a) If the arrested person requests a formal review, the department must schedule a hearing to be held within 30 days after the request for hearing is received by the department and must notify the person requesting formal review of the date, time, and place of the hearing.

(b) The hearing shall be held before a hearing officer employed by the department, who shall be authorized to administer oaths, examine witnesses and take testimony, receive relevant evidence, issue subpoenas, regulate the course and conduct of the hearing, and make a ruling on the suspension. The department and the arrested person may subpoena witnesses, provided that the party which requests the presence of a witness shall be responsible for the payment of any witness fees. If the person who requests a formal hearing fails to appear without just cause, the right to a formal hearing is waived, and the department shall review the suspension under subparagraph 2.

(c) The department must, within 7 days after the formal review, inform the petitioner of the decision sustaining, amending, or invalidating the suspension.

(7) In a formal or informal hearing the hearing officer shall determine by a preponderance of the evidence whether sufficient cause exists to sustain or amend the period of suspension. The scope of the review shall be limited to the issues of:

(a) If the license was suspended for a violation of s. 316.193:

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

2. Whether the person was placed under lawful arrest for a violation of s. 316.193; and

3. Whether the person had an unlawful blood alcohol level as provided in s. 316.193.

(b) If the license was suspended for refusal to submit to a blood, breath, or urine test:

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

2. Whether the person was placed under lawful arrest for a violation of s. 316.193;

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

4. Whether the person had been told that, if he refused to submit to such test, his privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second refusal, for a period of 18 months.

(8) A request for a formal or informal review shall not stay the suspension. If the formal review is not conducted within 30 days after the date that the department receives the request, the department shall issue, at the request of the petitioner, a temporary driving permit which shall be valid until the hearing is conducted. The department shall not issue such permit if the hearing has been continued at the request of the petitioner. The permit issued under this subsection shall authorize driving for business use only.

(9) If the suspension is sustained, the petitioner is not eligible to receive a business purposes only or an employment purposes only license pursuant to s. 322.271, or any other driver's license, until 30 days have elapsed since the expiration of the temporary permit issued pursuant to subsection (1) or subsection (3).

(10) During the course of any informal or formal review conducted pursuant to this section, it shall be presumed, in the absence of competent evidence to the contrary, that any sworn report made by a law enforcement officer is correct. The hearing officer may consider the results of any blood, breath, or urine test without requiring the presence of the person who administered or analyzed such test.

(11) Both the formal and the informal review are exempt from the provisions of chapter 120. The department is authorized to adopt rules for the conduct of such reviews.

(12) A person may appeal any decision of the department sustaining a suspension of his driver's license by a petition for writ of certiorari to the circuit court pursuant to s. 322.31. However, an appeal shall not stay the suspension. This subsection shall not be construed to provide for a de novo appeal.

(13) The decision of the department under this section shall not be considered in any trial for a violation of s. 316.193. Any written statement submitted by a person in his request for departmental review shall not be admitted into evidence against such person in any such trial. The disposition of any related criminal proceedings shall not affect a suspension imposed pursuant to this section.

Section 73. Paragraph (a) of subsection (2) of section 322.271, Florida Statutes, is amended to read:

322.271 Authority to modify revocation, cancellation or suspension order.—

(2)(a) Upon such hearing, the person whose license has been suspended canceled or revoked may show that such suspension, cancellation, or revocation of his license causes a serious hardship and precludes his carrying out his normal business occupation, trade, or employment and that the use of his license in the normal course of his business is necessary to the proper support of himself or his family. Except as otherwise provided in this subsection, the department shall require proof of the successful completion of an approved driver training or substance abuse education course and may require letters of recommendation from respected businessmen in the community, law enforcement officers, or judicial officers in determining whether such person should be permitted to operate a motor vehicle on a restricted basis for business or employment use only and in determining whether such person can be trusted to so operate a motor vehicle. If a driver's license has been suspended under the point system, *or pursuant to s. 322.2615*, the department shall require proof of enrollment in an approved driver training course, *or substance abuse education course*, and may require the letters of recommendation described in this subsection to determine if the driver should be reinstated on a restricted basis; if such person fails to complete the approved course within 90 days after reinstatement, the department shall cancel his driver's license until the course is successfully completed. The privilege of driving on a limited or restricted basis for business or employment use shall not be granted to a person who has been convicted of a violation of s. 316.193 until completion of such education or training course. Except as provided in paragraph (b), the privilege of driving on a limited or restricted basis for business or employment use shall not be granted to a person whose license is revoked pursuant to s. 322.28 or suspended pursuant to *s. 322.2615* ~~s. 322.261~~ and who has been convicted of a violation of s. 316.193 two or more times or whose license has been suspended two or more times for refusal to submit to a test *pursuant to s. 322.2615 or former s. 322.261* ~~under s. 316.1932~~.

Section 74. Paragraph (c) is added to subsection (2) of section 322.12, Florida Statutes, to read:

322.12 Examination of applicants.—

(2) The department shall examine every applicant for a driver's license, including an applicant who is licensed in another state or country, except as otherwise provided in this chapter. A person holding a restricted operator's license as provided for in s. 322.16(2) shall not be required to pay a fee for successfully completing the examination showing his ability to operate a motor vehicle as provided for herein and shall not be required to pay the fee for a replacement license as provided in s. 322.17(2). Any person who applies for reinstatement following the suspension or revocation of his driver's license shall be required to pay a service fee of $25 following a suspension, and $50 following a revocation, which shall be in addition to the fee for a license. All fees shall be collected by the department at the time of reinstatement. The department shall issue proper receipts for such fees and shall promptly transmit all funds received by it as follows:

(a) Of the $25 fee received from a licensee for reinstatement following a suspension, the department shall deposit $15 in the General Revenue Fund and the remaining $10 in the Accident Reports Trust Fund.

(b) Of the $50 fee received from a licensee for reinstatement following a revocation, the department shall deposit $35 in the General Revenue Fund and the remaining $15 in the Accident Reports Trust Fund.

(c) Any person who applies for a reinstatement following the revocation or suspension of his driver's license for a violation of s. 316.193, s. 322.261, or s. 322.2615, in addition to any other fee required in this section, shall be required to pay a fee of $105. This fee shall be collected by the department at the time of reinstatement and deposited in the Accident Reports Trust Fund.

Section 75. Section 322.261, Florida Statutes, is hereby repealed.

Section 76. Except as otherwise provided in this act, this section shall take effect July 1, 1988, or upon becoming a law, whichever occurs later, and the rest of the sections shall take effect October 1, 1988, except that ss. 72, 73, and 75 shall take effect October 1, 1989.

Point of Order

Senator Barron raised a point of order that Amendment 5 was out of order pursuant to Rule 7.1.

Further consideration of **HB 1653** was deferred.

CS for SB 1324—A bill to be entitled An act relating to fire prevention and control; amending s. 633.021, F.S.; defining the term "special state firesafety inspector"; amending s. 633.081, F.S.; providing training requirements for special state firesafety inspectors; providing for certification; providing an appropriation; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for SB 1324 to conform the bill to HB 1025.

Pending further consideration of CS for SB 1324 as amended, on motions by Senator W. D. Childers, by two-thirds vote—

HB 1025—A bill to be entitled An act relating to fire prevention and control; amending s. 633.025, F.S.; providing an exemption from certain provisions of standards of National Fire Protection Association; amending s. 633.021, F.S.; defining the term "special state firesafety inspector"; amending s. 633.081, F.S.; providing training requirements for special state firesafety inspectors; providing for certification; providing an effective date.

—a companion measure, was substituted for CS for SB 1324 and by two-thirds vote read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1025 was read the third time by title, passed and 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	Lehtinen	Thomas
Crenshaw	Hill	Malchon	Weinstein
Deratany	Hollingsworth	Margolis	Weinstock
Dudley	Jenne	McPherson	Woodson
Frank	Jennings	Meek	
Girardeau	Johnson	Myers	

Nays—None

Vote after roll call:

Yea—Crawford, Stuart, Thurman

SB 866—A bill to be entitled An act relating to the unlawful transfer of a motor vehicle; creating s. 817.5621, F.S.; prohibiting persons not a party to a lease, conditional sale contract, or security agreement which transfers an interest in a motor vehicle to sell, transfer, or lease or arrange the sale, transfer, or lease of the motor vehicle without obtaining written authorization from the lessor, secured creditor, or lienholder; providing a penalty; providing an effective date.

—was read the second time by title.

Four amendments were adopted to SB 866 to conform the bill to CS for HB 468.

Pending further consideration of SB 866 as amended, on motions by Senator Crenshaw, by two-thirds vote—

CS for HB 468—A bill to be entitled An act relating to fraudulent practices; creating s. 817.566, F.S.; providing a penalty for misrepresentation of association with, or academic standing at, a state institution of higher education or community college; creating s. 817.5621, F.S.; providing a penalty for the unlawful subleasing of a motor vehicle; providing that persons suffering damage as a result of a violation may bring an action for relief as specified; providing an effective date.

—a companion measure, was substituted for SB 866 and by two-thirds vote read the second time by title. On motion by Senator Crenshaw, by two-thirds vote CS for HB 468 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
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson

Nays—None

Vote after roll call:

Yea—Crawford

The Senate resumed consideration of—

CS for CS for HB 299—A bill to be entitled An act relating to smoking in public places; amending s. 386.203, F.S.; providing definitions; amending s. 386.207, F.S.; providing for enforcement by the Department of Health and Rehabilitative Services and the Division of Hotels and Restaurants of the Department of Business Regulation; requiring public agencies to report violations; providing enforcement procedures; providing for civil penalties; providing for exemptions; specifying use of fine moneys; providing for the adoption of rules; providing an effective date.

—with pending Amendment 1 which failed.

On motion by Senator Malchon, by two-thirds vote CS for CS for HB 299 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Crawford, Crenshaw

On motions by Senator Jennings, by two-thirds vote CS for HB 1202 was withdrawn from the Committees on Transportation, Governmental Operations and Appropriations.

On motions by Senator Jennings—

CS for HB 1202—A bill to be entitled An act relating to public transportation; creating the Magnetic Levitation Demonstration Project Act; providing a centrally coordinated permitting and planning process for the location, construction, operation, and maintenance of a magnetic levitation demonstration project within this state; providing legislative intent

and findings; providing definitions; limiting the act to the certification of a single demonstration project; prohibiting the use of public funds except as provided; providing an application process; providing fees; authorizing the Department of Transportation to select one application for further review; providing procedures for protesting the selection, including the posting of a bond; requiring the Department of Transportation, in consultation with other agencies, to determine the completeness of an application; providing for amendments to an application; requiring specified state agencies and certain local governments, water management districts, and regional planning councils to prepare reports on the impact of a proposed project; authorizing the Division of Administrative Hearings of the Department of Administration to designate a hearing officer to conduct a certification hearing; providing notice requirements for such hearing; designating the parties to such hearing; authorizing the Governor and Cabinet to approve, approve with modifications or conditions, or disapprove an application for certification; providing for the effect of certification; providing eminent domain authority to the Department of Transportation; requiring notice to affected landowners; providing for modifications to the certification order; providing for revocation or suspension of certification; providing for the alteration of time limitations; authorizing the owner or operator of a transit station to establish rules governing the use of the station; providing for public access; authorizing the Department of Transportation to delegate its powers and responsibilities under the act to the Florida High Speed Rail Transportation Commission; providing that the act supersedes conflicting laws; exempting confidential business information from public records requirements; providing for future review of the public records exemption in accordance with s. 119.14, F.S.; authorizing local governments to assess reasonable fees with respect to the rail line; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 980 and read the second time by title.

Senator Jennings moved the following amendments to unengrossed House Amendment 1 which were adopted:

Amendment 1—On page 3, lines 16 and 17 of the amendment, strike all of said lines and renumber subsequent sections.

Amendment 2—On page 9, lines 12-14 of the amendment, strike ", including the financial capacity of an applicant and the financial feasibility of the proposed project"

Amendment 3—On page 10, line 8 of the amendment, before the period (.) insert: , including the financial capacity of an applicant and the financial feasibility of the proposed project

Amendment 4—On page 25, lines 6-9 of the amendment, strike all of said lines and renumber subsequent sections.

Amendment 5—On page 5, line 10; on page 6, line 29; on page 7, lines 6, 7, 11 and 14; on page 8, lines 9, 10, 17, 26 and 28; on page 9, lines 3 and 4; on page 10, lines 23 and 24; on page 11, lines 5, 15 and 24; on page 12, lines 9 and 21; on page 16, line 2; on page 17, lines 10 and 11; on page 18, line 15; on page 20, line 13; on page 21, line 26; on page 22, lines 6 and 22; and on page 23, line 29, strike "Department of Transportation" and insert: Florida High Speed Rail Transportation Commission

Amendment 6—On page 17, lines 10 and 11 of the amendment, strike "Department of Transportation's" and insert: commission's

Amendment 7—On page 6, line 31; on page 7, lines 20, 24 and 29; on page 8, lines 1 and 4; on page 9, lines 4 and 8; on page 11, lines 9, 13, 21 and 23; on page 14, line 22; on page 18, lines 17 and 18; on page 20, line 3; on page 22, lines 15, 19, 25, 28 and 29; and on page 23, line 10, strike "department" and insert: commission

Amendment 8—On page 11, line 19 of the amendment, strike "department's" and insert: commission's

Amendment 9—On page 8, lines 21 and 22 of the amendment, strike "Florida High Speed Rail Transportation Commission" and insert: Department of Transportation

Amendment 10—On page 5, line 11 of the amendment, after "Affairs" insert: , the Department of Transportation,

Amendment 11—On page 7, line 8 of the amendment, after the comma (,) insert: the Department of Transportation,

Senator Jennings moved the following amendments to unengrossed House Amendment 2 which were adopted:

Amendment 1—In title, on page 1, lines 15-21 of the amendment, strike all of said lines and insert: Florida High Speed Rail Transportation Commission to recommend one application for certification; providing for

Amendment 2—In title, on page 2, lines 15-18 of the amendment, strike all of said lines and insert: providing for participation by socially and economically disadvantaged businesses; providing that the

On motion by Senator Jennings, by two-thirds vote CS for HB 1202 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

The Senate resumed consideration of—

HB 1653—A bill to be entitled An act relating to crime prevention; creating Part I of the act, relating to Standards for Sentencing Criminals; amending s. 960.001, F.S.; requiring the institution of confinement to notify the sheriff of the county where the crime occurred of an offender's escape; requiring the sheriff to notify certain persons of the escape; amending s. 893.13, F.S.; authorizing courts to impose assessments, in addition to fines and other penalties authorized by law, against offenders who violate the criminal provisions of chapter 893, F.S., and providing standards therefor; creating s. 893.16, F.S.; providing that such additional assessments shall be remitted by the clerks of court for use in specified drug abuse programs; creating s. 893.165, F.S.; authorizing the establishment of county drug abuse trust funds to provide assistance grants to designated drug abuse treatment or education programs; providing for administration of such funds by the boards of county commissioners; providing for the remittance and disbursement of additional assessments for drug abuse program purposes; amending s. 921.187, F.S.; authorizing the imposition of such assessments in the disposition of such criminal cases; amending ss. 142.01 and 142.03, F.S.; providing an exception for such assessments from county fine and forfeiture funds; amending s. 921.0015, F.S.; 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.; removing the Supreme Court from the guidelines modification process; changing the reporting date; authorizing the Legislature to revise the guidelines; defining when a departure sentence is justified; amending s. 775.021, F.S.; providing legislative intent as to rules of construction for determining criminal penalties; amending s. 903.133, F.S.; adding violations of s. 794.011(2) and (3), F.S., relating to sexual battery of minors, to the list of offenses for which bail on appeal is prohibited; amending s. 941.10, F.S.; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; providing legislative findings and intent as to career criminals; providing for enhanced prosecution of and penalties for career criminals; providing criteria and standards; providing for investigative cooperation among criminal justice agencies; providing for establishment of career criminal prosecution units in state attorneys' offices; providing guidelines for prosecution; providing for career criminal apprehension programs to be implemented by law enforcement agencies; amending s. 775.084, F.S.; deleting provisions relating to habitual misdemeanants and providing for the sentencing of habitual violent felony offenders; providing for extended terms of imprisonment; providing definitions, procedures, and standards; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; creating Part II of the act, relating to Delinquency Prevention; creating s. 959.31, F.S., the Delinquency Prevention Act of 1988, to authorize delinquency prevention plans and programs thereunder; providing intent and definitions; requiring the establishment of delinquency prevention councils and providing duties thereof; authorizing the Department of Health and

Rehabilitative Services to award delinquency prevention program grants and providing application procedures therefor and conditions with respect thereto; amending s. 39.032, F.S.; changing detention procedures to authorize nonsecure detention in certain situations; changing the provisions for detention at a detention hearing; providing arraignment requirements; creating s. 39.0321, F.S.; providing for the prohibited use of detention; creating Part III of the act, relating to Drug Abuse Prevention; amending s. 893.13, F.S.; providing for mandatory sentences with respect to certain drug-related prohibited acts; amending s. 893.135, F.S.; decreasing the amount of cocaine required for the offense of trafficking; creating s. 893.137, F.S.; providing a minimum mandatory sentence for a second or subsequent drug-related felony offense; amending s. 212.0505, F.S.; increasing the tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; providing a surcharge; revising conditions under which the settlement of tax, penalty, or interest is authorized; providing for the waiver of bond requirements and enforcement and recording costs; creating trust funds for deposit of revenues from said tax; amending chapter 87-243, Laws of Florida; adding nonalcohol substance abuse to the subjects to be studied by the Crime Prevention and Law Enforcement Study Commission; amending s. 893.03, F.S.; adding two substances to a list of Schedule I controlled substances of a hallucinogenic nature; creating Part IV of the act, relating to Organized Crime Prevention; amending s. 934.02, F.S.; providing definitions relating to interception of wire, oral, and electronic communications; designating ss. 934.03-934.10, F.S., as part I of chapter 934, F.S.; amending s. 934.03, F.S.; providing when interception and disclosure of such communications is allowed or prohibited and providing civil remedies and criminal penalties; amending s. 934.04, F.S.; providing when manufacture, distribution, or possession of such communications is allowed or prohibited and providing criminal penalties; amending s. 934.05, F.S.; providing for seizure and forfeiture of intercepting devices; amending s. 934.07, F.S.; providing for authorization of interception of communications; amending s. 934.08, F.S.; providing for authorization for disclosure and use of intercepted communications; amending s. 934.09, F.S.; providing procedure for interception of communications; amending s. 934.10, F.S.; providing civil remedies; creating part II of chapter 934, F.S.; creating s. 934.21, F.S.; providing when access to stored communications is allowed or prohibited and providing criminal penalties; creating s. 934.22, F.S.; providing when disclosure of contents of communications is allowed or prohibited; creating s. 934.23, F.S.; providing requirements for governmental access to communications; creating s. 934.24, F.S.; providing for backup preservation of communications and for customer notification and customer challenges, including procedure therefor; providing definitions; providing immunity under certain circumstances; amending s. 934.25, F.S.; authorizing delayed notification in specified instances and providing criteria; providing definitions; creating s. 934.26, F.S.; providing for reimbursement of costs of interception; creating s. 934.27, F.S.; providing for civil actions and remedies; providing a defense to civil or criminal action; creating s. 934.28, F.S.; providing for exclusivity of remedies and sanctions; creating part III of chapter 934, F.S.; creating s. 934.31, F.S.; providing a general prohibition on pen register and trap and trace device use and providing an exception thereto; providing penalties; creating s. 934.32, F.S.; providing for application for an order for such device; creating s. 934.33, F.S.; providing for issuance of such an order; creating s. 934.34, F.S.; requiring assistance in installation and use of such device and providing for compensation; providing immunity from civil or criminal liability; providing a defense; creating s. 92.60, F.S.; providing for admission into evidence of foreign records of regularly conducted business activity, or a copy thereof, and for foreign certification, as an exception to the hearsay rule in criminal proceedings; providing definitions; providing procedure; amending s. 896.102, F.S., relating to currency transaction reports; providing that information received by the Department of Revenue shall be subject to disclosure pursuant to subpoena; amending s. 213.053, F.S., to conform; amending s. 895.06, F.S., relating to the Florida Racketeer Influenced and Corrupt Organization Act; providing applicability of the privilege against self-incrimination in a criminal prosecution to a person who complies with a court order directing that he comply with a subpoena; amending s. 895.09, F.S.; providing that certain funds obtained under RICO forfeiture proceedings shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services to fund specified drug abuse treatment services; prohibiting the use of a telephone to transmit certain obscene communications intrastate; prohibiting a person to allow the use of a telephone or a telephone facility under his control for such purpose and specifying criminal penalties for violations; limiting the provisions to intrastate telephone communications; creating Part V of the act, relating to Property Crime Prevention; amending s. 163.503, F.S.; increasing the percentage of land area used for residential and commercial purposes in a safe neighborhood improvement district; excluding land used for public facilities from land use calculations; adding a definition of "Enterprise Zone"; amending s. 163.504, F.S.; allowing participation in safe neighborhoods programs without planning funds; amending s. 163.506, F.S.; clarifying use of taxes and special assessments; providing an alternative to designating the local governing body as the board of directors; amending s. 163.508, F.S.; providing eligibility for existing property owners' associations; allowing assessment against all properties; amending s. 163.511, F.S.; clarifying use of taxes and special assessments; amending s. 163.514, F.S.; including power to make and collect general assessments; amending s. 163.5151, F.S.; providing for collection of assessments; amending s. 163.521, F.S.; adding clarifying language; creating s. 163.523, F.S.; providing for involvement of community organizations; amending ss. 810.08 and 810.09, F.S., relating to trespass in a structure or conveyance and trespass on property other than a structure or conveyance, respectively, to provide that any such trespasser may be taken into custody and detained; providing immunity from liability; amending s. 810.011, F.S., relating to burglary and trespass; modifying the definition of the term "posted land"; amending s. 810.115, F.S.; expanding provisions relating to willfully and maliciously breaking or injuring fences for which a penalty is provided; providing for compensation to the owner; creating s. 877.19, F.S.; prohibiting certain defacement of property by aerosol spray paint cans and broad-tipped markers; providing penalties; amending s. 806.13, F.S., relating to criminal mischief; providing that perpetrators shall, in addition to any criminal penalty, pay the damage caused thereby; providing penalties; amending s. 715.041, F.S.; providing for information required to be kept by pawnbrokers to be on a form approved by the Department of Law Enforcement; amending s. 715.042, F.S.; providing for a fine; amending s. 538.011, F.S.; providing for information required to be kept by precious metals dealers to be on a form approved by the Department of Law Enforcement; amending s. 538.018, F.S; providing for a fine; amending s. 68.065, F.S.; removing the maximum limit for triple damages with respect to certain actions to collect worthless checks, drafts, or orders of payment; amending s. 832.05, F.S.; providing, with respect to worthless checks, drafts or debit card orders, that a payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to the payee; amending s. 790.001, F.S.; modifying the definition of "destructive device"; amending s. 790.161, F.S., relating to felony offenses involving destructive devices, to add projecting such a device as a felony, to add activities constituting the attempted offense, providing exceptions for lawful uses; amending s. 790.162, F.S., relating to threatening to use a destructive device, to add threatening to project such a device as an offense; amending s. 806.111, F.S.; modifying the defintion of "fire bomb"; providing penalties; creating Part VI of the act, relating to Prevention of Crimes against Law Enforcement Officers; creating s. 925.055, F.S.; requiring state and local law enforcement agencies which receive certain funds to adopt accountability policies; providing required criteria; amending ss. 843.01, 843.02, and 784.07, F.S.; providing a uniform definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; amending s. 776.05, F.S., relating to justifiable use of force; providing when deadly force may be used; amending s. 784.07, F.S.; providing enhanced penalties for aggravated assault or battery against certain officers and providing a life felony penalty for attempted murder of a law enforcement officer under certain circumstances; creating s. 775.0825, F.S.; providing mandatory minimum imprisonment for attempted murder of a law enforcement officer; amending s. 784.07, F.S., relating to assault and battery; providing for reclassification of penalties if the victim of the assault or battery is a parking enforcement specialist performing his duties as such; amending s. 843.08, F.S.; increasing the penalty for falsely personating a law enforcement officer and enhancing such penalty if false personation as a police officer occurs during the commission of a felony; amending s. 790.001, F.S.; providing a definition; amending s. 790.052, F.S.; providing for the carrying of concealed firearms by off-duty law enforcement officers and correctional officers; amending s. 790.06, F.S.; excepting machine guns from provisions authorizing licenses to carry concealed weapons or concealed firearms and providing an additional condition to such licensure; providing for suspension of license or of application therefor under certain circumstances; providing an exemption from licensing requirements for certain officers; providing for a fingerprint check; prohibiting the carrying of a concealed weapon or firearm into specified parts of an airport and providing an exemption from such prohibition; providing a penalty; amending s. 790.33, F.S.; authorizing adoption of county cooling-off-period ordinances of up to 3 days by majority vote of the county commission; creating Part VII of the act, relating to Protection of Victims of Crime;

creating the "Victims' Rights Act of 1988"; amending s. 775.089, F.S.; revising the standards under which a court may limit restitution to a victim of a crime; requiring a court to order certain types of restitution when a victim has suffered bodily injury; requiring a court to consider additional factors in determining the amount of restitution; providing for the issuance of an income deduction order with an order for restitution; providing for enforcement; amending s. 914.21, F.S.; providing a definition; amending s. 914.22, F.S.; prohibiting tampering with a witness, victim, or informant in an official investigation; providing penalties; amending s. 921.001, F.S.; requiring the Sentencing Commission to consider additional factors in developing statewide sentencing guidelines; specifying facts which a court may consider in imposing a sentence that is outside such guidelines; amending s. 921.187, F.S.; providing conforming language; creating s. 943.172, F.S.; requiring the Criminal Justice Standards and Training Commission of the Department of Law Enforcement to establish standards and require a specified amount of instruction for law enforcement officers in victims assistance and rights; amending s. 944.512, F.S.; revising the specified distribution of the proceeds of the sale by a convicted felon of an account of his crime; providing for attachment of a lien on such proceeds; extending the lien to accounts of crimes by persons; amending s. 944.605, F.S.; revising notification requirements of an inmate's anticipated release from incarceration or a person's anticipated release from parole; amending s. 947.06, F.S.; authorizing victims of crime to make certain statements before the Parole and Probation Commission; requiring the commission to adopt rules governing such statements; amending s. 948.03, F.S.; providing conforming language; amending s. 945.091, F.S.; providing that the Department of Corrections may require restitution be made from an inmate's employment proceeds; amending s. 960.001, F.S.; providing implementing language conforming to the provisions of a proposed constitutional amendment; deleting provisions requiring that certain notification be given to a witness of a crime; requiring that notification of certain judicial proceedings be given to a victim and a relative of certain victims; authorizing the state attorney to consult a victim or a victim's guardian or family regarding the sentencing of a person accused of the crime; providing that a victim be notified of certain additional rights; providing for a victim's rights information card or brochure; requiring the Governor to advise state agencies of certain statutory changes; deleting provisions requiring that an explanation be provided to the Governor if certain objectives are not achieved by an agency; requiring the Executive Office of the Governor to review guidelines for the fair treatment of victims adopted by specified agencies; providing for injunctive relief; providing that victims and witnesses are not required to attend certain discovery depositions; creating s. 960.002, F.S.; authorizing the creation of a direct-support organization, with the approval of the Governor, to provide assistance to victims of crime; providing requirements for the operation, financial records, and accounts of such organization; providing for the appointment of a guardian ad litem or other advocate to represent a minor who is involved in criminal proceedings as either a victim or a witness; prescribing powers and duties of the guardian ad litem or other advocate; providing such person immunity from certain liability; providing for issuance of a search warrant upon probable cause that a child is being abused or neglected; authorizing the officer executing such warrant to take the child into protective custody under certain circumstances; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence and providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; providing penalties; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; 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 penalties; providing unlawful acts with respect to such devices; providing an exemption; providing for certification of such devices by the Department of Health and Rehabilitative Services; providing rulemaking authority; amending s. 322.271, F.S., to authorize the Department of Highway Safety and Motor Vehicles to order ignition interlock devices as a condition of reinstatement of driving privilege for certain individuals; amending s. 847.011, F.S.; prohibiting persons who own or operate a motor vehicle from affixing to such vehicle any sticker, decal, emblem or other device containing certain obscene descriptions, photographs or depictions; providing a penalty; providing effective dates and contingent effective dates.

—with pending Amendment 5 and the Point of Order raised by Senator Barron.

Senator Langley moved that Rule 7.1 be waived to allow consideration of Amendment 5 to HB 1653. The motion failed.

On motion by Senator Johnson, by two-thirds vote HB 1653 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

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

Nays—None

SB 986—A bill to be entitled An act relating to trespass; amending s. 810.09, F.S.; providing exception to offense of trespassing on construction sites; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal recommended the following amendments which were moved by Senator Weinstein and adopted:

Amendment 1—On page 2, line 14, strike "*However, this*" and insert: *This*

Amendment 2—On page 2, line 20, after the period (.) insert: *However, any such person who defies an order to leave a construction site personally communicated to him by the owner of the premises or by an authorized person shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

Senator Dudley moved the following amendment which failed:

Amendment 3—On page 2, line 20, strike the period (.) and insert: *so long as such agent gives written notice to the owner at least forty-eight (48) hours prior to entering onto the construction site. However, any such person who defies an order to leave a construction site personally communicated to him by the owner of the premises, the general contractor or by a person authorized by the owner of the general contractor shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

(Renumber subsequent section.)

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Weinstein and adopted:

Amendment 4—In title, on page 1, line 4, after the semicolon (;) insert: prohibiting the defiance of an order to leave construction sites; providing a penalty;

On motion by Senator Weinstein, by two-thirds vote SB 986 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26

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

Nays—5

Dudley	Lehtinen	Woodson
Johnson	Myers	

Vote after roll call:

Nay—Jennings

Yea to Nay—Beard, Grizzle

Nay to Yea—Lehtinen

On motion by Senator W. D. Childers, by unanimous consent—

CS for SB 1181—A bill to be entitled An act relating to hunting and fishing; amending s. 372.561, F.S.; providing for certification by any branch of the United States Armed Forces to receive a permanent hunting and fishing license for certain totally and permanently disabled persons; amending s. 372.57, F.S.; providing that the turkey stamp used for hunting need not bear the name of the person to whom it is issued; revising language with respect to certain nonresident hunting licenses; providing fees; amending s. 372.571, F.S.; conforming to the act; amending s. 372.661, F.S.; providing for a commercial hunting preserve license; providing a fee; providing an effective date.

—was taken up out of order and read the second time by title.

Senator Hollingsworth moved the following amendments which were adopted:

Amendment 1—On page 1, line 27, and on page 6, line 29, following "Administration," insert: *by the United States Social Security Administration,*

Amendment 2—On page 1, line 31, following the period (.) insert: *A Disability Award Notice issued by the United States Social Security Administration is not sufficient certification for obtaining a permanent hunting and fishing license under this section unless said form certifies a resident is totally and permanently disabled.*

Amendment 3—On page 4, line 22, following the period (.) insert: *However, with respect to persons who are residents of states contiguous to Florida, the fee for a hunting license to take game in this state for 10 consecutive days shall be $121 unless such state has a reciprocal agreement with Florida pursuant to subsection (7).*

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 4—On page 1, line 19, insert:

Section 1. Subsection (8) is added to section 372.57, Florida Statutes, 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).

(8) The commission may designate by rule no more than 2 consecutive or nonconsecutive days in each year as free fishing days. Notwithstanding any other provision of this chapter, any person may take freshwater fish for noncommercial purposes on a free fishing day without obtaining or possessing a license or paying a license fee as prescribed in this section. A person who takes freshwater fish on a free fishing day without obtaining a license or paying a fee must comply with all laws and regulations governing holders of a fishing license and all other conditions and limitations regulating the taking of freshwater fish as are imposed by law or rule.

(Renumber subsequent sections.)

Senator Hollingsworth moved the following amendment which was adopted:

Amendment 5—In title, on page 1, line 5, following "Forces" insert: or by the United States Social Security Administration

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 2, following the semicolon (;) insert: amending s. 372.57, F.S.; authorizing the Game and Fresh Water Fish Commission to designate days upon which unlicensed persons may engage in the taking of freshwater fish;

On motion by Senator W. D. Childers, by two-thirds vote CS for SB 1181 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

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

Nays—None

Vote after roll call:

Yea—Crawford

On motion by Senator Peterson, by two-thirds vote CS for HB 1649 was withdrawn from the Committee on Appropriations.

On motion by Senator Peterson—

CS for HB 1649—A bill to be entitled An act relating to education; amending s. 228.061, F.S., relating to other public schools; correcting cross-references; transferring, renumbering, and amending s. 228.0615, F.S.; revising provisions relating to the prekindergarten early intervention program; revising intent and purpose; providing that district school boards shall administer prekindergarten early intervention programs; revising requirements relating to children to be served; authorizing the submission of a plan for implementing a prekindergarten early intervention program; specifying requirements for plan approval; requiring the Commissioner of Education to conduct a study of the effectiveness of the program; providing for monitoring of programs; revising content of annual reports by school districts; revising funding provisions; providing additional uses for funds; providing for grants; providing for allocation of funds for exemplary programs; authorizing a special discretionary millage; revising membership, staffing, and duties of the State Advisory Council on Early Childhood Education; revising membership of the district interagency coordinating councils and deleting a reporting requirement; requiring standards for facilities and staffing; providing for review and repeal; amending s. 228.0617, F.S.; requiring proposals for school-age child care programs to include staff training plans, coordination with other community-based programs and social services, and a description of a program to employ as trainees students from work experience and vocational programs and otherwise revising the specifications for proposals; revising the funding priority given to proposals; deleting obsolete provisions; permitting an increase in membership on the school-age child care advisory council; amending s. 229.565, F.S.; requiring examination and evaluation of programs; amending s. 232.01, F.S.; requiring admission of 3-year-old handicapped children to public special education programs and permitting attendance by handicapped children below age 3; amending s. 232.03, F.S.; requiring evidence of a child's age before admission to prekindergarten; amending s. 232.045, F.S.; conforming a cross-reference; amending s. 236.013, F.S.; redefining the term "full-time equivalent student" in order to include students in prekindergarten early intervention programs; amending s. 236.083, F.S.; providing a method for allocating school district transportation funds for prekindergarten students; amending s. 402.22, F.S., relating to education programs for students in residential care facilities, to conform; amending s. 402.30, F.S.; increasing the membership of the advisory council on child care and providing an additional duty; creating the High School Community Service Act; providing for pilot projects; providing a procedure for developing and submitting project proposals; describing project requirements; providing for selection, funding, evaluating, and reporting; creating s. 230.69, F.S.; providing for the creation of Youth Enhancement Services Centers within the school districts; authorizing the creation of a nonprofit corporation with a board of directors; requiring approval of a proposal for each center

by the district school board and the Department of Education; providing requirements, including private contributions and matching state grant; providing for allocation of funds to center depository funds; providing for the vesting of title; providing for center operation; providing for pilot programs; requiring rules relating to capacity and design of facilities; requiring an annual postaudit; providing an exemption from public records requirements for certain donor information; providing for review and repeal; creating s. 228.0716, F.S.; creating the Florida Literacy Corps Act of 1988; providing intent; establishing the Florida Literacy Corps to be administered by the Department of Education; providing for academic credit to eligible postsecondary students tutoring certain adults; describing responsibilities for delivery of literacy instruction and training; establishing student eligibility requirements; establishing university and community college eligibility requirements; providing for funding; requiring certain reports; creating s. 232.2467, F.S.; creating the Florida gold seal vocational endorsement program; providing student requirements for such endorsement; providing for rules; creating the Secondary Vocational Education Committee; providing membership, duties, and financing; amending s. 229.602, F.S.; providing duties of private sector and education partnership coordinators relating to the Florida gold seal vocational endorsement program; amending s. 229.814, F.S.; specifying content of rules relating to high school equivalency diplomas; amending s. 232.246, F.S.; providing for notice to parents of students at risk of not meeting a requirement for graduation; providing for the attachment of the Florida gold seal vocational endorsement to a standard diploma; creating s. 229.603, F.S.; requiring the Department of Education to develop a model of family involvement in education; providing for assistance to school districts to implement models; amending s. 230.2316, F.S.; providing for parent involvement in education alternatives programs; amending s. 229.58, F.S.; requiring the establishment of school advisory committees and authorizing the establishment of district advisory committees; encouraging local representatives from the Department of Health and Rehabilitative Services to serve on school advisory committees; amending s. 232.26, F.S.; prohibiting possession of a firearm or weapon on school board property or at a school-sponsored event by a student; amending s. 230.23, F.S.; revising provisions relating to the content of the code of student conduct; providing effective dates.

—a companion measure, was substituted for CS for CS for SB 998 and read the second time by title.

Further consideration of **CS for HB 1649** was deferred.

Consideration of **HB 1444** was deferred.

CS for SB 770—A bill to be entitled An act relating to the sale or rental of videotapes; amending s. 847.013, F.S.; revising definition of "knowingly"; prohibiting certain sales or rentals of videotapes harmful to minors; prohibiting certain false representations concerning such sales or rentals; providing penalties; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for SB 770 to conform the bill to CS for HB 1153.

Pending further consideration of CS for SB 770 as amended, on motions by Senator Langley, by two-thirds vote—

CS for HB 1153—A bill to be entitled An act relating to obscene material; creating s. 847.0145, F.S.; prohibiting the selling or buying of minors for engagement in certain sexually explicit activities; providing penalties; creating s. 847.0147, F.S.; prohibiting obscene telephone services; providing a penalty; amending s. 847.001, F.S.; redefining the term "sadomasochistic abuse"; amending s. 847.012, F.S.; expanding provisions relating to the prohibited sale or distribution of harmful materials to a minor to include the rental of such materials as an unlawful activity; expanding a list of specified depictions, the visual representation of which is unlawful to sell, rent, or loan for monetary consideration to a minor, to include depictions of sexual excitement, sexual battery, bestiality, or sadomasochistic abuse; providing penalties; amending s. 847.013, F.S.; prohibiting the sale or rental of certain videotapes to minors; prohibiting the sale or rental of a video movie where the official rating is not clearly displayed on the outside of the cassette, case, jacket, or other covering; providing definitions; providing penalties; providing an effective date.

—a companion measure, was substituted for CS for SB 770 and by two-thirds vote read the second time by title.

Senator Langley moved the following amendment which was adopted:

Amendment 1—On page 4, lines 4-7 in Section 4., strike all of said lines.

On motion by Senator Langley, by two-thirds vote CS for HB 1153 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Crawford, Stuart

Reconsideration

On motion by Senator W. D. Childers, the Senate reconsidered the vote by which CS for SB 1181 as amended passed this day.

On motion by Senator W. D. Childers, the Senate reconsidered the vote by which CS for SB 1181 as amended was read the third time.

Pending further consideration of CS for SB 1181 as amended, on motions by Senator W. D. Childers, by two-thirds vote—

HB 1543—A bill to be entitled An act relating to hunting and fishing; amending s. 372.57, F.S.; authorizing the Game and Fresh Water Fish Commission to designate days upon which unlicensed persons may engage in the taking of freshwater fish; creating s. 372.195, F.S.; requiring a permit for a freshwater fishing tournament or contest; providing for issuance by the Game and Fresh Water Fish Commission; providing rules; providing fees; creating s. 372.196, F.S.; providing that it is unlawful to hold such a tournament or contest without a permit; providing penalties; amending s. 372.561, F.S.; providing for certification by any branch of the United States Armed Forces or by the United States Social Security Administration to receive a permanent hunting and fishing license for certain totally and permanently disabled persons; amending s. 372.57, F.S.; providing that the turkey stamp used for hunting need not bear the name of the person to whom it is issued; revising language with respect to certain nonresident hunting licenses; providing fees; amending s. 372.571, F.S.; conforming to the act; amending s. 372.661, F.S.; providing for a commercial hunting preserve license; providing a fee; providing an effective date.

—a companion measure, was substituted for CS for SB 1181 and by two-thirds vote read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 1543 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

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

Nays—None

Vote after roll call:

Yea—Crawford

The Senate resumed consideration of—

CS for HB 1649—A bill to be entitled An act relating to education; amending s. 228.061, F.S., relating to other public schools; correcting cross-references; transferring, renumbering, and amending s. 228.0615, F.S.; revising provisions relating to the prekindergarten early interven-

tion program; revising intent and purpose; providing that district school boards shall administer prekindergarten early intervention programs; revising requirements relating to children to be served; authorizing the submission of a plan for implementing a prekindergarten early intervention program; specifying requirements for plan approval; requiring the Commissioner of Education to conduct a study of the effectiveness of the program; providing for monitoring of programs; revising content of annual reports by school districts; revising funding provisions; providing additional uses for funds; providing for grants; providing for allocation of funds for exemplary programs; authorizing a special discretionary millage; revising membership, staffing, and duties of the State Advisory Council on Early Childhood Education; revising membership of the district interagency coordinating councils and deleting a reporting requirement; requiring standards for facilities and staffing; providing for review and repeal; amending s. 228.0617, F.S.; requiring proposals for school-age child care programs to include staff training plans, coordination with other community-based programs and social services, and a description of a program to employ as trainees students from work experience and vocational programs and otherwise revising the specifications for proposals; revising the funding priority given to proposals; deleting obsolete provisions; permitting an increase in membership on the school-age child care advisory council; amending s. 229.565, F.S.; requiring examination and evaluation of programs; amending s. 232.01, F.S.; requiring admission of 3-year-old handicapped children to public special education programs and permitting attendance by handicapped children below age 3; amending s. 232.03, F.S.; requiring evidence of a child's age before admission to prekindergarten; amending s. 232.045, F.S.; conforming a cross-reference; amending s. 236.013, F.S.; redefining the term "full-time equivalent student" in order to include students in prekindergarten early intervention programs; amending s. 236.083, F.S.; providing a method for allocating school district transportation funds for prekindergarten students; amending s. 402.22, F.S., relating to education programs for students in residential care facilities, to conform; amending s. 402.30, F.S.; increasing the membership of the advisory council on child care and providing an additional duty; creating the High School Community Service Act; providing for pilot projects; providing a procedure for developing and submitting project proposals; describing project requirements; providing for selection, funding, evaluating, and reporting; creating s. 230.69, F.S.; providing for the creation of Youth Enhancement Services Centers within the school districts; authorizing the creation of a nonprofit corporation with a board of directors; requiring approval of a proposal for each center by the district school board and the Department of Education; providing requirements, including private contributions and matching state grant; providing for allocation of funds to center depository funds; providing for the vesting of title; providing for center operation; providing for pilot programs; requiring rules relating to capacity and design of facilities; requiring an annual postaudit; providing an exemption from public records requirements for certain donor information; providing for review and repeal; creating s. 228.0716, F.S.; creating the Florida Literacy Corps Act of 1988; providing intent; establishing the Florida Literacy Corps to be administered by the Department of Education; providing for academic credit to eligible postsecondary students tutoring certain adults; describing responsibilities for delivery of literacy instruction and training; establishing student eligibility requirements; establishing university and community college eligibility requirements; providing for funding; requiring certain reports; creating s. 232.2467, F.S.; creating the Florida gold seal vocational endorsement program; providing student requirements for such endorsement; providing for rules; creating the Secondary Vocational Education Committee; providing membership, duties, and financing; amending s. 229.602, F.S.; providing duties of private sector and education partnership coordinators relating to the Florida gold seal vocational endorsement program; amending s. 229.814, F.S.; specifying content of rules relating to high school equivalency diplomas; amending s. 232.246, F.S.; providing for notice to parents of students at risk of not meeting a requirement for graduation; providing for the attachment of the Florida gold seal vocational endorsement to a standard diploma; creating s. 229.603, F.S.; requiring the Department of Education to develop a model of family involvement in education; providing for assistance to school districts to implement models; amending s. 230.2316, F.S.; providing for parent involvement in education alternatives programs; amending s. 229.58, F.S.; requiring the establishment of school advisory committees and authorizing the establishment of district advisory committees; encouraging local representatives from the Department of Health and Rehabilitative Services to serve on school advisory committees; amending s. 232.26, F.S.; prohibiting possession of a firearm or weapon on school board property or at a school-sponsored event by a student; amending s. 230.23, F.S.; revising provisions relating to the content of the code of student conduct; providing effective dates.

The Committee on Education recommended the following amendments which were moved by Senator Peterson and failed:

Amendment 1—On page 6, line 16, through line 2 on page 9, strike all of said language and insert:

(1) LEGISLATIVE INTENT; PURPOSE.—The Legislature recognizes that high quality prekindergarten education programs increase children's chances of achieving future educational success and becoming productive members of society. It is the intent of the Legislature that such programs be developmental and serve as preventive measures for children at risk of educational failure, ~~and~~ to enhance the educational readiness of all children *and to support family education and involvement of parents in their child's educational progress.* The purpose of the Prekindergarten Early Intervention Program is to encourage and assist school districts in implementing such programs.

(2) PROGRAM.—There is hereby created the Prekindergarten Early Intervention Program for children who are 3 and 4 years of age. *A prekindergarten early intervention* ~~The~~ program shall be *administered by a district school board and* funded pursuant to subsection (7) ~~and be administered by the Department of Education~~. Prekindergarten early intervention programs may be implemented and conducted by any school district pursuant to a *plan* ~~proposal~~ developed and approved as provided in this section. *For a program to be eligible for approval, at least 50 percent of the estimated program participants must be economically or educationally disadvantaged children, including migrant children.*

(3) *PLAN* ~~PROPOSALS~~.—Each district school board may submit to the Commissioner of Education a *plan* ~~proposal~~ for implementing and conducting a prekindergarten early intervention program. Each *plan* ~~proposal~~ shall be developed with the assistance of the local interagency coordinating council on prekindergarten education pursuant to subsection (9). A district may submit a *plan* ~~proposal~~ for implementing new services, enhancing existing prekindergarten or child care programs, or contracting for the provision of such services. *A program may be located on public school property or on another site that meets state and local licensing requirements for child day care facilities. If a district uses community facilities and community facility staff for the provision of services, a contract is required; if a district uses community facilities and provides district instructional staff, a cooperative agreement is required.* ~~A proposal for the 1987-1988 school year must be submitted by March 1, 1987.~~ After the initial year, districts with approved *plans* ~~proposals~~ must submit only amendments to their initial *plans* ~~proposal~~ to the Commissioner of Education by November 15 of each subsequent year.

Amendment 2—On page 61, between lines 20 and 21, insert:

Section 23. Subsection (3) is added to section 232.26, Florida Statutes, to read:

232.26 Authority of principal.—

(3)(a) Any student in a district school system who is found in unauthorized possession of a firearm, knife which has a blade longer than 3 inches, or weapon as defined in s. 790.001(13) while on school property or in attendance at a school function shall be suspended immediately by his school principal. The principal shall provide the superintendent with an adequate history of the student's actions and shall recommend that the student be expelled.

(b) At the next regular meeting of the school board, the superintendent shall make a recommendation of expulsion. Written notice shall be given to the student and his parent or guardian setting forth the charges against the student and advising the student and his parents of their right to due process. Expulsion for possession of a weapon shall be for the remainder of the academic year or for the following year, if the incident occurred during the last month of the spring semester or during summer school.

(c) A school board may provide an alternative educational program for any student who is suspended under paragraph (a) or expelled under paragraph (b), but such student may not be placed in classes with other elementary or secondary school-aged students who are not being disciplined for a similar offense.

(d) If a student wishes to return to school after expulsion for possession of a weapon, he may petition for a reentry contract. The student,

his parent or guardian, the school principal, and the guidance counselor shall agree upon and sign the contract, which shall include at least the following: an agreement that the student will abide by the school's code of conduct, will attend school daily and arrive promptly for all classes, will seek counseling as afforded by school personnel, and will not possess a weapon on campus or at any school event. Violation of the terms of the contract shall be grounds for expulsion. The duration of the contract shall be determined by the school and student but shall not be for less than one year.

Section 24. Subsection (4) is added to section 240.133, Florida Statutes, to read:

240.133 Expulsion and discipline of students of the State University System and community colleges.—

(4) Each president of a state university or community college shall immediately expel any student who is found in unauthorized possession of a firearm or weapon as defined in s. 790.001(13) while on property under the control of the state university or community college. An expulsion under this subsection shall be for the remainder of the academic year; however, if the incident takes place during the last month of the spring semester or during a summer school session, the period of expulsion shall include the subsequent academic year.

(Renumber subsequent section.)

Amendment 3—On page 61, between lines 20 and 21, insert:

Section 23. Section 229.59, Florida Statutes, is amended to read:

229.59 Educational improvement projects.—

(1) Pursuant to rules adopted by the State Board of Education, each district school board, or each principal through the district school board, may submit to the commissioner for approval a proposal for implementing an educational improvement project. Such proposals shall be developed with the assistance of district and school advisory committees and may address any or all of the following areas:

(a) The improvement of school management*;*

(b) The improvement *of the*~~,~~ district and school advisory *committees;* ~~committee improvement,~~

(c) School volunteers~~,~~*;*

(d) The professional development of teachers; and

(e) The restructuring of educational programs to meet the needs of diverse students.

Such projects may also address any other educational area which would be improved through *the encouragement of* ~~a~~ closer working *relationships among the school principal, the teachers, and the parents and other members of the* ~~relationship between school and~~ community. Priority shall be given to proposals which provide for the inclusion of existing resources, such as district educational training funds, in the implementation of the educational improvement project.

(2) For each project approved, the commissioner shall authorize distribution of a grant~~, in an amount not less than $500 and not more than $5,000,~~ from funds available to the Department of Education for educational improvements projects. Promising innovations resulting from the implementation of such projects shall be *disseminated through publications, training programs, and conferences. Projects that are determined to be exceptional and innovative by the department may be further used as demonstration and training models for other projects* ~~included in the commissioner's annual report~~*. The Department of Education shall initiate field-based research to assess the impact of education improvement efforts.*

Section 24. Section 244.07, Florida Statutes, is hereby repealed.

(Renumber subsequent section.)

Amendment 4—In title, on page 5, line 9, after the semicolon (;) insert: amending s. 39.03, F.S.; requiring notification of the district school superintendent or his designee of arrest of juvenile who is a student under certain circumstances; requiring notification of principal and guidance counselor; providing for confidentiality; providing for removal of information;

Amendment 5—In title, on page 5, line 9, after the semicolon (;) insert: amending s. 229.59, F.S.; extending the subject areas that an educational improvement project may address; removing the limit on the amount that the Commissioner of Education can authorize for an educational improvement project grant; providing for the dissemination of the results of such projects; providing that such projects that are deemed to be exceptional by the Department of Education may be used as models for other such projects; providing for project assessment; repealing s. 244.07, F.S.; abolishing the Florida Education Council;

Amendment 6—On page 43, lines 27 and 28, after *"with"* on line 27, through *"one-half"* on line 28, strike all of said language and insert: *one-fourth of the capital costs provided by private contributions and three-fourths*

Amendment 7—On page 61, between lines 20 and 21, insert:

Section 23. Paragraph (b) of subsection (1) of section 39.03, Florida Statutes, is amended to read:

39.03 Taking a child into custody; detention.—

(1) A child may be taken into custody:

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to arrest. *If such arrest is for a delinquent act or violation of law which involves a crime of violence or a crime in which a deadly weapon was used, the arresting authority shall immediately notify the district school superintendent, or his designee, of the school district with educational jurisdiction of the child. Except to the extent necessary to protect the health, safety, and welfare of other students, faculty or staff the information obtained by the superintendent of schools pursuant to this section may be released only to appropriate school personnel or as otherwise provided by law. In order to protect the rights of the child and his parents or other persons responsible for the child's welfare, all information in the possession of the superintendent or other employees of the school district concerning reports of such violations of law involving a crime of violence or a crime in which a deadly weapon was used, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be disclosed except as specifically authorized by this paragraph. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this paragraph. Information provided by an arrest authority pursuant to this paragraph shall not be placed in the student's permanent record and shall be removed from all school records no later than 9 months after the date of the arrest.*

(Renumber subsequent section.)

Senator Peterson moved the following amendment:

Amendment 8—On page 5, line 10, strike everything after the enacting clause and insert:

Section 1. Subsections (1) and (3) of section 228.061, Florida Statutes, are amended to read:

228.061 Other public schools; nursery schools, prekindergarten early intervention programs, school-age child care programs, special schools and courses.—The public schools of Florida may, in addition to the schools prescribed in s. 228.051, include nursery schools, prekindergarten early intervention programs, school-age child care programs, special schools, and courses and classes as authorized below:

(1) NURSERY SCHOOLS.—Nursery schools shall comprise classes for children who have attained the ages prescribed by s. 232.05 and may be established in the discretion of the school board where sufficient children of these ages are available to make possible an organization of at least 20 such children at any school center. Such schools or classes shall be supported and maintained from district taxes, from such funds supplemented by tuition charges, or from funds from federal or other lawful sources, exclusive of state sources; however, state funds may be used to support prekindergarten early intervention programs pursuant to s. *230.2305* ~~228.0615~~.

(3) SCHOOL-AGE CHILD CARE PROGRAMS.—School-age child care programs shall consist of educational and recreational programs provided before and after the regular school day and during school holidays to children eligible to attend public schools as provided by ss. 232.01, ~~and~~

232.04, *and 232.045*. Such programs shall be supported and maintained from state or district funds, tuition charges, and such funds as may be available from federal or other lawful sources.

Section 2. Section 228.0615, Florida Statutes, is transferred, renumbered as section 230.2305, Florida Statutes, and amended to read:

230.2305 ~~228.0615~~ Prekindergarten early intervention program.—

(1) LEGISLATIVE INTENT; PURPOSE.—The Legislature recognizes that high quality prekindergarten education programs increase children's chances of achieving future educational success and becoming productive members of society. It is the intent of the Legislature that such programs be developmental and serve as preventive measures for children at risk of educational failure, ~~and~~ to enhance the educational readiness of all children *and to support family education and involvement of parents in their child's educational progress*. The purpose of the Prekindergarten Early Intervention Program is to encourage and assist school districts in implementing such programs.

(2) PROGRAM.—There is hereby created the Prekindergarten Early Intervention Program for children who are 3 and 4 years of age. *A prekindergarten early intervention* ~~The~~ program shall be *administered by a district school board and* funded pursuant to subsection (7) ~~and be administered by the Department of Education~~. Prekindergarten early intervention programs may be implemented and conducted by any school district pursuant to a *plan* ~~proposal~~ developed and approved as provided in this section. *For a program to be eligible for approval, at least 50 percent of the estimated children enrolled in the program by the district must be economically disadvantaged children, including migrant children. Other children served by the district program may include, up to a maximum of 50 percent, economically disadvantaged children, educationally disadvantaged children and children who are not disadvantaged and whose parents pay a fee. Individual public and private programs with which a district contracts for services shall not be required to meet the enrollment criterion that 50 percent of the children be economically disadvantaged. However, the aggregate enrollment served through the district's prekindergarten early intervention program shall comply with the criterion.*

(3) *PLAN* ~~PROPOSALS~~.—Each district school board may submit to the Commissioner of Education a *plan* ~~proposal~~ for implementing and conducting a prekindergarten early intervention program. Each *plan* ~~proposal~~ shall be developed with the assistance of the local interagency coordinating council on prekindergarten education pursuant to subsection (9). A district may submit a *plan* ~~proposal~~ for implementing new services, enhancing existing prekindergarten or child care programs, or contracting for the provision of such services. *A program may be located on public school property or on another site that meets state and local licensing requirements for child day care facilities. If a district uses community facilities and community facility staff for the provision of services, a contract is required; if a district uses community facilities and provides district instructional staff, a cooperative agreement is required.* ~~A proposal for the 1987-1988 school year must be submitted by March 1, 1987.~~ After the initial year, districts with approved *plans* ~~proposals~~ must submit only amendments to their initial *plans* ~~proposal~~ to the Commissioner of Education by November 15 of each subsequent year.

(4) *PLAN* ~~PROPOSAL~~ APPROVAL.—To be considered for approval, each *plan, or amendment to a plan, must be based on instructions from the Commissioner of Education and* ~~proposal~~ must include, *without limitation*:

(a) A description of the program curriculum and activities.

(b) The estimated number of children who will participate in the program.

(c) The estimated percentage of children who will participate in the program and who are economically ~~or educationally~~ disadvantaged and the criteria used by the district to identify participants as disadvantaged. To be eligible for approval, at least 50 percent of the estimated *children enrolled in the program by the district* ~~program participants~~ must be economically ~~or educationally~~ disadvantaged.

(d) A description of the program's administrative structure.

(e) The estimated ratio of staff to children.

(f) Information on the training and qualifications of program staff, including an assurance that all staff have completed, at a minimum, the 20-clock-hour training course required by the Department of Health and Rehabilitative Services for child care workers under s. 402.305 or an amount of training determined to be equivalent. The project director must have a college degree in early childhood education or the equivalent, and supervisory personnel must have child development associate certificates or ~~the~~ equivalent *early childhood education training*. In order to be considered for funding, all program *plans* ~~proposals~~ must include a requirement that personnel will comply with screening requirements pursuant to ss. 402.305(1) and 402.3055.

(g) A description of the *school board's efforts to involve nonpublic schools, public and private providers of day care and early education, and other community agencies that provide services to young children. This shall include private child care programs, subsidized child care programs, and Head Start programs* ~~location or locations where the program will be provided. A program may be located on public school property or on another site which meets state and local licensing requirements for child day care facilities.~~

(h) A staff development component which includes a method for career development and mobility for staff.

~~(i) A requirement that student participation be contingent upon parental involvement, and a plan for maximizing the active participation of parents.~~

(i)~~(j)~~ A parent education component *and a plan for maximizing the active participation of parents.*

(j)~~(k)~~ A description of the interagency coordination council and efforts made to maximize use of existing facilities, equipment, medical, educational, and social services.

(k)~~(l)~~ The days and hours when the program will be provided *and plans for child care before and after school.*

(l)~~(m)~~ A child developmental and health screening and referral component.

(m)~~(n)~~ *The criteria used by the district to establish a* ~~The estimated program budget, including the~~ sliding fee scale ~~to be used~~.

~~(o) An evaluation component which includes longitudinal assessment of the effect of program participation on children's behavior, growth and development, and scholastic achievement.~~

(n)~~(p)~~ A plan for coordinating the program with the Head Start Program and other child care and preschool programs ~~for disadvantaged children~~.

(o)~~(q)~~ A plan for coordinating the program with the district K-three program.

(p)~~(r)~~ A child abuse and neglect recognition and prevention component.

~~(s) Such other information or provisions as may be required by the Commissioner of Education.~~

(5) *PLAN* ~~PROPOSAL~~ APPROVAL.—The Commissioner of Education shall have final authority to approve or disapprove *plans* ~~proposals~~ and amended *plans* ~~proposals~~. ~~A school district shall be notified of approval or disapproval of its proposal by April 1, 1987, for the 1987-1988 school year. A proposal may be adjusted based on appropriations, with final approval to be made by July 15, 1987.~~

(6) ANNUAL REPORT.—Each district school board that implements a prekindergarten early intervention program under this section shall submit an annual report of its program to the Commissioner of Education. Such report shall describe the overall program operations; *activities of the district interagency coordinating council;* expenditures; the number of students served; ratio of staff to children; staff qualifications; evaluation findings, including identification of program components which were most successful; and other information required by the Commissioner of Education or the state advisory council.

(7) FUNDING.—

(a) This section shall be implemented only to the extent that funding is provided by the Legislature in the General Appropriations Act. State funds appropriated for the Prekindergarten Early Intervention Program may not be used for the construction of new facilities. *A portion of such funds, as determined by the Commissioner of Education, may be used to*

remodel or renovate existing facilities pursuant to chapter 235, to acquire or construct relocatable classrooms to house students displaced by conversion of classrooms to prekindergarten use, to acquire or construct relocatable classrooms to house students in prekindergarten programs, or to purchase classroom equipment and educational materials to allow the implementation of the Prekindergarten Early Intervention Program. Parents of children who are not economically or educationally disadvantaged shall pay a fee based on a sliding fee scale approved by the Commissioner of Education; provided, however, that the fee shall not exceed 25 percent of the cost.

(b) The Commissioner of Education shall establish an equitable allocation and distribution formula which provides a base amount for each district and allocates the remaining funds based on each district's prorated share of the number of eligible 3-year-old and 4-year-old children, adjusted for economic need. If any school district does not submit a plan to participate in the Prekindergarten Early Intervention Program or does not request its full projected allocation by the date designated by the Commissioner of Education, that district's allocation or part of its allocation shall be prorated among the participating districts.

(8) STATE ADVISORY COUNCIL.—

(a) The State Advisory Council on *Prekindergarten* Early *Intervention Programs* ~~Childhood Education~~ is hereby created. ~~The council's first priority shall be to advise the Commissioner of Education regarding the implementation of the Prekindergarten Early Intervention Program.~~ The council shall be comprised of 11 members to be appointed as follows:

1. The Governor shall appoint three members to the council, one of whom shall represent the Head Start Program, one of whom shall represent state-subsidized child care providers, and one of whom shall represent child day care providers who are not state-subsidized.

2. The Commissioner of Education shall appoint four members to the council, one of whom shall represent elementary school principals, one of whom shall represent ~~the Bureau of~~ education for exceptional *student programs* ~~Students of the Department of Education~~, one of whom shall be a *certified* ~~public school~~ teacher ~~certified~~ in *the Prekindergarten Early Intervention Program* ~~early childhood education~~, and one of whom shall represent an advocacy group for early childhood education.

3. The President of the Senate shall appoint one member to the council.

4. The Speaker of the House of Representatives shall appoint one member to the council.

5. The secretary of the Department of Health and Rehabilitative Services shall appoint two members to the council, one of whom shall represent health services and one of whom shall represent child welfare services.

(b) The term of appointment for all members shall be 3 years with terms staggered to assure continuity of membership. ~~Council members shall be appointed by September 15, 1986. The Commissioner of Education shall call an organizational meeting of the council by October 15, 1986, and appoint the chairman and vice chairman of the council.~~

(c) For administrative purposes, the council is assigned to the Department of Education and shall be financed through appropriations made for this purpose by the Legislature in the General Appropriations Act. Members of the council shall be entitled to receive per diem and expenses for travel as provided in s. 112.061 while carrying out official business of the council. ~~The council shall be staffed by the early childhood and elementary education section of the Department of Education.~~ The Commissioner of Education and the secretary of the Department of Health and Rehabilitative Services *shall* ~~may~~ designate ~~additional~~ staff of their departments to assist the council in performing its duties and responsibilities.

(d) The council shall adopt internal organizational procedures or bylaws necessary for efficient operation of the council.

(e) The State Advisory Council shall:

1. Review and recommend rules for the successful implementation of the Prekindergarten Early Intervention Program.

2. Recommend and participate in providing technical assistance to school districts in developing *plans* ~~proposals~~ and programs under this section.

3. Advise the Commissioner of Education regarding educational issues, trends, and programs pertaining to *the Prekindergarten* Early *Intervention Program* ~~childhood education~~.

4. Assist the Department of Education in ~~monitoring and~~ evaluating the district programs, disseminating information on successful program strategies, and conducting studies of the effectiveness of prekindergarten early intervention programs ~~and other early childhood programs~~.

5. Report to the Commissioner of Education by March 1 of each year on council activities and district progress in implementing prekindergarten early intervention programs.

6. *Conduct an ongoing evaluation study including longitudinal assessment of the effect of program participation on children's behavior, growth and development, and achievement and family involvement and report the results of the study annually to the Commissioner and the Legislature* ~~Submit to the Legislature and the Commissioner of Education by January 1, 1988, a report describing the availability of prekindergarten programs in each school district and assessing the feasibility of statewide implementation of prekindergarten education, including, if appropriate, a 5-year plan for statewide implementation.~~

~~7. Submit to the Commissioner of Education and the Legislature by January 1, 1987, a report describing the availability of training programs for prekindergarten early intervention program personnel and containing recommendations for training requirements and for establishing a career ladder for such personnel.~~

(9) DISTRICT INTERAGENCY COORDINATING COUNCILS.—

(a) To be eligible for a prekindergarten early intervention program, each school district must develop, implement, and evaluate its prekindergarten program in cooperation with a district interagency coordinating council on prekindergarten education.

(b) Each district coordinating council shall be comprised of at least 11 members to be appointed by the district school board for the county in which participating schools are located and to include at least the following:

1. One member who is a parent of a child enrolled in, or intending to enroll in, the public school prekindergarten program.

2. One member who is a director or designated director of a prekindergarten program in the district.

3. One member who is a member of a district school board.

4. One member who is a representative of *a program* ~~an agency~~ serving *prekindergarten* ~~the~~ handicapped *students*.

5. Three members who are representatives of organizations providing prekindergarten educational services, one of whom is a representative of a Head Start Program; one of whom is a representative of a Title XX subsidized child day care program, if such programs exist within the county; and one of whom is a representative of a private prekindergarten program. If there is no Head Start Program or Title XX program operating within the county, the school board shall appoint two members to represent community interests in prekindergarten education.

6. Two members who are representatives of agencies responsible for providing social, medical, dental, or transportation services.

7. One member to represent a local child advocacy organization.

8. One member to represent the district K-three program.

(c) Each district interagency coordinating council shall:

1. Assist district school boards in developing a *plan* ~~proposal~~ to implement a prekindergarten early intervention program. The *plan* ~~proposal~~ must be signed by the council chairman, the chairman of the district school board, and the district school superintendent before being submitted to the Commissioner of Education for approval.

2. Coordinate the delivery of educational, social, medical, child care, and other services.

3. *Assist in developing the district annual report required by subsection (6)* ~~Submit, in cooperation with the district school board, to the Commissioner of Education, a biennial report, beginning July 1, 1988, on council activities and the district's progress in implementing the prekindergarten education program. The report shall include recommendations to the state advisory council concerning local and statewide implementation of prekindergarten programs.~~

(10) IMPLEMENTATION.—The State Board of Education shall adopt rules to implement this section.

Section 3. Section 228.0617, Florida Statutes, is amended to read:

228.0617 School-age child care incentives program.—

(1) The Legislature recognizes the need for supervision and care of young school children before and after school and on school holidays, when school is not in session but when parents must work. Such care will act as an early intervention strategy to help prevent child abuse, accidents, emotional trauma, and delinquency to which unsupervised children are vulnerable. The purpose of the school-age child care incentives program is to encourage the design and implementation of model programs to provide such care in an environment beneficial to child development and to provide incentives to public schools and other public and private agencies for the establishment of these programs.

(2) There is hereby created the school-age child care incentives program, which shall be ~~funded pursuant to subsection (6) and~~ administered by the Commissioner of Education in cooperation with the school districts and other appropriate organizations and agencies. School-age child care services may be implemented and conducted in any public school pursuant to a proposal developed and approved pursuant to subsection (3).

(3) Each district school board, or each principal through the district school board, may submit to the commissioner for approval a proposal for implementing, contracting, or enhancing an ongoing program to conduct school-age child care. If a proposal is submitted, it shall be developed with the assistance of the district and school advisory committees. ~~Proposals for the 1986-1987 school year shall be submitted by September 1, 1986, and proposals for the 1987-1988 school year shall be submitted by May 1, 1987.~~

~~(a)~~ To be considered for approval, each proposal shall include:

(a)~~1.~~ The projected number of students to be served;

(b)~~2.~~ A description of the administrative or organizational structure of the program, including a statement of who shall be responsible for program planning and various aspects of program operation;

(c)~~3.~~ A description of program content;

(d)~~4.~~ Personnel qualifications and standards, including plans to provide for background checks and fingerprinting, *and staff training plans*;

(e)~~5.~~ The planned staff-child ratio;

(f)~~6.~~ A description of all school *or community* facilities which will be available to program participants;

(g)~~7.~~ The days and hours of operation;

(h) Coordination with other community-based programs and social services.

(i)~~8.~~ The extent to which federal or other funds will be used to support the program;

(j)~~9.~~ The estimated program budget and fees;

(k)~~10.~~ Provisions for food preparation and service;

(l)~~11.~~ Written operating procedures for distribution to parents, including policies regarding hours, fees, illness, holidays, and refunds; and

(m) If feasible, a description of the employment of students from the college career work experience program and students from secondary and postsecondary job preparatory vocational programs designed to train persons for employment as day-care providers.

(n)~~12.~~ Such other information and provisions as shall be required by the commissioner.

~~(b) Each proposal may include:~~

~~1. Provisions for transportation;~~

~~2. Staff training plans and materials;~~

~~3. Provisions for participation of teachers, administrators, parents, and children in program planning and evaluation;~~

~~4. Coordination with other community-based and social services including hot lines, volunteers, self-care skills courses and publications, and block home programs;~~

~~5. Plans for studies to evaluate the effects of program participation on a child's behavior, growth and development, and scholastic performance; and~~

~~6. Employment of students in the college career work experience program pursuant to s. 240.60 and students in secondary and postsecondary job preparatory vocational programs designed to train persons for employment as day care providers.~~

(4) Funding priority shall be given to proposals which:

(a) Provide services to areas of the state underserved by before and after school child care programs;

(b) Provide care to children in elementary schools;

(c) Provide accessibility to children from low-income families through use of a sliding fee scale;

(d) Have the greatest potential for statewide implementation;

(e) Provide care to children with special needs;

(f) Provide varied, developmentally appropriate program content; and

(g) Provide for maximum utilization of all available funding sources and community resources, *including programs with departments of parks and recreation where such departments exist.*

(5) A school district or school principal through the district school board may contract with private child care services for the provision of school-age child care programs.

(6) The Department of Education shall review for approval all program proposals submitted by school districts. ~~School districts shall be notified of approval by October 1, 1986, for the 1986-1987 school year, and by July 1, 1987, for the 1987-1988 school year. For each proposal approved, the commissioner shall authorize distribution of funds up to 75 percent of the estimated cost of program operation as contained in the proposal, less funds from other nonfee sources, from funds available to the Department of Education for the school-age child care incentives program for the first year of operation, and up to 50 percent for the second year of operation. Proposals for the 1986-1987 school year shall be funded for 18 weeks, and proposals for the 1987-1988 school year shall be funded for 36 weeks.~~

(7) In order to promote diversity and maximum replicability, the Department of Education shall approve at least three proposals, one proposal from a district with up to 5,000 students, one from a district with 5,001 to 25,000 students, and one from a district with over 25,000 students. At least one from each of the above categories shall be approved provided that one in each category has met the criteria outlined in this section.

(8) The Department of Education shall develop a "request for proposal" to include procedures and criteria for the competitive acceptance of proposals to establish and operate a statewide clearinghouse for school-age child care programs. To be considered for approval, the proposal shall be submitted by a private, nonprofit organization. The clearinghouse shall:

(a) Provide information and referral on school-age child care programs.

(b) Provide technical assistance and training to local school districts.

(c) Conduct studies and analyze data.

(d) Develop plans with cooperation from the Department of Health and Rehabilitative Services and the Department of Education to address the needs of children left unsupervised before and after school.

(e) Facilitate the establishment of local programs and policies, and procedures for such programs.

(f) Establish, *in consultation with the Department of Education, an* ~~a seven-member~~ advisory council, *including, but not limited to,* ~~consisting of~~ two local representatives of school districts, two representatives of the Department of Health and Rehabilitative Services, two providers of school-age child care, and one parent. The clearinghouse shall establish procedures for the appointment of members and the term of appointments. The advisory council shall review and make recommendations regarding the activities of the clearinghouse in achieving the intent of this section. Members shall be entitled to per diem and travel expenses as provided in s. 112.061.

(9) The Department of Health and Rehabilitative Services is authorized to establish other rules and policy provisions which are necessary to achieve the objectives of this section.

(10) An annual report shall be required from each program describing overall program operations, program expenditures, the number of children served, program components which proved most successful, and other information as required by the commissioner.

(11) The clearinghouse shall review each program's annual report and make available to school districts, the Department of Education, and the Department of Health and Rehabilitative Services information on successful program strategies and components.

~~(12) By March 1, 1988, the Department of Education shall make recommendations to the Legislature concerning the desirability and cost of licensing school-age child care programs operated by school districts and of implementing a school-age child care program on a statewide basis.~~

(12)~~(13)~~ The State Board of Education shall adopt rules to implement this section.

(13)~~(14)~~ The Department of Education shall establish two demonstration projects which would create partnership programs between school districts and local park and recreation departments to provide after school programs for pre-teenagers.

Section 4. Paragraph (e) of subsection (1) of section 232.01, Florida Statutes, is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(e) *Beginning with the 1990-1991 school year and* consistent with rules adopted by the state board, *handicapped* ~~exceptional~~ children who will have attained the age of 3 years on or before September 1 of the school year *shall* ~~may~~ be eligible for admission to public special education programs and for related services under rules adopted by the school board. However, exceptional children who are deaf, blind, severely physically handicapped, trainable mentally handicapped, or profoundly handicapped below age *3* ~~5~~ may be eligible for special programs; or, if enrolled in other *prekindergarten* ~~preschool~~ or day care programs, they may be eligible for supplemental instruction.

Section 5. Section 232.03, Florida Statutes, is amended to read:

232.03 Evidence of date of birth required.—Before admitting a child to *prekindergarten or* kindergarten, the principal shall require evidence that the child has attained the age at which he should be admitted in accordance with the provisions of *s. 232.01,* s. 232.04, or *s. 232.045* ~~s. 232.01~~. The superintendent may require evidence of the age of any child whom he believes to be within the limits of compulsory attendance as provided for by law. If the first prescribed evidence is not available, the next evidence obtainable in the order set forth below shall be accepted:

(1) A duly attested transcript of the child's birth record filed according to law with a public officer charged with the duty of recording births; or

(2) A duly attested transcript of a certificate of baptism showing the date of birth and place of baptism of the child, accompanied by an affidavit sworn to by the parent; or

(3) An insurance policy on the child's life which has been in force for at least 2 years; or

(4) A bona fide contemporary Bible record of the child's birth accompanied by an affidavit sworn to by the parent; or

(5) A passport or certificate of arrival in the United States showing the age of the child; or

(6) A transcript of record of age shown in the child's school record of at least 4 years prior to application, stating date of birth; or

(7) If none of these evidences can be produced, an affidavit of age sworn to by the parent, accompanied by a certificate of age signed by a public health officer or by a public school physician, or, if neither of these shall be available in the county, by a licensed practicing physician designated by the school board, which certificate shall state that the health officer or physician has examined the child and believes that the age as stated in the affidavit is substantially correct.

Section 6. Section 232.045, Florida Statutes, is amended to read:

232.045 Prekindergarten early intervention programs; children eligible.—Children who will have attained the age of 3 years on or before September 1 of a school year are eligible for admission to prekindergarten early intervention programs during that school year as provided in *s. 230.2305* ~~s. 228.0615~~.

Section 7. Paragraph (a) of subsection (1) of section 234.01, Florida Statutes, is amended to read:

234.01 Purpose; transportation; when provided.—

(1) School boards, after considering recommendations of the superintendent:

(a) Shall provide transportation for each student in *prekindergarten or* kindergarten through grade 12 membership in a public school when, and only when, transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available and to transport students whose homes are more than a reasonable walking distance, as defined by rules of the state board, from the nearest appropriate school.

Section 8. Paragraph (c) of subsection (2) of section 236.013, Florida Statutes, is amended to read:

236.013 Definitions.—Notwithstanding the provisions of s. 228.041, the following terms are defined as follows for the purposes of this act:

(2) A "full-time equivalent student" in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed under the cost factors in s. 236.081(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed under the cost factors in s. 236.081(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student, except a postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation, in a combination of programs listed under the cost factors in s. 236.081(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per week for which he is a member, divided by 25; the difference between that fraction or sum of fractions and twenty-five twenty-fifths of the week for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

(II) A student in the basic half-day *prekindergarten or* kindergarten program of not less than 12½ net hours shall earn one-half of a full-time equivalent membership.

(III) A half-day *prekindergarten or* kindergarten student in a combination of programs listed under the cost factors in s. 236.081(1)(c) is a fraction of a full-time equivalent membership in each special program equal to the number of net hours or major portion thereof per week for which he is a member divided by 25; the difference between that fraction and twelve and one-half twenty-fifths of the week for each full-time student in membership in a half-day *prekindergarten or* kindergarten program is presumed to be the balance of the student's time not spent in

such special education programs and shall be recorded as time in the appropriate basic program.

(IV) A part-time student, except a postsecondary or adult student, is a fraction of a full-time equivalent membership in each basic and special program equal to the number of net hours or major fraction thereof per week for which he is a member, divided by 25.

(V) A postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation is a portion of a full-time equivalent membership in each special program equal to the net hours or major fraction thereof per fiscal year for which he is a member, divided by 900.

(VI) A full-time student who is part of a program authorized by subparagraph (a)3. in a combination of programs listed under the cost factors in s. 236.081(1)(c) is a fraction of a full-time equivalent membership in each regular or special program equal to the number of net hours per week times the number of weeks for which he is a member, divided by 900.

2. A student in membership in a program scheduled for more or less than 180 school days is a fraction of a full-time equivalent membership equal to the number of days more or less in proportion thereto times the applicable computations set forth in subparagraph 1. or sub-subparagraphs 1.a. and 1.b.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to:

a. Special programs for exceptional students;

b. Special vocational-technical programs;

c. Special adult general education programs;

d. Dropout prevention programs provided for those students who were in membership in teenage parent, substance abuse, or youth services programs as defined in s. 230.2316 and are in need of such additional instruction;

e. The Florida Primary Education Program or an approved alternative, as provided in s. 230.2312, for those students who were receiving the preventive instructional strategies for all of the last 45 days of the 180-day term and are in need of such additional instruction;

f. The Florida Progress in Middle Childhood Education Program, as provided in s. 230.2319, for those students in grade 4 or grade 5 who were receiving the preventive instructional strategies for all of the last 45 days of the 180-day term and are in need of such additional instruction;

g. Dropout prevention programs provided for those students who were in membership in an educational alternative or disciplinary program as defined in s. 230.2316 for all of the last 15 days of the 180-day term or a total of 30 days within the 180-day term and are in need of such additional instruction;

h. Other basic programs offered for promotion or credit instruction as defined by rules of the state board; and

i. Programs which modify the school year to accommodate the needs of children who have moved with their parents for the purpose of engaging in the farm labor or fish industries, provided such programs are approved by the commissioner.

j. Prekindergarten early intervention programs.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department under the provisions of s. 228.041(13) to operate for less than the minimum school day.

Section 9. Section 236.083, Florida Statutes, is amended to read:

236.083 Funds for student transportation.—The annual allocation to each district for transportation to public school programs of students in membership in kindergarten through grade 12, ~~and~~ in migrant and exceptional student programs below kindergarten, *and in any other state prekindergarten program* shall be determined as follows:

(1) Subject to the rules of the state board, each district shall determine the membership of students who are transported:

(a) By reason of living 2 miles or more from school;

(b) By reason of being physically handicapped, regardless of distance to school;

(c) By reason of being vocational, dual enrollment, or exceptional students transported from one school center to another to participate in an instructional program or service; or exceptional students, except gifted, transported from one designation to another in the state, provided one designation is a school center and provided the student's individual educational plan (IEP) identifies the need for the instructional program or service and transportation to be provided by the school district. A "school center" is defined as a public school center, public community college, public university, or other facility rented, leased, or owned and operated by the school district or another public agency. A "dual enrollment student" is defined as a public school student in membership in both a public secondary school program and a public community college or a public university program under a written agreement to partially fulfill ss. 229.814 and 240.115 and earning full-time equivalent membership under s. 236.081(1)(h); and

(d) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 234.021. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected.

(2) Subject to the regulation of the state board, each district shall determine and report one-half of the round-trip route mileage required to transport students to and from school and one-half of the round-trip mileage on routes between school centers required to transport exceptional students and vocational students to and from centers where appropriate programs are provided. One-half of the round-trip route mileage shall be computed by adding:

(a) The loaded miles of each school bus route as designated in accordance with s. 234.061 and served by a bus as defined by regulations of the state board, except that miles traveled for a side route to pick up students living within 1½ miles of the main trunk route and miles traveled to transport students to evening schools and enrichment programs shall not be added; and

(b) Fifty percent of the miles of the bus route traveled without students.

(3) A density index for each district shall be computed by the department annually by dividing the membership of transported students as determined in subsection (1) by the bus route mileage as determined in subsection (2).

(4) The allocation for each district for a 180-day school term shall be calculated in accordance with the following formula:

$$\text{Allowable per-student cost (the density index of the district)} = \frac{A}{n} + B$$

in which A, B, and n are constants, the values of which shall be computed by the method of least-squares based on the variables in transportation expenses of salaries, employee benefits, purchased services, materials and supplies, and other expenses, and the cost of replacing 10 percent of buses per eligible transported membership. The density index shall be computed as specified in subsection (3), except that the districts with a density index of 1.70 students per route mile or less will be computed as having a density index of 1.70, and districts with a density index of 4.70 or more students per route mile will be counted as having a density index of 4.70. This formula shall be recomputed annually by the Department of Education on the basis of the latest available data for the density index and from the second preceding year for constants A and B. The allocation to each district for transportation shall be determined by multiplying the allowable per-student cost by the membership of all students who are transported as determined in subsection (1).

(5) If a district operates schools more or less than 180 days, the allocation per student for transportation to such schools shall be calculated by multiplying the quotient of the days the schools operate divided by 180 days times the allocation per student determined in subsection (4). The allocation for each district for transportation of students in membership more or less than 180 days shall be determined by multiplying the

allowable cost per student determined in this subsection by the membership of such students who are transported.

(6) When authorized by rules of the state board, an allocation of the maximum amount specified in s. 112.061(7) per mile shall be allowed for miles traveled by passenger cars or boats providing for transportation of isolated students, or physically handicapped students as defined by rule, when more efficient than a school bus.

(7) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsections (4), (5), (6), and (9). If the funds appropriated for the purpose of implementing this section are not sufficient to pay the requirements in full, the Department of Education shall prorate the available funds on a percentage basis.

(8) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained, as prescribed in s. 229.79.

(9) Funds allocated or apportioned for the payment of student transportation services may be used to pay local general purpose transportation systems for transportation of students to and from school. Subject to the rules of the State Board of Education, each school district shall determine and report the number of assigned students using general purpose transportation to transport students to school for the first time on any school day and the one-way miles on routes between school centers required to transport exceptional students and vocational students to centers where appropriate programs are provided. The allocation to each district for such transportation shall be determined by multiplying the allowable cost per student by the membership of students who are transported by general purpose transportation. The allowable cost per student shall be equal to the round-trip fare charged by the general purpose transportation system or the allowable cost per student riding a school bus, whichever is less.

Section 10. (1) This section may be cited as the "High School Community Service Act."

(2) The Department of Education shall request proposals from school districts for up to four pilot projects each to be conducted during the summer of 1989. The purpose of the projects is to involve high school students, on a voluntary basis, in activities that will provide a service or be of benefit to the communities in which the high school students reside.

(3) The school board of each eligible district which submits a proposal must establish a project committee consisting of representatives from at least the following groups and organizations:

(a) The district school board.

(b) Municipal and county governments in the school district.

(c) Civic groups from communities served by the school district.

(d) Local business and industry.

(e) State and federal agencies such as the Department of Natural Resources, the Department of Health and Rehabilitative Services, and the United States Department of Labor.

(4) Proposals must be developed by the local project committees and must involve students in activities that are designed to meet local community service needs such as:

(a) Assisting in providing day care services to children of working mothers.

(b) Providing support personnel for community recreation programs.

(c) Providing personnel to assist in the maintenance and improvement of local, state, and national parks.

(d) Providing support personnel for highway beautification projects.

(e) Providing support personnel for programs for elderly people.

(f) Renovating community housing.

(5) Proposals must be submitted to the department by school boards on behalf of project committees and, in addition to the activities listed in subsection (4), must meet the following requirements:

(a) Projects must be designed to include at least 100 students.

(b) Participating students must receive a stipend in an amount to be determined by the project committee.

(c) Participating students must receive one-half an elective credit.

(d) Project proposals must contain evaluation procedures to include activity completion rates or a measure of activity effectiveness, student participant attrition rates, participant discipline records, appropriateness of participation by students from all four high school grade levels, and tracking of student participants during the ensuing school year.

(e) Proposals may include provisions for residential activities, academic instruction related to an activity, and tutorial services based on student participant needs.

(6) The procedure for proposal selection is as follows:

(a) Proposals must be reviewed and approved by the Commissioner of Education.

(b) The commissioner must make the final proposal selection.

(c) The projects must be an egalitarian program and must be open to all students, but priority is to be given to proposals in which 40 to 60 percent of the participants are urban, economically disadvantaged students.

(7)(a) Funds for approved proposals shall be allocated to the school boards by the department and shall be an amount to be determined in the General Appropriations Act.

(b) The department shall encourage local project proposal committees to seek additional funding from local and federal sources.

(8)(a) A school board which implements a high school community service project shall, after consultation with its local project proposal committee, submit a report describing project evaluation results to the Commissioner of Education no later than January 1, 1990.

(b) The Commissioner of Education shall evaluate pilot projects and report to the Legislature no later than March 1, 1990, on the success of the pilot projects and the feasibility of statewide application.

Section 11. Section 230.69, Florida Statutes, is created to read:

230.69 Youth Enhancement Services Centers.—

(1) It is the intent of the Legislature to make the after school hours of children more productive through the creation of Youth Enhancement Services (YES) Centers in the school districts of the state. It is legislative intent that each YES Center be contained in a public school multipurpose activity building and that such centers provide a variety of activities.

(2) The creation of a nonprofit corporation for each school district is authorized. Such corporation shall be exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code. Each such corporation shall have a seven-member board of directors as follows: Three members shall be parents of students attending schools in the school district where the YES Centers are to be established, such attendance to be within 2 years of election to the board; two members shall be interested community volunteers, unless such volunteers are not available, in which case the members shall be parents as specified herein; and two members shall be persons employed by the local school district who shall be elected by the other five board members. Board members shall serve without compensation for 1-year terms commencing August 1 and may be reelected for three consecutive terms. Election of board members shall be open to parents of students attending schools in the school district where the YES Centers are to be established. Elections shall be held in May of each year, except that the first election of board members may be held at any time. Notice of elections and meetings shall be distributed through standard school-to-parent communication methods.

(3)(a) The board of directors of a nonprofit corporation established pursuant to subsection (2) shall notify the appropriate district school board and the Department of Education of its intent to establish each YES Center. The board of directors shall raise from private contributions at least three-fourths of the capital costs necessary for establishment of each YES Center, such funds to be placed in a YES Center depository fund established by the school board for the construction of the center. Before any funds are raised by the board of directors, the district school board shall approve the proposal for each YES Center. The proposal shall contain the following provisions:

1. Placement of a center on the grounds of a public elementary or middle school.

2. After school attendance at a center by any public elementary or middle school student within the school district.

3. Use of a proposed multi-purpose activity building.

4. Funding through private contributions and state grant, with at least one-fourth of the capital costs provided by private contributions and no more than three-fourths of the capital costs provided by matching state grant.

5. Planning and construction of the facility according to the State Uniform Building Code for Public Education Facilities Construction, pursuant to s. 235.26.

6. Offering of, but not limited to, the following: Academic enrichment programs, including mathematics and reading skills; athletic activities, such as basketball and volleyball; social activities, such as Boy Scouts, Girl Scouts, Boys Clubs and Girls Clubs, 4-H, and Junior Achievement; handicraft, art, music, drama, and sewing lessons; substance abuse education; and intergenerational activities.

7. Involvement of parents and community volunteers in center activities.

8. Use of security checks, including fingerprinting, pursuant to ss. 402.305 and 402.3055 as a condition of employment for salaried staff and volunteers, and compliance with the staffing ratios for child care pursuant to s. 402.305.

9. Payment of fees, if necessary for operation, by parents of students attending a center based on a sliding scale according to family income and the number of children in a family attending a center.

Provision for bus transportation for transporting students from a YES Center to their homes at closing shall be optional.

(b) When sufficient funds for the capital costs have been raised by the board of directors, the board shall submit to the Department of Education the proposal for the creation of a YES Center.

(c) For each YES Center proposal approved by the Department of Education and for which at least one-fourth of the capital costs have been raised by the board of directors, the department shall allocate such funds as may be appropriated for the purposes of this section to the YES Center depository fund established by the appropriate school board.

(4) Title to any YES Center constructed pursuant to this section shall vest in the school board.

(5) The YES Center shall be available for use by the school board during regular school hours and at other times when agreed to by the school board and the board of directors of the nonprofit corporation. Prior to the beginning and following the end of regular school hours, the board of directors of the nonprofit corporation shall be responsible for the operation and security. Existing school district policies for the operation of extended day programs shall apply to the operations of each YES Center. The school district shall provide utilities and liability and property and casualty insurance coverage for continuous operation. Salaries for administrative, tutorial, and recreational staff of each center shall be paid by the board of directors from funds raised from private contributions and from fees paid by participants.

(6) Pilot programs for implementation of this section shall be established in school districts as provided by law. From funds appropriated, an amount shall be allocated to each pilot program for a period not to exceed 3 years. In the event all funds allocated are not used within the 3-year period, the remaining balance shall revert to the General Revenue Fund.

(7) The State Board of Education shall adopt rules to be included in the State Uniform Building Code for Public Education Facilities Construction which specify the capacity and design parameters for facilities which will accommodate the programs and activities that will be conducted in a YES Center.

(8) The board of directors shall make provisions for an annual postaudit of its financial accounts, to be conducted by the district auditor in accordance with rules to be promulgated by the State Board of Education. The audit shall be filed as a public record in the district. The State Board of Education and the Auditor General have the authority to require and receive from the board of directors or the district auditor any detail or supplemental data relative to the operation of the corporation. The identity of donors and all information identifying donors and prospective donors are exempt from the provisions of chapter 119, and that anonymity shall be maintained in the auditor's report. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. All other records and information shall be considered public records for the purposes of chapter 119.

(9) This section is repealed on July 1, 1991, and shall be reviewed by the Legislature prior to that date.

Section 12. Section 228.0716, Florida Statutes, is created to read:

228.0716 Florida Literacy Corps.—

(1) TITLE.—This section may be cited as the Florida Literacy Corps Act of 1988.

(2) INTENT.—It is the intent of the Legislature that eligible postsecondary students be offered a meaningful opportunity to perform a valuable public service by responding to the educational needs of adults lacking basic or functional literacy skills as defined in s. 228.0713(2)(a) and (b).

(3) ESTABLISHMENT OF THE FLORIDA LITERACY CORPS.—There is hereby established the Florida Literacy Corps, to be administered by the Department of Education in accordance with rules adopted by the State Board of Education. Participating students shall earn academic credit for tutoring adults lacking basic or functional literacy skills pursuant to an agreement between the institution in which the student is enrolled and the local educational agency as defined in s. 228.0713(2)(c), a public library, or a nonprofit organization offering literacy skills instruction to adults. Unless the participating institution is a designated local education agency, it shall not provide literacy services to adults or train students to tutor adults or recruit adults lacking literacy skills. The local educational agency, public library, or nonprofit organization shall be solely responsible for providing literacy services and training participating postsecondary students.

(4) STUDENT ELIGIBILITY.—To be eligible to participate in the Florida Literacy Corps, a student shall:

(a) Be enrolled at an eligible state university or community college as no less than a half-time student in good standing as defined by the institution.

(b) Have completed at least 12 semester hours of college-level coursework for academic credit that would apply toward an associate in arts degree or baccalaureate degree.

(c) Have attained a passing score on one of the postsecondary entry-level examinations approved pursuant to State Board of Education rules or have successfully completed any required college preparatory instruction.

(5) UNIVERSITY AND COMMUNITY COLLEGE ELIGIBILITY.—In order to be eligible to participate in the Florida Literacy Corps, a university or community college shall:

(a) Establish one or more undergraduate or graduate courses, or both, in which participating students may earn a maximum of 3 credit hours per semester, and a maximum of 5 credit hours over two or more semesters, by working with local educational agencies, public libraries, or nonprofit organizations to tutor adults lacking basic or functional literacy skills. The institution is required to consult the appropriate common course designation and numbering system faculty task force in establishing this course. The course or courses shall require students to complete a training program, tutor adults for a minimum of 25 hours per semester per credit hour, and satisfy any other requirements imposed by the institution for earning course credit.

(b) Submit a proposal to the Department of Education for approval. A proposal shall:

1. Identify the local educational agency, public libraries, and nonprofit organizations with which the participating students will be working.

2. Demonstrate a need for tutors by the local educational agency, public library, or nonprofit organization.

3. Demonstrate a commitment by the local educational agency, public library, or nonprofit organization to train students to tutor adults lacking basic or functional literacy skills.

4. Describe the specific tutoring arrangement.

5. Demonstrate student interest in tutoring adults lacking basic or functional literacy skills.

6. Designate one or more faculty members to conduct the Florida Literacy Corps course and identify the qualifications of such faculty.

(6) FUNDING.—Incentive funding for the Florida Literacy Corps shall be appropriated in the General Appropriations Act. The Department of Education shall allocate to each eligible university and community college an amount based on the quality of the institution's proposal and on the number of students enrolled in each institution's program.

(7) INSTITUTIONAL REPORTING.—To determine the success of the Florida Literacy Corps, each participating institution shall submit to the Department of Education an annual report which shall include, but not be limited to, the following:

(a) The total number of hours of tutoring conducted by the participating students.

(b) The number of students who enrolled in the course.

(c) The number of students who successfully completed the course.

(d) The number of students who worked in each of the participating local educational agencies, public libraries, and nonprofit organizations.

(e) An evaluation of the effectiveness of the tutoring program as judged by the participating local educational agencies, public libraries, and nonprofit organizations using a form provided to the participating institutions by the Department of Education.

(8) REPORT.—The Department of Education shall compile the information submitted by participating institutions into a report to be provided to the Legislature by December 1 of each year.

Section 13. Section 232.2467, Florida Statutes, is created to read:

232.2467 Florida gold seal vocational endorsement.—

(1) There is hereby created the Florida gold seal vocational endorsement program in order to recognize and reward academic achievement and vocational preparation by high school students and to inform potential employers of the quality of a student's academic and vocational preparation.

(2) Beginning with the 1990-1991 school year, each school district may award the Florida gold seal vocational endorsement to a high school student who meets the requirements of this section. The requirements for award of the Florida gold seal vocational endorsement are:

(a) A student shall meet all requirements for graduation as specified in s. 232.246, including number of credits, courses, grade point average, and mastery of minimum performance standards and basic skills.

(b) A student shall satisfactorily complete a vocational job preparatory program pursuant to ss. 228.041 and 236.081, consisting of a minimum of three credits.

(c) A student shall demonstrate competency as assessed by tests approved by the State Board of Education for vocational competencies related to the specific job preparatory program completed; basic skills of reading, writing, and computation related to the occupation; and general skills and knowledge related to employability.

(3) The State Board of Education shall adopt rules which implement the Florida gold seal vocational endorsement program.

Section 14. *Secondary Vocational Education Committee.—There is hereby created the Secondary Vocational Education Committee to serve from July 1, 1988, to March 1, 1989.*

(1) The Commissioner of Education shall appoint at least 11 members to the committee, including a high school principal; a middle school principal; a school district superintendent; a vocational education teacher; a business employer; a member of a parent-teacher organization; a member of the Florida High Technology and Industry Council; a member of the Florida Vocational Association; a member of the Board of Public Schools; a representative of the Division of Vocational, Adult, and Community Education of the Department of Education; and a representative of the Division of Public Schools of the Department of Education.

(2) The committee shall review the status of secondary vocational education and shall report its recommendations to the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives by March 1, 1989. The committee shall review at least the following:

(a) Implementation of recommendations made by the 1987-1988 task force on secondary vocational education, including the Florida gold seal vocational endorsement program.

(b) Development of scholarship programs for recipients of the Florida gold seal vocational endorsement.

(c) The structure and sequencing of vocational education beginning with the sixth grade.

(d) The structure of exploratory and practical arts courses.

(e) Inservice training for secondary vocational education teachers.

(f) The appropriateness of the standards for placement rates of program completers pursuant to s. 229.551, Florida Statutes.

(3) The committee is assigned to the Division of Vocational, Adult, and Community Education for administrative purposes and shall be financed through appropriations made for this purpose in the general appropriations act. The director of the Division of Vocational, Adult, and Community Education shall designate staff to assist the committee in performing its duties and responsibilities. Committee members shall be entitled to receive per diem and expenses for travel as provided in s. 112.061, Florida Statutes, while carrying out official business of the committee.

Section 15. Paragraphs (h) and (i) are added to subsection (6) of section 229.602, Florida Statutes, to read:

229.602 Florida private sector and education partnerships.—

(6) Each school district shall designate one or more persons to coordinate local private sector and education partnership activities. The general activities of these coordinators shall be to enhance private sector and education partnership activities. The specific duties of the district coordinators shall include, but not be limited to, the following:

(h) Providing information to local employers and postsecondary education institutions regarding the Florida gold seal vocational endorsement program.

(i) Seeking partnerships to provide recipients of the Florida gold seal vocational endorsement with job and advanced training opportunities, including scholarships to postsecondary vocational-technical institutions.

Section 16. Subsection (1) of section 229.814, Florida Statutes, is amended to read:

229.814 Secondary Level Examination Program.—

(1) The State Board of Education shall adopt rules which prescribe performance standards and provide for comprehensive examinations to be administered to candidates for high school equivalency diplomas. *These rules shall include, but not be limited to, provisions for fees, frequency of examinations, and procedures for retaking an examination upon unsatisfactory performance.*

Section 17. Paragraph (d) of subsection (6) of section 232.246, Florida Statutes, is amended, and effective July 1, 1990, subsection (10) of said section is amended, to read:

232.246 General requirements for high school graduation.—

(6) Each district school board shall establish standards for graduation from its schools which shall include:

(d) Effective for the 1988-1989 school year and each year thereafter, a cumulative grade point average of 1.5 on a 4.0 scale, or its equivalent, for required courses for graduation.

1. Each district shall adopt policies which are designed to assist students in meeting this requirement. Such policies may include, but shall not be limited to: Forgiveness policies, summer school attendance, special counseling, volunteer and/or peer tutors, school-sponsored help sessions, homework hotlines, *and* study skills classes.~~, and~~

2. At the end of each semester, the parent or guardian of each student in grades 9, 10, 11, and 12 who has a cumulative grade point average of less than 2.0 shall be notified that the student is at risk of not meeting the requirements for graduation. The notice shall contain an explanation of the policies the district has put in place to assist the student in meeting the grade point average requirement.

3. Special assistance to obtain a high school equivalency diploma pursuant to s. 229.814 *shall be given* only in such cases where the student has completed all requirements for graduation except the attainment of a 1.5 cumulative grade point average.

The standards required in this subsection, and any subsequent modifications thereto, shall be reprinted in the Florida Administrative Code even though such standards are not defined as "rules."

(10) A student who meets all requirements prescribed in subsections (1), (5), and (6) shall be awarded a standard diploma in a form prescribed by the state board.~~; however,~~ A school board may *attach the Florida gold seal vocational endorsement to a standard diploma pursuant to s. 232.2467 or*, in lieu of the standard diploma, award differentiated diplomas to those exceeding the prescribed minimums. A student who completes the minimum number of credits and other requirements prescribed by subsections (1) and (5), but who is unable to meet the standards of paragraph (6)(a), ~~or~~ paragraph (6)(b), *or* ~~and/or~~ paragraph (6)(d), shall be awarded a certificate of completion in a form prescribed by the state board. However, any student who is otherwise entitled to a certificate of completion may elect to remain in the secondary school either as a full-time student or a part-time student for up to 1 additional year and receive special instruction designed to remedy his identified deficiencies. This special instruction shall be funded from the state compensatory education funds of the district.

Section 18. Section 229.603, Florida Statutes, is created to read:

229.603 Family involvement program.—

(1) It is the intent of the Legislature that the efforts of families, the community, and the schools be coordinated in educating the children and youth of Florida. The Legislature believes that family and community involvement in education will improve student academic achievement and attitudes toward school, enhance teacher morale, and build school and community relationships.

(2) The Department of Education shall develop a model or models of family involvement in education, disseminate information about existing models which have been proven successful, and provide assistance to school districts to implement these models or to develop new models. Specific department responsibilities shall include, but not be limited to, the following:

(a) Collecting and distributing information on effective family involvement programs already in existence in the state.

(b) Providing technical assistance to districts to implement models of family involvement.

(c) Providing training to teachers, administrators, paraprofessionals, and parent leaders for implementing models of family involvement.

(d) Encouraging the development of community networks which might include community agencies, senior citizens, volunteers, and parents to assist the schools in family involvement efforts.

(e) Facilitating the development of home learning activities to enable adults to work with children in a productive manner.

(f) Developing innovative strategies and technology for communication between families and schools which might include telephone conferencing, use of community access television, home visits, and provision of transportation for parents.

(g) Assisting schools to establish flexible scheduling of personnel to encourage before school, after school, evening, and weekend opportunities for home visits, school meetings, and parent-teacher conferences.

(h) Providing training to teachers and administrators on the changing demographics of today's family and methods of communicating with diverse families.

(i) Providing information to state and local media regarding the importance of family involvement with the schools.

Section 19. Paragraph (a) of subsection (4) and paragraph (b) of subsection (5) of section 230.2316, Florida Statutes, as created by chapter 86-225, Laws of Florida, are amended to read:

230.2316 Dropout prevention.—

(4) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.—All programs funded pursuant to the provisions of this section shall be positive and shall reflect strong parental and community involvement. In addition, specific programs shall meet the following criteria:

(a) Educational alternatives programs.—

1. The program differs from traditional education programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and employs alternative teaching methodologies, curricula, learning activities, or diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. Student participation in such programs shall be voluntary *and the parents or guardians of participating students shall be provided with the opportunity to be involved in the program to assist their child.* The minimum period of time during which the student participates in the program shall be equivalent to three instructional periods per day unless the program utilizes a resource or tutorial model rather than regularly scheduled courses.

2. The student has been identified as being a potential dropout based upon one of the criteria:

a. The student has shown a lack of motivation in school through grades which are not commensurate with documented ability levels, high absenteeism, or other documentation provided by student services personnel;

b. The student has not been successful in school as determined by retentions, failing grades, or low achievement test scores and has needs and interests that cannot be met through federal or state compensatory education programs or exceptional education programs;

c. The student has been identified as a potential school dropout by student services personnel using district or state criteria.

(5) PROGRAM PLANNING AND IMPLEMENTATION.—

(b) Any school district desiring to receive state funding for a dropout prevention program pursuant to the provisions of s. 236.081(1)(c) shall develop a comprehensive dropout prevention program plan which describes all of the programs and services which the district will make available to students pursuant to subsection (4). Districts choosing not to implement all of the programs described in subsection (4) shall provide evidence that such programs are either not needed within the district or that the needs of students are already being provided through existing public or private agencies or entities or that the district is unable to provide the program.

1. In order to be approved, each plan shall include the following components:

a. Emphasis on parental, community, and business involvement *developed according to ss. 229.602 and 229.603.*

b. Interagency coordination in order to maximize existing human and fiscal resources.

c. A method for early identification of potential dropouts.

d. Dropout retrieval activities.

e. Employability skills and other career awareness activities related to preparation for the work force.

f. Commitment of the district to achieve the goals and objectives of this section, as evidenced by the assignment of at least one person to be responsible for the implementation and administration of the district's dropout prevention program.

2. For each program to be provided by the district pursuant to subsection (4), the following information shall be provided in the program plan:

a. Student eligibility criteria.

b. Student admission procedures.

c. Operating procedures.

d. Program goals and outcome objectives.

e. Qualifications of program personnel.

f. The program budget, including identification of all federal, state, local, or other funds which will be used to support the program.

g. A schedule for staff development activities.

h. Evaluation procedures which describe how outcome objectives will be achieved and measured.

Section 20. Subsection (1) of section 229.58, Florida Statutes, is amended to read:

229.58 District and school advisory committees.—

(1) ESTABLISHMENT.—The district school board *shall* ~~may~~ establish an advisory committee broadly representative of the community served by the school for each school in the district and composed of teachers, students, parents, and other citizens. *The district school board is encouraged to invite local representatives from the Department of Health and Rehabilitative Services to serve on school advisory committees. The district school board may also* ~~If the school board does not establish advisory committees for each school, it shall~~ establish a district advisory committee broadly representative of the district and composed of teachers, students, parents, and other citizens. ~~The district school board may establish, in addition to the committees authorized at each school,~~ A district advisory committee ~~which~~ may be *composed* ~~comprised~~ of representatives of each school committee or such other members as the district board shall prescribe. Recognized schoolwide support groups which meet all criteria established by law or rule may function as district and school advisory committees.

Section 21. Subsection (3) is added to section 232.26, Florida Statutes, to read:

232.26 Authority of principal.—

(3)(a) Any student in a district school system who is found in unauthorized possession of a firearm, knife which has a blade longer than 3 inches, or weapon as defined in s. 790.001(13) while on school property or in attendance at a school function shall be suspended immediately by his school principal. The principal shall provide the superintendent with an adequate history of the student's actions and shall recommend that the student be expelled.

(b) At the next regular meeting of the school board, the superintendent shall make a recommendation of expulsion. Written notice shall be given to the student and his parent or guardian setting forth the charges against the student and advising the student and his parents of their right to due process. Expulsion for possession of a weapon shall be for the remainder of the academic year or for the following year, if the incident occurred during the last month of the spring semester or during summer school.

(c) A school board may provide an alternative educational program for any student who is suspended under paragraph (a) or expelled under paragraph (b), but such student may not be placed in classes with other elementary or secondary school-aged students who are not being disciplined for a similar offense.

(d) If a student wishes to return to school after expulsion for possession of a weapon, he may petition for a reentry contract. The student, his parent or guardian, the school principal, and the guidance counselor shall agree upon and sign the contract, which shall include at least the following: an agreement that the student will abide by the school's code of conduct, will attend school daily and arrive promptly for all classes, will seek counseling as afforded by school personnel, and will not possess a weapon on campus or at any school event. Violation of the terms of the contract shall be grounds for expulsion. The duration of the contract shall be determined by the school and student but shall not be for less than one year.

Section 22. Subsection (4) is added to section 240.133, Florida Statutes, to read:

240.133 Expulsion and discipline of students of the State University System and community colleges.—

(4) Each president of a state university or community college shall immediately expel any student who is found in unauthorized possession of a firearm or weapon as defined in s. 790.001(13) while on property under the control of the state university or community college. An expulsion under this subsection shall be for the remainder of the academic year; however, if the incident takes place during the last month of the spring semester or during a summer school session, the period of expulsion shall include the subsequent academic year.

Section 23. Paragraph (b) of subsection (1) of section 39.03, Florida Statutes, is amended to read:

39.03 Taking a child into custody; detention.—

(1) A child may be taken into custody:

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to arrest. *If such arrest is for a delinquent act or violation of law which involves a crime of violence or a crime in which a deadly weapon was used, the arresting authority shall immediately notify the district school superintendent, or his designee, of the school district with educational jurisdiction of the child. Except to the extent necessary to protect the health, safety, and welfare of other students, faculty or staff the information obtained by the superintendent of schools pursuant to this section may be released only to appropriate school personnel or as otherwise provided by law. In order to protect the rights of the child and his parents or other persons responsible for the child's welfare, all information in the possession of the superintendent or other employees of the school district concerning reports of such violations of law involving a crime of violence or a crime in which a deadly weapon was used, shall be confidential and exempt from the provisions of s. 119.07(1), and shall not be disclosed except as specifically authorized by this paragraph. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this paragraph. Information provided by an arrest authority pursuant to this paragraph shall not be placed in the student's permanent record and shall be removed from all school records no later than 9 months after the date of the arrest.*

Section 24. Section 229.59, Florida Statutes, is amended to read:

229.59 Educational improvement projects.—

(1) Pursuant to rules adopted by the State Board of Education, each district school board, or each principal through the district school board, may submit to the commissioner for approval a proposal for implementing an educational improvement project. Such proposals shall be developed with the assistance of district and school advisory committees and may address any or all of the following areas:

(a) The improvement of school management*;*

(b) The improvement *of the*~~,~~ district and school advisory *committees;* ~~committee improvement,~~

(c) School volunteers~~,~~*;*

(d) The professional development of teachers; and

(e) The restructuring of educational programs to meet the needs of diverse students.

Such projects may also address any other educational area which would be improved through *the encouragement of* a closer working *relationships among the school principal, the teachers, and the parents and other members of the* ~~relationship between school and~~ community. Priority shall be given to proposals which provide for the inclusion of existing

resources, such as district educational training funds, in the implementation of the educational improvement project.

(2) For each project approved, the commissioner shall authorize distribution of a grant~~, in an amount not less than $500 and not more than $5,000,~~ from funds available to the Department of Education for educational improvements projects. Promising innovations resulting from the implementation of such projects shall be *disseminated through publications, training programs, and conferences. Projects that are determined to be exceptional and innovative by the department may be further used as demonstration and training models for other projects* ~~included in the commissioner's annual report~~. *The Department of Education shall initiate field-based research to assess the impact of education improvement efforts.*

Section 25. Section 244.07, Florida Statutes, is hereby repealed.

Section 26. Except as otherwise provided herein, this act shall take effect July 1, 1988, or upon becoming a law, whichever occurs later.

Senators Weinstock and Johnson offered the following amendment to Amendment 8 which was moved by Senator Weinstock and adopted:

Amendment 8A—On page 53, lines 17 and 18, insert:

Section 26. Subsection (4) of section 235.19, Florida Statutes, is amended and subsection (7) is added to said section, to read:

235.19 Site planning and selection.—

(4) Sites recommended for purchase, or purchased, in accordance with the provisions of chapter 230 or chapter 240 shall meet standards prescribed therein and such supplementary standards as may be prescribed by the state board to promote the educational interests of the students. Each site shall be well drained and reasonably free from mud, and the soil shall be adaptable to landscaping and suitable for outdoor educational purposes. Insofar as is practicable, the site shall not be located within any path of flight approach of any airport or adjoin a right-of-way of any railroad or through highway and shall not be adjacent to any *prison, jail,* factory or other property from which noise, odors, or other disturbances, or at which conditions, would be likely to interfere with the educational program.

(7) No water management district, county, municipality, or other regulatory agency shall require any school board to provide water retention on any school site.

(Renumber subsequent section.)

Senator Thurman moved the following amendment to Amendment 8 which was adopted:

Amendment 8B—On page 53, between lines 17 and 18, insert:

Section 26. Paragraph (a) of subsection (4) of section 230.2316, Florida Statutes, is amended to read:

230.2316 Dropout prevention.—

(4) STUDENT ELIGIBILITY AND PROGRAM CRITERIA.—All programs funded pursuant to the provisions of this section shall be positive and shall reflect strong parental and community involvement. In addition, specific programs shall meet the following criteria:

(a) Educational alternatives programs.—

1. The program differs from traditional education programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and employs alternative teaching methodologies, curricula, learning activities, or diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students. Student participation in such programs shall be voluntary. The minimum period of time during which the student participates in the program shall be equivalent to *two* ~~three~~ instructional periods per day unless the program utilizes a resource or tutorial model rather than regularly scheduled courses.

2. The student has been identified as being a potential dropout based upon one of the criteria:

a. The student has shown a lack of motivation in school through grades which are not commensurate with documented ability levels, high absenteeism, or other documentation provided by student services personnel;

b. The student has not been successful in school as determined by retentions, failing grades, or low achievement test scores and has needs and interests that cannot be met through federal or state compensatory education programs or exceptional education programs;

c. The student has been identified as a potential school dropout by student services personnel using district or state criteria.

(Renumber subsequent section.)

Amendment 8 as amended was adopted.

Senator Peterson moved the following amendment:

Amendment 9—In title, on page 1, line 2, through line 10, on page 5, strike all of said language and insert: An act relating to education; amending s. 228.061, F.S.; transferring, renumbering, and amending s. 228.0615, F.S.; providing that district school boards may administer prekindergarten early intervention programs; specifying requirements for district plans for such prekindergarten programs; providing for contracting with existing programs and provisions for before-school and after-school child care; providing for approval of plans; providing for funding; providing for annual reports by school districts; renaming the State Advisory Council on Early Childhood Education as the State Advisory Council on Prekindergarten Early Intervention Program; revising the composition of the council and its duties; requiring the council to conduct an ongoing evaluation of the program; revising the composition and duties of the district interagency coordinating councils; amending s. 228.0617, F.S.; requiring proposals for school-age child care programs to include staff training plans, coordination with other community-based programs and social services, and a description of employment of students from work experience and vocational programs and otherwise revising the specifications for proposals; revising the funding priority given to proposals; deleting obsolete provisions; permitting an increase in membership on the school-age child care advisory council; amending s. 232.01, F.S.; requiring admission of 3-year-old handicapped children to public special education programs and permitting attendance by handicapped children below age 3; amending s. 232.03, F.S.; requiring evidence of a child's age before admission to prekindergarten; amending s. 232.045, F.S.; conforming a cross-reference; amending s. 234.01, F.S; requiring school boards to provide transportation for prekindergarten students; amending s. 236.013, F.S.; redefining the term "full-time equivalent student" in order to include students in prekindergarten early intervention programs; amending s. 236.083, F.S.; providing a method for allocating school district transportation funds for prekindergarten students; creating the High School Community Service Act; providing for pilot projects; providing a procedure for developing and submitting project proposals; describing project requirements; providing for selection, funding, evaluating, and reporting; creating s. 230.69, F.S.; providing for the creation of Youth Enhancement Services Centers within the school districts; authorizing the creation of a nonprofit corporation with a board of directors; requiring approval of a proposal for each center by the district school board and the Department of Education; providing requirements, including private contributions and matching state grant; providing for allocation of funds to center depository funds; providing for the vesting of title; providing for center operation; providing for pilot programs; requiring rules relating to capacity and design of facilities; requiring an annual postaudit; providing an exemption from public records requirements for certain donor information; providing for review and repeal; creating s. 228.0716, F.S.; creating the Florida Literacy Corps Act of 1988; providing intent; establishing the Florida Literacy Corps to be administered by the Department of Education; providing for academic credit to eligible postsecondary students tutoring certain adults; describing responsibilities for delivery of literacy instruction and training; establishing student eligibility requirements; establishing university and community college eligibility requirements; providing for funding; requiring certain reports; creating s. 232.2467, F.S.; creating the Florida gold seal vocational endorsement program; providing student requirements for such endorsement; providing for rules; creating the Secondary Vocational Education Committee; providing membership, duties, and financing; amending s. 229.602, F.S.; providing duties of private sector and education partnership coordinators relating to the Florida gold seal vocational endorsement program; amending s. 229.814, F.S.; specifying content of rules relating to high school equivalency diplomas; amending s. 232.246, F.S.; providing for notice to parents of students at risk of not meeting a requirement for graduation; providing for the attachment of the Florida gold seal vocational endorse-

ment to a standard diploma; creating s. 229.603, F.S.; requiring the Department of Education to develop a model of family involvement in education; providing for assistance to school districts to implement models; amending s. 230.2316, F.S.; providing for parent involvement in education alternatives programs; amending s. 229.58, F.S.; requiring the establishment of school advisory committees and authorizing the establishment of district advisory committees; encouraging local representatives from the Department of Health and Rehabilitative Services to serve on school advisory committees; amending s. 232.26, F.S.; requiring the suspension and expulsion of any public school student found in unauthorized possession of a firearm or weapon while on certain public school property or in attendance at a school function; authorizing alternative educational programs for such students; providing conditions for reentry; amending s. 240.133, F.S.; requiring the expulsion of any state university or community college student found in unauthorized possession of a firearm or weapon while on certain state university or community college property; amending s. 39.03, F.S.; requiring notification of the district school superintendent or his designee of arrest of juvenile who is a student under certain circumstances; requiring notification of principal and guidance counselor; providing for confidentiality; providing for removal of information; amending s. 229.59, F.S.; extending the subject areas that an educational improvement project may address; removing the limit on the amount that the Commissioner of Education can authorize for an educational improvement project grant; providing for the dissemination of the results of such projects; providing that such projects that are deemed to be exceptional by the Department of Education may be used as models for other such projects; providing for project assessment; repealing s. 244.07, F.S.; abolishing the Florida Education Council; providing effective dates.

Senators Weinstock and Johnson offered the following amendment to Amendment 9 which was moved by Senator Weinstock and adopted:

Amendment 9A—On page 5, line 31, after the semicolon (;) insert: amending s. 235.19; prohibiting sites for educational facilities from being adjacent to prisons and jails when practicable; prohibiting certain agencies from requiring school boards to provide water retention on school sites.

Senator Thurman moved the following amendment to Amendment 9 which was adopted:

Amendment 9B—In title, on page 5, line 31, after the semicolon (;) insert: amending s. 230.2316, F.S., relating to dropout prevention; revising criteria for participation in educational alternatives programs;

Amendment 9 as amended was adopted.

On motion by Senator Peterson, by two-thirds vote CS for HB 1649 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Frank	Kirkpatrick	Scott
Barron	Girardeau	Langley	Stuart
Beard	Grant	Malchon	Thomas
Brown	Grizzle	Margolis	Thurman
Childers, D.	Hair	McPherson	Weinstein
Childers, W. D.	Hill	Meek	Weinstock
Crenshaw	Hollingsworth	Myers	Woodson
Deratany	Jennings	Peterson	
Dudley	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford

HB 1444—A bill to be entitled An act relating to postsecondary education; amending s. 246.226, F.S., which provides an exemption from public records requirements for complaints received by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools and investigative information obtained by it or a private investigative firm, and an exemption from public meetings requirements for proceedings of a probable cause panel; providing an exemption for investigative information obtained by the Department of Education or the Department of Professional Regulation; saving such exemptions from repeal; providing for future review and repeal; amending s. 240.209, F.S., which provides an exemption from the public records and open meetings requirements for certain search committee activities relating to the selection of a Chancellor of the Board of Regents; saving such exemptions from repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 3, line 16, through line 7, page 4, strike all of said lines and renumber subsequent section.

Amendment 2—In title, on page 1, lines 17-23, strike all of line 17 through the semicolon (;) on line 23

On motion by Senator D. Childers, by two-thirds vote HB 1444 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Crawford

Reconsideration

On motion by Senator Stuart, the Senate reconsidered the vote by which—

CS for HB 1153—A bill to be entitled An act relating to obscene material; creating s. 847.0145, F.S.; prohibiting the selling or buying of minors for engagement in certain sexually explicit activities; providing penalties; creating s. 847.0147, F.S.; prohibiting obscene telephone services; providing a penalty; amending s. 847.001, F.S.; redefining the term "sadomasochistic abuse"; amending s. 847.012, F.S.; expanding provisions relating to the prohibited sale or distribution of harmful materials to a minor to include the rental of such materials as an unlawful activity; expanding a list of specified depictions, the visual representation of which is unlawful to sell, rent, or loan for monetary consideration to a minor, to include depictions of sexual excitement, sexual battery, bestiality, or sadomasochistic abuse; providing penalties; amending s. 847.013, F.S.; prohibiting the sale or rental of certain videotapes to minors; prohibiting the sale or rental of a video movie where the official rating is not clearly displayed on the outside of the cassette, case, jacket, or other covering; providing definitions; providing penalties; providing an effective date.

—as amended passed this day.

On motion by Senator Stuart, the Senate reconsidered the vote by which CS for HB 1153 as amended was read the third time.

On motion by Senator Stuart, the Senate reconsidered the vote by which Amendment 1 was adopted. By permission, Amendment 1 was withdrawn.

On motion by Senator Stuart, by two-thirds vote CS for HB 1153 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Barron	Childers, W. D.	Girardeau	Hill
Beard	Crenshaw	Grant	Hollingsworth
Brown	Dudley	Grizzle	Johnson
Childers, D.	Frank	Hair	Kirkpatrick

Kiser	McPherson	Plummer	Thurman
Langley	Meek	Scott	Weinstein
Lehtinen	Myers	Stuart	Weinstock
Margolis	Peterson	Thomas	Woodson

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Weinstein, by two-thirds vote HB 1623 was withdrawn from the Committees on Health and Rehabilitative Services; and Appropriations.

On motions by Senator Weinstein—

HB 1623—A bill to be entitled An act relating to child care; amending s. 402.30, F.S.; revising membership of the advisory council on child care; deleting obsolete language; amending s. 402.302, F.S.; providing definitions; creating s. 402.3025, F.S.; providing for standards applicable to certain programs in public and nonpublic schools; providing duties of the State Board of Education, Department of Education, Department of Health and Rehabilitative Services, and local licensing agencies; providing for enforcement; providing penalties; providing for an inspection fee; creating s. 402.3198, F.S.; providing for establishment of intergenerational child care programs through the Department of Health and Rehabilitative Services; providing definitions; establishing duties of the department; providing criteria for funding; providing for annual reports; providing for repeal; providing effective dates.

—a companion measure, was substituted for CS for SB 1215 and read the second time by title. On motion by Senator Weinstein, by two-thirds vote HB 1623 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Crawford

On motion by Senator Barron, the following statement was published in the Journal:

Legislative Intent

This legislation assures that schools caring for children under 5 are meeting health, safety, sanitation, and fire codes. It does not infringe on the religious exemption of 402.316; and further, nothing in this act should be construed to give any government agency authority over curriculum, program content, or religious education.

On motions by Senator Langley, by two-thirds vote—

CS for HB's 347, 866 and 1343—A bill to be entitled An act relating to guardianship; creating the Study Commission on Guardianship Law; providing for appointment of members; providing duties and responsibilities; requiring the submission of reports; providing for staffing of the commission; providing per diem for members; providing for expiration of the commission; providing an effective date.

—a companion measure, was substituted for CS for SB 431 and by two-thirds vote read the second time by title.

Senator Plummer moved the following amendment which failed:

Amendment 1—On page 3, between lines 22 and 23, insert:

Section 3. Subsection (10) of section 744.444, Florida Statutes, is amended to read:

744.444 Power of guardian without court approval.—Without obtaining court approval, a guardian of the property may:

(10) Deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements, money market mutual funds, *securities guaranteed by the full faith and credit of the Federal Government,* or other prudent investments. The guardian may redeem or sell such deposits or investments to pay the reasonable living expenses of the ward as provided herein.

(Renumber subsequent section.)

On motion by Senator Langley, by two-thirds vote CS for HB's 347, 866 and 1343 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Thurman, by two-thirds vote CS for HB 717 was withdrawn from the Committees on Natural Resources and Conservation; Governmental Operations; and Appropriations.

On motion by Senator Thurman—

CS for HB 717—A bill to be entitled An act relating to state lands; creating s. 253.027, F.S.; creating the Emergency Archaeological Property Acquisition Act of 1988; providing legislative intent; providing a definition; establishing procedures for emergency archaeological acquisition; providing for segregation of moneys within the Conservation and Recreation Lands Trust Fund; authorizing certain expenditures; providing restrictions; providing procedure for initiation of purchase; providing that property acquired shall be held by the Board of Trustees of the Internal Improvement Trust Fund; authorizing the board to waive or limit appraisals or surveys; authorizing the board to accept a lesser interest in property; authorizing the board to resell lands; providing for disposition of proceeds; providing restrictions; providing duties of the director of the Division of Historical Resources of the Department of State and the Division of State Lands of the Department of Natural Resources; providing severability; providing for liberal construction; providing an effective date.

—a companion measure, was substituted for CS for SB 628 and read the second time by title.

Senators W. D. Childers, Beard and Hollingsworth offered the following amendments which were moved by Senator W. D. Childers and adopted:

Amendment 1—On page 5, lines 25-31, and on page 6, lines 1-21, strike all of subsection (9) and renumber subsequent subsections.

Amendment 2—On page 5, line 11, before "Title" insert: *Property may not be acquired under this section until the disposition or settlement of any litigation involving such property or involving the use of or construction on such property or adjacent property.*

Amendment 3—In title, on page 1, lines 18-24, strike all of said lines and insert: providing severability;

On motion by Senator Thurman, by two-thirds vote CS for HB 717 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Crawford, Kirkpatrick

CS for CS for SB 526—A bill to be entitled An act relating to transportation corporations; creating the Florida Transportation Corporation Act; providing definitions; providing legislative findings and purpose; providing for applicability of other laws; providing for authorization of transportation corporations by the Department of Transportation; prescribing the form of a corporation; providing for articles of incorporation; providing for a board of directors; providing for advisory directors; providing for bylaws; providing for notice of meetings and for open meetings; providing for amendment of articles of incorporation; prescribing powers of a corporation; providing for audit of the corporations; exempting property of corporations from taxation; providing for dissolution of a corporation; providing for disposition of assets upon dissolution; providing for liberal construction; providing an effective date.

—was read the second time by title.

Two amendments were adopted to CS for CS for SB 526 to conform the bill to CS for HB 621.

Pending further consideration of CS for CS for SB 526 as amended, on motions by Senator Dudley, by two-thirds vote—

CS for HB 621—A bill to be entitled An act relating to transportation corporations; creating the "Florida Transportation Corporation Act"; providing definitions; providing legislative findings and purpose; providing for authorization of transportation corporations by the Department of Transportation; prescribing the form of a corporation; providing for a contract; providing for articles of incorporation; providing for a board of directors; providing for advisory directors; providing for bylaws; providing for notice of meetings and for open records; providing for amendment of articles of incorporation; prescribing powers of a corporation; providing for audit of the corporations; providing for the use of state property; exempting property of corporations from taxation; providing for dissolution of a corporation; providing for disposition of assets upon dissolution; providing for rules; providing for liberal construction; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 526 and by two-thirds vote read the second time by title.

On motion by Senator Dudley, by two-thirds vote CS for HB 621 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

On motion by Senator Grizzle, by two-thirds vote—

CS for HB 923—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 370.02, F.S.; expanding the duties of the Division of Marine Resources; establishing the Florida Marine Research Institute within the division; providing powers of the institute; providing for the establishment of citizen support organizations to assist the department; specifying qualifications for such organizations; limiting the authority of such organizations with respect to the receipt of funds; authorizing the department to permit such organizations to use property and facilities of the department, subject to certain conditions; requiring an annual audit; requiring the department to develop salary recommendations for institute personnel; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 527 and by two-thirds vote read the second time by title.

On motion by Senator Grizzle, by two-thirds vote CS for HB 923 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

CS for SB 685—A bill to be entitled An act relating to abuse, neglect, abandonment, and exploitation of aged persons, disabled adults, and children; amending s. 20.19, F.S.; conforming duties of program offices and service districts of the Department of Health and Rehabilitative Services to reflect changes in protective investigations and current responsibilities; amending s. 39.01, F.S.; providing definitions; amending s. 39.401, F.S.; conforming terminology and procedures to definitions and current practice; providing that priority consideration be given to relative placements over nonrelative placements; amending s. 39.402, F.S.; conforming terminology; amending s. 39.403, F.S.; providing for protective investigation by the department; amending s. 39.404, F.S.; conforming terminology; amending s. 415.507, F.S., relating to medical examinations of abused and neglected children; amending s. 110.1127, F.S., to change a cross-reference; amending s. 415.103, F.S.; renaming the central abuse registry and requiring any report of abuse, neglect, or exploitation to be handled by the central abuse registry and tracking system; delineating functions of the central abuse registry and tracking system; providing for notification of district staff; providing for indexing of certain information; providing confidentiality of reports in administrative hearing process; amending s. 415.104, F.S.; providing standards and procedures for reports and for protective services investigations; amending s. 415.107, F.S.; conforming terminology and procedures; amending s. 415.111, F.S.; providing penalties for making false reports; amending s. 415.503, F.S.; providing definitions; amending s. 415.504, F.S.; conforming terminology; requiring child abuse and neglect reports to go to the central abuse registry and tracking system; delineating functions of the central abuse registry and tracking system; providing procedures and time frames for notification of district staff; providing for indexing of certain information; providing confidentiality of reports in the administrative hearing process; amending s. 415.505, F.S.; providing standards and procedures for reports and for protective services investigations; amending ss. 415.5055, 415.509, 415.51, F.S.; conforming terminology; amending s. 415.511, F.S.; providing immunity from liability and prohibiting reprisal against person reporting; amending s. 415.513, F.S.; providing penalties for making a false report; amending s. 959.06, F.S., to change a cross-reference; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendments which were adopted:

Amendment 1—On page 37, between lines 2 and 3, insert:

Section 16. Subsection (1) of section 415.507, Florida Statutes, is amended to read:

415.507 Photographs, medical examinations, X-rays, and medical treatment of abused or neglected child.—

(1) Any person required to investigate cases of suspected child abuse or neglect may take or cause to be taken photographs of the areas of trauma visible on a child who is the subject of a report and, if the areas of trauma visible on a child indicate a need for a medical examination, may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents, legal guardian, or legal custodian. *Such examination may be performed by an advanced registered nurse practitioner licensed pursuant to chapter 464.* Any licensed physician, *or advanced registered nurse practitioner licensed pursuant to chapter 464,* who has reasonable cause to suspect that an injury was the result of child abuse may authorize a radiological examination to be performed on the child without the consent of the child's parent, legal guardian, or legal custodian.

(Renumber subsequent sections.)

Amendment 2—On page 40, line 28, after "(b)" insert: *Except as provided in s. 415.503(8)(f),*

Amendment 3—In title, on page 2, line 19, after "terminology;" insert: amending s. 415.507, F.S., relating to medical examinations of abused and neglected children;

On motion by Senator Grant, by two-thirds vote CS for SB 685 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Scott, by two-thirds vote CS for HB 1433, CS for SB 221, SB 360, CS for SB 509 and CS for SB 1350 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 refused to concur in Senate Amendment 1 to House Amendment 1 to SB 118 and requests the Senate to recede.

John B. Phelps, Clerk

SB 118—A bill to be entitled An act relating to state university divisions of sponsored research; amending s. 240.241, F.S.; specifying which records of such divisions are exempt from the public record requirements of ch. 119, F.S.; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; providing an effective date.

On motion by Senator Gordon, the Senate refused to recede from Senate Amendment 1 to House Amendment 1 and insisted that the House 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 requests the return of CS for SB 452.

John B. Phelps, Clerk

On motion by Senator Meek, **CS for SB 452** was 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 CS for SB 38 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 38—A bill to be entitled An act relating to mobile homes and recreational vehicles; amending s. 320.01, F.S.; redefining the term "park trailer" with respect to the definition of "motor vehicle"; providing a definition for "van conversion"; amending s. 320.71, F.S.; providing for the registration of nonresident motor vehicle, mobile home, and recreational vehicle dealers with the Department of Revenue for the purpose of obtaining a sales tax dealer registration number; providing for service of process; amending s. 320.77, F.S.; redefining the terms "dealer" and "mobile home or recreational vehicle broker" with respect to licensing such persons; clarifying the ability of mobile home dealers to sell mobile homes in mobile home parks; requiring garage liability insurance of recreational vehicle dealers; requiring a statement of applicants for licensure as recreational vehicle dealers relative to unfair or deceptive trade practices; providing for fingerprinting of applicants for licensure and for costs to be borne by such applicants; providing for the issuance of licenses in the form of computerized cards and for costs to be borne by licensees; providing for deposit of specified fees; providing for training of applicants for licensure; authorizing off-premise sales by recreational vehicle dealers; authorizing the department to seek injunctive relief against recreational vehicle dealers; amending s. 320.822, F.S.; redefining the term "code" to conform to a name change of a model code and redefining the term "mobile home dealer" to include persons who buy, sell, or deal in one or more mobile homes or recreational vehicles in a 12-month period; amending s. 320.823, F.S.; requiring a one hour fire rated wall in duplex mobile home construction; amending s. 320.8255, F.S.; providing for special inspections of mobile homes and fees; amending s. 320.8256, F.S.; providing for the inspection of used recreational vehicles within 72 hours of a sale; providing for special inspections and fees; amending s. 320.834, F.S.; redefining legislative intent with respect to mobile home code requirements, mobile home warranties, and resolution of consumer complaints; amending s. 418.304, F.S.; revising criteria with respect to the power of a mobile home park recreation district to enter into certain contracts; saving ss. 320.01, 320.71, and 320.77-320.866, F.S., from Sunset repeal; providing for future review and repeal of said sections; providing an effective date.

Amendment 1—On page 1, line 29, strike everything after the enacting clause and insert:

Section 1. Paragraph (b) of subsection (1) of section 320.01, Florida Statutes, as amended by chapter 87-198, Laws of Florida, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

(b) A recreational vehicle-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Recreational vehicle-type units, when traveling on the public roadways of this state, must comply with the length and width provisions of s. 316.515, as that section may hereafter be amended. As defined below, the basic entities are:

1. The "travel trailer," including a "fifth-wheel travel trailer," which is a vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8½ feet and an overall body length of no more than 40 feet when factory-equipped for the road.

2. The "camping trailer," which is a vehicular portable unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

3. The "truck camper," which is a truck equipped with a portable unit designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping, or travel use.

4. The "motor home," which is a vehicular unit which does not exceed the length and width limitations provided in s. 316.515, is built on a self-propelled motor vehicle chassis, and is primarily designed to provide temporary living quarters for recreational, camping, or travel use.

5. The "van conversion" which is a vehicular unit which does not exceed the length and width limitations provided in s. 316.515, is built on a self-propelled motor vehicle chassis, and is designed for recreation, camping, and travel use.

6.~~5.~~ The "park trailer," which is a transportable unit which has a body width not exceeding *14* ~~12~~ feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. The total area of the unit in a setup mode, when measured from the exterior surface of the exterior *stud* walls at the level of maximum dimensions, *not* ~~and~~ including any bay window ~~that extends to the floor line~~, *and* does not exceed 400 square feet *when constructed to ANSI A-119.5 standards, and 500 square feet when constructed to United States Department of Housing and Urban Development Standards.* The length of a park trailer means the distance from the exterior of the front of the body (nearest to the drawbar and coupling mechanism) to the exterior of the rear of the body (at the opposite end of the body), including any protrusions.

Section 2. Section 320.71, Florida Statutes, is amended to read:

320.71 Nonresident motor vehicle, mobile home, or recreational vehicle dealer's license.—

(1) Any person who is a nonresident of the state, who does not have a dealer's contract from the manufacturer or manufacturer's distributor of motor vehicles, mobile homes, or recreational vehicles authorizing the sale thereof in definite Florida territory, and who sells or engages in the business of selling said vehicles at retail within the state shall *register with the Department of Revenue for a sales tax dealer registration number and comply with chapter 212, and* pay a license tax of *$2,000* ~~$750~~ per annum in each county where such sales are made; *$1,250* ~~$500~~ of said tax shall be transmitted to the Department of Banking and Finance to be deposited in the General Revenue Fund of the state, and *$750* ~~$250~~ thereof shall be returned to the county. The license tax shall cover the period from January 1 to the following December 31, and no such license shall be issued for any fractional part of a year.

(2) The acceptance by any person of a license under this section shall be deemed equivalent to an appointment by such person of the Secretary of State as the agent of such person upon whom may be served all lawful process in any action, suit, or proceeding against such person arising out of any transaction or operation connected with or incidental to any activities of such person carried on under such license, and the acceptance of such license shall be signification of the agreement of such person that any process against him which is so served shall be of the same legal force and validity as if served personally on him. Service of such process shall be in accordance with and in the same manner as now provided for service of process upon nonresidents under the provisions of chapter 48.

Section 3. Paragraphs (a) and (b) of subsection (1), paragraphs (h), (j), and (k) of subsection (3), and subsections (6), (7), and (11) of section 320.77, Florida Statutes, are amended to read:

320.77 License required of mobile home and recreational vehicle dealers.—

(1) DEFINITIONS.—As used in this section:

(a) "Dealer" means any person engaged in the business of buying, selling, or dealing in mobile homes or recreational vehicles or offering or displaying mobile homes or recreational vehicles for sale. The term "dealer" includes a mobile home or recreational vehicle broker. Any person who buys, sells, deals in, or offers or displays for sale, or who acts as the agent for the sale of, one or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be a dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "dealer" does not include banks, *credit unions,* and finance companies that acquire mobile homes or recreational vehicles as an incident to their regular business and does not include mobile home rental and leasing companies that sell mobile homes or recreational vehicles to dealers licensed under this section. Any licensed dealer dealing exclusively in mobile homes shall not have benefit of the privilege of using dealer license plates.

(b) "Mobile home or recreational vehicle broker" means any person who is engaged in the business of offering to procure or procuring *used* mobile homes or recreational vehicles for the general public; who holds himself out through solicitation, advertisement, or otherwise as one who offers to procure or procures *used* mobile homes or recreational vehicles for the general public; or who acts as the agent or middleman on behalf of the owner or seller of a *used* mobile home which is for sale or who assists or represents the seller in finding a buyer for the mobile home.

(3) APPLICATION.—The application for such license shall be in the form prescribed by the department and subject to such rules as may be prescribed by it. The application shall be verified by oath or affirmation and shall contain:

(h) Certification by the applicant that the location is a permanent one, not a tent or a temporary stand or other temporary quarters; and, except in the case of a mobile home ~~or recreational vehicle~~ broker, that the location affords sufficient unoccupied space to store all mobile homes and recreational vehicles offered and displayed for sale; and that the location is a suitable place in which the applicant can in good faith carry on business and keep and maintain books, records, and files necessary to conduct such business, which will be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. *This subsection shall not preclude a licensed mobile home dealer from displaying and offering for sale mobile homes in a mobile home park.*

(j) *A statement that the applicant is insured under a garage liability insurance policy, which shall include, at a minimum, $25,000 combined single limit liability coverage, including bodily injury and property damage protection, and $10,000 personal injury protection, if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles.* ~~A statement that the applicant either is an independent (nonfranchised) dealer or is franchised by a manufacturer of mobile homes or recreational vehicles, in which case the name of each mobile home or recreational vehicle that the applicant is franchised to sell shall be included.~~

(k) A statement that the applicant for a recreational vehicle license, issued pursuant to this section, has not and will not enter into any agreements, written or oral, with any other person or business entity which would constitute an unfair or deceptive trade practice in violation of part II of chapter 501.

(l)~~(k)~~ Such other relevant information as may be required by the department. *Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprinting to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of such state and federal processing shall be borne by the applicant and is to be in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.*

The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and shall not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

(6) LICENSE CERTIFICATE.—A license certificate shall be issued by the department in accordance with the application when the same is regular in form and in compliance with the provisions of this section. *The license certificate may be in the form of a document or a computerized card as determined by the department. The cost of each original, additional, or replacement computerized card shall be borne by the licensee and is in addition to the fee for licensure. The fees charged applicants for both the required background investigation and the computerized card as provided in this section shall be deposited into the Motor Vehicle License Plate Replacement Trust Fund.* The license, when so issued, shall entitle the licensee to carry on and conduct the business of a mobile home dealer or recreational vehicle dealer at the location set forth in the

license for a period of 1 year from October 1 preceding the date of issuance. *Each initial application received by the department after July 1, 1989, shall be accompanied by verification that, within the preceding 6 months, the applicant or one or more of his designated employees has attended a training and information seminar conducted by the department or by a public or private provider approved by the department. Such seminar shall include, but not be limited to, statutory dealer requirements, which requirements include required bookkeeping and recording procedures, requirements for the collection of sales and use taxes, and such other information that in the opinion of the department will promote good business practices.*

(7) SUPPLEMENTAL LICENSE.—Any person licensed pursuant to this section shall be entitled to operate one or more additional places of business under a supplemental license for each such business if the ownership of each business is identical to that of the principal business for which the original license is issued. Each supplemental license shall run concurrently with the original license and shall be issued upon application by the licensee on a form to be furnished by the department and payment of a fee of $50 for each such license. Only one licensed dealer shall operate at the same place of business. *A supplemental license authorizing off-premise sales shall be issued, at no charge to the dealer, for a period not to exceed 10 consecutive calendar days.*

(11) INJUNCTION.—In addition to the remedies provided in this chapter, and notwithstanding the existence of any adequate remedy at law, the department is authorized to make application to any circuit court of the state, and the circuit court shall have jurisdiction, upon a hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from acting as a mobile home dealer *or recreational vehicle dealer* under the terms of this section who is not properly licensed or who violates or fails or refuses to comply with any of the provisions of chapters 319 and 320 or any rule or regulation adopted thereunder. Such injunction shall be issued without bond. A single act in violation of the provisions of chapter 319 or chapter 320 shall be sufficient to authorize the issuance of an injunction.

Section 4. Section 320.822, Florida Statutes, is amended to read:

320.822 Definitions.—In construing ss. *320.822-320.862* ~~320.8225-320.864~~, unless the context otherwise requires, the following words or phrases have the following meanings:

(1) "Buyer" means a person who purchases at retail from a dealer or manufacturer a mobile home or recreational vehicle for his own use as a residence, or other related use.

(2) "Code" means the appropriate standards found in:

(a) The Federal Mobile Home Construction and Safety Standards for single-family mobile homes, promulgated by the Department of Housing and Urban Development;

(b) The Uniform Standards Code approved by the United States of America Standards Institute, ANSI A-119.1 for duplex mobile homes;

(c) The Uniform Standards Code approved by the American National Standards Institute, ANSI A-119.2 for recreational vehicles and ANSI A-119.5 for park trailers or the United States Department of Housing and Urban Development standard for park trailers certified as meeting that standard; or

(d) The ~~Used~~ Mobile Home *Repair and Remodeling Code and Used* ~~or~~ Recreational Vehicle Code.

(3) "Construction" means the minimum requirements for materials, products, equipment, and workmanship needed to assure that the mobile home or recreational vehicle will provide structural strength and rigidity; protection against corrosion, decay, and other similar destructive forces; resistance to the elements; and durability and economy of maintenance.

(4) "Institute" means the United States of America Standards Institute.

(5) "Length," for purposes of transportation only, means the distance from the extreme front of the mobile home, park trailer, or travel trailer, to the extreme rear, including the drawbar and coupling mechanism, but not including expandable features that do not project from the body during transportation.

(6) "Length of a mobile home" means the distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments.

(7) "Licensee" means any person licensed or required to be licensed under s. 320.8225.

(8) "Mobile home dealer" means any person engaged in the business of buying, selling, or dealing in mobile homes or recreational vehicles or offering or displaying mobile homes or recreational vehicles for sale. Any person who buys, sells, or deals in *one* ~~three~~ or more mobile homes or recreational vehicles in any 12-month period or who offers or displays for sale *one* ~~three~~ or more mobile homes or recreational vehicles in any 12-month period shall be prima facie presumed to be engaged in the business of a mobile home dealer. The terms "selling" and "sale" include lease-purchase transactions. The term "mobile home dealer" does not include a bank, *credit union,* or finance company that acquires mobile homes or recreational vehicles as an incident to its regular business, ~~and~~ does not include a mobile home rental or leasing company that sells mobile homes or recreational vehicles to mobile home dealers licensed under s. 320.77, *and does not include persons who are selling their own mobile homes or recreational vehicles.*

(9) "Mobile home manufacturer" means any person, resident or nonresident, who, as a trade or commerce, manufactures or assembles mobile homes or recreational vehicles or converts van-type vehicles in such manner that they then qualify as recreational vehicles, for sale in this state.

(10) "Responsible party" means a manufacturer, dealer, or supplier.

(11) "Seal" or "label" means a device issued by the department certifying that a mobile home or recreational vehicle meets the appropriate code, which device is to be displayed on the exterior of the mobile home or recreational vehicle.

(12) "Setup" means the operations performed at the occupancy site which render a mobile home fit for habitation. Such operations include, but are not limited to, transporting, positioning, blocking, leveling, supporting, tying down, connecting utility systems, making minor adjustments, or assembling multiple or expandable units.

(13) "Substantial defect" means:

(a) Any substantial deficiency or defect in materials or workmanship occurring to a mobile home or recreational vehicle which has been reasonably maintained and cared for in normal use.

(b) Any structural element, utility system, or component of the mobile home or recreational vehicle, which fails to comply with the code.

(14) "Supplier" means the original producer of completed components, including refrigerators, stoves, hot water heaters, dishwashers, cabinets, air conditioners, heating units, and similar components, which are furnished to a manufacturer or dealer for installation in the mobile home or recreational vehicle prior to sale to a buyer.

(15) "Width of a mobile home" means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

(16) "Body size" of a park trailer or travel trailer means the distance from the exterior side or end to the opposite exterior side or end of the body. Such distance includes expandable rooms, bay windows, wall and roof extensions, or other extrusions in the travel mode. The following exceptions apply:

(a) Travel trailers shall not exceed 320 square feet. All square footage measurements are of the exterior when in setup mode *and do not include bay windows.* Fifth-wheel over-hitch space would be excluded unless over 5 feet ceiling height.

(b) Park trailers constructed to ANSI A-119.5 shall not exceed 400 square feet. Park trailers constructed to the United States Department of Housing and Urban Development standard shall not exceed 500 square feet. All square footage measurements are of the exterior when in setup mode *and do not include bay windows.*

Section 5. Section 320.823, Florida Statutes, is amended to read:

320.823 Establishment of uniform mobile home standards.—Each single-family mobile home manufactured in this state or manufactured outside this state but sold or offered for sale in this state shall meet the Federal Mobile Home Construction and Safety Standards, promulgated by the Department of Housing and Urban Development. Each duplex mobile home manufactured in this state or manufactured outside this state but sold or offered for sale in this state shall *be constructed to meet the Federal Mobile Home Construction and Safety Standards. Construction requirements shall include a one hour fire rated wall separating the two units* ~~meet the Uniform Standards Code ANSI book A 119.1 approved by the institute.~~ Such standards shall include, but not be limited to, standards for body and frame construction and the installation of plumbing, heating, and electrical systems.

Section 6. Subsection (3) of section 320.8255, Florida Statutes, is renumbered as subsection (4) and amended, and a new subsection (3) is added to said section, to read:

320.8255 Mobile home inspection.—

(3) Mobile home manufacturers and dealers shall be charged a fee for special inspections, including, but not limited to, plant approvals, 100 percent plant inspections, increased frequency inspections, reinspections, and special consumer complaint investigations as requested by a manufacturer or dealer or as may be deemed necessary by the department.

(4)~~(3)~~ The department shall determine *fees* ~~a fee~~ for *special inspections and for* the seal authorized under s. 320.827 which *are* ~~is~~ sufficient to cover the cost of inspection and administration under this section. Fees collected ~~for the seals~~ shall be deposited into the General Revenue Fund.

Section 7. Subsection (1) of section 320.8256, Florida Statutes, is amended, present subsection (3) is renumbered as subsection (4) and amended, and a new subsection (3) is added to said section, to read:

320.8256 Recreational vehicle inspection.—

(1) In order to ensure the highest degree of quality control in the construction of *new* recreational vehicles *and to ensure the safe condition of used recreational vehicles*, each new or used recreational vehicle sold in the state shall be inspected by the department or inspected by a private firm, person, or agency approved by the department to conduct such inspections. *The inspection of used recreational vehicles shall be made within 72 hours of a sale.* Such approval and all inspections shall be pursuant to procedures developed by the department which assure compliance with code provisions. The department may adopt reasonable rules pursuant to chapter 120 for the implementation and enforcement of this inspection.

(3) Recreational vehicle manufacturers and dealers shall be charged a fee for special inspections, including, but not limited to, plant approvals, 100 percent plant inspections, increased frequency inspections, reinspections, and special consumer complaint investigations as requested by a manufacturer or dealer or as may be deemed necessary by the department.

(4)~~(3)~~ The department shall determine *fees* ~~a fee~~ for *special inspections and for* the seal authorized under s. 320.827 which *are* ~~is~~ sufficient to cover the cost of inspection and administration under this section. Fees collected ~~for the seals~~ shall be deposited into the General Revenue Fund.

Section 8. Section 320.834, Florida Statutes, is amended to read:

320.834 Purpose.—It is the *intent of the Legislature to ensure the safety and welfare of residents of mobile homes through an inspection program conducted by the Department of Highway Safety and Motor Vehicles. Mobile homes are a primary housing resource of many of the residents of the state and satisfy a large segment of statewide housing needs. It is the further intent of the Legislature that the department, mobile home dealers, and mobile home manufacturers continue to work together to meet the applicable code requirements for mobile homes and that such dealers and manufacturers share the responsibilities of warranting mobile homes in accordance with applicable codes and resolving legitimate consumer complaints in a timely, efficient manner.* ~~Legislature's intent to improve the general welfare and safety of mobile home residents in this state. The Legislature finds that mobile homes have become a primary housing resource of many of the citizens of the state; that a growing awareness exists of problems in the quality of mobile homes which diminish their safety and value as housing units; that existing warranties offered by the mobile home industry to buyers are inadequate and do not provide a viable means of remedying quality and safety defects in mobile homes; and that it is the responsibility of the mobile home industry to provide mobile homes which are of reasonable quality and safety. Consistent with these findings, the Legislature deems it necessary to further public interests of safety and welfare that the mobile home industry be responsible for mobile homes and that it assures the safety and quality of mobile homes. The Legislature finds that the most efficient and economical way to assure quality and responsibility is to require all segments of the mobile home industry to warrant the quality of mobile homes.~~

Section 9. Subsection (13) of section 418.304, Florida Statutes, is amended to read:

418.304 Powers of the mobile home park recreation district; recreation district tax.—An ordinance creating or amending the charter of a mobile home park recreation district may grant to the recreation district the following powers:

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

(a) The trustees by a two-thirds vote have approved the terms and conditions of such acquisition by written resolution;

(b) Within not less than 30 days nor more than 60 days after the date of the resolution, the trustees certify the resolution to the supervisor of elections for the county for a referendum election; and

(c) *The resolution is approved by a majority vote of the qualified electors voting in a referendum called for the purpose of considering the resolution.* ~~A majority of qualified electors of the district approve the resolution by referendum election.~~

Section 10. Subsection (6) of section 723.006, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to said section, to read:

723.006 Powers and duties of division.—In performing its duties, the division has the following powers and duties:

(6) With regard to any written complaint alleging a violation of any provision of this chapter or any rule promulgated pursuant thereto, the division shall periodically notify, in writing, the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the division has found that probable cause exists, it shall notify, in writing, the party complained against of the results of the investigation and disposition of the complaint.

Section 11. Subsection (2) of section 723.011, Florida Statutes, is amended to read:

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

(2) The park owner shall furnish a copy of the prospectus or offering circular together with all of the exhibits thereto to each prospective lessee. Delivery shall be made *prior to* ~~upon~~ execution of the *lot* rental agreement or at the time of occupancy, whichever occurs first. *Upon delivery of a prospectus to a prospective lessee, the lot rental agreement is voidable by the lessee for a period of 15 days.* However, the park owner is not required to furnish a copy of the prospectus or offering circular if the tenancy is a renewal of a tenancy and the mobile home owner has previously received the prospectus or offering circular.

Section 12. Paragraph (b) of subsection (1) of section 723.012, Florida Statutes, is amended to read:

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

(1) The front cover or the first page must contain only:

(b) The following statements in conspicuous type:

1. THIS PROSPECTUS (OFFERING CIRCULAR) CONTAINS IMPORTANT MATTERS TO PE CONSIDERED IN LEASING A MOBILE HOME LOT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR OPERATOR. REFER TO THIS PROSPECTUS (OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

4. *UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE LESSEE* ~~IF THIS PROSPECTUS WAS RECEIVED PRIOR TO OCCUPANCY IN THE MOBILE HOME PARK~~, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A PERIOD OF 15 DAYS~~, OR UNTIL OCCUPANCY IN THE PARK, WHICHEVER OCCURS FIRST~~.

Section 13. Subsection (1) of section 723.014, Florida Statutes, is amended to read:

723.014 Failure to provide prospectus or offering circular prior to occupancy.—

(1) *If* ~~In the event that~~ a prospectus or offering circular was not provided to the *prospective lessee* ~~mobile home owner~~ prior to *execution of the lot rental agreement or prior to* initial occupancy of a new mobile home, the rental agreement is voidable by the lessee until 15 days after the receipt by the lessee of the prospectus or offering circular and all exhibits thereto~~, but in no event shall the period of voidability extend beyond 45 days of initial occupancy of the park by the mobile home owner~~.

Section 14. Subsection (3) of section 723.031, Florida Statutes, is amended to read:

723.031 Mobile home lot rental agreements.—

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

Section 15. Subsections (1) and (3) of section 723.037, Florida Statutes, are amended to read:

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

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

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

Section 16. Effective July 1, 1988, or upon becoming a law, whichever occurs later, paragraph (a) of subsection (2) of section 723.061, Florida Statutes, as amended by chapters 87-117 and 87-150, Laws of Florida, and subsection (4) of said section, are amended to read:

723.061 Eviction; grounds, proceedings.—

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

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

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

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

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

b. The home owner will be entitled to the book value of the mobile home and cash value of the appurtenances.

c. The home owner will also be entitled to the following portion of the difference between the book value and cash value of the appurtenances and the market value of the mobile home. If the home owner has resided in the mobile home at the time of notice of land use change by the park owner:

0 years up to 5 years	*40 percent*
5 years up to 15 years	*60 percent*
15 years up to 20 years	*80 percent*
20 years or more	*100 percent*

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

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

3. Reach a mutually agreed to settlement between the park owner and the home owner.

(4) *Any notice required by this section must be in writing, and* the delivery of any *such* ~~written~~ notice ~~required by this section~~ shall begin on

the date of postmark and be by certified or registered mail, return receipt requested, addressed to the mobile home owner at his last known address.

Section 17. Section 723.076, Florida Statutes, is amended to read:

723.076 Incorporation; notification of park owner.—

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

(2) Upon written request by the homeowners' association, the park owner shall notify the homeowners' association by certified mail return receipt requested of the name and address of the park owner, the park owner's agent for service of process and the legal description of the park. Thereafter, in the event of a change in the name or address of the park owner, or the park owner's agent, for service of process, the park owner shall notify in writing the president or registered agent of the homeowners' association of such change by certified mail return receipt requested.

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

Section 18. *Effective November 10, 1988, there is hereby created the Study Commission on Mobile Homes.*

(1) The commission shall be composed of eight members, consisting of:

(a) Two Senators appointed by the President of the Senate;

(b) Two Representatives appointed by the Speaker of the House of Representatives;

(c) Two representatives of the mobile home park industry, appointed by the Governor; and

(d) Two representatives of mobile home owners, appointed by the Governor.

(2) The commission shall study the issue of alternative dispute resolution in conjunction with disputes as to rent paid by mobile home owners to mobile home park owners. The commission shall recommend legislation needed to implement its recommendations.

(3) The commission shall submit a final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives no later than March 15, 1989.

(4) The House of Representatives shall provide staff for the commission and all necessary data collection, analysis, and research and support services.

(5) Members of the commission shall serve without compensation but shall be entitled to be reimbursed for per diem and travel expenses as provided for in s. 112.061, Florida Statutes.

(6) The commission shall expire June 30, 1989.

Section 19. *Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, sections 320.77-320.866, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein.*

Section 20. *Sections 320.71 and 320.77-320.866, Florida Statutes, are repealed October 1, 1998, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statues.*

Section 21. Except as otherwise provided, this act shall take effect October 1, 1988.

Amendment 2—On page 1, strike entire title and insert: An act relating to mobile homes and recreational vehicles; amending s. 320.01, F.S.; redefining the term "park trailer" with respect to the definition of "motor vehicle"; providing a definition for "van conversion"; amending s. 320.71, F.S.; providing for the registration of nonresident motor vehicle, mobile home, and recreational vehicle dealers with the Department of Revenue for the purpose of obtaining a sales tax dealer registration number; providing for service of process; amending s. 320.77, F.S.; redefining the terms "dealer" and "mobile home or recreational vehicle broker" with respect to licensing such persons; clarifying the ability of mobile home dealers to sell mobile homes in mobile home parks; requiring garage liability insurance of recreational vehicle dealers; requiring a statement of applicants for licensure as recreational vehicle dealers relative to unfair or deceptive trade practices; providing for fingerprinting of applicants for licensure and for costs to be borne by such applicants; providing for the issuance of licenses in the form of computerized cards and for costs to be borne by licensees; providing for deposit of specified fees; providing for training of applicants for licensure; authorizing off-premise sales by recreational vehicle dealers; authorizing the department to seek injunctive relief against recreational vehicle dealers; amending s. 320.822, F.S.; redefining the term "code" to conform to a name change of a model code and redefining the term "mobile home dealer" to include persons who buy, sell, or deal in one or more mobile homes or recreational vehicles in a 12-month period; amending s. 320.823, F.S., requiring a one hour fire rated wall in duplex mobile home construction; amending s. 320.8255, F.S.; providing for special inspections of mobile homes and fees; amending s. 320.8256, F.S.; providing for the inspection of used recreational vehicles within 72 hours of a sale; providing for special inspections and fees; amending s. 320.834, F.S.; redefining legislative intent with respect to mobile home code requirements, mobile home warranties, and resolution of consumer complaints; saving s. 320.71 and ss. 320.77-320.866, F.S., from Sunset repeal; providing for future review and repeal of said sections; amending s. 723.006, F.S., requiring the Division of Florida Land Sales, Condominiums, and Mobile Homes to notify certain persons as to the disposition of complaints investigated by the division; amending s. 723.011, F.S., requiring a mobile home park owner to deliver a prospectus prior to occupancy by a mobile home owner and providing a voidability period for failure to do so; amending s. 723.012, F.S., providing for conforming language to appear in the prospectus; amending s. 723.014, F.S., providing that failure to provide a prospectus to a prospective mobile home owner prior to occupancy results in a period of voidability of the mobile home lot rental agreement; amending s. 723.031, F.S., deleting the prohibition on charging mobile home owners for amenities which were previously provided in the lot rental amount without a corresponding reduction in lot rental amount; amending s. 723.037, F.S., requiring that notice of pass-through charges to mobile home owners shall state the amount of the change, the governmental entity mandating the capital improvement for which the charge is made and the nature of the charges; providing that the meeting of the homeowners and park owner upon notice of change in lot rental amount, reduction in services or utilities provided, or change in rules and regulations shall be at a mutually convenient place and shall occur within a certain time after receipt of the notice by the homeowner; amending s. 723.061, F.S., reenacting a portion of the formula for determining the purchase price that a mobile home park owner must pay the mobile home owner in certain circumstances and requiring that notices required pursuant to this section be in writing; amending s. 723.076, F.S., requiring a mobile home owners' association to notify the park owner of changes in names and addresses of its president or registered agent; requiring the park owner, upon request, to notify the homeowners' association of the name and address of the park owner, its agent for service of process, and the legal description of the park; requiring the park owner to notify the homeowners' association of any changes thereto; creating a Study Commission on Mobile Homes; directing the study commission to study certain issues; directing the study commission to submit a final report; providing for repeal of the study commission; providing an effective date.

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

CS for CS for SB 38 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

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

Nays—None

Vote after roll call:

Yea—Crawford

SPECIAL ORDER, continued

SB 753—A bill to be entitled An act relating to conservation; creating part III of chapter 369, F.S., creating the Wekiva River Protection Act; providing definitions; providing for review of local comprehensive plans, land development regulations, and certain development permits, and amendments thereto, applicable to the Wekiva River Protection Area; providing criteria; providing procedures; providing duties of Orange, Lake, and Seminole Counties, the Department of Natural Resources, and the Land and Water Adjudicatory Commission; requiring a report; authorizing adoption of rules; providing procedure for development permits and development-of-regional-impact review within the Wekiva River Protection Area; creating s. 373.415, F.S., directing the St. Johns River Water Management District to establish protection zones for regulation of certain activities in the Wekiva River System; requiring certain consistency with local comprehensive plans and land development regulations prior to processing of certain permit applications; directing the district to develop a groundwater basin resource availability inventory; reserving certain authority to the water management districts, counties, and municipalities; providing applicability of certain provisions for judicial review; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 753 to conform the bill to CS for HB 1265.

Pending further consideration of SB 753 as amended, on motions by Senator Langley, by two-thirds vote CS for HB 1265 was withdrawn from the Committees on Natural Resources and Conservation; and Appropriations.

On motion by Senator Langley—

CS for HB 1265—A bill to be entitled An act relating to conservation; creating part III of chapter 369, F.S., creating the Wekiva River Protection Act; providing definitions; providing for review of local comprehensive plans, land development regulations, and certain development permits, and amendments thereto, applicable to the Wekiva River Protection Area; providing criteria; providing procedures; providing duties of Orange, Lake, and Seminole Counties, the Department of Community Affairs, and the Land and Water Adjudicatory Commission; requiring a report; authorizing adoption of rules; providing procedure for development permits and development-of-regional-impact review within the Wekiva River Protection Area; creating s. 373.415, F.S., directing the St. Johns River Water Management District to establish protection zones to prevent certain harm to the Wekiva River System; requiring certain consistency with local comprehensive plans and land development regulations prior to issuance of certain permits; directing the district to develop a groundwater basin resource availability inventory; reserving certain authority to the water management districts, counties, and municipalities; providing applicability of certain provisions for judicial review; providing an effective date.

—a companion measure, was substituted for SB 753 and read the second time by title.

Senator Langley moved the following amendments which were adopted:

Amendment 1—On page 9, between lines 12 and 13, insert:

(4) The provisions of s. 369.305 of this act shall be inapplicable to developments of regional impact in the Wekiva River Protection Area if an application for development approval was filed prior to June 1, 1988, and in the event that a development order is issued pursuant to such application on or before April 1, 1989.

(5) The Department of Natural Resources is directed to proceed to negotiate for acquisition of conservation and recreation lands projects within the Wekiva River Protection Area, provided that such projects have been deemed qualified under statutory and rule criteria for purchase, and have been placed on the priority list for acquisition by the selection committee created in s. 259.035.

Amendment 2—On page 7, lines 15 and 21, after "Permit" insert: solely within protection zones established under section 373.415.

Amendment 3—In title, strike "directing the Department of Natural Resources to negotiate for the acquisition of conservation and recreation lands"

On motion by Senator Langley, by two-thirds vote CS for HB 1265 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford, Kirkpatrick

The President presiding

Consideration of **CS for SB 767** and **SB 768** was deferred.

On motions by Senator Crenshaw, by two-thirds vote HB 1409 was withdrawn from the Committees on Commerce; Rules and Calendar; and Appropriations.

On motion by Senator Crenshaw—

HB 1409—A bill to be entitled An act relating to the state lottery; amending s. 24.105, F.S.; prohibiting disclosure and authorizing disclosure of certain information relating to the lottery under specified circumstances; amending s. 24.108, F.S.; revising duties of the Division of Security of the Department of the Lottery; amending s. 24.111, F.S.; revising provisions which require certain vendors to post bond or deposit securities; authorizing filing of an irrevocable letter of credit; amending s. 24.112, F.S.; authorizing use of secretary's facsimile signature on contracts with retailers; revising provisions regarding access to lottery retailers for disabled persons; amending s. 24.116, F.S.; revising provisions which prohibit certain persons associated with vendors from purchasing lottery tickets; removing a prohibition against retailers, employees thereof, and their relatives purchasing lottery tickets on the retailer's premises; providing limitations on imposition of criminal sanctions for violations of s. 24.116, F.S., committed prior to the effective date of the act; amending s. 24.120, F.S.; authorizing funds in the Administrative Trust Fund to be invested by the Treasurer in annuities issued by insurance companies under certain conditions; amending s. 18.10, F.S. to conform; providing an effective date.

—a companion measure, was substituted for CS for SB 335 and read the second time by title.

Senator Gordon moved the following amendment which was adopted:

Amendment 1—On page 8, between lines 5 and 6, insert:

Section 11. Subsection (2) of section 24.212, Florida Statutes, is amended to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(2) Each fiscal year, at least 35 percent of the moneys in the Administrative Trust Fund shall be deposited in the Educational Enhancement Trust Fund, which is hereby created in the State Treasury to be administered by the Department of Education. The Department of the Lottery shall transfer moneys to the Educational Enhancement Trust Fund at least once each quarter. Funds in the Educational Enhancement Trust Fund shall be used to the benefit of public education in accordance with the provisions of this act *and may not be used to supplant the level of funding, as a percentage of total state revenue, which would otherwise be appropriated by the Legislature for public education.*

(Renumber subsequent sections.)

Senator Plummer moved the following amendment which failed:

Amendment 2—On pages 6 and 7, line 23, strike "as used" all subsequent lines on page 6 and lines 1-12 on page 7 and renumber subsequent lines.

Senator Margolis moved the following amendment which failed:

Amendment 3—On page 7, strike lines 18-21 and insert: *means that, regardless of the date a retailer's premises was constructed, each retailer shall provide ramps, platforms, aisles and pathway widths, turnaround areas, and parking spaces to the extent that these are required for buildings constructed after October 1, 1974, under part V of chapter 553, and to the extent that these are required by county or municipal ordinance where the retailer is located.*

Senator Gordon moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 28, after the semicolon (;) insert: amending s. 24.121, F.S.; providing that lottery moneys transferred to the Educational Enhancement Trust Fund may not be used to supplant certain funds which would otherwise be appropriated by the Legislature;

Further consideration of **HB 1409** as amended was deferred.

On motion by Senator Stuart, by two-thirds vote CS for HB 946 was withdrawn from the Committee on Commerce.

On motions by Senator Stuart, by two-thirds vote—

CS for HB 946—A bill to be entitled An act relating to the Board of Trustees of the Internal Improvement Trust Fund; amending s. 253.03, F.S.; authorizing the board to retain certain real property obtained under the Florida RICO Act in public ownership; authorizing reimbursement to the Forfeited Property Trust Fund for funds expended in regard to such property; authorizing the board to reimburse an investigative or law enforcement agency from funds in said trust fund; providing an effective date.

—a companion measure, was substituted for SB 1039 and by two-thirds vote read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for HB 946 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Thurman, by two-thirds vote HB 1064 was withdrawn from the Committees on Commerce and Appropriations.

On motion by Senator Thurman—

HB 1064—A bill to be entitled An act relating to pugilistic exhibitions; amending ss. 548.002, 548.006, 548.007, 548.017, 548.043, 548.045, 548.046, 548.047, 548.049, 548.05, 548.053, 548.054, 548.056, 548.057, and 548.07, F.S., and creating s. 548.008, F.S.; revising the Joe Lang Kershaw Act to include pugilistic events such as kickboxing and martial arts contests and exhibitions; providing for certain protective devices; prohibiting toughman and badman competition; providing a penalty; providing for required insurance; authorizing the State Athletic Commission to require each contract regulated by the commission to include language authorizing the commission to withhold all or any part of a manager's share of a purse or implead interested parties over disputed funds into an appropriate court action, in the event of a contractual dispute as to entitlement to any portion of the purse; authorizing the commission to establish standards for referees for matches other than boxing; providing for penalties; repealing s. 548.023, F.S., relating to fingerprinting; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 767 and read the second time by title.

On motion by Senator Thurman, by two-thirds vote HB 1064 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
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
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Thurman, by two-thirds vote HB 561 was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Thurman—

HB 561—A bill to be entitled An act relating to the State Athletic Commission; amending s. 548.077, F.S.; creating the State Athletic Commission Trust Fund in the Department of Business Regulation; providing for the collection and disposition of moneys in the fund; providing an effective date.

—a companion measure, was substituted for SB 768 and read the second time by title. On motion by Senator Thurman, by two-thirds vote HB 561 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Crawford, Stuart

On motion by Senator Gordon—

HB 56—A bill to be entitled An act relating to Metropolitan Dade County; providing for the relief of Sarah Deza, authorizing and directing said county to compensate her for certain damages suffered in a motor vehicle collision; providing for payment by the county; providing an effective date.

—having been considered May 26, was taken up and read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—1

Dudley

CS for SB 1100—A bill to be entitled An act relating to taxes on special fuels; creating s. 212.637, F.S.; exempting from the tax on special fuels sales of special fuel for specified agricultural, aquacultural, or commercial fishing purposes; amending s. 212.67, F.S.; deleting provision for refund of special fuel taxes paid on such sales; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendment which was moved by Senator Woodson and adopted:

Amendment 1—On page 1, between lines 12 and 13, insert:

Section 1. Section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—*(1)* An excise tax of 5.7 cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part shall not be subject to the taxes imposed by ss. 336.021, 336.025, and 336.026.

(2)(a) Notwithstanding the tax rate established in subsection (1), any air carrier making the election pursuant to s. 212.0598 shall be subject to a tax rate of 8 percent of the retail sales price of their purchases of each gallon of aviation fuel. However, in no event shall the tax on aviation fuel pursuant to this subsection be lower than 4.4 cents per gallon. The tax payments pursuant to this subsection may qualify for the special provisions for air carriers as provided in s. 212.0598.

(b) Any air carrier making the election pursuant to s. 212.0598 shall not be entitled to the refund provided in s. 206.9855.

(c) This subsection shall expire and be void on July 1, 1989. The repeal shall not be construed to relieve any person from the obligation to remit the tax imposed by this subsection or to report as required under s. 206.9865.

(3) Any person who is licensed by the department as an aviation fuel dealer and who has an inventory of aviation fuel on which the tax provided in subsection (1) has been paid and upon which he has collected the tax imposed under subsection (2) may apply to the department for a refund of such taxes pursuant to s. 212.67.

(Renumber subsequent sections.)

Senator Woodson moved the following amendment which was adopted:

Amendment 2—On page 2, lines 4-31, and on page 3, lines 1-4, strike all of section 2 of the bill and renumber subsequent section

The Committee on Appropriations recommended the following amendment which was moved by Senator Woodson and adopted:

Amendment 3—In title, on page 1, line 2, after "fuels;" insert: amending section 206.9825, F.S.;

Senator Woodson moved the following amendment which was adopted:

Amendment 4—In title, on page 1, strike lines 6-8, and insert: commercial fishing purposes;

On motion by Senator Woodson, by two-thirds vote CS for SB 1100 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—1

Weinstock

Consideration of **CS for SB 1429** was deferred.

CS for SB 1068—A bill to be entitled An act relating to epilepsy; creating ss. 385.207, 385.208, F.S.; providing legislative intent; recognizing epilepsy as a developmental disability and a handicapping condition; providing for a comprehensive program of services for persons with epilepsy; establishing the Epilepsy Services Task Force and providing duties; amending s. 393.063, F.S.; removing epilepsy from the definition of developmental disability and providing a definition of "epilepsy"; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1—On page 5, strike all of lines 1-12 and renumber subsequent section.

Senator Woodson moved the following amendment which was adopted:

Amendment 2—On page 4, line 31, insert:

Section 4. Paragraph (b) of subsection (4), paragraph (a) of subsection (6), and subsection (8) of section 393.001, Florida Statutes, are amended, subsections (1) through (9) are renumbered as subsections (2) through (10), respectively, and a new subsection (1) is added to said section, to read:

393.001 Florida Developmental Disabilities Planning Council.—

(1) The Legislature finds that it is in the best interest of persons with developmental disabilities to be represented by advocacy groups who shall demonstrate knowledge and expertise in the areas of the disabilities and who shall protect the dignity and human rights of persons with developmental disabilities. It is the intent of the Legislature that the Florida Developmental Disabilities Planning Council advocate for all persons with developmental disabilities. To ensure effective, independent advocacy, to prevent conflict of interest, and to assure consistency with the provisions of 42 U.S.C. s. 6000 et seq., the Legislature directs that the Florida Developmental Disabilities Planning Council shall function independently of the unit of government in which it is housed.

(5)~~(4)~~ The council shall be composed of 27 members, at least one of whom must be 60 years of age or older, to be appointed by the Governor, who shall make appropriate provision for the rotation of membership on the council. The council at all times must include in its membership representatives of the principal state agencies, higher education training facilities, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities and one person who is not, and has never been, engaged in the business of providing training or other services to persons having developmental disabilities.

(b) Of the members of the council described in paragraph (a), at least one-third shall be individuals described in subparagraph (a)2.; and at least one of such individuals shall be an immediate relative or guardian of an institutionalized *or previously institutionalized* person with a developmental disability.

(7)~~(6)~~(a) The council is *designated as an independent council whose administrative operation may be performed by the council or by another agency as designated by the Governor. If the council is located in a state agency, that agency's operations shall have no conflict of interest with the stated mission of the council. Should the Governor designate an administering agency for the council, the council shall be housed therein, but it shall otherwise function independent of the control, supervision, and the direction of the administering agency. The council shall develop its legislative budget request which shall be submitted directly to the Governor.* ~~assigned to the office of the Secretary of Health and Rehabilitative Services for administrative purposes and fiscal accountability as specified in subsection (8), but it shall otherwise function independent of the control, supervision, and direction of the department.~~

(9)~~(8)~~ The Governor shall designate, by executive order, the administering agency or *the council* ~~agencies~~, as specified under 42 U.S.C. s. 6063, as amended, to receive and administer federal and state funds appropriated or received as provided for the developmental disabilities program established by this section and federal law. The administering agency *or the council* shall:

(a) Receive, deposit, and disburse funds for the developmental disabilities program in accordance with this section, applicable state and federal law, and the purposes and priorities established by the council in the state plan specified in this section.

(b) Provide fiscal control and fund accounting procedures necessary to assure the proper disbursement of, and accounting for, grant funds.

~~(c) In consultation with the council, establish a budget to provide for council staff and council activities as specified in this section.~~

(c)~~(d)~~ Negotiate a written work agreement with the council and the administering agency. The council and the administering agency shall review the work agreement annually.

Section 5. Section 393.065, Florida Statutes, is amended to read:

393.065 Intake.—

(1) Application for services shall be made in writing to the Department of Health and Rehabilitative Services, in the district in which the applicant resides. The department shall review each application for eligibility *within 45 days for children under 6 years of age and within 60 days for all other applicants.* ~~The department may screen eligible applicants to determine the need for prevention or other services.~~ When necessary to definitively identify client conditions or needs, the department *shall* ~~may~~ provide a diagnostic evaluation *for applicants*~~, subsequent to screening~~. Each applicant shall be determined to be in need of services through screening or the diagnostic evaluation process, prior to being accepted as a client. *Only individuals whose domicile is in Florida shall be eligible for services. Information accumulated by other agencies, including professional reports and collateral data, shall be considered in this process when available.*

(2) In order to provide immediate services or crisis intervention to applicants, the department shall arrange for emergency eligibility determination, with a full eligibility review to be accomplished within 45 days of the emergency eligibility determination.

(3) The department shall notify each applicant, in writing, of its eligibility decision. Any applicant determined by the department to be ineligible for developmental services shall have the right to appeal this decision pursuant to s. 120.57.

Section 6. Section 393.11, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 393.11, F.S., for present text.)

393.11 Involuntary admission to residential services.—

(1) JURISDICTION.—When a person is mentally retarded and requires involuntary admission to residential services provided by the developmental services program of the Department of Health and Rehabilitative Services, the circuit court of the county in which the person resides shall have jurisdiction to conduct a hearing and enter an order involuntarily admitting the person in order that the person may receive the care, treatment, habilitation, and rehabilitation which the person needs. For the purpose of identifying mental retardation, diagnostic capability shall be established in every program function of the department in the districts, including, but not limited to, programs provided by children, youth, and families, alcohol, drug abuse, and mental health, and economic services, and by the Division of Vocational Rehabilitation of the Department of Labor and Employment Security. Except as otherwise specified, the proceedings under this section shall be governed by the Florida Rules of Civil Procedure.

(2) PETITION.—

(a) A petition for involuntary admission to residential services may be executed by a petitioning commission.

(b) The petitioning commission shall consist of three persons. One of these persons shall be a physician licensed and practicing under chapter 458 or chapter 459.

(c) The petition shall be verified and shall:

1. State the name, age, and present address of the commissioners and their relationship to the person with mental retardation;

2. State the name, age, county of residence, and present address of the person with mental retardation;

3. Allege that the commission believes that the person needs involuntary residential services and specify the factual information on which such belief is based;

4. Allege that the person lacks sufficient capacity to give express and informed consent to a voluntary application for services and lacks the basic survival and self-care skills to provide for the person's well-being or is likely to physically injure others if allowed to remain at liberty; and

5. State which residential setting is the least restrictive and most appropriate alternative and specify the factual information on which such belief is based.

(d) The petition shall be filed in the circuit court of the county in which the person with mental retardation resides.

(3) NOTICE.—

(a) Notice of the filing of the petition shall be given to the individual and his parent or parents. The notice shall be given, both verbally and in writing, in the language of the client, or in other modes of communication of the client, and in English. Notice shall also be given to such other persons as the court may direct. The petition for involuntary admission to residential services shall be served with the notice.

(b) The notice shall state that a hearing shall be set to inquire into the need of the person with mental retardation for involuntary residential services. The notice shall also state the date of the hearing on the petition.

(c) The notice shall state that the individual with mental retardation has the right to be represented by counsel of his own choice and that, if the person cannot afford an attorney, the court shall appoint one.

(4) DIAGNOSIS AND EVALUATION TEAM.—

(a) Upon receiving the petition, the court shall immediately appoint a diagnosis and evaluation team of the department to examine the person being considered for involuntary admission to residential services.

(b) After the diagnosis and evaluation team examines the person, the team shall file a written report with the court not less than 10 working days before the date of the hearing. The report shall be served on the petitioner, the person with mental retardation, and the person's attorney at the time the report is filed with the court.

(c) The report shall contain the findings of the team's evaluation and any recommendations the team deems appropriate.

(5) EXAMINING COMMITTEE.—

(a) Upon receiving the petition, the court shall immediately appoint an examining committee to examine the person being considered for involuntary admission to residential services of the developmental services program of the department.

(b) The court shall appoint no fewer than three disinterested experts who have demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons with mental retardation. The committee shall include at least one licensed and qualified physician, one licensed and qualified psychologist, and one qualified professional with a minimum of a masters degree in social work, special education, or vocational rehabilitation counseling, to examine the person and to testify at the hearing on the involuntary admission to residential services.

(c) Counsel for the person who is being considered for involuntary admission to residential services and counsel for the petition commission shall have the right to challenge the qualifications of those appointed to the examining committee.

(d) Members of the committee shall not be employees of the department or be associated with each other in practice or in employer-employee relationships. Members of the committee shall not have served as members of the petitioning commission. Members of the committee shall not be employees of the members of the petitioning commission or be associated in practice with members of the commission.

(e) The committee shall prepare a written report for the court. The report shall explicitly document the extent that the person meets the criteria for involuntary admission. The report, and expert testimony, shall include, but not be limited to:

1. The degree of the person's mental retardation;

2. Whether, because of the person's degree of mental retardation, the person:

a. Lacks sufficient capacity to give express and informed consent to a voluntary application for services pursuant to s. 393.065;

b. Lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary and if not provided would result in a real and present threat of substantial harm to the person's well-being; or

c. Is likely to physically injure others if allowed to remain at liberty.

3. The purpose to be served by residential care;

4. A recommendation on the type of residential placement which would be the most appropriate and least restrictive for the person; and

5. The appropriate care, habilitation, and treatment.

(f) The committee shall file the report with the court not less than 10 working days before the date of the hearing. The report shall be served on the petitioner, the person with mental retardation, and the person's attorney at the time the report is filed with the court.

(g) Members of the examining committee shall receive a reasonable fee to be determined by the court. The fees are to be paid from the general revenue fund of the county in which the person with mental retardation resided when the petition was filed.

(h) The department shall develop and prescribe by rule one or more standard forms to be used as a guide for members of the examining committee.

(6) COUNSEL; GUARDIAN AD LITEM.—

(a) The person with mental retardation shall be represented by counsel at all stages of the judicial proceeding. In the event the person is indigent and cannot afford counsel, the court shall appoint a public defender not less than 20 working days before the scheduled hearing. The person's counsel shall have full access to the records of the service provider and the department. In all cases, the attorney shall represent the rights and legal interests of the person with mental retardation, regardless of who may initiate the proceedings or pay the attorney's fee.

(b) If the attorney, during the course of his representation, reasonably believes that the person with mental retardation cannot adequately act in his own interest, the attorney may seek the appointment of a guardian ad litem. A prior finding of incompetency is not required before a guardian ad litem is appointed pursuant to this section.

(7) HEARING.—

(a) The hearing for involuntary admission shall be conducted, and the order shall be entered, in the county in which the person is residing or be as convenient to the person as may be consistent with orderly procedure. The hearing shall be conducted in a physical setting not likely to be injurious to the person's condition.

(b) A hearing on the petition shall be held as soon as practicable after the petition is filed, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted.

(c) The court may appoint a master to preside. Except as otherwise specified, the master's proceeding shall be governed by Rule 1.490, Florida Rules of Civil Procedure.

(d) The person with mental retardation shall be physically present throughout the entire proceeding. If the person's attorney believes that the person's presence at the hearing is not in the person's best interest, the person's presence may be waived once the court has seen the person and the hearing has commenced.

(e) The person shall have the right to present evidence and to cross-examine all witnesses and other evidence alleging the appropriateness of the person's admission to residential care. Other relevant and material evidence regarding the appropriateness of the person's admission to residential services, the most appropriate, least restrictive residential placement, and the appropriate care, treatment, and habilitation of the person, including written or oral reports, may be introduced at the hearing by any interested person.

(f) The petitioning commission may be represented by counsel at the hearing. The petitioning commission shall have the right to call witnesses, present evidence, cross-examine witnesses, and present argument on behalf of the petitioning commission.

(g) All evidence shall be presented according to chapter 90. The burden of proof shall be on the party alleging the appropriateness of the person's admission to residential services. The burden of proof shall be by clear and convincing evidence.

(h) All stages of each proceeding shall be stenographically reported.

(8) ORDER.—

(a) In all cases, the court shall issue written findings of fact and conclusions of law to support its decision. The order shall state the basis for such findings of fact.

(b) An order of involuntary admission to residential services shall not be entered unless the court finds that:

1. The person is mentally retarded;

2. Placement in a residential setting is the least restrictive and most appropriate alternative to meet the person's needs; and

3. Because of the person's degree of mental retardation the person:

a. Lacks sufficient capacity to give express and informed consent to a voluntary application for services pursuant to s. 393.065;

b. Lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary and, if not provided, would result in a real and present threat of substantial harm to the person's well-being; or

c. Is likely to physically injure others if allowed to remain at liberty.

(c) If the evidence presented to the court is not sufficient to warrant involuntary admission to residential services, but the court feels that residential services would be beneficial, the court may recommend that the person seek voluntary admission.

(d) If an order of involuntary admission to residential services provided by the developmental services program of the department is entered by the court, a copy of the written order shall be served upon the person, the person's counsel, and the department. The order of involuntary admission sent to the department shall also be accompanied by a copy of the examining committee's report and other reports contained in the court file.

(e) Upon receiving the order, the department shall, within 45 days, provide the court with a copy of the person's habilitation plan and copies of all examinations and evaluations, outlining the treatment and rehabilitative programs. The department shall document that the person has been placed in the most appropriate, least restrictive and cost-beneficial

residential facility. A copy of the habilitation plan, and other examinations and evaluations, shall be served upon the person and the person's counsel at the same time the documents are filed with the court.

(9) EFFECT OF THE ORDER OF INVOLUNTARY ADMISSION TO RESIDENTIAL SERVICES.—

(a) In no case shall an order authorizing an admission to residential care be considered an adjudication of mental incompetency. No person shall be presumed incompetent solely by reason of the person's involuntary admission to residential services. No person shall be denied the full exercise of all legal rights guaranteed to citizens of this state and of the United States.

(b) Any minor involuntarily admitted to residential services shall, upon reaching majority, be given a hearing to determine the continued appropriateness of his involuntary admission.

(10) COMPETENCY.—

(a) The issue of competency shall be separate and distinct from a determination of the appropriateness of involuntary admission to residential services for a condition of mental retardation.

(b) The issue of competency of a person with mental retardation shall be determined in a separate proceeding according to the procedures and requirements of chapter 744 and the Florida Probate and Guardianship Rules.

(11) CONTINUING JURISDICTION.—The court which issues the initial order for involuntary admission to residential services under this section shall have continuing jurisdiction to enter further orders to ensure that the person is receiving adequate care, treatment, habilitation, and rehabilitation.

(12) APPEAL.—

(a) Any party to the proceeding who is affected by an order of the court may appeal to the appropriate district court of appeal within the time and in the manner prescribed by the Florida Rules of Appellate Procedure.

(b) The filing of an appeal by the person with mental retardation shall stay admission of the person into residential care. The stay shall remain in effect during the pendency of all review proceedings in Florida courts until a mandate issues.

(13) HABEAS CORPUS.—At any time, and without notice, any person involuntarily admitted to the developmental services program of the department, or his parent or legal guardian in his behalf, is entitled to a writ of habeas corpus to question the cause, legality, and appropriateness of the person's involuntary admission. Each person, or his parent or legal guardian, shall receive specific written notice of the right to petition for a writ of habeas corpus at the time of his involuntary placement.

Section 7. Subsection (1) of section 393.115, Florida Statutes, is amended to read:

393.115 Discharge.—

(1) DISCHARGE AT THE AGE OF MAJORITY.—

(a) When any residential client reaches his 18th birthday, the department shall give the resident or legal guardian the option to continue residential services or to be discharged from residential services.

(b) If the resident appears to meet the criteria for involuntary admission to residential services, as defined in s. 393.11, the department shall file a petition to determine the appropriateness of continued residential placement on an involuntary basis. The department shall file the petition for involuntary admission in the county in which the client resides. If the resident was originally involuntarily admitted to residential services pursuant to s. 393.11, then the department shall file the petition in the court having continuing jurisdiction over the case.

~~(1) DISCHARGE AFTER ADMISSION TO RESIDENTIAL CARE.—~~

~~(a) If, at any time after any person has been admitted to residential care for the retarded provided by the Department of Health and Rehabilitative Services, the resident, his parent or legal guardian, if the resident is not competent, or the department is of the opinion that the resident's admission is no longer appropriate, the department shall, upon request, immediately proceed for a hearing to determine the appropriateness of continued residential care for the resident.~~

~~(b) If the department determines that the resident's continued admission to residential care is not essential or that the resident is not dangerous to himself or others, as documented in the resident's written habilitation plan, the resident shall be immediately discharged by the department. If the department determines that the resident's continued admission is essential or that the resident is dangerous to himself or others, as documented in the resident's written habilitation plan, he shall remain admitted to residential care provided by the department.~~

(c) Nothing in this section shall in any way limit or restrict the resident's right to a writ of habeas corpus or the right of the department to transfer a resident receiving residential care to a program of appropriate services provided by the department when such is the appropriate habilitative setting for the resident.

Section 8. Section 393.12, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 393.12, F.S., for present text.)

393.12 Competency; appointment of guardian advocate or guardian of the person or property.—

(1) COMPETENCY.—

(a) The issue of competency shall be separate and distinct from a determination of the appropriateness of admission to nonresidential services or residential care for a condition of developmental disabilities. No person shall be presumed incompetent solely by reason of his acceptance in nonresidential services or admission to residential care; nor shall any such person be denied the full exercise of all legal rights guaranteed to citizens of this state and of the United States.

(b) The issue of competency of a person with developmental disabilities shall be determined in a separate proceeding according to the procedures and requirements of chapter 744 and the Florida Probate and Guardianship Rules.

(2) APPOINTMENT OF A GUARDIAN ADVOCATE.—

(a) Conditions.—A probate court may appoint a guardian advocate, without an adjudication of incompetency, for a person with developmental disabilities, if the person, though competent, lacks the capacity to do some, but not all, of the tasks necessary to care for their person, property, or estate or if the person has voluntarily petitioned for the appointment of a guardian advocate. Except as otherwise specified, the proceeding shall be governed by the Rules of Civil Procedure.

(b) Petition.—A petition to appoint a guardian advocate may be executed by an adult person who is a resident of this state. The petition shall be verified and shall:

1. State the name, age, and present address of the petitioner and his relationship to the person with developmental disabilities;

2. State the name, age, county of residence, and present address of the person with developmental disabilities;

3. Allege that the petitioner believes that the person needs a guardian advocate and specify the factual information on which such belief is based;

4. Specify the exact areas in which the person lacks the capacity to make informed decisions about his care and treatment services or to meet the essential requirements for his physical health or safety;

5. Specify the legal disabilities to which the person is subject; and

6. State the name of the proposed guardian advocate, the relationship of that person to the person with developmental disabilities, and the reason why this person should be appointed. If a willing and qualified guardian advocate cannot be located, the petition shall so state.

(c) Notice.—

1. Notice of the filing of the petition shall be given to the individual and his parent or parents. The notice shall be given, both verbally and in writing, in the language of the person and in English. Notice shall also be given to such other persons as the court may direct. The petition to appoint a guardian advocate shall be served with the notice.

2. The notice shall state that a hearing shall be set to inquire into the capacity of the person with developmental disabilities to exercise the rights enumerated in the petition. The notice shall also state the date of the hearing on the petition.

3. The notice shall state that the individual with developmental disabilities has the right to be represented by counsel of his own choice and that, if the individual cannot afford an attorney, the court shall appoint one.

(d) Counsel.—

1. Every person with developmental disabilities who is the subject of a petition to appoint a guardian advocate shall be represented by counsel.

2. Every person with developmental disabilities has the right to be represented by counsel of his own choice. If the person cannot afford an attorney, the court shall appoint one to represent the person. The court shall appoint counsel if no appearance has been filed within 10 working days of the hearing.

(e) Hearing.—

1. Upon the filing of the petition to appoint a guardian advocate, the court shall set a date upon which the petition shall be heard. A hearing on the petition shall be held as soon as practicable after the petition is filed, but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted.

2. The hearing shall be conducted at the time and place specified in the notice of hearing. The hearing shall be conducted in a manner consistent with due process.

3. The individual has the right to be present at the hearing and shall be present unless good cause to exclude the individual can be shown. The individual has the right to remain silent, to present evidence, to call and cross-examine witnesses, and to have the hearing open or closed, as the person may choose.

4. At the hearing, the court shall receive and consider all reports relevant to the person's disabilities, including, but not limited to, the current individual habilitation plan, the individual education plan, and other professional reports documenting the condition and needs of the individual.

5. The Code of Evidence, chapter 90, shall apply at the hearing. The burden of proof shall be by clear and convincing evidence.

(f) Order determining the appointment of a guardian advocate.—If the court finds the person with developmental disabilities requires the appointment of a guardian advocate, the court shall enter a written order determining the need for a guardian advocate. The written order shall contain the findings of facts and conclusions of law on which the court made its decision. The court shall make the following findings:

1. The nature and scope of the person's incapacity;

2. The exact areas in which the individual lacks capacity to make informed decisions about care and treatment services or to meet the essential requirements for their physical health and safety;

3. The specific legal disabilities to which the person with developmental disabilities is subject; and

4. The powers and duties of the guardian advocate, including bonding of the guardian advocate, as governed by s. 744.351.

(g) Legal rights.—A person with developmental disabilities for whom a guardian advocate has been appointed retains all legal rights except those which have been specifically granted to the guardian advocate.

(h) Powers and duties of guardian advocate.—A guardian advocate shall be any person or corporation qualified to act as guardian, with the same powers, duties, and responsibilities required of a guardian pursuant to chapter 744 or those defined by court order pursuant to this section.

(3) COURT COSTS.—In all proceedings under this section, no court costs shall be charged against the department.

Section 9. Subsections (1), (2), and (5) of section 393.122, Florida Statutes, are amended to read:

393.122 Applications for continued residential services.—

~~(1) Before October 1, 1977, the Department of Health and Rehabilitative Services shall notify each client who will be 18 years of age or older before January 1, 1978, who is presently receiving residential services from the department, and who has not been adjudicated incompetent, and the parents or next of kin of each such client, that the client will be discharged unless application for continuation of residential services is made by January 1, 1978.~~

~~(2) At least 90 days prior to the date that a client who is receiving residential services from the department and who has not been adjudicated incompetent reaches 18 years of age, the department shall notify the client and his parents or next of kin that the client will be discharged upon reaching 18 years of age unless application for continuation of residential services is made by that time.~~

~~(5) Development of nonretarded developmental disability programs shall not effectuate a reduction or dilution of the ongoing financial commitment of the state through appropriations for mental retardation programs and services.~~

Section 10. Section 393.22, Florida Statutes, is created to read:

393.22 Transfer of appropriations; barriers to services; financial commitment to programs.—

(1) No funds appropriated for developmental services programs shall be transferred pursuant to s. 216.292, unless there is a finding by the secretary that treatment programs for developmental disabilities will not be adversely affected by the transfer.

(2) The department shall review and identify programs which have barriers to services for clients based on categorical disabilities. The department shall develop a plan for eliminating any barriers to appropriate services, including a fiscal impact statement, for presentation to the Legislature by March 1, 1989.

(3) Development of programs for other disabilities shall not effectuate a reduction or dilution of the ongoing financial commitment of the state through appropriations for programs and services for persons with mental retardation, cerebral palsy, autism, or spina bifida.

Section 11. Section 393.501, Florida Statutes, is created to read:

393.501 Rulemaking.—

(1) The department shall adopt rules to carry out the provisions of this chapter.

(2) Such rules shall address the number of facilities on a single parcel or adjacent parcels of land, and in addition, for ICF/MR, the rate and location of facility development and level of care.

(3) Existing policies and procedures which affect clients or applicants, and their families, must be adopted by January 1, 1992.

(Renumber subsequent sections.)

Senator Myers moved the following amendments which were adopted:

Amendment 3—On page 4, line 31, insert:

Section 4. Subsection (3) of section 410.402, Florida Statutes, is amended to read:

410.402 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(3) Pursuant to s. 287.057, the Department of Health and Rehabilitative Services shall contract for the provision of respite care. *All funds appropriated for the provision of respite care shall be distributed annually by the Department of Health and Rehabilitative Services to selected districts according to an allocation formula. In developing the formula, the department shall consider the number and proportion of the district population of persons 75 years of age and older, the number and proportion of the district population of couples 75 years of age and older, and the number and proportion of the district households in which at least one member is 75 years of age and older.* Each respite care program shall be used as a resource for research and statistical data by the state's three medical schools and/or teaching hospitals. In consultation with the medical schools and teaching hospitals, the department shall specify the information to be provided by the respite care programs for research purposes.

(Renumber subsequent sections.)

Amendment 4—On page 4, line 31, insert:

Section 4. Paragraph (a) of subsection (4) of section 20.19, Florida Statutes, is amended to read:

20.19 Department of Health and Rehabilitative Services.—There is created a Department of Health and Rehabilitative Services.

(4) ASSISTANT SECRETARIES.—The secretary shall appoint an Assistant Secretary for Programs and an Assistant Secretary for Administration, each of whom shall serve at the pleasure of, and be directly responsible to, the secretary. The secretary shall appoint a Deputy Assistant Secretary for Programs, a Deputy Assistant Secretary for Regulation and Health Facilities, a Deputy Assistant Secretary for Medicaid, and a Deputy Assistant Secretary for Health, each of whom shall serve at the pleasure of the secretary and shall be directly responsible to the Assistant Secretary for Programs.

(a) The Assistant Secretary for Programs shall have responsibility for general statewide supervision of the administration of service programs operated by the department and such other program development and planning duties as are assigned to him by the secretary. "General statewide supervision of the administration of service programs" means service program development and planning; program research; identifying client needs and recommending solutions and priorities; developing client service programs, including the policies and standards therefor; providing technical assistance to the district administrators; assisting the district administrators in staff development and training; reviewing and monitoring district-level program operations; assuring compliance with statewide program standards and performance criteria; monitoring uniform program quality among districts; developing funding sources external to state government; and obtaining, approving, monitoring, and coordinating research and program development grants; but does not involve line authority over any health or human services program operation of the department, including the management of institutions and residential treatment programs.

1. Program offices shall operate in a staff capacity to the Assistant Secretary for Programs. Each program office shall be headed by a program staff director who shall be appointed by, and serve at the pleasure of, the secretary and be directly responsible to the Assistant Secretary for Programs. The Assistant Secretary for Programs shall delegate to the program offices the following responsibilities, which shall include, but are not limited to:

a. Identification of client needs.

b. Intraprogram policy development.

c. Short-term and long-term intraprogram planning.

d. Intraprogram standards setting, monitoring, and quality control.

e. Intraprogram staff development, training, and technical assistance programs.

f. Advising the Assistant Secretary for Programs and others within the department, upon request, on issues within their areas of substantive expertise.

g. Acting as liaison, when assigned by the Assistant Secretary for Programs, to other governmental agencies and the public on programmatic issues.

h. Developing state program plans.

i. Developing resource forecasts and working within the state on community resource development.

j. Quality control.

k. General statewide supervision of the administration of service programs.

l. Any other program planning and development duties assigned by the secretary.

2. The following program offices are established and may be consolidated, restructured, or rearranged by the secretary; provided any such consolidation, restructuring, or rearranging shall be for the purpose of encouraging service integration through more effective and efficient performance of the program offices or parts thereof:

a. Children's Medical Services Program Office.—The responsibilities of this office encompass all children's medical services programs operated by the department.

b. Economic Services Program Office.—The responsibilities of this office encompass all income support programs within the department, such as aid to families with dependent children (AFDC), food stamps, and state supplementation of the supplemental security income (SSI) program.

c. Developmental Services Program Office.—The responsibilities of this office encompass programs operated by the department for developmentally disabled persons. Developmental disabilities include any disability defined in s. 393.063.

d. Aging and Adult Services Program Office.—The responsibilities of this office encompass all aging and adult programs operated by the department.

e. Children, Youth, and Families Program Office.—The responsibilities of this program office encompass intake services for dependent and delinquent children; children's protective services; adoption; child care; foster care programs; specialized services to families; *and* all programs operated by the department relating to delinquent children~~; and related mental health services for children and youth in coordination with the Alcohol, Drug Abuse, and Mental Health Program Office~~.

f. Alcohol, Drug Abuse, and Mental Health Program Office.—The responsibilities of this office encompass all alcohol, drug abuse, and mental health programs operated by the department ~~except those programs for children and youth which shall be handled in coordination with the Children, Youth, and Families Program Office~~. In addition, the responsibility for adult forensic programs *and children's mental health* shall be located within this office. *The Alcohol, Drug Abuse, and Mental Health Program Office shall establish a system to annually measure and report client outcome and program effectiveness for children's mental health programs.*

3.a. The secretary may appoint only one advisory council for the purpose of acting as the advisory body to each respective program office in the performance of functions assigned to program offices in subparagraph 1. Not fewer than 8 members or more than 14 members may be appointed to each program office advisory council. Representation on each program office advisory council shall include persons with expertise in each of the major service responsibilities of the respective program office; at least one consumer representative who shall be a client of *the respective program office, or a parent, guardian or spouse of* ~~, or parent, guardian, or spouse of,~~ a client of the respective program office; and, to the extent possible, representation from the various geographic areas of the state. *In the case of the Alcohol, Drug Abuse and Mental Health Program Office Advisory Council, representation shall include at least a client and one family member of a client.* Representatives of provider groups whose principal source of support is funds from the department shall not comprise more than 25 percent of any council advisory to the Department of Health and Rehabilitative Services. Unless otherwise required by law or federal regulation, in no case shall an employee of the Department of Health and Rehabilitative Services serve as a member of any council advisory to the Department of Health and Rehabilitative Services. Whenever feasible, priority shall be given to the appointment of district advisory council members to program office advisory councils. Initially, the secretary shall appoint one-half of the members for terms of 2 years each, and one-half of the members for terms of 1 year each. Thereafter, members shall be appointed for 2-year terms. Vacancies shall be filled for the remainder of unexpired terms in the same manner as the original appointments. A member may be reappointed to only one subsequent term.

b. Each program office advisory council shall meet no more frequently than quarterly. Minutes shall be recorded for all meetings of such councils and shall be kept on file in the respective program office.

c. Members and their attendants, or interpreters for the deaf or handicapped when necessary, shall receive no compensation but shall be reimbursed for per diem and travel expenses in accordance with the provisions of s. 112.061.

d. The department shall make a separate and distinct request for an appropriation for such expenses for each advisory council. Such requests may be combined into a specific appropriation for advisory council expenses or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts. If a legislative appropriation for such expenses is made, the department shall reimburse expenses for individual advisory councils in strict accordance with the appropriations and intent of the Legislature. The provisions of s. 216.292 notwithstanding, no transfer of appropriations shall be made which increases the appropriation made by the Legislature for advisory council expenses; and the department is prohibited from using any other appropriation for supporting the activities of groups advisory to program offices.

e. The Department of Health and Rehabilitative Services shall adopt rules to implement this act, which rules shall serve as formal operating procedures for each program office advisory council.

4. Individual program office advisory councils as described in subparagraph 3. shall be the only councils advisory to the Department of Health and Rehabilitative Services unless other such advisory councils to the department are established by law; except that advisory committees as defined in s. 20.03(8), or any advisory bodies not specifically created by law, may be established and receive funds for a period not to exceed 1 year if the department has provided the following information to the Speaker of the House of Representatives, the President of the Senate, and the Comptroller:

a. The date of creation of the advisory body.

b. The purpose of the advisory body and the program office to which it is to furnish advice.

c. The termination date of the advisory body.

d. The estimated frequency of meetings and estimated costs associated with the advisory body.

5. All program offices within the Department of Health and Rehabilitative Services which serve children and youth shall work together to identify the needs of children in the state; to establish priorities and goals in meeting these needs; and to participate in interprogram standards setting, monitoring, and quality control. As a result of such cooperative planning, the Department of Health and Rehabilitative Services shall establish an annual plan for financial management and services delivery and integration designed to meet the comprehensive needs of the children and youth served by the department. The plan shall become the document used by all department staff in planning, budgeting, implementing, monitoring, and evaluating all service delivery for children and youth. All other documents developed at any level within the department relating to services for children and youth shall be consistent with this plan. In addition, a 5-year state plan shall be developed to be submitted with the annual plan to the Governor and the Legislature by January 1, 1981. The plan shall be reviewed annually and updated at least once every 5 years.

6. The responsibilities of the Deputy Assistant Secretary for Regulation and Health Facilities shall include, but are not limited to, certificate-of-need determinations, Hill-Burton programs and licensure and certification of programs external to the department for which the department has a major regulatory responsibility, as well as those functions authorized by law in conformance with Pub. L. No. 93-641. The assistant secretary may assign or delegate other responsibilities of this office in keeping with the intent of this act. The functions of this office relating to Pub. L. No. 93-641 shall not be decentralized to the districts.

7. The responsibilities of the Deputy Assistant Secretary for Medicaid shall encompass all Medicaid planning and development functions, including, but not limited to, policy and program development, program monitoring, provider relations, interprogram planning, and program surveillance and utilization review. In addition, the secretary shall appoint a Medicaid Advisory Council in accordance with the provisions of federal regulations relating to Medicaid and with those provisions relating to program office advisory councils which are not in conflict with the regulations.

8.a. The Deputy Assistant Secretary for Health shall be the State Health Officer. The State Health Officer shall be a physician licensed under chapter 458 or chapter 459, shall have a master's degree in public health, and shall be responsible for all health programs operated by the department. The State Health Officer shall provide medical supervision to the employees of all county public health units established pursuant to part I of chapter 154, and shall coordinate all health activities under the Assistant Secretary for Programs and the Deputy Secretary for Operations. "Medical supervision" means medical advice, consultation, and direction given to county public health unit employees during the management of a public health emergency. The term does not include supervision or line authority in the performance of routine public health duties.

b. The secretary shall appoint an Assistant Health Officer for Public Health and Primary Care, an Assistant Health Officer for Disease Control, and an Assistant Health Officer for Interprogram Development and Technical Assistance, each of whom shall serve at the pleasure of the secretary and be directly responsible to the Deputy Assistant Secretary for Health.

c. The secretary may appoint an advisory council for public health and primary care.

Section 5. Paragraph (a) of subsection (12) of section 394.459, Florida Statutes, is amended, and paragraph (e) is added to said subsection, to read:

394.459 Rights of patients.—

(12) DESIGNATION OF REPRESENTATIVES; NOTICE OF ADMISSION.—

(a) At the time a patient is admitted to a facility *for an involuntary examination or treatment, or when a petition for involuntary placement is filed with respect to a patient who has been voluntarily admitted to a facility*, the names and addresses of two representatives or one guardian shall be entered in the patient's clinical record.

1. A treatment facility shall give written notice of *such* ~~the~~ patient's admission *or petition filing* to his guardian or representatives.

2. A receiving facility shall give notice of admission to the patient's guardian or representatives by telephone or in person within 24 hours.

(e) At the time a patient is voluntarily admitted to a facility, the identity and contact information of a person to be notified in case of emergency shall be entered in the patient's clinicial record. No notice of a voluntary patient's admission shall be given to any person except in case of emergency as determined by the facility.

Section 6. Paragraph (b) of subsection (1) of section 394.715, Florida Statutes, is amended to read:

394.715 District alcohol, durg abuse, and mental health planning councils.—

(1)

(b) Each council shall consist of a maximum of 20 members representing the service areas within the service district and shall meet at least quarterly for the purposes of assessing alcohol, drug abuse, and mental health needs in the community; reviewing the development of the alcohol, drug abuse, and mental health plan and budget; and approving the final plan. *One of the duly appointed members of the council shall be appointed by the district administrator to also serve as a member of any committee organized or established by the district to review placement of children and adolescents in residential treatment programs.*

Section 7. Subsection (2) of section 394.75, Florida Statutes, is amended, and subsections (6) and (10) are added to said section, to read:

394.75 District alcohol, drug abuse, and mental health plans.—

(2) The plan shall:

(a) Provide a projection of district program and fiscal needs for the next biennium, provide for the orderly and economical development of needed services, and indicate priorities and anticipated expenditures and revenues.

(b) Include a summary budget request for the total district alcohol, drug abuse, and mental health program, which shall include the funding priorities established by the district planning process.

(c)~~(b)~~ Provide a basis for the district legislative budget request.

(d)~~(c)~~ Include a policy and procedure for allocation of funds.

(e)~~(d)~~ Include a procedure for securing local matching funds. Such a procedure shall be developed in consultation with governing bodies and service providers.

(f)~~(e)~~ Provide for the integration of alcohol, drug abuse, and mental health services with the other departmental programs and with the criminal justice system within the district.

(g)~~(f)~~ Provide a plan for the coordination of services in such manner as to ensure effectiveness and avoid duplication, fragmentation of services, and unnecessary expenditures.

(h)~~(g)~~ Provide for continuity of client care between state treatment facilities and community programs.

(i)~~(h)~~ Provide for the most appropriate and economical use of all existing public and private agencies and personnel.

(j)~~(i)~~ Provide for the fullest possible and most appropriate participation by existing programs; state hospitals and other hospitals; city, county, and state health and family service agencies; drug abuse and alcoholism programs; probation departments; physicians; psychologists; social workers; public health nurses; school systems; and all other public and private agencies and personnel which are required to, or may agree to, participate in the plan.

(k)~~(j)~~ Include an inventory of all public and private alcohol, drug abuse, and mental health resources within the district, *including consumer advocacy groups registered with the department.*

(6) The planning council shall establish a subcommittee to prepare the portion of the district plan relating to children and adolescents. The subcommittee shall include representative membership of any committee organized or established by the district to review placement of children and adolescents in residential treatment programs.

(10) The district administrator shall report annually to the district planning council the status of funding for priorities established in the district plan. Each such report must include:

(a) A description of the district plan priorities that were included in the district legislative budget request;

(b) A description of the district plan priorities that were included in the departmental budget request prepared pursuant to s. 20.19(10);

(c) A description of the programs and services included in the district plan priorities that were appropriated funds by the Legislature in the legislative session that preceded the report.

Section 8. Subsection (3) of section 394.76, Florida Statutes, is amended, subsections (7) and (10) are renumbered and amended, subsections (4), (5), (6), (8), and (9) are renumbered as subsections (5), (6), (7), (9), and (10) respectively, and a new subsection (4) is added to said section, to read:

394.76 Financing of district programs and services.—

(3) The state share of financial participation shall be determined by the following formula:

(a) The state share of approved program costs shall be a percentage of the net balance determined by deducting from the total operating cost of services and programs, as specified in s. 394.675(1), those expenditures which are ineligible for state participation as provided in subsection *(7)* ~~(6)~~ and those ineligible expenditures established by rule of the department pursuant to s. 394.78.

(b) Residential and case management services which are funded as part of a deinstitutionalization project shall not require local matching funds and shall not be used as local matching funds. The state and federal financial participation portions of Medicaid earnings pursuant to Title XIX of the Social Security Act, except for the amount of general revenue equal to the amount appropriated in 1985-1986 plus all other general revenue that is shifted from any other alcohol, drug abuse, and mental health appropriation category after fiscal year 1986-1987, shall not require local matching funds and shall not be used as local matching funds. *Local matching funds are not required for general revenue transferred by the department into alcohol, drug abuse, and mental health appropriations categories during a fiscal year to match federal funds earned from Medicaid services provided for mental health clients in excess of the amounts initially appropriated. Funds for children's services which were provided through the Children, Youth and Families Services budget which did not require local match prior to being transferred to the Alcohol, Drug Abuse and Mental Health Services budget shall be exempt from local matching requirements.* All other contracted community alcohol and mental health services and programs, except as identified in s. 394.457(3), shall require local participation on a 75-to-25 state-to-local ratio.

(c) The expenditure of 100 percent of all third-party payments and fees shall be considered as eligible for state financial participation if such expenditures are in accordance with subsection *(7)* ~~(6)~~ and the approved district plan.

(d) Fees generated by residential and case management services which are funded as part of a deinstitutionalization program and do not require local matching funds shall be used to support program costs approved in the district plan.

(e) Any earnings pursuant to Title XIX of the Social Security Act in excess of the amount appropriated shall be used to support program costs approved in the district plan.

(4) Notwithstanding the provisions of subsection (3), the department is authorized to develop and demonstrate alternative financing systems for alcohol, drug abuse, and mental health services. Proposals for demonstration projects conducted pursuant to this subsection shall be reviewed by the substantive and appropriations committees of the Senate and the House of Representatives prior to implementation of the projects.

(8)~~(7)~~ Expenditures for capital improvements relating to construction of, addition to, purchase of, or renovation of a community alcohol, drug abuse, or mental health facility may be made by the state, provided such expenditures or capital improvements are part and parcel of an approved district plan. Nothing shall prohibit the use of such expenditures for the construction of, addition to, renovation of, or purchase of facilities owned by a county, city, or other governmental agency of the state or a nonprofit entity. Such expenditures are subject to the provisions of subsection *(6)*~~(5)~~.

(11)~~(10) Beginning in fiscal year 1984-1985,~~ No additional local matching funds shall be required solely due to the addition in the General Appropriations Act of alcohol, drug abuse, and mental health block grant funds for local community mental health centers, drug abuse programs, and alcohol project grants.

Section 9. Section 394.79, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 394.79, F.S., for present text.)

394.79 State alcohol, drug abuse, and mental health plan.—

(1) The department shall prepare a biennial plan for the delivery and financing of a system of alcohol, drug abuse, and mental health services. The plan shall include:

(a) The current and projected need for alcohol, drug abuse, and mental health services, displayed statewide and by district, and the extent to which the need is being addressed by existing services.

(b) A proposal for the development of a data system that will evaluate the effectiveness of programs and services provided to clients of the alcohol, drug abuse, and mental health service system.

(c) A proposal to resolve the funding discrepancies between districts.

(d) A methodology for the allocation of resources available from federal, state, and local sources and a description of the current level of funding available from each source.

(e) A description of the statewide priorities for clients and services and each district's priorities for clients and services.

(f) Recommendations for methods of enhancing local participation in the planning, organization, and financing of alcohol, drug abuse, and mental health services.

(g) A description of the current methods of contracting for services, an assessment of the efficiency of these methods in providing accountability for contracted funds, and recommendations for improvements to the system of contracting.

(h) Recommendations for improving access to services by clients and their families.

(i) Guidelines and formats for the development of district plans.

(j) Recommendations for future directions for the alcohol, drug abuse, and mental health service delivery system.

(2) The department shall prepare the state plan in consultation with district administrators, state treatment facility administrators, and district planning councils.

(3) A copy of the state plan shall be submitted to the Legislature and each district planning council. A summary budget request and a summary statement of priorities from each service district shall be attached to the plan.

Section 10. *The department shall submit the plan as specified in s. 394.79, Florida Statutes, for the biennium 1989-1991 to the Legislature by December 1, 1988.*

Section 11. Section 394.907, Florida Statutes, is created to read:

394.907 Community mental health centers; quality assurance programs.—

(1) As used in this section, "community mental health center" means a publicly funded, not-for-profit center which contracts with the department for the provision of inpatient, outpatient, day treatment, or emergency services.

(2) Effective April 1, 1989, any community mental health center and any facility licensed pursuant to s. 394.875 shall have an ongoing quality assurance program. The purpose of the quality assurance program shall be to objectively and systematically monitor and evaluate the appropriateness and quality of client care, to ensure that services are rendered consistent with reasonable, prevailing professional standards and to resolve identified problems.

(3) Each facility shall develop a written plan which addresses the minimum guidelines for the quality assurance program. Such guidelines shall include, but are not limited to:

(a) Standards for the provision of client care and treatment practices;

(b) Procedures for the maintenance of client records;

(c) Policies and procedures for staff development;

(d) Standards for facility safety and maintenance;

(e) Procedures for peer review and resource utilization;

(f) Policies and procedures for adverse incident reporting to include verification of corrective action to remediate or minimize incidents and for reporting such incidents to the department by a timeframe as prescribed by rule.

Such plan shall be submitted to the governing board for approval and a copy provided to the department.

(4) The quality assurance program shall be directly responsible to the executive director of the facility and shall be subject to review by the governing board of the agency.

(5) Each facility shall designate a quality assurance manager who is an employee of the agency or under contract with the agency.

(6) Incident reporting shall be the affirmative duty of all staff. Any person filing an incident report shall not be subject to any civil action by virtue of such incident report.

(7) The department shall have access to all records necessary to determine agency compliance with the provisions of this section. Such records obtained by the department shall not be subject to the provisions of s. 119.07. Such records are not admissible in any civil or administrative action, except in disciplinary proceedings by the Department of Professional Regulation and the appropriate regulatory board, nor shall such records be available to the public as part of the record of investigation for, and prosecution in disciplinary proceedings made available to the public by the Department of Professional Regulation or the appropriate regulatory board. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(8) The department shall promulgate rules to carry out the provisions of this section.

(9) The provisions of this section shall not apply to hospitals licensed pursuant to chapter 395 or programs operated within such hospitals.

Section 12. Section 396.181, Florida Statutes, is created to read:

396.181 Treatment and prevention resources; quality assurance programs.—

(1) Effective April 1, 1989, each facility licensed pursuant to s. 396.172 shall have an ongoing quality assurance program. The purpose of the quality assurance program shall be to objectively and systematically monitor and evaluate the appropriateness and quality of client care, to ensure that services are rendered consistent with reasonable, prevailing professional standards and to resolve identified problems.

(2) Each facility shall develop a written plan which addresses the minimum guidelines for the quality assurance program. Such guidelines shall include, but are not limited to:

(a) Standards for the provision of client care and treatment practices;

(b) Procedures for the maintenance of client records;

(c) Policies and procedures for staff development;

(d) Standards for facility safety and maintenance;

(e) Procedures for peer review and resource utilization;

(f) Policies and procedures for adverse incident reporting to include verification of corrective action to remediate or minimize incidents and for reporting such incidents to the department in a timeframe as prescribed by rule.

Such plan shall be submitted to the governing board for approval and a copy provided to the department.

(3) The quality assurance program shall be directly responsible to the executive director of the facility and shall be subject to review by the governing board of the agency.

(4) Each facility shall designate a quality assurance manager who is an employee of the agency or under contract with the agency.

(5) Incident reporting shall be the affirmative duty of all staff. Any person filing an incident report shall not be subject to any civil action by virtue of such incident report.

(6) The department shall have access to all records necessary to determine agency compliance with the provisions of this section. Such records obtained by the department shall not be subject to the provisions of s. 119.07. Such records are not admissible in any civil or administrative action, except in disciplinary proceedings by the Department of Professional Regulation and the appropriate regulatory board, nor shall such records be available to the public as part of the record of investigation for, and prosecution in disciplinary proceedings made available to the public by the Department of Professional Regulation or the appropriate regulatory board. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7) The department shall promulgate rules to carry out the provisions of this section.

(8) The provisions of this section shall not apply to hospitals licensed pursuant to chapter 395 or programs operated within such hospitals.

Section 13. Section 397.0961, Florida Statutes, is created to read:

397.0961 DATAP program; quality assurance program.—

(1) Effective April 1, 1989, each facility licensed pursuant to s. 397.081 shall have an ongoing quality assurance program. The purpose of the quality assurance program shall be to objectively and systematically monitor and evaluate the appropriateness and quality of client care, to ensure that services are rendered consistent with reasonable, prevailing professional standards and to resolve identified problems.

(2) Each facility shall develop a written plan which addresses the minimum guidelines for the quality assurance program. Such guidelines shall include, but are not limited to:

(a) Standards for the provision of client care and treatment practices;

(b) Procedures for the maintenance of client records;

(c) Policies and procedures for staff development;

(d) Standards for facility safety and maintenance;

(e) Procedures for peer review and resource utilization;

(f) Policies and procedures for adverse incident reporting to include verification of corrective action to remediate or minimize incidents and for reporting such incidents to the department in a timeframe as prescribed by rule.

Such plan shall be submitted to the governing board for approval and a copy provided to the department.

(3) The quality assurance program shall be directly responsible to the executive director of the facility and shall be subject to review by the governing board of the agency.

(4) Each facility shall designate a quality assurance manager who is an employee of the agency or under contract with the agency.

(5) Incident reporting shall be the affirmative duty of all staff. Any person filing an incident report shall not be subject to any civil action by virtue of such incident report.

(6) The department shall have access to all records necessary to determine agency compliance with the provisions of this section. Such records obtained by the department shall not be subject to the provisions of s. 119.07. Such records are not admissible in any civil or administrative action, except in disciplinary proceedings by the Department of Professional Regulation and the appropriate regulatory board, nor shall such records be available to the public as part of the record of investigation for, and prosecution in disciplinary proceedings made available to the public by the Department of Professional Regulation or the appropriate regulatory board. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7) The department shall promulgate rules to carry out the provisions of this section.

(8) The provisions of this section shall not apply to hospitals licensed pursuant to chapter 395 or programs operated within such hospitals.

Section 14. Subsection (1) of section 768.40, Florida Statutes, is amended to read:

768.40 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1. A committee:

a. Of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance organization certificated under part II of chapter 641,

b. Of a state or local professional society of health care providers,

c. Of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home, ~~or~~

d. Of the Department of Corrections or the Correctional Medical Authority as created under s. 945.602, or employees, agents, or consultants of either the department or the authority or both,

e. Of a mental health treatment facility licensed under chapter 394 or a community mental health center as defined in s. 394.907 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

f. Of an alcohol treatment and prevention resource licensed under chapter 396 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency, or

g. Of a drug abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service or to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review pursuant to the provisions of s. 768.57.

(b) The term "health care providers" means physicians licensed under chapter 458, osteopaths licensed under chapter 459, podiatrists licensed under chapter 461, dentists licensed under chapter 466, chiropractors licensed under chapter 460, pharmacists licensed under chapter 465, or hospitals or ambulatory surgical centers licensed under chapter 395.

Section 15. Each section which is added to chapters 394 and 396, Florida Statutes, by this act is repealed on October 1, 1995, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 16. Each section which is added to chapter 397, Florida Statutes, by this act is repealed on October 1, 1993, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 17. Effective July 1, 1988, all funding and personnel for children's mental health are hereby transferred from the Children, Youth, and Families Program Office to the Alcohol, Drug Abuse, and Mental Health Program Office as specified in s. 20.19(4)(a)2.f., Florida Statutes. Transfer of funds for children's mental health services shall be reviewed by the Executive Office of the Governor and approved by the appropriations committees of the Senate and House of Representatives.

Amendment 5—On page 1, line 16, insert:

Section 1. Sections 392.50, 392.51, 392.52, 392.53, 392.54, 392.545, 392.55, 392.56, 392.57, 392.58, 392.59, 392.60, 392.61, 392.62, 392.63, 392.64, 392.65, 392.66, 392.67, 392.68, and 392.69, Florida Statutes, are created to read:

392.50 Short title.—This chapter may be cited as the "Tuberculosis Control Act."

392.51 Findings and intent.—The Legislature finds and declares that tuberculosis is a highly contagious infection that is sometimes fatal and constitutes a threat to the public health and welfare. The Legislature finds that there is a significant reservoir of tuberculosis infection in this state and that there is a need to develop community programs to identify tuberculosis and to respond quickly with appropriate measures. The Legislature finds that some patients with tuberculosis have complex medical, social, and economic problems that make outpatient control of the disease difficult, if not impossible, without seriously jeopardizing the public health and welfare. The Legislature finds that in order to protect the public from those few persons who pose a threat to the public, it is necessary to establish a system of mandatory contact identification, treatment, hospitalization, and isolation for contagious cases and to provide a system of voluntary, community-oriented care and surveillance in all other cases.

392.52 Definitions.—As used in this chapter, the term:

(1) "County public health unit" means an agency or entity designated as such in chapter 154.

(2) "Department" means the Department of Health and Rehabilitative Services.

(3) "Tuberculosis" means a disease caused by mycobacterium tuberculosis or mycobacterium bovis.

392.53 Reporting required.—

(1) Each person who makes a diagnosis of tuberculosis or who treats a person with tuberculosis and each laboratory that performs a test on a specimen that reveals the presence of the tubercule bacilli shall report such facts to the department in addition to other facts that the department requires by rule to be reported, within a time specified by rule of the department, which period must not exceed 72 hours after the presence of tuberculosis is discovered.

(2) The department shall adopt rules specifying the information that must be included in a report of tuberculosis, the time within which the report must be filed, and where the report must be filed. The department shall consider the need for information, protection of the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. Rules adopted by the department may provide for both telephonic and written reporting, and may establish different time periods and content for each method of reporting.

(3) A person who reports to the department the name of a person who is reasonably suspected of being infected with or exposed to tuberculosis is not liable for damages caused by such report, unless the report is made with knowledge that it is false or with reckless disregard of the truthfulness of the report.

(4) A person who violates this section or the rules adopted hereunder may be fined by the department, in the manner prescribed in s. 381.112, in an amount not to exceed $500 for each offense. The department shall report each violation of this section to the regulatory agency that is responsible for licensing the person or laboratory which commits the violation.

392.54 Contact investigation.—

(1) The department and its authorized agents may interview, or cause to be interviewed, any person who is infected with tuberculosis, who is reasonably suspected to be infected with tuberculosis, or who is reasonably suspected to have been exposed to tuberculosis in order to investigate the source and spread of the disease and in order to require such person to submit to examination and treatment as necessary.

(2) All information gathered in the course of contact investigation is confidential and subject to the provisions of s. 392.65. Such information is exempt from ss. 119.01 and 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

392.545 Naming of parties.—

(1) If a person requests an order from a circuit court pursuant to ss. 392.55, 392.56, and 392.57, the department shall substitute a pseudonym for the true name of the person to whom the order pertains.

(2) A court decision, order, petition, and other formal document must be styled in a manner to protect the name of the party from public disclosure.

(3) The department, its authorized representatives, the court, and other parties to the lawsuit may not reveal the name of any person subject to these proceedings except as permitted in s. 392.65.

392.55 Physical examination and treatment.—

(1) Subject to subsections (3) and (4), the department and its authorized representatives may petition the circuit court to order the examination or treatment of any person who is infected or is reasonably suspected of being infected with or having been exposed to tuberculosis.

(2) Subject to subsections (3) and (4), persons who are infected with tuberculosis, or who are reasonably suspected of being infected with or having been exposed to tuberculosis, shall report for complete examination or treatment as an outpatient to a physician licensed under chapter 458 or chapter 459 or shall submit to examination or treatment, at a county public health unit or other public facility. If a person is diagnosed as having tuberculosis, he shall continue with the prescribed treatment as an outpatient until such time as the disease is found to be no longer communicable and no longer in need of treatment.

(3) The department or its representative may not apprehend, examine, or treat a person for tuberculosis as an outpatient against his will, except upon the presentation of a warrant duly authorized by a circuit court. In order to be issued such a warrant, the department must show by a preponderance of evidence that a threat to the public health and welfare would exist if such warrant were not issued and must show that all other reasonable means of obtaining compliance have been exhausted and that no less-restrictive alternative is available.

(4) A circuit court may not issue a warrant requiring a person to be apprehended, examined, or treated for tuberculosis as an outpatient unless:

(a) A hearing has been held for which the person has received at least 72 hours' prior written notice and a list of the proposed actions to be taken and the reasons for each action;

(b) The person was allowed to attend the hearing, to cross-examine witnesses, and to present evidence; and

(c) The court advised the person of his right to have legal counsel present at the hearing. If the person is insolvent and unable to employ legal counsel, the court shall appoint legal counsel for the person pursuant to the indigency criteria specified in s. 27.52.

(5) The circuit court, legal counsel, or local law enforcement officials, as appropriate, shall consult with the department concerning any necessary infection-control procedures to be taken during any court hearing or detention.

392.56 Hospitalization, placement, and residential isolation.—

(1) Subject to subsections (2) and (3), the department may petition the circuit court to order a person infected with tuberculosis to be hospitalized, placed in a health care or residential facility, or isolated from the general public in his home, to prevent the probable spread of tuberculosis, until such time as the risk of infection to the public is eliminated or reduced in such a manner that a substantial threat to the public health and welfare no longer exists.

(2) A person may not be ordered to be hospitalized, placed in a health care or residential facility, or isolated from the general public in his home, except upon the order of a circuit court and upon proof:

(a) By the department by clear and convincing evidence that the public health and welfare are substantially endangered by the person with tuberculosis;

(b) That the person with tuberculosis has received counseling about the disease, the significant threat the disease poses to the public, and the methods to minimize the risk to the public and that, despite such counseling, the person displays an intent to expose the public to infection from tuberculosis; and

(c) That all other reasonable means of achieving compliance with treatment have been exhausted and no less-restrictive alternative exists.

(3) A circuit court may not order a person to be hospitalized, to be placed in a health care or residential facility, or to be isolated from the public in his home unless:

(a) A hearing has been held for which the person has received at least 72 hours' prior written notice and a list of the proposed actions to be taken and the reasons for each action;

(b) The person was allowed to attend the hearing, to cross-examine witnesses, and to present evidence; and

(c) The court advised the person of his right to have legal counsel present at the hearing. If the person is insolvent and unable to employ legal counsel, the court shall appoint legal counsel for the person pursuant to the indigency criteria specified in s. 27.52.

(4) An order requiring the hospitalization, placement in a health care or residential facility, or isolation from public in his home must expire no later than 180 days after it is issued or when the physician charged with the care of the person determines that the person no longer poses a substantial threat to the community, if the determination is made before the end of the 180-day period. Orders for hospitalization of a person or his placement in a facility or isolation in the home may not be renewed unless the person is afforded all rights conferred in subsections (2) and (3).

(5) The circuit court, legal counsel, or local law enforcement officials, as appropriate, shall consult with the department concerning any necessary infection-control procedures to be taken during any court hearing or detention.

392.57 Emergency detention.—

(1) The department may file a petition with a circuit court to request emergency detention of a person when the department has evidence that:

(a) The person is infected or is reasonably suspected of being infected with tuberculosis;

(b) The person poses an immediate and substantial threat to the public health and welfare;

(c) The person is unable to control his actions sufficiently to protect the public health and welfare or has a reckless disregard for the public health and welfare; and

(d) The person is:

1. Unlikely to appear at a hearing scheduled under s. 392.55 or s. 392.56;

2. Likely to leave the jurisdiction of the court prior to his hearing date; or

3. Likely to continue to expose the public to the risk of tuberculosis until his hearing date.

(2) An emergency detention order may not be issued unless the court finds that:

(a) The department has requested a hearing under s. 392.55 or s. 392.56 to consider the examination, treatment, or placement of the person;

(b) The department presents competent evidence that a substantial danger to the public health and welfare exists unless the emergency detention order is issued;

(c) The department has no reasonable alternative means of reducing the threat to the public health and welfare; and

(d) The department is likely to prevail on the merits in a hearing held under s. 392.55 or s. 392.56.

(3) If a court issues an order for the emergency detention of a person, it shall direct the sheriff to immediately confine and isolate the person in such a manner as required by the court. The sheriff and the circuit court shall consult with the department concerning any necessary infection-control procedures to be taken.

(4) In order to expedite a full hearing, the person confined under an emergency detention order may waive the notice periods for hearings required under s. 392.55 or s. 392.56. An emergency detention order must not continue for more than 5 days or for the period of time necessary to conduct hearings pursuant to s. 392.55 or s. 392.56, whichever time period is shorter.

392.58 Service of notice and processes; sheriff to deliver person to state program.—

(1) All notices required to be given, and all warrants, petitions, processes and orders issued or entered, pursuant to s. 392.55, s. 392.56, or s. 392.57 must be served by the sheriff of the county in which the person alleged to be infected with tuberculosis resides or is found.

(2) The judge, in his order for hospitalization or placement in another health care or residential facility under s. 392.56 shall direct the sheriff of the county in which such person resides or is found to take the person into his custody and immediately deliver him to the director of the facility named in the order.

392.59 Forms to be developed.—The department shall develop and furnish to the court all forms necessary under ss. 392.55, 392.56, and 392.57, and the court may use such forms where appropriate.

392.60 Right of appeal; immediate release.—

(1) Any person who is aggrieved by the entry of an order pursuant to s. 392.55, s. 392.56, or s. 392.57 shall have the same period of time as provided by the Florida Appellate Rules within which to appeal from an order from the circuit court. Each order entered pursuant to s. 392.55, s. 392.56, or s. 392.57 must be executed immediately unless the court entering such order or the appellate court, in its discretion, enters a supersedeas order and fixes the terms and conditions thereof.

(2) A person who is examined, treated, hospitalized, placed in a health care facility or residential facility, isolated in his home, or placed in emergency detention, as a result of an order entered pursuant to s. 392.55, s. 392.56, or s. 392.57, may at any time petition the circuit court for immediate release and termination of the order.

(3) A person who petitions a court for immediate release and termination of the order entered pursuant to s. 392.55, s. 392.56, or s. 392.57 must show, pursuant to the Rules of Civil Procedure, that he is entitled to relief from the original order, or that:

(a)1. There has been a substantial change in the original facts and circumstances upon which the order was issued; or

2. He no longer poses an immediate and substantial threat to the public health and welfare; and

(b) He will continue with prescribed medications and treatment, if medically necessary to reduce the risk of infection to the public.

(4) Prior to granting a petition for immediate release, the court shall consult the department and the patient's physician, if any, concerning the patient's medical condition and any present or future danger to the public that the release of an individual would cause.

(5) Upon granting a petition for immediate release, the court may impose those conditions it believes reasonably necessary to protect the public from infection with tuberculosis.

392.61 Community tuberculosis programs.—

(1) The department shall operate, directly or by contract, community tuberculosis control programs in each county in this state.

(2) Community tuberculosis control programs shall:

(a) Promote community and professional education about the causes and dangers of tuberculosis and methods of its control.

(b) Conduct community and individual screening for the presence of tuberculosis.

(c) Conduct surveillance of suspected and reported cases of tuberculosis, including contact investigation as necessary and as directed by the department.

(d) Report all known cases of tuberculosis to the department.

(e) Provide treatment and followup, including the distribution of medication, to indigent patients under rules and guidelines developed by the department.

(f) Provide counseling, periodic retesting, and referral to appropriate social service, employment, medical, and housing agencies, as necessary for patients released from hospitalization or residential placement.

(3) The department may operate regional tuberculosis control programs if services are offered in each county.

392.62 Hospitalization and placement programs.—

(1) The department shall operate a program for the hospitalization, in hospitals licensed under the provisions of chapter 395, of persons infected with tuberculosis and may provide for appropriate placement of persons infected with tuberculosis in other health care or residential facilities.

(2) The department may operate a licensed hospital for the care and treatment of persons with tuberculosis. However, the department must make maximize use of existing licensed community hospitals for the care and treatment of persons with tuberculosis.

(3) A licensed hospital operated by the department, a licensed hospital under contract with the department, or any other health care or residential facility operated by or under contract with the department for the care and treatment of patients with tuberculosis must:

(a) Admit patients voluntarily and under court order, as appropriate, for each particular facility;

(b) Require that each patient pay the actual cost of care provided, regardless of whether the patient is admitted voluntarily or by court order;

(c) Provide for a method of paying for the care of patients who cannot afford to do so;

(d) Require a primary clinical diagnosis of tuberculosis by a physician licensed under chapter 458 or chapter 459 prior to admission of all patients; however, there may be more than one primary diagnosis;

(e) Provide a method for notifying the county public health unit and the patient's family, if any, prior to discharging the patient;

(f) Provide for the necessary exchange of medical information to assure adequate community treatment and followup of discharged patients, as appropriate;

(g) Provide for a method of medical care and counseling, and provide for housing, social service, and employment referrals, if appropriate, for all patients discharged.

(4) A hospital may, pursuant to court order, place a patient in temporary isolation for a period of no more than 72 continuous hours. The department shall obtain a court order in the same manner as prescribed in s. 392.57.

(5) A person who has been committed under s. 392.57 and who leaves the tuberculosis hospital or residential facility without having been discharged by the designated medical authority, except as provided in s. 392.63, shall be apprehended by the sheriff of the county in which the person is found and immediately delivered to the facility that he left.

392.63 Temporary leave.—A person who has been hospitalized, placed in another health care or residential facility, or isolated in his home may be granted a short-term temporary leave at the discretion of the department or its authorized representative, if the department determines that the temporary leave will be closely monitored and will not endanger the public health and welfare. Temporary leave may be granted for therapeutic purposes, in the event of death or critical illness in the person's family, or for other emergencies.

392.64 Adherence to treatment; treatment plan; penalties.—

(1) The department, its authorized representative, or a physician licensed under chapter 458 or chapter 459 shall prescribe a treatment plan for each person known to be infected with tuberculosis. The treatment plan must contain target dates for rendering the infection noncommunicable and required periods for retesting and reporting to the department the results of those tests.

(2) The department may petition a circuit court, under s. 392.55, s. 392.56, or s. 392.57, to require adherence to treatment plans prescribed under subsection (1).

(3) A person who is infected with tuberculosis and who fails to comply with a treatment plan or any other requirement that is imposed by the court pursuant to s. 392.55, s. 392.56, or s. 392.57, or any minor's parent, guardian, or custodian who fails to comply with a treatment plan or any other requirement of the court, or any person who aids or abets the failure of a person to comply with treatment plans and other requirements of the court may be punished by contempt, in addition to other penalties that may be imposed under s. 392.67.

(4) Contempt proceedings may be initiated by the department or its authorized representative.

392.65 Confidentiality.—

(1) All information and records which are held by the department or its authorized representative and which relate to known or suspected cases of tuberculosis or exposure to tuberculosis are strictly confidential and exempt from ss. 119.01 and 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Such information may not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit; however, the information may be released:

(a) When all persons to which the information applies consent to the release;

(b) When the information is needed for statistical purposes, and medical or epidemiologic information is summarized so that no person can be identified and no name is revealed;

(c) When the information is needed by medical personnel, an appropriate state agency, or a court of competent jurisdiction to enforce this chapter or related rules;

(d) When there is a medical emergency, that information that is needed solely to protect the health or life of a named person or group of persons may be released; or

(e) When the release of information to the proper authorities is required by chapter 415.

(2) If disclosure is made pursuant to a subpoena, such information shall be sealed by the court from further disclosure, except as the court deems necessary to reach a decision in the proceeding and except as otherwise agreed to by all parties.

(3) An employee of the department or its authorized representative may not be examined in a civil, criminal, special, or other proceeding as to the existence or contents of pertinent records of a person examined or treated for tuberculosis by the department or its authorized representative or as to the existence or contents of such reports received from a private physician or private health facility or laboratory, without the consent of the person who was examined or treated for tuberculosis, except in proceedings brought pursuant to s. 392.55, s. 392.56, or s. 392.57.

392.66 Rules.—The department may adopt rules to carry out this chapter.

392.67 Unlawful acts; penalties for violation.—

(1) A person who is infected with tuberculosis, who knows or has been informed that his disease is in an infectious state, and who willfully exposes other persons to the disease is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who maliciously disseminates any false information or report concerning the existence of tuberculosis is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who violates the department's rules pertaining to tuberculosis may be punished by a fine not to exceed $500 for each violation. A penalty imposed pursuant to this subsection is in addition to other penalties imposed under this chapter.

392.68 Fees and other compensation.—

(1) For the services required to be performed under ss. 392.55, 392.56, 392.57, and 392.62, compensation shall be paid as follows:

(a) The sheriff shall receive the same fees and mileage as are prescribed for like services in criminal cases.

(b) The counsel appointed by the court to represent an indigent person shall receive such reasonable compensation as shall be fixed by the court appointing him.

(2) All fees, mileage, and charges shall be taxed by the court as costs in each proceeding and shall be paid by the board of county commissioners out of the general funds or the fine and forfeiture funds of the county.

392.69 Appropriation, sinking and maintenance trust funds; additional powers of the department.—

(1) The Legislature shall include in its annual appropriations act a sufficient appropriation to the department for the purpose of carrying out the provisions of this chapter.

(2) All moneys required to be paid by the several counties and patients for the care and maintenance of patients hospitalized by the department for tuberculosis shall be paid to the department, and the department shall immediately transmit these moneys to the Treasurer, who shall deposit the moneys in two accounts:

(a) Such amounts as the department may from time to time designate as necessary to meet the interest and sinking fund requirements of the state-operated tuberculosis hospital shall be deposited in the State Tuberculosis Hospital Interest and Sinking Trust Fund. All funds contained in or appropriated to this trust fund may be expended only for interest and sinking fund requirements of the state-operated tuberculosis hospital.

(b) The Treasurer shall deposit the balance of the money transmitted to him in the Tuberculosis Hospital Maintenance Trust Fund, which shall contain all moneys appropriated by the Legislature or received from patients or other third parties and shall be expended solely for the operation and maintenance of the state-operated tuberculosis hospital.

(3) In administering its public health programs, the department may use any sums of money which it may have saved or which it may hereafter save from its regular operating appropriations, any sums of money acquired by gift or grant, or any sums of money it acquires by the issuance of revenue certificates of the hospital to match or supplement any state or federal funds, and may use any moneys it receives, by gift or otherwise, for the construction or maintenance of additional facilities or the improvement to existing facilities, as the department deems necessary.

Section 2. Sections 392.03, 392.04, 392.05, 392.06, 392.061, 392.07, 392.071, 392.091, 392.11, 392.12, 392.13, 392.14, 392.242, 392.243, 392.25, 392.26, 392.27, 392.28, 392.281, 392.29, 392.30, 392.31, 392.32, 392.33, 392.34, 392.35, and 392.36, Florida Statutes, are hereby repealed.

(Renumber subsequent sections.)

Senator Grant moved the following amendment which was adopted:

Amendment 6—In title, on page 1, lines 12 and 13, strike "providing an appropriation;"

Senator Woodson moved the following amendments which were adopted:

Amendment 7—In title, on page 1, line 2, strike "epilepsy" and insert: the Department of Health and Rehabilitative Services

Amendment 8—In title, on page 1, line 12, after the semicolon (;) insert: amending s. 393.001, F.S.; providing for independence and administrative operation of the Florida Developmental Disabilities Council; modifying membership; amending s. 393.065, F.S.; modifying procedures with respect to application for services; providing for emergency services; amending s. 393.11, F.S.; revising procedures for involuntary admission to residential services; amending s. 393.115, F.S.; modifying procedures with respect to continuing residential services beyond age 18;

amending s. 393.12, F.S.; revising provisions relating to competency and procedures for appointment of a guardian advocate or guardian; prohibiting charges against the department; amending s. 393.122, F.S.; deleting obsolete language; deleting language relating to certain department responsibility for services; creating s. 393.22, F.S.; restricting certain transfer of appropriations; providing for elimination of certain barriers to services; requiring a report to the Legislature; providing for the ongoing financial commitment to certain programs; creating s. 393.501, F.S.; providing for the adoption of rules;

Senator Myers moved the following amendments which were adopted:

Amendment 9—In title, on page 1, line 13, insert: amending s. 410.402, F.S.; requiring the Department of Health and Rehabilitative Services to develop an allocation formula for distribution of funds for respite care programs; specifying criteria for developing the formula;

Amendment 10—In title, on page 1, line 2, strike "epilepsy" and insert: the Department of Health and Rehabilitative Services

Amendment 11—In title, on page 1, line 13, after the semicolon (;) insert: amending s. 20.19, F.S.; transferring children's mental health programs and services to the Alcohol, Drug Abuse, and Mental Health Program Office and providing requirements with respect thereto; modifying the composition of the program office advisory council; amending s. 394.459, F.S., relating to rights of patients; requiring certain notice of an admission to a mental health treatment facility involving involuntary placement; providing for notice of a voluntary admission in case of emergency only; amending s. 394.715, F.S.; providing for appointment of a member of a district alcohol, drug abuse and mental health planning council to certain committees; amending s. 394.75, F.S.; requiring the district alcohol, drug abuse, and mental health planning councils to include a summary budget request in the biennial plan they file with the district administrator; requiring a subcommittee of the alcohol, drug abuse and mental health planning council to prepare the portion of the district plan relating to children; requiring the district administrators to report to the planning councils regarding funding for the plan; amending s. 394.76, F.S.; authorizing the Department of Health and Rehabilitative Services to develop alternative financing systems for district alcohol, drug abuse, and mental health services; providing that local matching funds are not required under certain circumstances; amending s. 394.79, F.S.; requiring the department to prepare biennially the state alcohol, drug abuse, and mental health plan and providing requirements with respect thereto; providing for submission of such plans and certain other information to the Legislature and the district planning councils; amending s. 394.459, F.S., relating to rights of patients; requiring certain notice of an admission to a mental health treatment facility involving involuntary examination or treatment; providing for notice of a voluntary admission in case of emergency only; creating ss. 394.907, 396.181, and 397.0961, F.S.; requiring quality assurance programs in certain alcohol, drug abuse, and mental health facilities; providing for a written plan which establishes minimum guidelines; providing access to records by the department; exempting certain records from civil or administrative action; providing rulemaking authority; exempting hospitals licensed under chapter 395, F.S.; amending s. 768.40, F.S.; including certain alcohol, drug abuse, and mental health treatment facilities in the definition of a medical review committee; providing for review and repeal; providing for transfer of funding for children's mental health subject to review by the Governor and approval by the Legislature;

Amendment 12—In title, on page 2, line 2, strike "epilepsy;" and insert: public health; creating s. 392.50, F.S.; creating the "Tuberculosis Control Act"; creating s. 392.51, F.S.; providing legislative findings and intent; creating s. 392.52, F.S.; providing definitions; creating s. 392.53, F.S.; requiring certain health care providers and laboratories to report cases of tuberculosis to the Department of Health and Rehabilitative Services; providing such health care provider or laboratory immunity from liability; creating s. 392.54, F.S.; authorizing the department to interview certain persons who may be infected with tuberculosis; creating s. 392.545, F.S.; prohibiting the department from disclosing the identity of such persons, under certain circumstances; creating s. 392.55, F.S.; providing for examination and treatment of such persons; providing for court ordered examination and treatment of such a person under certain circumstances; creating s. 392.56, F.S.; providing for court ordered hospitalization, placement and residential isolation of such a person; specifying a procedure for the issuance of the order; creating s. 392.57, F.S.; providing authority for confinement of such a person prior to the procedure, under certain circumstances; creating s. 392.58, F.S.; requiring service of notice and process of the procedure; creating s. 392.59, F.S.; requiring the department to develop forms; creating s. 392.60, F.S.; providing for rights to appeal an order of hospitalization, placement, or residential isolation and to immediate release from such order; creating s. 392.61, F.S.; providing for community tuberculosis control programs; creating s. 392.62, F.S.; providing for hospitalization and placement programs; creating s. 392.63, F.S.; providing for temporary leave from a hospital, facility, or isolation; creating s. 392.64, F.S.; providing for treatment, adherence to treatment plans, and penalties; creating s. 392.65, F.S.; providing for confidentiality of records and information relating to persons who may be infected with tuberculosis; authorizing disclosure of such information under certain circumstances; creating s. 392.66, F.S.; authorizing the department to adopt rules to implement the act; creating s. 392.67, F.S.; specifying unlawful acts and criminal penalties; creating s. 392.68, F.S.; requiring the board of county commissioners to pay certain fees and court costs; creating s. 392.69, F.S.; providing for legislative appropriations to the department; requiring the Treasurer to deposit certain moneys received from the department in the hospital interest and sinking hospital maintenance trust funds; repealing ss. 392.03-392.36, F.S., relating to tuberculosis hospitals;

On motion by Senator Grant, by two-thirds vote CS for SB 1068 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Hair

Consideration of **CS for SB 600** was deferred.

CS for SB 1308—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S.; providing conditions for delegation of certain permitting activities to coastal counties and municipalities; providing an exemption from specified requirements for construction landward of certain existing seawalls; providing restrictions; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for SB 1308 to conform the bill to CS for HB 1003.

Pending further consideration of CS for SB 1308 as amended, on motion by Senator Brown, by two-thirds vote CS for HB 1003 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Brown—

CS for HB 1003—A bill to be entitled An act relating to beach and shore preservation; amending s. 161.053, F.S.; providing conditions for delegation of certain permitting activities to coastal counties and municipalities; providing an exemption from specified requirements for construction landward of certain existing seawalls; providing restrictions; providing an effective date.

—a companion measure, was substituted for CS for SB 1308 and read the second time by title. On motion by Senator Brown, by two-thirds vote CS for HB 1003 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Brown	Childers, W. D.	Crenshaw
Beard	Childers, D.	Crawford	Deratany

Dudley	Hollingsworth	Margolis	Thurman
Frank	Jenne	Meek	Weinstein
Girardeau	Jennings	Myers	Weinstock
Gordon	Johnson	Plummer	Woodson
Grant	Kirkpatrick	Ros-Lehtinen	
Hair	Langley	Scott	
Hill	Lehtinen	Thomas	

Nays—3

Grizzle	Malchon	McPherson

On motion by Senator Kirkpatrick, by two-thirds vote HB 1626 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motions by Senator Kirkpatrick, by two-thirds vote—

HB 1626—A bill to be entitled An act relating to professions and occupations; amending s. 20.30, F.S.; listing boards created by other chapters within the Department of Professional Regulation; amending s. 455.206, F.S.; providing an exception for certain physicians with respect to appointment to the board; amending s. 455.207, F.S.; authorizing regulatory boards to establish committees to settle differences between such boards; requiring the boards to adopt the rules recommended by the committee; creating s. 455.208, F.S.; providing for newsletters; amending s. 455.209, F.S.; limiting liability of certain past board members; amending s. 455.218, F.S.; deleting provisions relating to podiatric technicians; creating s. 461.017, F.S.; providing for the certification of certified Cuban quiropedistas; establishing criteria; providing for an examination; establishing a fee; providing for the repeal of said section; providing a grandfather clause; amending s. 455.241, F.S.; requiring certain practitioners to provide copies of records to patients on request; amending s. 455.242, F.S.; providing for the disposition of records of certain practitioners; amending s. 455.26, F.S.; adding to the membership of the Impaired Practitioners Committee; amending s. 458.307, F.S.; increasing the size of the Board of Medicine; providing a criterion for appointment to the Board of Medicine; amending s. 458.313, F.S.; requiring certain active practice or teaching with respect to licensure by endorsement; amending s. 458.3145, F.S.; expanding practice under a medical faculty certificate; requiring registration of sites; amending s. 458.319, F.S.; increasing the maximum fee for renewal of a license to practice medicine; requiring evidence of active practice for license renewal; providing for supervised practice; amending s. 460.408, F.S.; providing criteria for approval of continuing chiropractic education courses; amending s. 464.003, F.S.; redefining the term "advanced or specialized nursing practice"; amending s. 464.018, F.S.; adding a penalty; creating s. 466.0275, F.S.; providing, with respect to dentists, for handwriting samples, release of medical records, and admissibility of reports in certain investigations; amending s. 466.028, F.S.; relating to disciplinary violations; creating s. 466.0283, F.S.; establishing standards and procedures for handling impaired practitioners who are dentists; providing for certain confidentiality; amending s. 472.008, F.S.; providing for financial responsibility; amending s. 472.013, F.S.; modifying eligibility requirements for land surveyors licensure examination; amending s. 474.2141, F.S.; conforming provisions on impaired practitioners who are veterinarians; amending s. 475.17, F.S.; providing for adoption of rules by the Florida Real Estate Commission regarding hardship; amending ss. 476.044 and 477.0135, F.S.; exempting certain persons from laws governing barbers and cosmetologists; amending s. 491.005, F.S.; modifying eligibility requirements for clinical social workers, marriage and family therapists, and mental health counselors; amending s. 491.012, F.S.; providing for proceedings to enjoin certain violations; requiring the Department of Professional Regulation to license certain persons as clinical social workers, marriage and family therapists, or mental health counselors; amending s. 492.103, F.S.; modifying membership of the Board of Professional Geologists; amending s. 492.116, F.S.; exempting certain persons from laws governing geologists; amending s. 768.40, F.S.; providing for certain duties and immunity for certain actions of medical review committees of corporations and professional service corporations that meet certain criteria; providing effective dates.

—a companion measure, was substituted for CS for SB 600 and by two-thirds vote read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1—On page 1, between lines 13 and 14 of House Amendment 1 of the bill as amended, insert:

Section 1. Section 455.229, Florida Statutes, is amended to read:

455.229 Public inspection of information required from applicants; exceptions.—

(1) All information required by the department of any applicant shall be a public record and shall be open to public inspection pursuant to s. 119.07, except financial information, examination questions, answers, papers, grades, and grading key, which shall not be discussed with or made accessible to anyone except members of the board, the department, and its staff who have a bona fide need to know such information.

(2) Examination questions and answers are not subject to discovery or introduction into evidence in any administrative proceeding under chapter 120. However, an unsuccessful examination candidate and his attorney may review such candidate's examination questions and answers for the purpose of an administrative proceeding under the direct supervision of and subject to such reasonable security measures as may be required by the department. The department shall provide such examination questions and answers to the hearing officer at the administrative hearing; however, the examination questions and answers provided at the hearing must be sealed and are not subject to public inspection.

(Renumber subsequent sections.)

Senator Deratany moved the following amendment which failed:

Amendment 2—On page 37, lines 4 and 5 of House Amendment 1 of the bill as amended, insert:

Section 31. Section 455.28, Florida Statutes, as created by Chapter 88-1, Laws of Florida, is amended to read:

(1) *Any professional regulated by a board established within the Department of Professional Regulation, Division of Medical Quality Assurance, as provided in s. 20.30(5),* ~~Any person licensed under chapter 458 (physicians), 459 (osteopathic physicians), 460 (chiropractic physicians), 461 (podiatrists), 464 (nurses), 465 (pharmacists), or 466 (dentists),~~ shall report to the *Department of Professional Regulation,* Division of Medical Quality Assurance any *health care practitioner* ~~physician~~ who the licensee knows has violated the grounds for disciplinary action set out in the law under which that *health care practitioner* ~~physician~~ is licensed. ~~and who provides health care services in a facility licensed under chapter 395 or part IV of chapter 394, or certified under part II of chapter 641 in which the licensee also provides such services.~~ Any licensee who fails to report a *health care practitioner* ~~physician~~ as required by this subsection shall be subject to the appropriate penalty under that licensee's licensing provisions.

(2) *The Department of Professional Regulation shall review each incident and determine whether it potentially involved conduct by the licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply.* ~~Complaints alleging probable disciplinary violations shall be investigated by the division.~~

(Renumber subsequent section.)

Senator Frank moved the following amendment which was adopted:

Amendment 3—On page 37, between lines 4 and 5 of House Amendment 1 of the bill as amended, insert:

Section 31. Subsection (1) of section 484.0445, Florida Statutes, is amended to read:

484.0445 Training program.—

(1) The board shall establish by rule a training program not to exceed 6 months in length. A person who meets the requirements of s. 484.045(1)(a)-(d), makes application, and remits the applicable fee to the department may sit for the written portion of the examination. Prior to beginning the training program, an applicant may take the written portion of the examination five times. Upon passing the written examination and submitting to the department the registration fee, the applicant may register and enter the training program. The trainee shall complete the 6-month training program in order to take the practical portion of the examination and shall take the first available practical examination. *The department shall administer the written and practical examinations no less then three times a year.* If the trainee fails the practical examination, he may repeat the training program one time and retake the practical examination, provided he takes the next available examination. No

person may remain in trainee status or further perform any services authorized for a trainee if he fails the practical examination twice; however, a trainee may continue to function as a trainee until he has received the results of his practical examination. The department shall issue a license to a person who completes the training program, passes the practical examination, and remits the applicable fee to the department.

(Renumber subsequent section.)

Senator Stuart moved the following amendment which was adopted:

Amendment 4—On page 37, between lines 4 and 5 of House Amendment 1 as amended, insert:

Section 31. Section 19 of chapter 87-252, Laws of Florida, is amended to read:

Section 19. *Chapter 490, Florida Statutes, is repealed on October 1, 1989, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes. Chapter* ~~Chapters 490 and~~ 491, Florida Statutes, *is* ~~are~~ repealed on October 1, 1990, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

(Renumber subsequent sections.)

Senator Frank moved the following amendment which failed:

Amendment 5—On page 37, lines 5 and 6 of House Amendment 1 of the bill as amended, strike all of said lines and insert:

Section 31. Section 489.501, Florida Statutes, is amended to read:

489.501 Purpose.—The Legislature finds that electrical contracting, *locksmith contracting,* and alarm system contracting are important services and potentially dangerous if not properly provided and, therefore, deems it necessary in the interest of public health, safety, and welfare to regulate the electrical and alarm system contractors *and locksmiths* in this state.

Section 32. Section 489.503, Florida Statutes, is amended to read:

489.503 Exemptions.—

(1) This act does not apply to:

(a)~~(1)~~ A subcontractor or specialty contractor not otherwise certified under the provisions of this act whose work is limited to a specific phase of construction and whose responsibility is likewise limited to that particular phase of construction.

(b)~~(2)~~ Employees and subordinates of any person engaged in contracting who is certified to engage in contracting, if the employees do not hold themselves out for hire or engage in contracting except as an employee.

(c)~~(3)~~ An authorized employee of the United States, this state, or any municipality, county, irrigation district, reclamation district, or other municipal or political subdivision of this state, as long as the employee does not hold himself out for hire or otherwise engage in contracting except in accordance with his employment.

(d)~~(4)~~ An officer appointed by a court when he is acting within the scope of his office as defined by law or court order.

(e)~~(5)~~ Public utilities, on construction, maintenance, and development work performed by their forces and incidental to their business.

(f)~~(6)~~ The sale or installation of any finished products, materials, or articles of merchandise which are not actually fabricated into, and do not become a permanent fixed part of, the structure.

(g)~~(7)~~ An owner of property making application for permit, supervising, and doing the work in connection with the construction, maintenance, repair, and alteration of and addition to a single-family or duplex residence for his own use and occupancy and not intended for sale.

(h)~~(8)~~ Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States or any construction, alteration, improvement, or repair on any project when federal law supersedes this act.

(i)~~(9)~~ Any construction or operation incidental to the construction or repair of irrigation and drainage ditches; regularly constituted irrigation districts; reclamation districts; or clearing or other work on the land in rural districts for fire prevention purposes or otherwise, except when performed by a certificateholder under this act.

(j)~~(10)~~ A registered architect, professional engineer, or residential designer acting in his professional capacity or any person exempted by the law regulating architects or engineers.

(k)~~(11)~~ Any person who only furnishes materials or supplies without fabricating them into, or consuming them in the performance of, the work of the contractor.

(l)~~(12)~~ Any person whose business is limited to the installation of burglar alarms in single-family homes and two-family homes, mobile homes, and small commercial buildings having a square footage of not more than 5,000 square feet.

(m)~~(13)~~ The installation of alarm systems on motor vehicles and boats.

(n)~~(14)~~ Any person as defined and licensed under chapter 527.

(2) Nothing in this part shall prohibit the acquisition or use of any key duplication machine or key blanks.

(3) Nothing in this part shall prohibit the emergency performance of opening services by members of police departments, fire departments, or other government agencies in their official line of duty, nor shall sales representatives who are not licensed be prohibited from making bona fide sales demonstrations to locksmiths or apprentice locksmiths.

(4) Nothing in this part shall prohibit any person from installing any publicly available lockset.

Section 33. Subsection (3) of section 489.505, Florida Statutes, is amended and subsections (20), (21), (22), (23), (24), and (25) are added to said section, to read:

489.505 Definitions.—As used in this act:

(3) "Applicant" means a business entity making application for certification *under this act* ~~as an electrical contractor~~.

(20) "Locksmith" means a person, other than a key duplicator, who installs, repairs, opens, and services locks and originates keys for locks.

(21) "Certified locksmith" means a locksmith who has obtained or holds certification as provided in this act.

(22) "Registered locksmith" means a locksmith who possesses a geographically limited registration license issued by the department.

(23) "Locksmith contracting" means:

(a) Repairing, rebuilding, servicing, adjusting, or installing a mechanical, electromagnetic, or electrical locking device;

(b) Operating a mechanical, electromagnetic, or electrical locking device, by a means other than those intended by the manufacturer of such locking devices; or

(c) Rendering technical advice concerning activities described in paragraphs (a) and (b).

(24) "Key duplication machine" means any device which is capable of copying and reproducing keys.

(25) "Lock" means a fastening device operated by mechanical or electrical means.

(a) "Mechanical lock" means a lock which is operated mechanically without electrical force.

(b) "Electrical lock" means a lock which is operated mechanically with electrical force.

Section 34. Subsection (1) of section 489.507, Florida Statutes, is amended to read:

489.507 Electrical Contractors' Licensing Board.—

(1) There is created in the Department of Professional Regulation an Electrical Contractors' Licensing Board. The board shall consist of eleven members, *six* ~~seven~~ of whom *must* ~~shall~~ be certified electrical contractors, two of whom *must* ~~shall~~ be lay persons who are not, and have never been, electrical contractors or members of any closely related profession or occupation, one of whom *must* ~~shall~~ be a certified alarm system contractor I, ~~and~~ one of whom *must* ~~shall~~ be a certified specialty electrical contractor, *and one of whom must be a certified locksmith.*

Section 35. Section 489.509, Florida Statutes, is amended to read:

489.509 Fees.—The board may establish by rule fees to be paid for applications, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The fee for initial application and examination for certification of electrical contractors shall not exceed $200. The initial application fee for registration of electrical contractors shall not exceed $75. The biennial renewal fee shall not exceed $200 for certificateholders and $75 for registrants. The fee for initial application and examination for certification of alarm system contractors shall not exceed $400. The biennial renewal fee for alarm system contractors shall not exceed $450. *The initial application fee for registration of a locksmith shall be in an amount sufficient to cover the cost of processing the fingerprints by the Department of Law Enforcement and federal authorities but shall not exceed $75. The biennial renewal fee for a registered locksmith shall not exceed $75. The fee for initial application and examination for certification of a locksmith shall not exceed $450. The fee for temporary certification of a locksmith shall not exceed $75. The biennial renewal fee for a certified locksmith shall not exceed $400.* The board may also establish by rule a late renewal penalty. The board shall establish fees which are adequate to ensure the continued operation of the board. Fees shall be based on department estimates of the revenue required to implement this act and the provisions of law with respect to the regulation of electrical contractors and alarm system contractors.

Section 36. Subsections (1) and (2) of section 489.511, Florida Statutes, are amended to read:

489.511 Certification; application; examinations; prerequisites; endorsement.—

(1) Any person desiring to be licensed as a certified electrical *contractor* or a certified alarm system contractor *or a certified locksmith* shall apply to the department in writing to take the certification examination. *Applicants for licensure as a certified locksmith shall submit fingerprints on a form prescribed by the department.*

(2)*(a)* A person shall be entitled to take the certification examination for the purpose of determining whether he is qualified to contract throughout the state as an electrical or alarm system contractor *or locksmith* if the person is of good moral character and is otherwise qualified as provided in this section. Any person who applies for certification as an alarm system contractor prior to and including December 31, 1987, shall be entitled to take the certification examination if he has been engaged as an alarm system contractor, as defined by rule of the board, for the 12-month period preceding October 1, 1987, and obtains a temporary certificate as an alarm system contractor by January 1, 1988, by complying with standards set by the board. After obtaining the temporary certificate, the applicant must receive his initial certification as an alarm system contractor by October 1, 1988.

Each applicant shall take and pass an objective, written examination designed to test his fitness for certification in one of the classes defined in s. 489.505(2).

(b) Any person who applies for certification as a locksmith prior to and including December 31, 1989, shall be entitled to take the certification examination if he has been engaged as a locksmith, as defined by rule of the board, for the 12-month period preceding October 1, 1988, and obtains a temporary certificate as a certified locksmith by January 1, 1990, by complying with standards set by the board. After obtaining the temporary certificate, the applicant must receive his initial certification as a certified locksmith by October 1, 1990.

Section 37. Section 489.512, Florida Statutes, is created to read:

489.512 Qualifications and competency for certified locksmiths.—

(1) An applicant for a locksmith license must:

(a) Be at least 18 years of age.

(b) Comply with the competency requirements contained in subsection (2).

(c) Comply with the insurance requirements in s. 489.511(4).

(d) Pay a license fee as established by the Department of Professional Regulation.

(e) Be of good moral character and have not been convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to locksmith contracting or the ability to practice locksmith contracting.

(f) Complete all application requirements pursuant to the Department of Professional Regulation.

(2) The Department of Professional Regulation or the Electrical Contractors' Licensing Board is authorized to evaluate the competency of applicants for licensure as locksmiths. The Department of Professional Regulation may develop and administer an examination to evaluate competency, or rely on an examination developed by a bona fide locksmith trade association such as The Associated Locksmiths of America's Proficiency Registration Program.

(3) The board shall certify as qualified for a license by endorsement an applicant who holds a valid locksmith's license issued by another state or territory of the United States, if the criteria for issuance of such license were substantially equivalent to the licensure criteria which existed in this state at the time the license was issued.

Section 38. Subsections (1), (2), and (3) of section 489.513, Florida Statutes, are amended to read:

489.513 Registration; application; requirements; temporary registration.—

(1) Any person desiring to be registered as an electrical contractor *or locksmith* shall apply to the department for registration.

(2) Any electrical contractor *or locksmith* may be registered to contract in the area specified in such registration if the contractor is qualified as provided in this section.

(3) All persons contracting in the state shall be registered with the department unless they are certified. To be registered, the applicant shall file evidence of holding a current occupational license or a current license issued by any municipality or county of the state for the type of work for which registration is desired, on a form provided by the department, together with evidence of successful compliance with the local examination and licensing requirements, if any, in the area for which registration is desired, accompanied by the registration fee fixed pursuant to this act. *Applicants who desire to be registered as a locksmith shall also submit fingerprints on a form prescribed by the department.* No state-level examination is required for registration.

Section 39. Subsection (1) of section 489.515, Florida Statutes, is amended to read:

489.515 Licensure.—

(1) The department shall license any applicant who the board certifies is qualified to become a certified electrical or alarm system contractor, *certified locksmith,* ~~or~~ registered electrical contractor, *or registered locksmith.*

Section 40. Paragraphs (a), (b), (e), and (g) of subsection (1) of section 489.531, Florida Statutes, are amended to read:

489.531 Prohibitions; penalties.—

(1) No person shall knowingly:

(a) Practice electrical, ~~or~~ alarm system, *or locksmith* contracting unless the person is certified or registered;

(b) Use the name or title "electrical contractor" or "alarm system contractor" or *"locksmith" or* words to that effect when the person is not then the holder of a valid certification or registration issued pursuant to this act;

(e) Employ unlicensed persons to practice electrical or alarm system *or locksmith* contracting;

(g) Use or attempt to use an electrical contractor's certification or registration or alarm system contractor's certificate *or locksmith's certificate or registration* which has been suspended or revoked; or

Section 41. Paragraphs (b), (c), (d), and (f), of subsection (1), paragraphs (e) and (f) of subsection (2), and subsection (3) of section 489.533, Florida Statutes, are amended to read:

489.533 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for disciplinary actions as provided in subsection (2):

(b) Attempting to procure a certificate or registration to practice electrical or alarm system *or locksmith* contracting by bribery or fraudulent misrepresentations;

(c) Having a certificate or registration to practice electrical or alarm system *or locksmith* contracting revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country;

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of electrical or alarm system *or locksmith* contracting or the ability to practice electrical or alarm system *or locksmith* contracting;

(f) Upon proof that the licensee is guilty of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of electrical or alarm system *or locksmith* contracting;

(2) When the board finds any electrical or alarm system contractor *or locksmith* guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(e) Placement of the electrical or alarm system contractor *or locksmith* on probation for a period of time and subject to such conditions as the board may specify, including requiring the electrical or alarm system contractor *or locksmith* to attend continuing education courses or to work under the supervision of another electrical or alarm system contractor *or locksmith.*

(f) Restriction of the authorized scope of practice by the electrical or alarm system contractor *or locksmith.*

(3) The department shall reissue the license of a disciplined electrical or alarm system contractor *or locksmith* upon certification by the board that he has complied with all of the terms and conditions set forth in the final order.

Section 42. Subsection (9) is added to section 489.537, Florida Statutes, to read:

489.537 Application of this part.—

(9) Nothing in this part shall exempt a locksmith from the requirements to hold other types of state and local licenses or permits applicable to the services he renders or the businesses he conducts which are incident to locksmith contracting.

Section 43. Any person who holds a current occupational license or current license issued by any municipality or county of the state to engage in locksmith contracting may continue as a locksmith in the geographic area for which the license was issued until March 1, 1989. Beginning March 1, 1989, the provisions of section 8 shall apply.

Section 44. Except as otherwise expressly provided in this act, this act shall take effect October 1, 1988.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 6—In title, on page 1, line 14, after the semicolon (;) of House Amendment 3 of the bill as amended, insert: amending s. 455.229, F.S.; providing that department licensing examination questions and answers are not subject to discovery in an administrative proceeding; providing that such questions and answers may be reviewed under certain circumstances;

Senator Frank moved the following amendment which was adopted:

Amendment 7—In title, on page 3, between lines 7 and 8 of House Amendment 3 of the bill as amended, insert: amending s. 484.0445, F.S., prescribing the frequency of examinations;

Senator Stuart moved the following amendment which was adopted:

Amendment 8—In title, on page 3, line 7, of House Amendment 3 as amended, after the semicolon (;) insert: revising the repeal date for chapter 490, Florida Statutes, relating to psychological services;

On motion by Senator Kirkpatrick, by two-thirds vote HB 1626 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Crawford

On motion by Senator Kirkpatrick, by two-thirds vote CS for HB 823 was withdrawn from the Committee on Transportation.

On motions by Senator Kirkpatrick, by two-thirds vote—

CS for HB 823—A bill to be entitled An act relating to drivers' licenses; amending s. 322.125, F.S.; requiring the Medical Advisory Board to the Department of Highway Safety and Motor Vehicles to assist the department in developing coded restrictions for licensees whose medical condition warrants a requirement that they wear medical identification bracelets; amending s. 322.126, F.S.; requiring the department to provide coded medical identification bracelet restrictions and requiring disability reporting; amending s. 322.16, F.S.; authorizing the department to impose medical identification bracelet restrictions upon the use of licenses; providing an effective date.

—a companion measure, was substituted for CS for SB 1038 and by two-thirds vote read the second time by title.

Senator Beard moved the following amendments which were adopted:

Amendment 1—On page 1, before line 20, insert:

Section 1. Section 320.133, Florida Statutes, is created to read:

320.133 Transporter license plates.—

(1) The department is authorized to issue a transporter license plate to any applicant who, incidental to the conduct of his business, engages in the transporting of motor vehicles which are not currently registered to any owner and which do not have license plates, upon payment of the license tax imposed by section 320.08(15), Florida Statutes, for each such license plate and upon proof of liability insurance coverage in the amount of $100,000 or more. Such a transporter license plate is valid for use on any motor vehicle in the possession of the transporter while the motor vehicle is being transported in the course of the transporter's business.

(2) A license issued pursuant to subsection (1) must be in a distinctive color approved by the department and the word "transporter" must appear on the face of the license plate in place of the county name.

(3) A license plate issued under this section is valid for a period of 12 months, beginning January 1 and ending December 31. No refund of the license tax imposed may be provided for any unexpired portion of a license period.

Section 2. Subsection (15) is added to section 320.08, Florida Statutes, to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(15) TRANSPORTER.—Any transporter license plate issued to a transporter pursuant to s. 320.133: $75 flat.

(Renumber subsequent sections.)

Amendment 2—On page 2, lines 20 and 21, strike *"when the license is so restricted pursuant to s. 322.16(1)(d)"*

Amendment 3—In title, on page 1, line 2, strike all of said line and insert: A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; creating s. 320.133, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to issue special transporter license plates to certain persons who transport motor vehicles that are not registered to any owner, upon payment of the prescribed license tax and proof of liability insurance in a specified amount; amending s. 320.08, F.S.; prescribing the amount of the annual license tax for a transporter license plate; amending

On motion by Senator Kirkpatrick, by two-thirds vote CS for HB 823 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Crawford

CS for CS for CS for SB 954—A bill to be entitled An act relating to hazardous materials; creating part II of chapter 252, F.S., the Florida Hazardous Materials Emergency Response and Community Right-to-Know Act; providing definitions; providing powers and duties of the Department of Community Affairs; providing for department support for the State Hazardous Materials Emergency Response Commission and the local emergency planning committees, as established pursuant to federal law; creating the Hazardous Materials Administration Trust Fund; providing for fees for certain registration, filing, and notification by owners or operators of facilities where hazardous materials are produced, used, or stored; providing for late fees; providing an exemption; providing civil and criminal penalties; providing for causes of action, penalties, and liabilities; providing reporting requirements; providing for submission of trade secrets; providing exemptions from public records law; providing certain confidentiality; providing for review and repeal; authorizing copying charges; limiting tort liability; providing for loan start-up costs; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for CS for CS for SB 954 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1711—A bill to be entitled An act relating to land acquisition; authorizing the Department of Natural Resources to acquire certain parcels of land through the power of eminent domain; providing legal descriptions; providing an effective date.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote HB 1711 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Gordon	Kiser	Ros-Lehtinen
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
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford

Consideration of **SB 975** was deferred.

On motion by Senator Dudley, by two-thirds vote HB 541 was withdrawn from the Committee on Judiciary-Civil.

On motion by Senator Dudley—

HB 541—A bill to be entitled An act relating to school board members; amending s. 230.04, F.S., requiring a school board member to maintain residency throughout his term of office; amending s. 230.10, F.S., requiring candidates for the office of school board member to be residents of the school board member residence area at the time of qualification; providing an effective date.

—a companion measure, was substituted for SB 675 and read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 541 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—W. D. Childers, Crawford, Hollingsworth

Consideration of **SB 1018** was deferred.

SB 1313—A bill to be entitled An act relating to utility services; amending s. 180.135, F.S.; prohibiting a municipality from taking legal action to recover utility charges under certain circumstances; prohibiting the waiver of rights under the section by contract; providing an effective date.

—was read the second time by title.

Three amendments were adopted to SB 1313 to conform the bill to HB 506.

Pending further consideration of SB 1313 as amended, on motion by Senator Ros-Lehtinen, by two-thirds vote HB 506 was withdrawn from the Committee on Economic, Community and Consumer Affairs.

On motion by Senator Ros-Lehtinen—

HB 506—A bill to be entitled An act relating to utility services; amending s. 180.135, F.S.; prohibiting a municipality from taking legal action to recover utility charges under certain circumstances; prohibiting the waiver of rights under the section by contract; providing an effective date.

—a companion measure, was substituted for SB 1313 and read the second time by title.

Senator Margolis moved the following amendment which failed:

Amendment 1—On page 2, between lines 5 and 6, insert:

Section 2. Subsection (4) of section 337.401, Florida Statutes, is amended to read:

337.401 Use of right-of-way for utilities subject to regulation; permit; fees.—

(4)*(a)* A municipality may by ordinance enter into an agreement with any person providing telecommunication services defined in s. 203.012(7) as a condition for granting permission to occupy or use any city street, alley, viaduct, elevated roadway, bridge, or other public way. The agreement shall permit the telecommunication service provider to construct, operate, maintain, repair, rebuild, or replace a telecommunications route within a municipal right-of-way. The agreement shall provide for a fee or other consideration payable annually based on actual linear feet of any cable, fiber optic, or other pathway that makes physical use of the municipal right-of-way. *The fee or other consideration imposed pursuant to this paragraph may not be less than $500 per linear mile of any cable, fiber optic, or other pathway that makes physical use of the municipal right-of-way. Any fee or other consideration imposed pursuant to this paragraph in excess of $500 must be applied in a nondiscriminatory manner and may not exceed the sum of:*

1. Costs directly related to the inconvenience of impairment solely caused by the disturbance of the municipal right-of-way;

2. The reasonable cost of the regulatory activity of the municipality; and

3. The proportionate share of the cost of land for such street, alley, or other public way which is attributable to utilization of the right-of-way by a telecommunication service provider.

Furthermore, a telecommunication service provider may not be required to pay more than one such fee or other consideration annually for the construction, maintenance, operation, repair, rebuilding, or replacement of a parallel telecommunications route owned by it, or by a subsidiary under its direct control, which makes use of the right-of-way of any municipality enacting an ordinance pursuant to this paragraph. The fee or other consideration imposed pursuant to this *paragraph* ~~subsection~~ shall not apply *in any manner* to any telecommunication service provider who provides telecommunication services as defined in s. 203.012(3) *for any services provided by such service provider.*

(b) Any agreement entered into pursuant to the authority of this subsection before the effective date of this act and the fees in effect on that date shall remain in full force and effect until the agreement expires. Any ordinance enacted pursuant to this subsection before the effective date of this act and the fees in effect on that date shall remain in full force and effect until the ordinance is repealed by the municipality; a municipality may reenact an ordinance that has an automatic expiration date provided it does not increase the fees in effect under the ordinance in violation of paragraph (a).

(Renumber subsequent sections.)

On motion by Senator Ros-Lehtinen, by two-thirds vote HB 506 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Girardeau	Kirkpatrick	Plummer
Barron	Gordon	Kiser	Ros-Lehtinen
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	Woodson
Dudley	Jennings	Myers	
Frank	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Crawford

LOCAL CALENDAR

On motions by Senator Deratany, by two-thirds vote—

HB 619—A bill to be entitled An act relating to specified lands in Brevard County; directing the Board of Trustees of the Internal Improvement Trust Fund to quitclaim certain lands in Brevard County to the Canaveral Port Authority for inclusion in the foreign trade zone established by the authority and to quitclaim certain lands in Brevard County to the Canaveral Port Authority for subsequent lease to the City of Cape Canaveral for the use and enjoyment of the public; authorizing and directing the Canaveral Port Authority to convey to the board fee simple title to one or more parcels of land of comparable value in exchange therefor; providing an effective date.

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

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 746—A bill to be entitled An act relating to Santa Rosa County; amending section 6 of chapter 84-526, Laws of Florida, as amended, relating to the date of adjustment meetings of the East Milton Fire Protection and Rescue District; providing an effective date.

—was read the second time by title. On motion by Senator Barron, by two-thirds vote HB 746 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Dudley, by two-thirds vote—

HB 710—A bill to be entitled An act relating to Lee County; prohibiting the taking of saltwater fish, except by hook and line or handheld cast net or with no more than five blue-crab traps, within any manmade saltwater canals located within the Palm Acres Subdivision, Units 1 and 2, and within Shell Point Village, Lee County, Florida; providing a penalty; providing an effective date.

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

Yeas—36

Mr. President	Beard	Childers, D.	Crenshaw
Barron	Brown	Childers, W. D.	Deratany

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

Nays—None

Vote after roll call:

Yea—Crawford

On motion by Senator Dudley, by two-thirds vote—

HB 888—A bill to be entitled An act relating to Collier County and the Collier County Water-Sewer District; providing for legislative intent; reestablishing the Collier County Water-Sewer District and providing a supplement to chapter 78-489, Laws of Florida, relating to the County Water-Sewer District of Collier County; providing for jurisdiction, restrictions and boundaries as applied to the City of Naples, Everglades City, Pelican Bay Improvement District, Immokalee Water and Sewer District, Marco Island, Golden Gate and other unincorporated areas; providing definitions; providing for powers and duties of district board; providing for adoption of rates, fees, and other charges; providing for issuance of bonds; providing for trust funds and trustees; providing for covenants of district board with bondholders; providing that unpaid fees constitute a lien; providing for publication of notice of issuance of bonds; providing that bonds shall have the qualities of negotiable instruments and for the rights of holders; providing for annual reports of the district board; providing that district property is exempt from taxation; providing for district bonds as securities for public bodies; providing for bonds as payment for services; providing for contracts for construction of improvements and sealed bids; providing for special assessments; prohibiting free water and sewer services; providing for system development charges; providing for conveyance of property without consideration; providing for district approval of construction of water and sewage facilities; providing for construction of law; providing for penalties and enforcement; providing an effective date.

—was read the second time by title.

Senator Dudley moved the following amendments which were adopted:

Amendment 1—On page 26, lines 1-17, strike all of said lines, including lines 3-6 of House Amendment 6, and renumber subsequent sections.

Amendment 2—In title, on page 1, lines 25 and 26, strike "providing that district property is exempt from taxation;"

On motion by Senator Dudley, by two-thirds vote HB 888 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1032—A bill to be entitled An act relating to the Golden Gate Fire Control and Rescue District, Collier County; amending article V, section 1 of chapter 87-498, Laws of Florida, to include authorization of the use and imposition of impact fees for capital improvement on new construction within the district; providing for a referendum.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 1032 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1312—A bill to be entitled An act relating to Citrus County, Homosassa Special Water District; amending section 1 of chapter 59-1177, Laws of Florida, as amended, increasing the territorial limits of the district; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendment which was adopted:

Amendment 1—On page 6, strike all of lines 26 and 27 and insert:

Section 2. Except for this section, which shall take effect upon becoming a law, this act shall take effect upon its approval by a majority vote of the qualified electors voting in a special election to be held in Citrus County on or before December 2, 1988, at the expense of the Homosassa Special Water District. A person is a qualified elector for the purposes of this section if he is a registered voter and resides in the territorial limits of the district as it exists upon the effective date of this section or in the area to be added to the district by this act.

On motion by Senator Thurman, by two-thirds vote HB 1312 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1412—A bill to be entitled An act relating to Alachua County; providing for liens in favor of any nonprofit corporation operating a charitable hospital in said county upon causes of action, suits, claims, counterclaims, and demands, accruing to patients therein, or their legal representatives, and upon judgments, settlements, and settlement agreements, on account of illness or injuries of such patients, for all reasonable charges for hospital care, treatment, and maintenance necessitated by such illness or injuries; providing for method of perfecting and enforcing such liens, and recovery of costs, attorney's fees, and expenses, and where suits thereon may be maintained; requiring claims for lien to be recorded and providing for fees for recording; providing that no release or satisfaction shall be valid as against lien unless lienholder joins therein or executes release; providing that acceptance of release or satisfaction of any cause of action, suit, claim, counterclaim, demand, or judgment and any settlement in absence of release or satisfaction of lien shall prima facie constitute impairment of such lien, and giving lienholder right of action at law for damages on account of such impairment; providing for recovery from one accepting release or satisfaction or making settlement; providing for no recovery of damages for hospital care, treatment, and maintenance, unless claimant therefor has paid costs thereof, except in certain cases; providing for intervention by lienholder and verdict and judgment in favor of lienholder in certain cases; exempting from provisions of this act matters within purview of the workers' compensation law of this state; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 1412 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

CS for HB 1433—A bill to be entitled An act relating to Okaloosa County; amending sections 2, 4, 6, 7, 8, and 9 of chapter 86-465, Laws of Florida, relating to the Mid-Bay Bridge Authority; defining "system" to include a specified bridge and connections and transportation facilities appurtenant thereto; authorizing the Authority to issue revenue anticipation notes; creating a new section 14 authorizing the authority to enter into agreements, leases, and covenants to assist the authority in financing, constructing, operating, and maintaining any project authorized by the authority; creating new section 15 relating to tax exempt status of the authority; creating new section 16 relating to eligibility of bonds for investment; providing an effective date.

—was read the second time by title.

Senator Barron moved the following amendments which were adopted:

Amendment 1—On page 9, line 14, through page 11, line 17, strike all of said lines and insert:

Section 7. Sections 14 and 15 are added to chapter 86-465, Laws of Florida, to read:

Section 14. Lease-purchase agreement.—

(1) In order to effectuate the purposes of this act and as authorized herein, the authority may enter into a lease-purchase agreement with the department relating to and covering the system or any portion thereof.

(2) The lease-purchase agreement shall provide for the leasing of the system or any portion thereof by the authority, as lessor, to the department, as lessee, and shall prescribe the terms of such lease and the rentals to be paid thereunder.

(3) The lease-purchase agreement may include such other provisions, agreements, and covenants as the authority and the department deem advisable or required, including, but not limited to, provisions as to the bonds to be issued under and for the purposes of this act; the financing, extension, improvement, operation, and maintenance of the system and the expenses and costs of operation of the authority; the charging and collection of tolls, rates, fees, rentals, or other charges for the use of the services and facilities thereof; the application of federal or state grants or aid which may be made or given to assist the authority in the financing, completion, extension, improvement, operation,. and maintenance of the system, which the authority is authorized to accept and apply to such purposes; the enforcement of payment and collection of tolls, rates, fees, and rentals; and any other terms, provisions, or covenants necessary, incidental, or appurtenant to the making of, and full performance under, such lease-purchase agreement.

(4) The department, as lessee under such lease-purchase agreement, is authorized to pay, as rentals thereunder, any tolls, rates, fees, charges, funds, moneys, receipts, or income accruing to the department from the operation of the system and may also pay, as rentals, from any moneys available to the department, such amounts as the parties agree to accomplish the purposes of this act.

(5) In accordance with the provisions of s. 339.125, Florida Statutes, the department may covenant in any lease-purchase agreement that it will pay all or any part of the operation and maintenance of the system, to the extent the proceeds of the bonds issued therefore are insufficient, from sources other than the revenues derived from the operation of the system.

(6) Any lease-purchase agreement between the authority and the department shall provide for the expeditious repayment of any and all costs incurred by the department as a result of the covenant to complete authorized herein. The agreement shall provide for such repayment from excess tolls or pledged gas tax proceeds not required for payment of principal, interest, reserves, and other required deposits for the bonds.

Section 15. Eligibility for investments and

Amendment 2—On page 2, line 25, after "*thereof*" insert: ~~project~~

Amendment 3—In title, on page 1, strike all of lines 14-16 and insert: authorized by the authority; creating new section 15 relating to

On motion by Senator Barron, by two-thirds vote CS for HB 1433 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1530—A bill to be entitled An act relating to Manatee County; amending section 15 of chapter 84-474, Laws of Florida, as amended; increasing the rates of special assessments that may be charged by the Whitfield Fire Control District; providing an effective date.

—was read the second time by title. On motion by Senator Woodson, by two-thirds vote HB 1530 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1551—A bill to be entitled An act relating to Monroe County; amending subsection (1) of section 4 of chapter 76-441, Laws of Florida, as amended, to provide for election of the board of directors of the Florida Keys Aqueduct Authority; providing for a referendum.

—was read the second time by title. On motion by Senator Plummer, by two-thirds vote HB 1551 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Beard	Childers, D.	Crenshaw
Barron	Brown	Childers, W. D.	Deratany

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

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Girardeau, by two-thirds vote—

HB 1660—A bill to be entitled An act relating to Union County; amending section 1, chapter 65-930, Laws of Florida; providing for the distribution of all race track funds accruing to Union County under the provisions of chapters 550 and 551, Florida Statutes; providing an effective date.

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

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

HB 1704—A bill to be entitled An act relating to Nassau County Hospital Board; amending section 9(3), chapter 21228, Laws of Florida, 1941, as amended; providing for a joint budget hearing; providing for amendment of the hospital board's budget request; providing for a levy sufficient to meet the hospital board's needs up to a maximum of 1.2 mills; providing an effective date.

—was read the second time by title. On motion by Senator Girardeau, by two-thirds vote HB 1704 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Crawford

RECESS

On motion by Senator Barron, the Senate recessed at 6:04 p.m. to reconvene at 7:30 p.m.

CALL TO ORDER

The Senate was called to order by the President at 8:15 p.m. A quorum present—35:

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

Motion

On motion by Senator Barron, by two-thirds vote the special order calendar for Friday, June 3, was revised as follows: CS for CS for SB 127, CS for SB 522, SB 266, CS for SB 844, CS for CS for SB 1107, HB 1717, CS for SB 1429, CS for SB 1205, SB 360, CS for SB 150, SB 920, House Bills 1432, 1473, CS for SB 1158, SB 1160, CS for SB 1355, CS for SB 914, Senate Bills 489, 1058, CS for SB 1350, SB 978, CS for CS for SB 916, CS for SB 786, CS for SB 983, CS for SB 749, CS for CS for SB 1149, SB 728, CS for CS for CS for SB 633, SB 1060, CS for SB 34, HB 1182, CS for SB 1124, CS for SB 1255 and SB 1137.

Senator Hair presiding

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 refused to concur in Senate Amendments 1 and 2 to HB 1508 and requests the Senate to recede.

John B. Phelps, Clerk

HB 1508—A bill to be entitled An act relating to investment of state funds; repealing s. 215.46, F.S., relating to duties of the Attorney General with respect to collection of defaulted investments; amending s. 215.47, F.S.; providing revised rating criteria for certain government and corporate interest-bearing obligations; providing an effective date.

On motions by Senator Jenne, the Senate receded from Senate Amendments 1 and 2. The action of the Senate was 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
Deratany	Hollingsworth	Margolis	Thomas
Dudley	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 9 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 9—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; providing that such prohibition does not abrogate rights of a natural father; providing penalties; providing an effective date.

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

Section 1. Paragraph (i) is added to subsection (1) of section 63.212, Florida Statutes, to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(i) To contract for the purchase, sale, or transfer of custody or parental rights in connection with any child, whether born, conceived but yet unborn, or identified in any way but not yet conceived, in return for any valuable consideration. Any such contract is void and unenforceable as against the public policy of this state. However, fees, costs, and other incidental payments made in accordance with statutory provisions for adoption, foster care, and child welfare are permitted; and a person may agree to pay expenses in connection with a preplanned adoption agreement as specified below, but the payment of such expenses may not be conditioned upon the transfer of parental rights.

1. Individuals may enter into a preplanned adoption arrangement as specified herein, but such arrangement shall not in any way:

a. Effect final transfer of custody of a child or final adoption of a child, without review and approval of the department and the court, and without compliance with other applicable provisions of law.

b. Constitute consent of a mother to place her child for adoption until 7 days following birth, and unless the court making the custody determination or approving the adoption determines that the mother was aware of her right to rescind within the 7-day period following birth but chose not to rescind such consent.

2. A preplanned adoption arrangement shall be based upon a preplanned adoption agreement which shall include, but need not be limited to, the following terms:

a. That the volunteer mother agrees to become pregnant by the fertility technique specified in the agreement, to bear the child, and to terminate any parental rights and responsibilities to the child she might have through a written consent executed at the same time as the preplanned adoption agreement, subject to a right of rescission by the volunteer mother, any time within 7 days after the birth of the child.

b. That the volunteer mother agrees to submit to reasonable medical evaluation and treatment and to adhere to reasonable medical instructions about her prenatal health.

c. That the volunteer mother acknowledges that she is aware that she will assume parental rights and responsibilities for the child born to her as otherwise provided by law for a mother, if the intended father and intended mother terminate the agreement before final transfer of custody is completed, or if a court determines that a parent clearly specified by the preplanned adoption agreement to be the biological parent is not the biological parent, or if the preplanned adoption is not approved by the court pursuant to the Florida Adoption Act.

d. That an intended father who is also the biological father acknowledges that he is aware that he will assume parental rights and responsibilities for the child as otherwise provided by law for a father, if the agreement is terminated for any reason by any party before final transfer of custody is completed, or if the planned adoption is not approved by the court, pursuant to the Florida Adoption Act.

e. That the intended father and intended mother acknowledge that they may not receive custody or the parental rights under the agreement if the volunteer mother terminates the agreement or the volunteer mother rescinds her consent to place her child for adoption within 7 days after birth.

f. That the intended father and intended mother may agree to pay all reasonable legal, medical, psychological or psychiatric expenses of the volunteer mother related to the preplanned adoption arrangement, and may agree to pay the reasonable living expenses of the volunteer mother. No other compensation, whether in cash or in kind, shall be made pursuant to a preplanned adoption arrangement.

g. That the intended father and intended mother agree to accept custody of, and to assert full parental rights and responsibilities for the child immediately upon the child's birth, regardless of any impairment to the child.

h. That the intended father and intended mother shall have the right to specify the blood and tissue typing tests to be performed if the agreement specifies that at least one of them is intended to be the biological parent of the child.

i. That the agreement may be terminated at any time by any of the parties.

3. A preplanned adoption agreement shall not contain any agreeement:

a. To reduce any amount paid to the volunteer mother if the child is stillborn or born alive but impaired, nor shall the agreement provide for the payment of a supplement or bonus for any reason.

b. Requiring the termination of the volunteer mother's pregnancy.

4. An attorney who represents an intended father and intended mother or any other attorney with whom that attorney is associated, shall not represent simultaneously a female who is or proposes to be a volunteer mother in any matter relating to a preplanned adoption agreement or preplanned adoption arrangement.

5. Payment to agents, finders, and intermediaries, including attorneys and physicians, as a finder's fee for finding volunteer mothers or matching a volunteer mother and intended father and intended mother is prohibited. Doctors, psychologists, attorneys and other professionals may receive reasonable compensation for their professional services, such as providing medical services and procedures, legal advice in structuring and negotiating a preplanned adoption agreement, and counseling.

6. As used in this paragraph, the term:

a. "Blood and tissue typing tests" include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens, and serum proteins.

b. "Child" means the child or children conceived by means of an insemination that is part of a preplanned adoption arrangement.

c. "Fertility technique" means artificial embryonation, artificial insemination, whether in vivo or in vitro, egg donation, or embryo adoption.

d. "Intended father" means a male who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the male.

e. "Intended mother" means a female who, as evidenced by a preplanned adoption agreement, intends to have the parental rights and responsibilities for a child conceived through a fertility technique, regardless of whether the child is biologically related to the female.

f. "Parties" means the intended father and intended mother, the volunteer mother and her husband, if she has a husband, who are all parties to the preplanned adoption agreement.

g. "Preplanned adoption agreement" means a written agreement among the parties that specifies the intent of the parties as to their rights and responsibilities in the preplanned adoption arrangement, consistent with the provisions of this act.

h. "Preplanned adoption arrangement" means the arrangement through which the parties enter into an agreement for the volunteer mother to bear the child, for payment by the intended father and intended mother of the expenses allowed by this act, for the intended father and intended mother to assert full parental rights and responsibilities to the child if consent to adoption is not rescinded after birth by the volunteer mother, and for the volunteer mother to terminate, subject to a right of rescission, in favor of the intended father and intended mother all her parental rights and responsibilities to the child.

i. "Volunteer mother" means a female person at least 18 years of age, who voluntarily agrees, subject to a right of rescission, that if she should become pregnant pursuant to a preplanned adoption arrangement, she will terminate in favor of the intended father and intended mother her parental rights and responsibilities to the child.

Section 2. This act shall take effect upon becoming a law.

Amendment 2—On page 1, lines 2-11, strike all of said lines and insert: An act relating to preplanned adoption arrangements; amending s. 63.212, F.S.; providing that contracts for the purchase, sale, or transfer of custody or parental rights in connection with a child intended to be born of a proposed pregnancy is unlawful; providing penalties; providing that parties may enter into a preplanned adoption arrangement and that the arrangement shall be based upon a nonbinding preplanned adoption agreement which shall contain certain terms; requiring that intended par-

ents and the volunteer mother shall be represented by separate counsel; prohibiting payment of finder's fees for matching intended parents and volunteer mothers; providing definitions; providing an effective date.

Amendment 3—On page 1, line 19, strike *"whether born, conceived but"* and insert: *or in connection with any fetus*

On motions by Senator Ros-Lehtinen, the Senate concurred in the House amendments.

SB 9 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	Grizzle	Langley	Scott
Brown	Hair	Lehtinen	Stuart
Childers, D.	Hill	Malchon	Thomas
Childers, W. D.	Hollingsworth	Margolis	Thurman
Deratany	Jenne	McPherson	Weinstein
Frank	Jennings	Myers	Weinstock
Girardeau	Johnson	Peterson	Woodson
Gordon	Kirkpatrick	Plummer	
Grant	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Crawford, Crenshaw

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1298 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1298—A bill to be entitled An act relating to fire prevention and control; creating s. 633.052, F.S., providing definitions; authorizing local units of government to enact ordinances relating to firesafety; providing criteria; providing for certified firesafety inspectors; providing a penalty; providing for rules; amending s. 633.175, F.S.; providing that law enforcement officers shall have the authority to obtain fire loss information without prior approval of the Division of State Fire Marshal; amending s. 633.025, F.S.; providing that battery operated smoke detectors are approved detection devices under specified conditions; providing an effective date.

Amendment 1—On page 2, strike lines 3 and 4, and insert:

(b) "Citation" means a written notice, issued only after a written warning has been previously issued and a minimum time period of 45 days, except for major structural changes, which may be corrected within an extended adequate period of time, from the date of the issuance of the warning whereby the party warned may correct the alledged violation, issued to a person by a firesafety inspector, that the firesafety

Amendment 2—On page 1, lines 25-30 and on page 2, lines 1 and 2, strike all of said lines and insert:

(a) A "firesafety inspector" is an individual certified by the Division of State Fire Marshal of the Department of Insurance officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis, investigating civil infractions relating to firesafety, and issuing citations pursuant to s. 633.052, on behalf of the state or any county, municipality, or special district with firesafety responsibilities.

Amendment 3—On page 5, strike lines 5-13, and renumber subsequent sections.

Amendment 4—In title, on page 1, lines 12-15, strike "amending s. 633.025, F.S.; providing that battery operated smoke detectors are approved detection devices under specified conditions;"

On motions by Senator Ros-Lehtinen, the Senate concurred in the House amendments.

SB 1298 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

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

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 CS for CS for SB 534 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 534—A bill to be entitled An act relating to public health; amending s. 154.01, F.S.; restating the purposes for the operation of county public health units; defining three levels of county public health unit services as environmental, communicable disease control, and primary care services; providing contracting provisions and requirements between the Department of Health and Rehabilitative Services and the counties; amending s. 154.011, F.S.; requiring counties to coordinate certain health care services with existing federal programs; amending s. 154.02, F.S.; modifying the provisions governing the Public Health Unit Trust Fund; specifying expenditure report requirements and providing timeframes for reporting; amending s. 154.04, F.S.; modifying provisions regarding public health unit personnel; requiring the employment of an environmental specialist; providing that public health unit personnel be employed by the Department of Health and Rehabilitative Services; amending s. 154.331, F.S.; providing for the creation of independent health care special districts upon voter approval; redesignating county indigent health care districts as county health care special districts; providing for assessment of certain ad valorem taxes within such district; providing for a governing board for a health care special district; providing board membership, duties, and terms of office; requiring the board to prepare and adopt a budget; providing a means to dissolve the district subject to certain limitations; requiring the board to comply with certain reporting and filing requirements; amending s. 409.266, F.S.; increasing the expenditure from the Public Medical Assistance Trust Fund to expand primary care programs; increasing the income level under which elderly and disabled persons may qualify for Medicaid services, in accordance with federal law; increasing the age level under which children may qualify for Medicaid benefits, in accordance with federal law; requiring a report by the Department of Health and Rehabilitative Services to the President of the Senate and the Speaker of the House of Representatives; providing disproportionate share reimbursement to certain hospitals; creating s. 409.2673, F.S.; establishing a shared county and state health care program for specified low-income persons; providing for eligibility for the program; providing for funding the program; delineating state and county responsibility should the funds of either be depleted; requiring participating counties to maintain current health care efforts; providing for eligibility determination; specifying conditions for reimbursement to hospitals; providing for development and adoption of rules governing the program; creating the Shared County and State Program Trust Fund; creating shared county and state program trust funds in each county; providing an annual appropriation into the trust fund; amending section 73. of chapter 88-1, Laws of Florida; excluding from initial hospital Birth-Related Neurological Injury Compensation Trust Fund assessments those infants born to charity or Medicaid patients in teaching hospitals; reviving and readopting s. 409.266(7)(k), F.S., relating to the Medicaid medically needy program; providing an effective date.

Amendment 1—On page 10, lines 15-24, strike all of said language and insert:

(b) Each *county's primary care program may utilize any or all of* ~~county shall have~~ the *following* options of providing services*: offering services* directly through the county public health units~~, by~~ contracting with individual or group practitioners for all or part of the service~~,~~ or ~~by~~ developing service delivery models which are organized through the

county public health units~~,~~ but which utilize other service or delivery systems available, such as federal primary care programs or prepaid health plans. In addition, counties shall have the option of pooling resources and joining with neighboring counties in order to fulfill the intent of this section.

Amendment 2—On page 18, line 3, through page 37, line 12, strike all of said language and insert:

Section 5. Section 154.301, Florida Statutes, is amended to read:

154.301 Short title.—*Sections 154.301-154.316* ~~This act~~ may be cited as "The Florida Health Care Responsibility Act *of 1988*."

Section 6. Section 154.302, Florida Statutes, is amended to read:

154.302 Legislative intent.—*The Legislature finds that certain hospitals provide a disproportionate share of charity care for persons who are indigent and not able to pay their medical bills and who are not eligible for government-funded programs. The burden of absorbing the cost of this uncompensated charity care is borne by the hospital, the private pay patients, and, many times, by the taxpayers in the county when the hospital is subsidized by tax revenues. The Legislature further finds that it is inequitable for hospitals and taxpayers of one county to be expected to subsidize the care of out-of-county indigent persons. Finally, the Legislature declares that the state and the counties must share the responsibility of assuring that adequate and affordable health care is available to all Floridians. Therefore,* it is the intent of the Legislature to place the ultimate financial obligation for the *out-of-county hospital care of qualified indigent patients* ~~medical treatment of indigents~~ on the county in which the indigent *patient* resides~~, for all those costs not fully reimbursed by other governmental programs or third-party payors~~.

Section 7. Section 154.304, Florida Statutes, is amended to read:

154.304 Definitions.—For the purpose of this act:

(1) "Board" means the Hospital Cost Containment Board as established in chapter 395.

(2) "Certification determination procedures" means the process used by the county of residence or the department to determine a person's county of residence.

(3)~~(1)~~ "Certified *resident* ~~indigent patient~~" means a *person* ~~patient~~ who has been certified as *a resident of the county* ~~indigent~~ by *a person designated by the county governing body to provide certification determination procedures for* the county in which *the patient* ~~he~~ resides*; by the department if such county does not make a determination of residency within 60 days of receiving a certified letter from the treating hospital; or by the department if the hospital appeals the decision of the county making such determination.*

(4) "Charity care obligation" means the minimum amount of uncompensated charity care as reported to the Hospital Cost Containment Board, based on the hospital's most recent audited actual experience, which must be provided by a participating hospital or a regional referral hospital before the hospital is eligible to be reimbursed by a county under the provisions of this act. That amount shall be the ratio of uncompensated charity care days compared to total acute care impatient days, which shall be equal to or greater than 2 percent.

(5)~~(2)~~ "Department" means the Department of Health and Rehabilitative Services.

(6) "Eligibility determination procedures" means the process used by a county or the department to evaluate a person's financial eligibility, eligibility for state-funded or federally funded programs, and the availability of insurance, in order to document a person as a qualified indigent for the purpose of this act.

(7)~~(3)~~ "Hospital," *for the purposes of this act,* means an establishment as defined in s. 395.002 and licensed by the department *which qualifies as either a participating hospital or as a regional referral hospital pursuant to this section;* ~~;~~ except that, hospitals operated by the department shall not be considered *participating* hospitals for purposes of this act.

(8) "Participating hospital" means a hospital which is eligible to receive reimbursement under the provisions of this act because it has been certified by the board as having met its charity care obligation and has either:

(a) A formal signed agreement with a county or counties to treat such county's indigent patients; or

(b) Demonstrated to the board that at least 5 percent of its uncompensated charity care, as reported to the board, is generated by out-of-county residents.

(9) "Qualified indigent person" or "qualified indigent patient" means a person who has been determined pursuant to s. 154.308 to have an average family income, for the 12 months preceding the determination, which is below 100 percent of the federal nonfarm poverty level; who is not eligible to participate in any other government program which provides hospital care; and who has no private insurance or has inadequate private insurance.

(10)~~(4)~~ "Regional referral hospital" means any hospital *which is eligible to receive reimbursement under the provision of this act because it has met its charity care obligation and it meets the definition of teaching hospital as defined in s. 395.502* ~~that provides services to patients who reside in counties other than the county in which the hospital is located~~.

Section 8. Section 154.306, Florida Statutes, is amended to read:

154.306 Financial responsibility for *certified residents who are qualified* ~~out-of-county~~ indigent patients treated at *an out-of-county participating hospital or* ~~a~~ regional referral hospital.—Ultimate financial responsibility for treatment received at a *participating hospital or a* regional referral hospital by a *qualified* ~~certified~~ indigent patient who is a *certified* resident of *a county in* the State of Florida, but is not a resident of the county in which the *participating hospital or* regional referral hospital is located, shall be the obligation of the county of which the *qualified* ~~certified~~ indigent patient is a resident. *Effective January 1, 1989, each county is directed to reimburse participating hospitals or regional referral hospitals as provided for in this act, and shall provide or arrange for indigent eligibility determination procedures and resident certification determination procedures as provided for in rules developed to implement this act. The department, or any county determining eligibility of a qualified indigent, shall provide to the county of residence, upon request, a copy of any documents, forms, or other information, as determined by rule, which may be used in making an eligibility determination.*

(1) A county's financial *obligation* ~~responsibility~~ for each *certified* ~~of its~~ resident *who qualifies as an* ~~certified~~ indigent *patient under this act, and who has received* ~~patients receiving~~ treatment at *an out-of-county* ~~a regional referral~~ hospital, shall ~~be limited to payment for 12 days of services per admission,~~ not ~~to~~ exceed 45 days per *calendar year* ~~annum,~~ at *not less than 80 percent of* the per diem reimbursement rate currently in effect for the *out-of-county* ~~regional referral~~ hospital under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended. *However, nothing in this section shall preclude a hospital which has a formal signed agreement with a county to treat such county's indigents from negotiating a higher or lower per diem rate with the county. In addition, no county shall be required by this act to pay more than the equivalent of $4 per capita in the county's fiscal year. The department shall calculate and certify to each county by March 1 of each year, the maximum amount the county may be required to pay under this act by multiplying the most recent official state population estimate for the total population of the county by $4 per capita. Each county shall certify to the department within 60 days of the end of the county's fiscal year, or upon reaching the $4 per capita threshold, should that occur before the end of the fiscal year, the amount of reimbursement it paid to all out-of-county hospitals under this act.*

(2) ~~However,~~ No county shall be required to pay for *any elective or nonemergency admissions or* services at *an out-of-county* ~~a regional referral~~ hospital *for a qualified indigent who is a certified resident of the county* when *the county provides funding for* such services *and the services* are available at a local hospital in the county where the indigent resides*; or the out-of-county hospital has not obtained prior written authorization and approval for such hospital admission or service, provided that the resident county has established a procedure to authorize and approve such admissions.*~~, except that~~

(3) The county where the indigent resides shall, in all instances, be liable for the cost of treatment provided to *a qualified* ~~said certified~~ indigent *patient* at *an out-of-county* ~~a regional referral~~ hospital for any emergency medical condition which will deteriorate from failure to provide such treatment and when such condition is determined *and docu-*

mented by the attending physician to be of an emergency nature; *provided that the patient has been certified to be a resident of such county pursuant to s. 154.309.*

(4) No county shall be liable for payment for treatment of a qualified indigent who is a certified resident and has received services at an out-of-county participating hospital or regional referral hospital, until such time as that hospital provides documentation to the county that it has met its charity care obligation based on the most recent audited actual experience as reported and certified by the board.

Section 9. Section 154.308, Florida Statutes, is amended to read:

154.308 *Determination* ~~Certification~~ of *a qualified indigent patient's eligibility* ~~indigency~~ for the purpose of this act~~; rules~~.—

(1) ~~Not later than October 1, 1977,~~ The department, *pursuant to s. 154.3105* ~~in consultation with the Florida Association of County Welfare Executives~~, shall adopt rules which provide ~~a~~ statewide eligibility *determination procedures, forms, and criteria which shall be used by all counties* ~~standard~~ for *determining whether a person financially qualifies* ~~certifying residents of each county~~ as indigent for the purposes of this act.

(a) The criteria used to determine eligibility shall be uniform statewide and shall include, at a minimum, which assets, if any, may be included in the determination, which verification of income shall be required, which categories of persons shall be eligible, and any other criteria which may be determined as necessary.

(b) The methodology by which to determine financial eligibility shall also be uniform statewide such that any county or the state could determine whether a person would be a qualified indigent under this act.

(2) Determination of financial eligibility as a qualified indigent ~~These rules shall further provide that certification as indigent for the purposes of this act~~ may occur either prior to a person's admission to a *participating hospital or a* regional referral hospital or subsequent to such admission. ~~, but in any event if a~~

(3) Determination of whether a *hospital* patient *not already determined eligible* meets or does not meet eligibility standards *to financially qualify him* ~~for certification~~ as indigent for the purpose of this act *shall be* ~~is not~~ made within *60* ~~30~~ days following notification *by the hospital requesting a determination of indigency, by certified letter, to any county or the department. If for any reason, the county or department is unable to determine a patient's eligibility within the allotted time frame, the hospital shall be notified in writing of the reason or reasons.* ~~to the county of residence of the patient's admission to a regional referral hospital, the patient shall be considered to have been a certified indigent patient upon admission.~~

(4) A patient *determined eligible as a qualified* ~~certified as~~ indigent for the purpose of this act subsequent to his or her admission to a *participating hospital or a* regional referral hospital shall be considered to have been *qualified* ~~certified~~ upon admission. Such *determination* ~~certification~~ shall be made by a person designated by the *governing* board of *the* county *to make such a determination or by the department* ~~commissioners or, in the absence of such a designated person, by the director of the full-time health unit~~.

(5) Notwithstanding any other provision within this act, ~~Furthermore,~~ any county may establish *thresholds* ~~standards~~ of *financial* eligibility *to qualify indigents under this act* which are less restrictive than *100 percent of the federal poverty line. However,* ~~the standards adopted by the department under this section, and~~ no county may establish *eligibility thresholds* ~~standards~~ which are more restrictive than *100 percent of the federal poverty line* ~~the standards adopted by the department under this section~~.

Section 10. Section 154.309, Florida Statutes, is created to read:

154.309 Certification of county of residence for the purpose of this act.—

(1) The department, pursuant to s. 154.3105, shall adopt rules for certification determination procedures which provide criteria to be used for determining a qualified indigent's county of residence. Such criteria shall include, at a minimum, how and to what extent residency shall be verified and how a hospital shall be notified of a patient's certification or the inability to certify a patient.

(2) In all instances, the county known or thought to be the county of residence shall be given first opportunity to certify a resident. If the county known or thought to be the county of residence fails to, or is unable to, make such determination within 60 days following written notification by a hospital, the department shall determine residency utilizing the same criteria required by rule as the county, and the department's determination of residency shall be binding on the county of residence. The county determined as the residence of any qualified indigent under this act shall be liable to reimburse the treating hospital pursuant to s. 154.306. If for any reason a county or the department is unable to determine an indigent's residency, the hospital shall be notified in writing of such reason or reasons.

Section 11. Section 154.31, Florida Statutes, is amended to read:

154.31 Obligation of the *participating hospital or a* regional referral hospital.—As a condition of accepting the procedures of this act, each *participating hospital or* regional referral hospital in Florida shall be obligated to admit for *emergency* treatment all Florida residents, *without regard to county of residence,* who meet the eligibility standards established pursuant to s. 154.308 and who meet the medical standards for admission to such institutions. *If the department determines that a participating hospital or a regional referral hospital has failed to meet the requirements of this section, the department may impose an administrative fine, not to exceed $5,000 per incident, and suspend the hospital from eligibility for reimbursement under the provisions of this act.*

Section 12. Section 154.3105, Florida Statutes, is created to read:

154.3105 Rules.—Rules governing the Health Care Responsibility Act of 1988 shall be developed by the department based on recommendations of a work group consisting of equal representation by the department, the hospital industry, and the counties. County representatives to this work group shall be appointed by the Florida Association of Counties. Hospital representatives to this work group shall be appointed by the associations representing those hospitals which best represent the positions of the hospitals most likely to be eligible for reimbursement. Rules governing the various aspects of this act shall be promulgated by the department by December 1, 1988. Such rules shall address, at a minimum:

(1) Eligibility determination procedures and criteria.

(2) Certification determination procedures and methods of notification to hospitals.

Section 13. Section 154.312, Florida Statutes, is amended to read:

154.312 Procedure for settlement of disputes.—All disputes *among counties, the board, the department, a participating hospital, or* ~~between a county and~~ a regional referral hospital shall be resolved by order as provided in chapter 120. *Hearings held under this provision shall be conducted in the same manner as provided in s. 120.57, except that the hearing officer's order shall be final agency action. Cases filed under chapter 120 may combine all disputes between parties. Notwithstanding any other provisions of this part, when a county alleges that a residency determination or eligibility determination made by the department is incorrect, the burden of proof shall be on the county to demonstrate that such determination is, in light of the total record, not supported by the evidence.*

Section 14. Section 154.314, Florida Statutes, is amended to read:

154.314 Certification of the State of Florida.—

(1) In the event payment for the costs of services rendered by a *participating hospital or a* regional referral hospital is not received from the responsible county within *90* ~~60~~ days of receipt of a statement for services rendered *to a qualified indigent who is a certified resident of the county,* or if the payment is disputed and said payment is not received from the ~~responsible~~ county *determined to be responsible* within *60* ~~30~~ days of the date of exhaustion of all administrative and legal remedies~~,~~ as provided in chapter 120, the hospital shall certify *to the Comptroller* the amount *owed by the county.* ~~due to~~

(2) The Comptroller~~, who~~ shall *have not longer than 45 days from the date of receiving the hospital's certified notice to* forward the amount delinquent to the appropriate ~~regional referral~~ hospital from any funds due to the county under any revenue-sharing or tax-sharing fund established by the state, except as otherwise provided by the State Constitution. *The Comptroller shall provide the Governor and the appropri-*

ations and finance and tax committees in the House of Representatives and the Senate with a quarterly accounting of the amounts certified by hospitals as owed by counties and the amount paid to hospitals out of any revenue or tax sharing funds due to the county.

Section 15. Section 154.316, Florida Statutes, is amended to read:

154.316 *Hospital's responsibility to notify of* admission of indigent patients.—~~Except in the case of an emergency, no patient shall be treated by, or admitted to, a regional referral hospital as an indigent unless and until the board of county commissioners of the county providing certification notifies the hospital that the patient is certified as an indigent and that he is approved by the board for treatment or admission.~~

(1) Any hospital admitting or treating any out-of-county patient who may qualify as indigent under this act shall, within 10 days after admitting or treating such patient, notify the county known, or thought to be, the county of residency and the department of such admission, or such hospital forfeits its right to reimbursement.

(2) It shall be the responsibility of any participating hospital or regional referral hospital to initiate any eligibility or certification determination procedures with any appropriate state or county agency which can determine financial eligibility or certify an indigent as a resident under this act.

Section 16. Section 154.331, Florida Statutes, is amended to read:

154.331 County ~~indigent~~ health care *special* districts.—Each county may establish a dependent special district pursuant to the provisions of chapter 125 or, by ordinance, create an independent special district *as defined in s. 200.001(8)(e)* to provide *funding for* indigent *and other* health care services throughout the county in accordance with this section. *The county governing body shall obtain approval, by a majority vote of the electors, to establish the district with authority to annually levy ad valorem taxes which shall not exceed the maximum millage rate authorized by this section. Any independent health care special district created by this section shall be required to levy and fix millage subject to the provisions of s. 200.065. Once approved by the electorate, the independent health care special district shall not be required to seek approval of the electorate in future years to levy the previously approved millage.*

(1) The county governing body shall appoint *a district* ~~an indigent~~ health care board to serve as the governing board of the independent special district. *Such board shall consist of not less than five members, of which two members shall be appointed to the board by the Governor, and not less than three members shall be appointed by the governing body of the county. All members shall have been residents of the county for the previous 12-month period. The members' terms shall be staggered and may not exceed 4 years. No member shall serve for more than two consecutive terms. The governing body of the county shall fill any vacancies that may occur during the term of any board member. Board members may be removed for cause only by the Governor or by a majority of the electors voting within the county.*

(2)(a) Each *district* ~~indigent~~ health care board *may, subject to the limitations placed on the district by the governing body of the county at the time the independent special district was created and approved by the electorate,* ~~shall~~ have *any or all of* the following powers *or functions* ~~and duties~~:

1. To provide and maintain in the county such ~~indigent~~ health care clinics as the board determines are needed for the general welfare of the county.

2. To provide for the health care of indigents and to provide such other *health-related* services for indigents, *including the purchase of institutional services from any private or publicly owned medical facility,* as the board determines are needed for the general welfare of the county.

3. To allocate and provide funds for other agencies *or facilities* in the county which *provide health benefits or health services that improve the general welfare* ~~are operated for the benefit~~ of indigents *and other county residents.*

4. To collect information and statistical data that will be helpful to the board *and the county* in deciding the health care needs ~~of indigents~~ in the county.

5. To consult *and coordinate* with other agencies dedicated to ~~the~~ health care ~~of indigents~~ to the end that the overlapping of services will be prevented.

6. To govern, operate, administer, and fund, or any combination thereof, any county-owned or county-operated medical facility which is a major provider of charitable health care services for low-income persons.

7. To assume funding for the county's share of state or federal indigent health care programs which require financial participation by the county.

8.~~6.~~ To lease or buy such real property and personal property and to construct such buildings as are needed to execute the foregoing powers *or functions* ~~and duties~~; however, such purchases may not be made or construction done *unless paid* ~~except~~ for *with* cash ~~with funds~~ on hand~~.~~ *or secured by funds deposited in financial institutions. Nothing in this paragraph shall be construed to authorize an independent health care special district to issue bonds of any nature, nor shall it have the power to require the imposition of any bond by the governing body of the county.*

9.~~7.~~ To employ, ~~and~~ pay, *and provide benefits for* any part-time or full-time personnel needed to execute the foregoing powers and *functions* ~~duties~~.

(b) Each district health care board shall:

1. Organize immediately after the members are appointed to elect one of its members as chairman and one of its members as vice chairman, and elect other officers as deemed necessary by the board.

2. Make and adopt bylaws and rules and regulations for the board's guidance, operation, governance, and maintenance, provided such rules and regulations are not inconsistent with federal or state laws or ordinances of the county.

(c) Board members shall serve without compensation, but shall be entitled to necessary expenses incurred in the discharge of their duties.

(d)~~(b)~~ *All financial records and accounts relating to the independent health care special district shall be available for review by the county governing body and for audit* ~~Books of account must be kept by the board or its clerical assistants, and the fiscal affairs of the board must be exclusively audited~~ by state auditors assigned from time to time to audit the affairs of the county officials.

(3)(a) The fiscal year of the district must be the same as that of the county.

(b) On or before May 1 of each year, the *district* ~~indigent~~ health care board shall prepare *a tentative* ~~and adopt an~~ annual written budget of *the district's* ~~its~~ expected income and expenditures, including a contingency fund, *and shall compute a proposed millage rate within the voter-approved cap necessary to fund the tentative budget. Prior to adopting a final budget, the board shall comply with the provisions of s. 200.065, relating to the method of fixing millage, and shall fix the final millage rate by ordinance or resolution of the board.* The *adopted* ~~written~~ budget *and final millage rate* must be certified and delivered to the *county governing body no later than the time of adoption of the county's annual budget* ~~board of county commissioners on or before July 1 of each year~~. Included in each certified budget must be ~~an estimate of~~ the millage rate *adopted by ordinance or resolution of the independent health care special district board as* necessary to be applied to raise the funds budgeted for *district operations and* expenditures. *In no circumstances, however, shall any independent health care special district levy millage to*~~, which millage rate may not~~ exceed a maximum of 5 mills ~~for each $1,000~~ of assessed valuation of all properties within the county which are subject to *ad valorem* ~~county~~ taxes *or the amount approved by the electorate when the district was created, whichever is less.* The budget of the *district* ~~indigent health care board~~ so certified and delivered to the ~~board of~~ county *governing body* ~~commissioners~~ may not be changed or modified by the ~~board of~~ county *governing body* ~~commissioners~~ or by any other authority.

~~(c) In order to provide funds for the indigent health care board, the independent special district, by vote of the electorate, shall levy ad valorem taxes annually on all taxable property in the county in an amount not to exceed 5 mills. The tax shall be assessed, levied, and collected in the same manner and at the same times as is provided by law for the levy, collection, and enforcement of collection of county taxes.~~

(c)~~(d)~~ All tax moneys collected under this section, as soon after the collection thereof as is reasonably practicable, must be paid directly to the *district* ~~indigent~~ health care board by the tax collector of the county, or by the clerk of the circuit court if the clerk collects delinquent taxes.

1. The moneys so received by the *district* ~~indigent~~ health care board must be deposited in *financial institutions with separate and distinguishable accounts established specifically for the district* ~~a special bank account~~ and may be withdrawn only by checks signed by the chairman of the *district* ~~indigent~~ health care board and countersigned by *either* one other member of the *district* ~~indigent~~ health care board *or by a chief executive officer* who is so authorized by the board.

2. *Upon entering the duties of office,* the chairman and the other member of the *district* ~~indigent~~ health care board *or chief executive officer* who signs its checks shall each give a surety bond in the sum of $1,000, which bond must be conditioned that each of them shall faithfully discharge the duties of his office. *The premium on said bond may be paid by the special district as part of the expense of the board.* No other member of the *district* ~~indigent~~ health care board may be required to give bond or other security.

3.~~2.~~ No funds of the *district* ~~indigent health care board~~ may be expended except by check as aforesaid, except expenditures from a petty cash account, which may not at any time exceed $25. All expenditures from petty cash must be recorded on the books and records of the *district* ~~indigent health care board~~. No funds of the *district* ~~indigent health care board~~, excepting expenditures from petty cash, may be expended without prior approval of the board, in addition to the budgeting thereof.

(d)~~(c)~~ Within 10 days after the expiration of each quarter-annual period, the *district* ~~indigent~~ health care board shall cause to be prepared and filed with the ~~board of~~ county *governing body* ~~commissioners~~ a financial report, which includes:

1. The total expenditures of the board for the quarter-annual period;

2. The total receipts of the board during the quarter-annual period; and

3. A statement of the funds the board has on hand or *deposited with financial institutions* ~~in banks~~ at the end of the quarter-annual period.

(4) *Any independent health care special district may be dissolved pursuant to s. 165.051, or the county governing body may by ordinance vote to dissolve the independent health care special district subject to the approval of the electorate; provided, however, the county obligates itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes as provided for under s. 9, Art. VII of the State Constitution.* ~~After the first year of operation of the indigent health care board, the board of county commissioners may, at its option, fund the budget of the indigent health care board from its own funds.~~

(5) Any independent health care special district created under this section shall comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports required under part III of chapter 218, or any other report or documentation required by law.

Section 17. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsections (17) and (18) of section 381.702, Florida Statutes, are renumbered as subsections (18) and (19), respectively, and a new subsection (17) is added to said section, to read:

381.702 Definitions.—As used in ss. 381.701-381.715, the term:

(17) "Multifacility project" means an integrated residential and health care facility consisting of independent living units, adult congregate living facility units and nursing home beds certificated on or after January 1, 1987, where:

(a) The aggregate total number of independent living units and adult congregate living facility units exceeds the number of nursing home beds.

(b) The developer of the project has expended the sum of $500,000 or more on the certificated and non-certificated elements of the project combined, exclusive of land costs, by the conclusion of the 18th month of the life of the certificate of need.

(c) The total aggregate cost of construction of the certificated element of the project, when combined with other, noncertificated elements, is $10 million or more.

(d) All elements of the project are contiguous or immediately adjacent to each other and construction of all elements will be continuous.

Section 18. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (3) is added to section 381.705, Florida Statutes, to read:

381.705 Review criteria.—

(3) For any application authorized by s. 381.706(2)(j) or (k) involving an approved facility based on a certificate of need application filed prior to December 31, 1984, the department shall approve such application unless the proposed consolidation or division would result in a facility or facilities not meeting the criterion of financial feasibility or unless the consolidation or division would result in beds or services being moved more than 15 miles from their original certificated location.

Section 19. Effective July 1, 1988, or upon becoming a law, whichever occurs later, new paragraphs (i), (j) and (k) are added to subsection (2) of section 381.706, Florida Statutes, to read:

381.706 Projects subject to review.—

(2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt pursuant to subsection (3), projects subject to an expedited review shall include, but not be limited to:

(i) A 50-percent increase in nursing home beds for a facility incorporated and operating in this state for at least 60 years on or before July 1, 1988, which has a licensed nursing home facility located on a campus providing a variety of residential settings and supportive services. The increased nursing home beds shall be for the exclusive use of the campus residents.

(j) Combination within one nursing home facility of the beds or services authorized by two or more certificates of need issued in the same planning subdistrict.

(k) Division into two or more nursing home facilities of beds or services authorized by one certificate of need issued in the same planning subdistrict. Subdivision shall not be approved if it would adversely affect the original certificate's approved cost.

The department shall develop rules to implement the provisions for expedited review, including time schedule, application content, and application processing.

Section 20. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (5) of section 381.709, Florida Statutes, is amended to read:

381.709 Review process.—The review process for certificates of need shall be as follows:

(5) ADMINISTRATIVE HEARINGS.—

(a) Within 21 days after publication of notice of the State Agency Action Report and Notice of Intent, any person authorized under paragraph (b) to participate in a hearing may file a request for an administrative hearing; failure to file a request for hearing within 21 days of publication of notice shall constitute a waiver of any right to a hearing and a waiver of the right to contest the final decision of the department. A copy of the request for hearing shall be served on the applicant.

(b)*1.* Hearings shall be held in Tallahassee unless the hearing officer determines that changing the location will facilitate the proceedings. In administrative proceedings challenging the issuance or denial of a certificate of need, only applicants considered by the department in the same batching cycle are entitled to a comparative hearing on their applications.

2.a. Existing health care facilities may initiate or intervene in such administrative hearing upon a showing that an established program will be substantially affected by the issuance of a certificate of need to a competing proposed facility or program within the same district, provided that existing health care providers, other than the applicant, have no standing or right to initiate or intervene in an administrative hearing involving a health care project which is subject to certificate-of-need review solely on the basis of s. 381.706(1)(c).

b. In addition to any rights granted under sub-subparagraph 2.a., any existing health care facility which is affiliated with, and located on the campus of, a state university, and which is involved in research and the teaching and training of students in one or more of the medical professions, may initiate or intervene in such administrative hearing upon a showing that an established program or the overall role of the facility will be substantially affected by the issuance of a certificate of need to a competing proposed facility or program within the primary service area of the existing facility as designated in its certificate of need. Any such facility shall be taken into consideration under the criteria set forth in s. 381.705(1)(a)-(n) and rules adopted pursuant thereto, as if it were located within the same service district of the applicant, to the extent that such consideration is consistent with the purposes of each criterion.

3. The department shall assign proceedings requiring hearings to the Division of Administrative Hearings of the Department of Administration within 10 days after the time has run to request a hearing. Except upon unanimous consent of the parties or upon the granting by the hearing officer of a motion of continuance, hearings shall commence within 60 days after the hearing officer has been assigned. All nonstate-agency parties shall bear their own expense of preparing a transcript. In any application for a certificate of need which is referred to the Division of Administrative Hearings for hearing, the hearing officer shall complete and submit to the parties a recommended order as provided in s. 120.57(1)(b). The recommended order shall be issued within 30 days after the receipt of the proposed recommended orders or the deadline for submission of such proposed recommended orders, whichever is earlier. The division shall adopt procedures for administrative hearings which shall maximize the use of stipulated facts and shall provide for the admission of prepared testimony.

(c) The department shall issue its final order within 45 days after receipt of the recommended order.

(d) If the department fails to take action within the time specified in paragraph (4)(a) or paragraph (5)(c), or as otherwise agreed to by the applicant and the department, the applicant may take appropriate legal action to compel the department to act. When making a determination on an application for a certificate of need, the department is specifically exempt from the time limitations provided in s. 120.60(2).

Section 21. Effective July 1, 1988, or upon becoming a law, whichever occurs later, subsection (2) of section 381.710, Florida Statutes, is amended to read:

381.710 Conditions and monitoring.—

(2)(a) Unless the applicant has commenced construction, if the project provides for construction, unless the applicant has incurred an enforceable capital expenditure commitment for a project, if the project does not provide for construction, or unless subject to paragraph (b), a certificate of need shall terminate 1 year after the date of issuance, *except in the case of a multifacility project, as defined in s. 381.702(17), where the certificate of need shall terminate 2 years after the date of issuance.* The department may extend the period of validity of the certificate for an additional period of up to 6 months, upon a showing of good cause, as defined by rule, by the applicant for the extension. The department shall monitor the progress of the holder of the certificate of need in meeting the timetable for project development specified in the application with the assistance of the local health council as specified in s. 381.703(1)(b)7., and may revoke the certificate of need, if the holder of the certificate is not meeting such timetable and is not making a good faith effort, as defined by rule, to meet it.

(b) A certificate of need issued to an applicant holding a provisional certificate of authority under chapter 651 shall terminate 1 year after the applicant receives a valid certificate of authority from the Department of Insurance. The certificate-of-need validity period may be extended by the department for an additional period of up to 6 months upon a showing of good cause, as defined by rule, by the applicant for the extension.

(c) The certificate-of-need validity period for a project shall be extended by the department, to the extent that the applicant demonstrates to the satisfaction of the department that good faith commencement of the project is being delayed by litigation or by governmental action or inaction with respect to regulations or permitting precluding commencement of the project.

(d) If an application is filed to consolidate two or more certificates as authorized by s. 381.706(2)(j) or to divide a certificate of need into two or more facilities as authorized by s. 381.706(2)(k), the validity period of the certificate or certificates of need to be consolidated or divided shall be extended for the period beginning upon submission of the application and ending when final agency action and any appeal from such action has been concluded. However, no such suspension shall be effected if the application is withdrawn by the applicant.

Section 22. Subsections (7) and (8) of section 409.266, Florida Statutes, are amended, and subsection (18) is added to said section, to read:

409.266 Medical assistance.—

(7) The Department of Health and Rehabilitative Services shall, within the intent of this section, expand payment for medical services to additional eligible persons as provided herein:

(a) The department shall, by rule, increase the Medicaid outpatient hospital services cap from $500 to $1,000, effective October 1, 1987.

(b) Beginning July 1, 1984, the department is authorized to use up to $10 million from the Public Medical Assistance Trust Fund, as created in s. 409.2662, to establish a primary care *system* ~~programs~~ for *Medicaid clients and other* low-income persons *by developing primary care programs contracted* through the county public health units pursuant to s. 154.011.

(c) Beginning July 1, *1988* ~~1987~~, the department is authorized to use up to *$20* ~~$10~~ million from the Public Medical Assistance Trust Fund in addition to the moneys authorized in paragraph (b), for a total of *$30* ~~$20~~ million for fiscal year *1988-1989* ~~1987-1988~~, in order to expand primary care programs for low-income persons *to each county* pursuant to s. 154.011.

(d) Beginning July 1, 1985, the department shall provide by rule for the delivery of Medicaid services to:

1. Financially eligible individuals under age 21 who are children in intact families;

2. Financially eligible unemployed parents and their children who are under age 18; and

3. Financially eligible married pregnant women.

Financial eligibility shall be based on the income and resource standards for Aid to Families with Dependent Children. The definition of the term "unemployed" shall be based on federal regulations.

(e) The department shall provide, by rule, for the delivery of federally approved Medicaid services to qualified elderly persons and disabled persons whose family incomes are below *100* ~~90~~ percent of the federal nonfarm poverty level.

(f) Beginning October 1, 1987, the department shall provide, by rule, for the delivery of Medicaid services as specified in paragraph (j) to qualified pregnant women whose family incomes are below 100 percent of the federal nonfarm poverty level.

(g) Beginning October 1, *1988* ~~1987~~, the department shall provide, by rule, for the delivery of federally approved Medicaid services to qualified infants and children under *5* ~~2~~ years of age, whose family incomes are below 100 percent of the federal nonfarm poverty level, and shall phase in additional age limits as follows:

1. Beginning October 1, *1989* ~~1988~~, Medicaid benefits shall be extended to cover eligible children under the age of *6* ~~3~~.

2. Beginning October 1, *1990* ~~1989~~, Medicaid benefits shall be extended to cover eligible children under the age of *7* ~~4~~.

3. Beginning October 1, *1991* ~~1990~~, Medicaid benefits shall be extended to cover eligible children under the age of *8* ~~5~~.

(h) The department is prohibited from applying a resource test to those pregnant women or children who are made eligible for Medicaid services under paragraph (f) or paragraph (g), unless such persons also receive Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI) benefits.

(i) Beginning October 1, 1987, the department is directed to implement the federal option of presumptive eligibility in accordance with 42 U.S.C., ss. 1396(a)(47) and 1396r, for all Medicaid-eligible pregnant women who affirm their family income to be within the Medicaid eligibility standards.

(j) The *specific* Medicaid services *referred* to ~~be provided~~ in paragraphs (e) through (i) shall be those authorized by the Federal Sixth Omnibus Budget Reconciliation Act *or the Federal Seventh Omnibus Budget Reconciliation Act* and provided for in the General Appropriations Act.

(k)*1.* Beginning July 1, 1986, the department shall establish, by rule, a Medicaid medically needy program that will provide services for which categorically eligible persons are entitled, except for long-term institutional services. These services shall be provided to persons who meet categorical eligibility requirements, other than requirements relating to income limitations. The maximum income eligibility for services through the medically needy program shall be set at up to 133⅓ percent of the payment standard for eligibility for Aid to Families with Dependent Children, the percentage to be set by the department in consultation with the appropriations committees of the Senate and the House of Representatives and based upon recurring funds available.

2. On or before March 1, 1989, the department shall submit to the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives, a report on the status of the Medicaid medically needy program and any of the other Medicaid programs which expand eligibility to optional groups and which are funded from the Public Medical Assistance Trust Fund. The report shall include, but need not be limited to, the following:

a. The amounts reimbursed to providers, arranged by major types of providers, and the amount hospitals were assessed for the Public Medicaid Assistance Trust Fund.

b. Any evidence of a shift in the burden of uncompensated care among hospitals, based on hospital assessments and reimbursements from the Public Medical Assistance Trust Fund.

c. The impact in the eligibility for and the reimbursements from the expanded Medicaid eligibility programs on the budgets of county public health units and the children's medical services budget.

d. Caseload information concerning Aid to Families With Dependent Children and Supplemental Security Income clients who were screened, and determined eligible, as a result of the medically needy eligibility determination process.

e. Information relating to attrition rates at the various stages of the application process.

f. An assessment of the impact of the payment level for clients receiving Aid to Families With Dependent Children on the average medically needy spend-down payment level.

g. Recommendations for program improvements, including recommendations relating to administrative issues, additional services to be offered, interface with providers, and possible funding mechanism.

h. Projections of caseloads for the next 3 fiscal years for programs funded from the Public Medical Assistance Trust Fund and projections of any surplus or deficit resulting from those caseload projections.

(8) The department shall, within the intent of this section, expand payment for Medicaid services as follows:

(a) Beginning October 1, 1987, the department is directed to increase all Medicaid physician reimbursement up to a minimum of the Medicare 50th percentile as published in the 1986 Medicare Part B Procedure Codes and Prevailing Allowances, to be phased in over a 5-year period, except, however, effective October 1, 1987:

1. The department shall increase the Medicaid physician reimbursement rate for office visits to the Medicare 50th percentile.

2. Reimbursement fees to physicians for providing total obstetrical services to Medicaid recipients, which include prenatal, delivery, and postpartum care, shall be at least $800 per delivery for a pregnant woman with low medical risk and at least $1,200 per delivery for a pregnant woman with high medical risk. Nurse midwives licensed under chapter 464 and chapter 467 shall be paid at no less than 80 percent of the low medical risk fee. The department shall by rule determine, for the purpose of this paragraph, what constitutes a high or low medical risk pregnant woman. Such determination shall not include a consideration of whether a caesarean section was performed. The department shall by rule determine a prorated payment for obstetrical services in cases where only part of the total prenatal, delivery, or postpartum care was performed. The department shall review these reimbursement fees annually in relation to the actual cost of providing the obstetrical care, and shall make recommendations to the Legislature for appropriate increases as necessary.

3. Reimbursement per day per patient to a physician licensed under chapter 458 or chapter 459, who is certified or is eligible for certification by an appropriate board to practice neonatal-perinatal medicine *or pediatric critical care medicine*, shall be limited to no more than 10 percent of the total obstetrical service delivery rate for a high medical risk pregnant woman. The department may by rule establish a graduated fee schedule which is based on the complexity and severity of the infant's medical problems. However, in no instance shall the physician's daily reimbursement per patient be set at less than $50.

(b) The department shall phase in increases to the Medicaid physician reimbursement rates up to a minimum of the Medicare 50th percentile, utilizing the Florida Medicare Area B allowances, as follows:

1. Beginning October 1, 1988, the department shall increase fees for physician critical care visits and hospital visits; and for certain surgical procedures identified in rule by the department which are performed by physicians licensed under chapter 458 or chapter 459 who are certified or eligible for certification by an appropriate board to practice surgery on eligible children under 21 who participate in the Medicaid Early Periodic Screening Diagnosis and Treatment Program.

2. Beginning October 1, 1989, the department shall increase fees for all remaining physician visits; for anesthesiologist procedures; and for the 25 most frequent surgical procedure code groups as determined by the department.

3. Beginning October 1, 1990, the department shall increase fees for radiology and pathology procedures.

4. Beginning October 1, 1991, the department shall increase fees for the remaining surgical procedures and for all remaining procedures not previously increased.

(c)~~(b)~~ Consistent with the legislative intent to emphasize primary and preventive health services as they apply to children, beginning October 1, 1987, the department is directed to provide, by rule, for the expansion of Medicaid coverage to increase provider fees for early periodic screening, diagnosis and treatment of Medicaid-eligible children up to a minimum of $30 per unit. The department shall review provider fees annually in relation to the actual cost of providing the screening, diagnosis, and treatment, and shall make recommendations to the Legislature for appropriate increases as necessary.

(d)~~(c)~~ Beginning October 1, 1987, the department shall provide, by rule, for a 100-percent increase in Medicaid provider fees for home health care services, up to a maximum of 55 percent of the Medicare maximum allowance; however, licensed practical nurses shall be reimbursed 15 percent less than registered nurses.

(e)~~(d)~~ Beginning October 1, 1987, the department shall reimburse physicians $35 per unit to provide annual health screening and diagnostic services for Medicaid-eligible adults. The department shall review provider fees annually in relation to the actual cost of providing the screening and diagnosis, and shall make recommendations to the Legislature for appropriate increases as necessary.

(f)~~(e)~~ Beginning October 1, 1987, the department shall increase access to primary dental care by increasing Medicaid dental fees to 100 percent of the October 1, 1984, departmental fee schedule for non-Medicaid clients as determined by the advisory Dental Fee Committee.

(18) The department is directed to pursue alternatives with the Federal Health Care Financing Administration to extend the limit on inpatient hospitalization to 120 days beginning October 1, 1988, for all Medicaid eligible neonates. If by January 1, 1989, the department is unable to reach agreement with the Health Care Financing Administration to extend the length of inpatient hospital days for such neonates, then the department is directed to extend the length of stay for inpatient hospital services to 120 days for all eligible children under 21, who participate in the Medicaid Early Periodic Screening, Diagnosis, and Treatment Program. Notwithstanding the provisions of s. 409.267, counties shall be exempt from contributing towards the cost of this extention from the 46th to the 120th day. The provisions of this subsection shall be funded by an appropriation to the department from the Public Medical Assistance Trust Fund pursuant to s. 409.2662.

Section 23. Subsections (1) and (6) of section 409.2661, Florida Statutes, are amended to read:

409.2661 Medically indigent demonstration projects.—Beginning July 1, 1987, the department is directed to plan for and establish medically indigent demonstration projects and to evaluate the impact of each on improving access to services by persons who are medically underserved.

(1) The department shall contract to assist in funding *two* ~~one~~ rural and *two* ~~one~~ urban ~~demonstration~~ primary care health training *demonstration projects which link* ~~project which links~~ the provision of primary care services to low-income persons with the education of medical students, interns, and residents. Such program shall at a minimum:

(a) Be sponsored by state-approved medical schools which shall be responsible for the clinical training and supervision.

(b) Cover large geographical areas and large numbers of patients.

(c) Utilize a multidisciplinary approach with appropriate medical supervision.

Nothing in this subsection shall preclude a primary care health training demonstration project from utilizing current community resources such as county public health units, primary care programs, or other established cooperative agreements. *Each primary care health training demonstration project shall be eligible for up to $1 million of funds appropriated pursuant to subsection (6).*

(6) Not more than *$5* ~~$3~~ million *in total* shall be appropriated for the medically indigent demonstration projects; provided, however, that each demonstration project shall be awarded no more than $1 million to cover service, administration, and start-up costs. This money shall be derived exclusively from the Public Medical Assistance Trust Fund.

Section 24. Subsection (4) of section 409.2662, Florida Statutes, is amended to read:

409.2662 Public Medical Assistance Trust Fund.—

(4) Moneys deposited into the Public Medical Assistance Trust Fund shall be used solely for the purposes set out in this *act* ~~section~~, in s. 14, chapter 87-92, Laws of Florida, and in ss. 409.266(7), 409.2661, 409.2663, and 409.701.

Section 25. Effective July 1, 1988, or upon becoming a law, whichever occurs later, section 409.2663, Florida Statutes, is amended to read:

409.2663 Redistribution of funds in the Public Medical Assistance Trust Fund.—

(1) LEGISLATIVE INTENT.—The Legislature finds that the Public Medical Assistance Trust Fund was created for the purpose of providing equity among hospitals in the provision of indigent health care services. The Legislature further finds that *at this time,* the Medicaid medically needy program and the categorical expansion of the Medicaid program are insufficient in and of themselves to redistribute the funds in the Public Medical Assistance Trust Fund *and therefore a surplus has accumulated.* The Legislature concludes that additional mechanisms for the redistribution of funds in the Public Medical Assistance Trust Fund are needed in order to accomplish the original intent, including a direct redistribution of trust fund dollars to hospitals which are major providers of indigent care. However, a redistribution formula is considered appropriate only for the short term until other, more appropriate, mechanisms for equalizing the indigent care burden among hospitals can be established. Further, it is the intent of the Legislature that *local governments or tax districts* ~~county governments~~ shall not reduce ~~county~~ contributions *to hospitals* ~~for indigent care~~ as a result of funds redistributed to hospitals *pursuant to this section and shall provide, at a minimum, the same level of funding as provided for during the last fiscal year; provided, counties using tax revenues derived from laws that were enacted by the Legislature which have since been repealed, shall not be required to replace such tax revenues to conform with the intent of this section* ~~in that county~~.

(2) DEFINITIONS.—As used in this section:

(a) "Adjusted patient day" means the sum of acute patient days and intensive care patient days divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues.

(b) "Audited actual data" or "audited actual experience" means data contained within financial statements examined by an independent, Florida-licensed, certified public accountant, in accordance with generally accepted auditing standards.

~~(c) "Bad debts" means that portion of hospital charges for care provided to a patient whose family income fails to qualify him for charity care and for which there is no compensation. Bad debts shall not include administrative or courtesy discounts, contractual allowances to third-party payers, or failure of a hospital to collect full charges due to partial payment by government programs.~~

(c)~~(d)~~ "Board" means the Hospital Cost Containment Board as established in s. 395.503.

(d)~~(e)~~ "Charity care" means that portion of hospital charges *reported to the board for which there is no compensation* for care provided to a patient whose family income for the 12 months preceding the determination is *less than or equal to* ~~below~~ 150 percent of the federal nonfarm poverty level unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. *However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal nonfarm poverty level for a family of four be considered charity.*~~, and for which there is no compensation.~~ Charity care, *for the purposes of this section,* shall not include administrative or courtesy discounts,~~;~~ contractual allowances to third-party payers,~~;~~ ~~or~~ failure of a hospital to collect full *per diem* charges *from Medicare or Medicaid sponsored patients; failure to collect full charges* due to *grants or* partial payment by government programs*; or charity care reported to comply with the requirements of the Hill-Burton Hospital and Medical Facilities Construction Plan.*

(e)~~(f)~~ "Charity care days" means the sum of charity care divided by gross revenues per adjusted patient day.

(f)~~(g)~~ "Department" means the Department of Health and Rehabilitative Services.

(g)~~(h)~~ "Hospital" means a health care institution as defined in s. 395.002(6).

(h)~~(i)~~ "Gross revenue" means the sum of daily hospital service charges, ambulatory service charges, ancillary service charges, and other operating revenue. Gross revenues do not include contributions, donations, legacies, or bequests made to a hospital without restriction by the donors.

(i)~~(j)~~ "Public Medical Assistance Trust Fund" or "trust fund" means the Public Medical Assistance Trust Fund as established in s. 409.2662.

~~(k) "Uncompensated care" means the sum of charity care and bad debts.~~

~~(l) "Uncompensated care days" means the sum of uncompensated care divided by gross revenue per adjusted patient day.~~

(3) HOSPITAL REDISTRIBUTION OF PUBLIC MEDICAL ASSISTANCE TRUST FUND SURPLUS.—The hospital redistribution of surplus funds in the Public Medical Assistance Trust Fund shall be *distributed as follows:* ~~based upon fiscal 1986 hospital data as reported to the board.~~

(a) Beginning September 30, 1988, the department shall distribute, pursuant to this subsection, monies appropriated from surplus trust funds in four quarterly payments to hospitals which meet the following criteria:

1. The hospital began contributing to the trust fund on or before January 1, 1988; and

2. The dollar volume of charity care reported to the board for the quarter for which payment is requested was equal to or exceeded 2 percent of the hospital's gross revenues.

(b) Hospitals which meet the criteria of subparagraphs (a)1. and 2., and which desire to participate in the redistributions designated in this subsection, shall submit the following data to the board for each reporting period in which the hospital wishes to participate:

1. Actual gross revenues for the reporting period.

2. Actual documented charity care written off for the reporting period, based on patients discharged, provided that the last service rendered to a given charity patient occurred not more than 60 days prior to the beginning of the reporting period.

3. One-fourth of its annual budgeted restricted and unrestricted revenues from local governments or tax districts as reported to the Hospital Cost Containment Board for the year or years which comprise the reporting period.

4. For any charity care reported for a patient whose length of stay exceeded 12 days, the aggregate total charges associated with the 13th and subsequent days.

(c) Hospitals shall report and be paid based on the following schedule:

1. For the months of April, May, and June 1988, the hospital shall report by August 15, 1988, to qualify for a quarterly payment due on October 31, 1988.

2. For the months of July, August, and September 1988, the hospital shall report by November 15, 1988, to qualify for a quarterly payment due on January 31, 1989.

3. For the months of October, November, and December 1988, the hospital shall report by February 15, 1989, to qualify for a quarterly payment due on April 30, 1989.

4. For the months of January, February, and March 1989, the hospital shall report by May 15, 1989, to qualify for a quarterly payment due on July 31, 1989.

(d) Hospitals which report to the board under the provisions of paragraph (c) shall maintain documented data on each charity care patient's income as determined by rule by the board. Such documented data shall be subject to periodic audit by the board.

(e) By the first day of October 1988, January 1989, April 1989, and July 1989, the board shall determine and certify to the department for payment the amount of funds to be redistributed to each hospital, for each eligible quarter, according to the following formula:

1. For each quarter, the board shall calculate the dollar amount by which charity care exceeds 2 percent of the hospital's gross revenues after deducting 50 percent of the restricted and unrestricted revenues provided to a hospital by local governments or tax districts; and shall subtract from such excess the total charges associated with the 13th and subsequent days. The board then shall convert the difference remaining from such subtraction into charity care days. For each such charity care day, the hospital shall earn 80 percent of the hospital's most recent Medicaid per diem rate, as determined by the department. Hospitals ineligible to participate in the Medicaid program shall be reimbursed at 90 percent of their cost per adjusted day as determined from the most recent audited actual data accepted by the board.

2. If the total quarterly amount due to all hospitals eligible under this paragraph exceeds one quarter of the total appropriation, each hospital's share shall be reduced on a pro rata basis so that the total dollars redistributed from the trust fund do not exceed the total dollars appropriated for this purpose. No hospital shall earn more than one-third of each quarterly distribution. Should monies allocated for each quarterly payment exceed the amount necessary to be distributed pursuant to this section, the unspent portion shall be rolled forward and shall be distributed with any monies due on the fourth and final distribution.

(f) Based on the amount due each hospital as certified by the board, the department shall redistribute surplus trust funds in quarterly payments as provided for in subsection (c).

(g) Each hospital which receives any of the redistribution under this subsection shall, at the end of the hospital's fiscal year in which any redistribution was received, provide audited actual data to the board to substantiate the quarterly reported data on which the redistribution was based. The board shall calculate any overpayment paid to the hospital or underpayment owed to the hospital based on this audited data and correct the error in the next scheduled quarterly redistribution. In the event that the hospital does not qualify for the last quarterly redistribution or there is not any future redistribution available, and the hospital received more surplus trust funds than the hospital was entitled to under this section, the hospital shall, as a condition of participating in the redistribution, agree to reimburse the department for the excess. If the department is unable to collect these excess funds from the hospital for any reason, it is authorized to impose administrative fines of up to $500 per day for each day the hospital fails to pay, for the first 30 days, and up to $5,000 per day for each day the hospital fails to pay thereafter. Neither the department nor the board shall be held liable for any funds underpaid to a hospital after the fourth quarterly payment, once the total appropriated amount has been redistributed.

~~(a) During state fiscal year 1987-1988, the department shall redistribute $69.5 million in trust funds to hospitals which meet the following criteria:~~

~~1. The hospital began contributing to the trust fund on or before January 1, 1987.~~

~~2. The hospital provided at least 2.5 percent of its total inpatient days to Medicaid eligibles or a combination of charity care days and Medicaid days which, when added together, equals at least 5 percent of the total inpatient days, during the hospital's 1986 fiscal year. A hospital ineligible to participate in the Medicaid program due to the nature of the services it provides is exempt from this requirement. For the purposes of this subsection, charity care days shall be calculated based on the actual charity care rendered as reported to the board for fiscal year 1986.~~

~~3. The dollar value of uncompensated care provided by the hospital during the hospital's 1986 fiscal year exceeded 5 percent of the hospital's gross revenues.~~

~~(b) By July 1, 1987, the board shall calculate the first year redistribution amount for each hospital meeting all criteria of paragraph (a) based on the following formula:~~

~~1. The board shall calculate the dollar amount by which uncompensated care exceeded 5 percent of the hospital's gross revenue and then convert the dollar amount of excess revenue into uncompensated care days.~~

~~2. For each uncompensated care day provided above the 5 percent of gross revenues level, the hospital shall earn 80 percent of the hospital's Medicaid per diem rate as determined by the department, for up to 12 days per admission. The 12-day length-of-stay adjustment factor as determined by the indigent care study conducted pursuant to section 8 of chapter 84-35, Laws of Florida, is .7054. The number of uncompensated care days are to be reduced by this factor.~~

~~3. Fifty percent of the restricted and unrestricted revenues provided to a hospital by local governments or tax districts shall be considered as offsets against uncompensated care.~~

~~4. No hospital shall be entitled to receive more than 30 percent of the total amount of trust funds to be distributed.~~

~~5. If the total amount earned by all hospitals under this paragraph exceeds $69.5 million, each hospital's share shall be reduced on a pro rata basis so that the total dollars redistributed from the trust fund do not exceed $69.5 million for the year.~~

~~(c) The board shall certify to the department the amount owed each hospital by July 1, 1987, and the department shall disburse the funds in quarterly allotments as follows:~~

~~1. One quarterly payment by July 31, 1987.~~

~~2. One quarterly payment by October 31, 1987.~~

~~3. One quarterly payment by January 31, 1988.~~

~~4. One quarterly payment by April 30, 1988.~~

(4) Funds distributed to a hospital pursuant to this section shall not be considered as net revenues of such hospital in determining whether an excess has occurred pursuant to s. 395.5094. However, if an excess occurs, *the amount of the excess shall be reduced by the difference derived from subtracting* ~~such funds shall be included in determining the reduction of the amount of the excess for~~ the amount of *revenues received by the hospital pursuant to this section from* the assessment paid by the hospital pursuant to s. 395.101 ~~minus the amount of revenues received by the hospital pursuant to this section or s. 409.266(7)~~.

(5) The department shall determine, within 15 days after the end of each fiscal quarter, the amount earned by each hospital from the disproportionate share program established in section 26 of this act, and shall reduce the amount of the next scheduled payment due to be redistributed pursuant to this section by that amount.

~~(5) A hospital may correct, subject to verification by the hospitals' independent certified auditors, its 1986 fiscal year data up until 90 days~~

~~after the effective date of this act. Based upon this corrected data, the board shall recalculate the distribution due under this act no later than October 15, 1987, and shall certify to the department a revised formula by October 25, 1987. Amounts previously distributed may be adjusted based upon this final determination.~~

Section 26. *DISPROPORTIONATE SHARE PROGRAM.—Effective July 1, 1988, and for the 1988-89 fiscal year only, the department shall distribute, pursuant to this section, moneys appropriated from the Public Medical Assistance Trust Fund to hospitals providing a disproportionate share of Medicaid or charity care services by increasing Medicaid per diem payments to hospitals as required by the Federal Omnibus Budget Reconciliation Act of 1987.*

(1) DEFINITIONS.—As used in this section:

(a) "Adjusted patient days" means the sum of acute care patient days and intensive care patient days as reported to the board, divided by the ratio of inpatient revenues generated from acute, intensive, ambulatory, and ancillary patient services to gross revenues.

(b) "Actual audited data" or "actual audited experience" means data reported to the board which is contained within financial statements examined by an independent, Florida-licensed, certified public account, in accordance with general accepted auditing standards.

(c) "Base Medicaid per diem" means the hospital's most recent Medicaid per diem rate as determined by the department from the hospital's Medicaid cost report. The base Medicaid per diem rate shall not include any additional per diem increases received as a result of the disproportionate share distribution.

(d) "Board" means the Hospital Cost Containment Board as established in s. 395.503, Florida Statutes.

(e) "Charity care" or "uncompensated charity care" means that portion of hospital charges reported to the board for which there is no compensation for care provided to a patient whose family income for the 12 months preceding the determination is less than or equal to 150 percent of the federal non-farm poverty level, unless the amount of hospital charges due from the patient exceeds 25 percent of the annual family income. However, in no case shall the hospital charges for a patient whose family income exceeds four times the federal non-farm poverty level for a family of four be considered charity.

(f) "Charity care days" for the purpose of this section, means the sum of the deductions from revenues for charity care minus 50 percent of restricted and unrestricted revenues provided to a hospital by local governments or tax districts, divided by gross revenues per adjusted patient day.

(g) "Department" means the Department of Health and Rehabilitative Services.

(h) "Disproportionate share rate" means a rate of increase in the Medicaid per diem rate pursuant to the Federal Omnibus Budget Reconciliation Act of 1987 as calculated under this section.

(i) "Hospital" means a health care institution as defined in s. 395.002(6).

(j) "Medicaid days" means the number of actual days attributable to Medicaid patients as reported to the board.

(k) "Public Medical Assistance Trust Fund" or "trust fund" means the Public Medical Assistance Trust Fund as established in s. 409.2662, Florida Statutes.

(2) METHODOLOGY.—The board shall utilize the following criteria to determine a hospital's disproportionate share rate:

(a) In computing the disproportionate share rate, the following minimum requirements shall apply:

1. In order to qualify for reimbursement under this section, a hospital's total Medicaid days when combined with its total charity care days must equal or exceed 5 percent of its total adjusted patient days.

2. Per diem increases earned from disproportionate share shall be applied to each hospital's base Medicaid per diem rate and shall be capped at 30 percent.

3. The fiscal base year used to determine a hospital's Medicaid and charity care days shall be the most recent audited actual experience as reported to the board prior to July 1, 1988.

(b) The following formula shall be utilized by the board to calculate the maximum disproportionate share rate used to increase a qualified hospital's Medicaid per diem rate:

$$DSR = \left(\frac{CCD}{APD}\right) \times 2 + \left(\frac{MD}{APD}\right) \times .5$$

where:

APD = adjusted patient days.

CCD = charity care days.

DSR = disproportionate share rate.

MD = Medicaid days.

Section 27. *SHARED COUNTY AND STATE HEALTH CARE PILOT PROGRAM FOR NON-MEDICAID ELIGIBLE PERSONS.—It is the policy of the state that the state and local governments have a joint obligation, as provided in this section, to participate in the provision of health care services to low-income persons who do not meet the criteria for Medicaid. Therefore, two shared county and state pilot programs are established, one in Hillsborough County and one in Palm Beach County, to test the feasibility of implementing a statewide program which shall be funded jointly by the state and counties. Each pilot program shall provide inpatient hospital services, including out-of-county inpatient hospital services, to single adults under the age of 65, childless couples, and parents in intact families with incomes up to 100 percent of the federal poverty income guidelines who do not meet the criteria for Medicaid and who have insufficient third-party insurance coverage. This program is intended to serve as the payer of last resort.*

(1) The levels of financial participation by counties and the state for the shared county and state program shall be determined as follows:

(a) If on July 1, 1988, a county is funding inpatient hospital services for persons who would be eligible for funding under this program, the county shall contribute 35 percent and the state shall contribute the remaining 65 percent of the funding required for this program. A county participating pursuant to this subparagraph shall use that portion of its budget which previously funded these inpatient hospital services and which will be offset by state funding under this program, to fund other health programs.

(b) If a county has not reached its maximum ad valorem millage rate as authorized by law and certified to the Department of Revenue and the county does not currently fund inpatient hospital services for those who would be eligible for this program, the county:

1. Shall provide 35 percent of the cost for this program from within the county's existing budget and the state shall provide the remaining 65 percent of the funding required for this program; however, under no circumstances will county funding which had been used for funding the county public health unit under chapter 154, Florida Statutes, be utilized for funding the county's portion of this program; or

2. Shall levy an additional ad valorem millage to fund the county's portion of this program. The state shall provide the remaining portion of program funding if:

a. A county levies additional ad valorem millage up to the maximum authorized by law and certified to the Department of Revenue and still does not have sufficient funds to meet its 35 percent of the funding of this program; and

b. A county has exhausted all revenue sources which can statutorily be used as possible funding sources for this program.

(c) A county will be eligible for 100 percent state funding of this program if:

1. On July 1, 1988, the county does not fund inpatient hospital services for those who would be eligible for this program;

2. The county has reached its maximum ad valorem millage as authorized by law and certified to the Department of Revenue; and

3. The county has exhausted all revenue sources which can statutorily be used as possible funding sources for this program.

Reporting forms specifically designed to capture the information necessary to determine the above levels of participation will be developed as part of the joint rule making required for the shared county and state program. For purposes of this program, the counties will be required to report necessary information to the Department of Banking and Finance.

(2) Under no circumstances shall any county receive more than $1.5 million of the total state appropriation during any fiscal year from the state for the state's share of the funding for the shared county and state program.

(a) If, during the course of any fiscal year the state's specific appropriation for this program is depleted, the program will cease to operate for the remainder of that fiscal year. When state dollars are depleted, county obligations cease. A county is not liable for funding without appropriate state matching funds.

(b) If, during the course of any fiscal year the county's specific appropriation for this program is depleted, the program will cease to operate in that county for the remainder of that fiscal year. When county dollars are depleted, state obligations cease. The state is not liable for funding without appropriate county matching funds.

(c) The state's portion of the funding shall be made available from the Public Medical Assistance Trust Fund, pursuant to s. 409.2662, Florida Statutes.

(3) A county that participates in the program at any level may not reduce its total per capita expenditures being devoted to health care if any of these funds were previously utilized for the provision of inpatient hospital services to those persons made eligible for the shared county and state program. It is the intent of the Legislature that, as a result of the shared county and state program, local funds which were previously used for the provision of inpatient hospital services to persons made eligible by the program be used by counties for funding other health care programs, which for purposes of this section, are health expenditures as reported annually to the Department of Banking and Finance pursuant to s. 218.32, Florida Statutes, provided that this section shall not apply to reductions in county funding resulting from the expiration of special sales taxes levied pursuant to chapter 84-373, Laws of Florida.

(4)(a) For those counties contributing funding to the shared county and state program, the county has the first right of refusal in deciding if it will be responsible for making eligibility determinations required as part of the shared county and state program if the state is contributing 80 percent or less of program funding. If a county declines the eligibility determination function, such determinations shall be made by the department.

(b) In those counties where the shared county and state program is 80 percent or more funded by the state, the department shall be responsible for making eligibility determinations required as part of the program.

(5) Under the shared county and state program, reimbursement to a hospital for inpatient services for an eligible person must:

(a) Be at a reimbursement rate negotiated between the county and the hospital participating in the program but not to exceed the hospital's per diem reimbursement rate in effect at the time of service delivery for the hospital under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended;

(b) Be limited to payment for 12 days of service per admission, not to exceed 45 days of service a year;

(c) Be conditioned on participation of the eligible person prior to hospitalization in a case-managed outpatient services program or referral of the eligible person immediately subsequent to discharge from the hospital, in a case-managed outpatient services program. For purposes of this program, case-managed outpatient services programs are those operated by:

1. A state-funded county public health unit, a county public health unit primary care program, or a contractor whose primary care program is funded through a county public health unit;

2. A county-operated primary care program or a contractor whose primary care program is funded by or through a county governing authority;

3. A federally funded community or migrant primary health care center; or

4. A private physician who has previously provided case-managed care to the person to be enrolled and who, upon being contacted by the county, verifies that such care will continue to be provided; and

(d) Be conditioned, for any hospital seeking to be considered by a county as a provider of inpatient hospital services under the shared county and state program, on the submission by a hospital to the county information which indicates that hospital's per diem reimbursement rate in effect on October 1, 1988, for the hospital under the medical assistance program for the needy under the Title XIX of the Social Security Act, as amended, and any subsequent adjustments of that hospital's rate.

(e) Be conditioned, for public hospitals and hospital districts that deliver services as part of this program, on a commitment not to reduce the percentage of the hospital's ad valorem tax dollars being devoted to health care for low-income persons if any of these funds were previously utilized for the provision of health care services to those persons made eligible for the shared county and state program. It is the intent of the Legislature that, as a result of the shared county and state program, funds that were previously utilized for the provision of health care services to persons made eligible by the program be used by public hospitals and hospital districts to expand their health care program capabilities for low-income persons.

(f) Be conditioned, for tax district hospitals that deliver services as part of this program, on the delivery of charity care, as defined in the rules of the Hospital Cost Containment Board, which equals a minimum of 2.5 percent of the tax district hospital's net revenues; however, those tax district hospitals which by virtue of the population within the geographic boundaries of the tax district can not feasibly provide this level of charity care shall assure an "open door" policy to those residents of the geographic boundaries of the tax district who would otherwise be considered charity cases.

(6) For each person determined eligible for the shared county and state program, every effort must be made as part of the eligibility determination process to determine if any applicable third-party insurance coverage is available. A requirement for participation by the applicant in the shared county and state program shall be complete cooperation of each applicant in the eligibility review process. Failure of a potential program participant to provide necessary documentation and follow-up will result in program rejection.

(7) Rules governing the shared county and state pilot programs under this section shall be adopted by the Department of Health and Rehabilitative Services based upon recommendation of a nine-member work group consisting of equal representation by the Department of Health and Rehabilitative Services, the counties, and the hospital industry. County representatives to this work group shall be appointed by the Florida Association of Counties. Rules governing the various aspects of the shared county and state program, as adopted by the work group, shall be promulgated by the Department of Health and Rehabilitative Services by January 1, 1989. Topics to be addressed by rule include, but are not limited to:

1. Funding transfers from the state to the counties;

2. Maintenance of effort on the part of counties, public hospitals, and hospital districts;

3. Eligibility determinations, including income and asset tests and intent to reside criteria;

4. Subrogation;

5. Out-of-county hospitalization;

6. Data elements and forms required for reporting by counties to the Department of Revenue; and

7. Allocation methodology.

(8) There is created the Shared County and State Program Trust Fund in the Treasury to be used by the Department of Health and

Rehabilitative Services for the purpose of funding the state's portion of the shared county and state program created pursuant to this section. It is the intent of the Legislature that funds as appropriated from the Public Medical Assistance Trust Fund, pursuant to s. 409.2662, Florida Statutes, shall be utilized for the purpose of funding the pilot programs created in this section..

(9) There is created in each participating county the Shared County and State Program Trust Fund to be used by the county for reimbursing participating hospitals for the provision of inpatient hospital services to those eligible for coverage by the shared county and state program created pursuant to this section. There shall be deposited into the trust fund county funds for the shared county and state program and the county's share of state funds allocated for the shared county and state program.

Section 28. *Sections 28 through 36 may be cited as the "Rural Hospital Act of 1988."*

Section 29. *Legislative findings and intent.—*

(1) The Legislature finds that rural hospitals are the nucleus or "backbone" of rural health care systems. Public health programs and physicians depend on rural hospitals to meet many of their medical needs. Rural hospitals are usually the only source of emergency medical care in rural areas for life-threatening situations and play a crucial role in attracting physicians to rural areas. The Legislature deems the benefits derived from these features to be truly significant, as rural counties with hospitals have lower accidental death rates and lower incidence of low birth-weight than rural counties without hospitals. In addition, rural hospitals enhance their communities beyond the scope of health care, as they are among the largest employers in rural areas and substantially foster economic development and growth. For these reasons, the Legislature finds that rural hospitals are widely viewed as integral to the welfare of rural communities. However, the rural health care system is experiencing significant instability as the financial viability of many of these hospitals is threatened. The Legislature finds that sharply declining occupancy rates, increasing dependence on Medicaid and Medicare reimbursements, liability concerns, frequent changes in ownership, high levels of bad debt, greater competition on more sophisticated levels with urban hospitals, and physician and personnel staffing problems threaten the existence of some rural hospitals.

(2) It is the intent of the Legislature to ease the burdens experienced by rural hospitals in personnel staffing by:

(a) Providing financial incentives under the Medical Education Tuition Reimbursement Program in order to increase the number of primary care physicians and nurses in rural areas; and

(b) Requiring a study of problems unique to rural hospitals generated by existing licensure and certification requirements for allied health care practitioners in the state.

(3) In addition, it is the intent of the Legislature to ease the severe financial constraints being experienced by some rural hospitals by extending Medicaid reimbursements to rural hospital swing-beds and establishing the full utilization, when feasible, of rural hospital services by departmental primary care programs and programs serving the elderly citizens of the state.

(4) Furthermore, the Legislature encourages the Department of Health and Rehabilitative Services to actively foster the provision of health care services in rural areas and serve as a catalyst for improved health services to citizens in rural areas of the state. Among other considerations, the department is encouraged to:

(a) Promote the location and relocation of health care practitioners in rural areas.

(b) Promote the financial viability of rural hospitals and their continued existence in rural counties.

(c) Integrate policies related to physician manpower, hospitals, primary care, and state regulatory functions.

(d) Collect relevant data on rural health care issues for use in departmental policy development.

(e) Propose solutions for problems affecting health care delivery in rural areas.

Section 30. *Definitions.—As used in sections 28 through 36:*

(1) "Rural hospital" means an acute care hospital licensed under chapter 395, Florida Statutes, with 85 beds or less, which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile; or

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county; or

(c) A provider supported by a hospital tax district whose boundaries encompass a population of 100 persons or less per square mile.

(2) "Rural area health education center" means an area health education center (AHEC), as authorized by Pub. L. No. 94-484, which provides services in a county with a population density of no greater than 100 persons per square mile.

(3) "Swing-bed" means a bed which can be used interchangeably as either a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF) bed pursuant to the Code of Federal Regulations, Parts 405, 435, 440, 442, and 447.

Section 31. Paragraph (c) of subsection (1) of section 154.011, Florida Statutes, is amended to read:

154.011 Primary care services.—

(1) It is the intent of the Legislature that all 67 counties offer primary care services through contracts, as required by s. 154.01(3), for Medicaid recipients and other qualified low-income persons. Therefore, beginning July 1, 1987, the Department of Health and Rehabilitative Services is directed, to the extent that funds are appropriated, to develop a plan to implement a program in cooperation with each county. The department shall coordinate with the county's primary care panel, as created by s. 154.013, or with the county's governing body if no primary care panel is appointed. Such primary care programs shall be phased-in and made operational as additional resources are appropriated pursuant to s. 409.266(6)(c), and shall be subject to the following:

(c) Each primary care program shall conform to the requirements and specifications of the department, and shall at a minimum:

1. Adopt a minimum eligibility standard of at least 100 percent of the federal nonfarm poverty level.

2. Provide a comprehensive mix of preventive and illness care services.

3. Be family oriented and be easily accessible regardless of income, physical status, or geographical location.

4. Ensure 24-hour telephone access and offer evening and weekend clinic services.

5. Offer continuity of care over time.

6. Make maximum use of existing providers to ensure efficient use of resources.

7. Have a sliding fee schedule based on income for eligible persons above 100 percent of the federal nonfarm poverty level.

8. Include quality assurance provisions and procedures for evaluation.

9. Provide early periodic screening diagnostic and treatment services for Medicaid-eligible children.

10. Fully utilize and coordinate with rural hospitals for outpatient services, including contracting for services when advisable in terms of cost-effectiveness and feasibility

Section 32. *It is the intent of the Legislature that funds as appropriated from the Public Medical Assistance Trust Fund pursuant to s. 409.2662 shall be utilized by the Department of Health and Rehabilitative Services moneys for the purpose of increasing the number of primary care physicians and nurses in rural areas pursuant to s. 240.4067, Florida Statutes, pertaining to the Medical Education Tuition Reimbursement Program. Reimbursement through the program shall be limited to:*

(1) Primary care physicians and nurses employed by or affiliated with rural hospitals, as defined in this act; and

(2) Primary care physicians and nurses employed by or affiliated with rural area health education centers, as defined in this act. Such physicians and nurses shall practice:

(a) In a county with a population density of no greater than 100 persons per square mile; or

(b) Within the boundaries of a hospital tax district which encompasses a population of no greater than 100 persons per square mile.

These funds may be used for federal loan repayment programs which require state matching funds, such as that provided for in section 338 of Pub L. No. 100-177.

Section 33. Subsection (19) is added to section 409.266, Florida Statutes, to read:

409.266 Medical assistance.—

(19) Medicaid funding shall be extended to intermediate and skilled nursing patients in rural hospital swing-beds, subject to federal financial participation. Such reimbursement shall not be provided for skilled nursing or intermediate care beyond the 30th day of swing-bed service provision, unless the Office of the Deputy Assistant Secretary for Medicaid within the Department of Health and Rehabilitative Services gives prior authorization for a longer length of stay. The provisions of this subsection shall be funded by an appropriation to the department from the Public Medical Assistance Trust Fund pursuant to s. 409.2662.

Section 34. Paragraph (n) is added to subsection (2) of section 410.016, Florida Statutes, to read:

410.016 Elderly population; departmental responsibilities.—

(2) DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES.—The department shall:

(n) Fully utilize and coordinate with rural hospitals when carrying out activities under this chapter with regard to the aged, when advisable in terms of cost-effectiveness and feasibility.

Section 35. *Manpower shortage study.—The Department of Health and Rehabilitative Services shall conduct a study of existing state licensure or certification requirements for allied health personnel employed in licensed rural hospitals, and report its findings and recommendations to the Legislature on or before March 1, 1989. The study shall include, but not be limited to, the following:*

(1) A review of current licensure or certification requirements for:

(a) Clinical laboratory personnel in accordance with chapter 483, Florida Statutes.

(b) Nursing practitioners in accordance with chapter 464, Florida Statutes.

(c) Physical therapy practitioners in accordance with chapter 486, Florida Statutes.

(d) Radiologic technology practitioners in accordance with chapter 468, Florida Statutes.

(e) Respiratory care practitioners in accordance with chapter 468, Florida Statutes.

(f) Any other category of allied health personnel licensed or certified by the state which may be employed in licensed rural hospitals.

(2) An analysis of problems unique to rural hospitals in this state generated by practice requirements for the personnel enumerated in subsection (1).

(3) An analysis of the availability of personnel, recruiting problems, supervision problems, and budget or other constraints for rural hospitals in this state.

Section 36. *The Department of Health and Rehabilitative Services is hereby authorized to adopt all necessary rules pertaining to the standards of care applicable to rural hospital swing-beds and the criteria whereby swing-bed stays of longer than 30 days shall be authorized. The latter length-of-stay criteria shall include, but not be limited to, the medical needs of the patient, the county of residence of the patient and patient's family, patient preference, proximity to relatives and friends, and distance to available nursing home beds, if any.*

Section 37. Sections 37 through 40 may be cited as the "Medical Education and Tertiary Care Act."

Section 38. *LEGISLATIVE INTENT.—The Legislature finds and declares that statutory teaching hospitals, as defined in s. 395.502(22), Florida Statutes, provide the majority of graduate medical education in this state and that, without the contributions to undergraduate and graduate medical education by statutory teaching hospitals, this state will lack the supply of medical manpower necessary to meet the health care needs of the state in coming years, and, despite the enactment of various measures by the Legislature, there remains a deficit in the funds available to provide access to acute care for many residents of this state. The Legislature further finds that if properly funded, the statutory teaching hospitals are uniquely situated to contribute to both undergraduate and graduate medical education and to tertiary health care services, in that these teaching hospitals are geographically situated to make such contributions in the various regions of the state and also have the staff necessary to render such care. The Legislature finds that although the statutory teaching hospitals together maintain less than 10 percent of hospital beds in this state, they provide more than 90 percent of the state's graduate medical education and constitute a safety net for the most complex health care services for all Floridians, and while the state's statutory teaching hospitals are sustaining a disproportionate share of the cost of medical education and related patient care, the increasingly competitive health care environment has made it impossible for these hospitals to fund such costs. Therefore, it is the Legislature's intent to assure the survival of the state's statutory teaching hospitals and thus protect the health of a significant portion of the public.*

Section 39. *Medical Education and Tertiary Care Trust Fund.—*

(1) There is hereby created the Medical Education and Tertiary Care Trust Fund, within the Board of Regents, State University System. All moneys deposited into the Medical Education and Tertiary Care Trust Fund shall be allocated as described in section 40 and expended by the respective hospitals after consultation with the affiliated college of medicine.

(2) Effective July 1, 1988, if the Legislature appropriates monies from the Medical Education and Tertiary Care Trust Fund for Medicaid disproportionate share payments to teaching hospitals, as defined in s. 395.502(22), Florida Statutes, the department shall distribute such monies by increasing the Medicaid per diem payments, in as near an allocation as permitted by federal law, to the following percentages: Jackson Memorial Hospital, 33%; Shands Teaching Hospital, 23%; Tampa General Hospital, 17%; University Hospital of Jacksonville, 11%; Orlando Regional Medical Center and Mt. Sinai Hospital, 7%.

Section 40. *Distribution of funds from the Medical Education and Tertiary Care Trust Fund.—On or before March 15, 1989, and on or before October 1 of each year thereafter, the Hospital Cost Containment Board, in consultation with the Board of Regents, shall calculate an allocation fraction to be used for distributing funds from the Medical Education and Tertiary Care Trust Fund. At the end of each quarter of the state fiscal year, the Board of Regents shall distribute from the fund to each statutory teaching hospital, as defined in s. 395.502(22), Florida Statutes, an amount determined by multiplying one-fourth of the funds appropriated to the Medical Education and Tertiary Care Trust Fund times such hospital's allocation fraction. The allocation fraction for each such hospital shall be determined by the sum of three primary factors, divided by three. The primary factors are:*

(1) The number of nationally accredited graduate medical education programs offered by the hospital, including programs accredited by the Accreditation Council for Graduate Medical Education and the combined Internal Medicine and Pediatrics programs acceptable to both the American Board of Internal Medicine and the American Board of Pediatrics at the beginning of the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the hospital represents of the total number of programs, where the total is computed for all state statutory teaching hospitals.

(2) The number of full-time equivalent trainees in the hospital, which comprises two components:

(a) The number of trainees enrolled in nationally accredited graduate medical education programs, as defined in subsection (1). Full-time

equivalents are computed using the fraction of the year during which each trainee is primarily assigned to the given institution, over the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the hospital represents of the total number of full-time equivalent trainees enrolled in accredited graduate programs, where the total is computed for all state statutory teaching hospitals.

(b) The number of medical students enrolled in accredited colleges of medicine and engaged in clinical activities, including required clinical clerkships and clinical electives. Full-time equivalents are computed using the fraction of the year during which each trainee is primarily assigned to the given institution, over the course of the state fiscal year preceding the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total number of full-time equivalent students enrolled in accredited colleges of medicine, where the total is computed for all state statutory teaching hospitals.

The primary factor for full-time equivalent trainees is computed as the sum of these two components, divided by two.

(3) A service index, which comprises three components:

(a) The Hospital Cost Containment Board Service Index, computed by applying the standard Service Inventory Scores established by the Hospital Cost Containment Board to services offered by the given hospital, as reported on the Hospital Cost Containment Board Worksheet A-2 for the last fiscal year reported to the board before the date on which the allocation fraction is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total Hospital Cost Containment Board Service Index values, where the total is computed for all state statutory teaching hospitals.

(b) A volume-weighted service index, computed by applying the standard Service Inventory Scores established by the Hospital Cost Containment Board to the volume of each service, expressed in terms of the standard units of measure reported on the Hospital Cost Containment Board Worksheet A-2 for the last fiscal year reported to the board before the date on which the allocation factor is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total volume-weighted service index values, where the total is computed for all state statutory teaching hospitals.

(c) Total Medicaid payments to each hospital for direct inpatient and outpatient services during the fiscal year preceding the date on which the allocation factor is calculated. This includes payments made to each hospital for such services by Medicaid prepaid health plans, whether the plan was administered by the hospital or not. The numerical value of this factor is the fraction that each hospital represents of the total of such Medicaid payments, where the total is computed for all state statutory teaching hospitals.

The primary factor for the service index is computed as the sum of these three components, divided by three.

Section 41. Paragraph (b) of subsection (4) of section 73 of chapter 88-1, Laws of Florida, is amended to read:

Section 41. Birth-Related Neurological Injury Compensation Trust Fund.—

(4) On or before March 1, 1988, the following persons and entities shall pay into the fund an initial assessment in accordance with the plan of operation:

(b) Each hospital licensed under chapter 395, Florida Statutes, shall pay an initial assessment of $50 per infant delivered during the prior calendar year, as reported in the most recent annual licensure survey of hospitals. Each hospital owned or operated by the state or a county, special taxing district, or other political subdivision of the state shall not be required to pay the initial assessment or any assessment required by subsection (5). The term "infant delivered during the prior calendar year" shall not include infants delivered by a physician employed by the State or any political subdivision thereof. *The initial assessment and any assessment imposed pursuant to subsection (5) may not include any infant born to a charity patient (as defined by rule of the Hospital Cost Containment Board) or born to a patient for whom the hospital receives Medicaid reimbursement, in a teaching hospital as defined in s. 395.502(22), F.S.*

Section 42. Section 395.0145, Florida Statutes, is hereby repealed.

Section 43. *Notwithstanding the provisions of section 50 of chapter 87-92, Laws of Florida, s. 409.266(7)(k), Florida Statutes, relating to the Medicaid medically needy program shall not stand repealed on October 1, 1988, as scheduled by such act, but shall continue in full force and effect as amended herein until October 1, 1989, at which time s. 409.266(7)(k), Florida Statutes, shall stand repealed unless reenacted by the Legislature.*

Section 44. *Effective July 1, 1988, or upon becoming a law, whichever occurs later, there is hereby appropriated, for fiscal year 1988-1989, the following monies from the Public Medical Assistance Trust Fund as set forth in s. 409.2662, Florida Statutes, to the Department of Health and Rehabilitative Services:*

(1) The sum of $2.5 million to fund the extension of Medicaid length of stay for neonates to 120 days as provided for in section 22.

(2) The sum of $2 million to fund two additional primary care health training demonstration projects as provided for in section 23.

(3) The sum of $31.6 million dollars to fund the hospital redistribution provided for in section 25.

(4) The sum of $20 5 million to fund the Medicaid Disproportionate share program provided for in section 26.

(5) The sum of $3 million to fund the state's share of the state and county pilot program as provided for in section 27.

(6) The sum of $644,163 to fund Medicaid rural hospital swing-beds as provided for in section 33.

Section 45. Except as otherwise provided herein, this act shall take effect October 1, 1988.

Amendment 3—On page 1, lines 1-31, through page 3, line 13, strike all of said language and insert: A bill to be entitled An act relating to health care; amending s. 154.01, F.S.; restating the purposes for the operation of county public health units; defining three levels of county public health unit services as environmental, communicable disease control, and primary care services; providing contracting provisions and requirements between the Department of Health and Rehabilitative Services and the counties; amending s. 154.011, F.S.; requiring counties to coordinate certain health care services with existing federal programs; amending s. 154.02, F.S.; modifying the provisions governing the Public Health Unit Trust Fund; specifying expenditure report requirements and providing timeframes for reporting; amending s. 154.04, F.S.; modifying provisions regarding public health unit personnel; requiring the employment of an environmental specialist; providing that public health unit personnel be employed by the Department of Health and Rehabilitative Services; amending s. 154.301, F.S.; renaming "The Florida Health Care Responsibility Act" as "The Florida Health Care Responsibility Act of 1988"; amending s. 154.302, F.S.; revising legislative intent; amending s. 154.304, F.S.; revising definitions; amending s. 154.306, F.S.; specifying financial responsibilities of hospitals and counties for certified residents who are qualified indigent patients; specifying county obligation per calendar year; providing duties of the Hospital Cost Containment Board and the Department of Health and Rehabilitative Services; amending s. 154.308, F.S.; requiring uniform statewide eligibility criteria; requiring that rules be adopted; increasing the time frame for determination of financial eligibility; providing for qualified indigents; authorizing counties to establish less restrictive financial eligibility thresholds; creating s. 154.309, F.S.; providing for certification of county of residence; providing minimum criteria; requiring certain notification to treating hospitals; amending s. 154.31, F.S.; specifying obligation of participating hospitals and regional referral hospitals to admit patients; providing penalties; creating s. 154.3105, F.S.; providing for rules; requiring a work group; providing membership criteria; requiring promulgation of certain rules; amending s. 154.312, F.S.; providing procedure for settlement of disputes; amending s. 154.314, F.S.; revising time frames for payment to hospitals; requiring the Comptroller to provide a quarterly accounting; amending s. 154.316, F.S.; providing conditions for reimbursement for treatment of patients; amending s. 154.331, F.S.; providing for establishment of independent health care special districts, with authority to levy ad valorem taxes; providing for appointment and powers and functions of governing boards; providing procedures and restrictions with respect to millage rates; providing for dissolution of districts; providing for compliance with statutory requirements; amending s. 381.702, F.S.; defining "multifacility project"; amending ss. 381.705, 381.706, 381.709, and 381.710, F.S.; providing additional projects subject to certificate-of-need review; providing review

criteria; modifying review process; extending validity period for certain certificates of need; amending s. 409.266, F.S.; authorizing certain use of moneys in the Public Medical Assistance Trust Fund to expand primary care programs; increasing the income level under which elderly and disbled persons may qualify for Medicaid services; increasing the age level under which children may qualify for Medicaid benefits; requiring a report; providing for increases in certain physician reimbursement; extending Medicaid length of stay for certain hospital services; amending s. 409.2661, F.S.; providing for additional primary care health training demonstration projects; increasing funding; amending s. 409.2662, F.S.; specifying additional uses of moneys in the Public Medical Assistance Trust Fund; amending s. 409.2663, F.S.; revising provisions for redistribution of surplus public medical assistance funds; providing for an accounting of funds; providing a methodology to qualify for funds; providing a timetable; increasing the reimbursement paid by the department for certain specified services; providing Medicaid disproportionate share reimbursement to certain hospitals; providing a methodology for determining rate of increase; establishing a shared county and state health care program for specified low-income persons; providing for eligibility for the program; providing for funding the program; delineating state and county responsibility should the funds of either be depleted; requiring participating counties to maintain current health care efforts; providing for eligibility determination; specifying conditions for reimbursement to hospitals; providing for development and adoption of rules governing the program; creating the Shared County and State Program Trust Fund; creating shared county and state program trust funds in each county; creating the "Rural Hospital Act of 1988"; providing legislative intent and definitions; amending s. 154.011, F.S.; requiring certain primary care programs to utilize and coordinate with rural hospitals for outpatient services; providing intent for funds to be appropriated to increase primary care physicians and nurses in rural areas; amending s. 409.266, F.S.; extending Medicaid funding for swing-bed services to certain patients in rural areas; amending s. 410.016, F.S.; requiring the Department of Health and Rehabilitative Services to utilize rural hospitals in providing services to the aged; providing for a study of personnel shortages in rural hospitals; requiring a report; providing certain rulemaking authority; creating the Medical Education and Tertiary Care Trust Fund within the Board of Regents; providing for the distribution of funds from the Medical Education and Tertiary Care Trust Fund to teaching hospitals in the state; amending s. 73 of chapter 88-1, Laws of Florida; relating to teaching hospitals' assessment exemption from the Birth-Related Neurological Injury Compensation Trust Fund; repealing s. 395.0145, Florida Statutes; postponing Sunset repeal of s. 409.266(7)(k), F.S., relating to the Medicaid medically needy program; providing appropriations; providing effective dates.

On motions by Senator Myers, 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 SB 1419 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1419—A bill to be entitled An act relating to Pinellas County; amending chapter 73-594, Laws of Florida, as amended, relating to the Pinellas County Planning Council; providing definitions; revising the membership of the council; revising the terms of office of council members; providing for the appointment of council members; providing for meetings of the council; deleting provisions relating to the executive committee and attendance; revising the powers and duties of the council; providing requirements for the executive director of the council; providing for a Planners Advisory Committee; providing membership and duties of such committee; deleting provisions that have had their effect; revising the requirements for public hearings on proposals by the council; deleting requirements providing for the review of certain plans, codes, and regulations by units of local government; providing for the adoption of a countywide future land use plan and countywide comprehensive plan by the Pinellas County Board of County Commissioners upon approval by the voters of Pinellas County of a specified amendment to the county charter; providing for amendments to such plans; providing for administrative review of certain amendment recommendations by the council; providing for the council to adopt advisory recommendations relating to local government comprehensive plans if a specified amendment to the county charter is not approved by the voters of Pinellas County; providing for contractual services; creating a study committee to evaluate the impact of the revisions made by this act; providing for membership; requiring a report; providing for abolishment of the council and for legislative review of the council in advance thereof; providing an effective date.

Amendment 1—On page 11, line 23, after the period (.) insert: *These elements are not required to comply with s. 163.3177 and s. 163.3178; however, they shall not conflict with these provisions.*

Amendment 2—In title, on page 2, line 9, after "thereof;" insert: providing that nothing in chapter 73-594, as amended, shall be construed to exempt local governments from chapter 163, part II;

Amendment 3—On page 21, lines 1-6, strike: *The countywide comprehensive plan adopted pursuant to this act is independent of the requirements of chapter 163, Florida Statutes, to the extent not inconsistent with general law. In addition to the requirements of this act, each local government's comprehensive plan must fully comply with the provisions of chapter 163, Florida Statutes.*

and on page 27, line 17, insert:

Section 4. Nothing in chapter 73-594, as amended, shall be construed to allow any municipality or county to adopt a local government comprehensive plan required by chapter 163, part II, or any amendment to such plan, that does not comply with chapter 163, part II, or any applicable rule or regulation adopted by the Department of Community Affairs to implement chapter 163, part II. In addition, nothing in chapter 73-594, as amended, shall be construed to allow any development order, as defined in s. 163.3164, to be issued by the county or any municipality in the county that is not consistent with the plans adopted pursuant to chapter 163, part II, and any applicable rule or regulation adopted by the Department of Community Affairs to implement chapter 163, part II.

(Renumber subsequent section.)

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

SB 1419 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
Crenshaw	Hollingsworth	McPherson	Weinstein
Deratany	Jenne	Meek	Weinstock
Dudley	Jennings	Myers	Woodson
Frank	Johnson	Peterson	
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 480 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 480—A bill to be entitled An act relating to county officers; amending s. 218.36, F.S.; increasing the time period after the close of a fiscal year during which a county officer must make an annual financial report to the board of county commissioners; changing the date on which the board of county commissioners must notify the Governor of the county officer's failure to make such report; providing an effective date.

Amendment 1—On page 1, line 13, insert:

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

Section 2. Subsection (1) of section 145.11, Florida Statutes, is amended to read:

145.11 Tax collector.—

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

Section 3. Subsection (1) of section 145.10, Florida Statutes, is amended to read:

145.10 Property appraiser.—

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

Section 4. Subsection (1) of section 145.09, Florida Statutes, is amended to read:

145.09 Supervisor of elections.—

(1) Each supervisor of elections 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 Minimum	Maximum	Base Salary		Group Rate
I	-0-	49,999	*$17,228*	~~$15,128~~	$0.075
II	50,000	99,999	*20,228*	~~18,128~~	0.060
III	100,000	199,999	*23,228*	~~21,128~~	0.025
IV	200,000	399,999	*25,728*	~~23,628~~	0.015
V	400,000	999,999	*28,728*	~~26,628~~	0.005
VI	1,000,000		*31,728*	~~29,628~~	0.004

(Renumber subsequent sections.)

Amendment 2—On page 1, in the title, line 2, after "officers;" insert: amending s. 145.051, F.S.; increasing the salaries of the clerks of circuit court and county comptrollers; amending s. 145.11, F.S.; increasing salaries of tax collectors; amending s. 145.10, F.S.; increasing salaries of property appraisers; amending s. 145.09, F.S.; increasing salaries of supervisor of elections;

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

SB 480 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	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jenne	Meek	Weinstock
Frank	Johnson	Myers	Woodson
Girardeau	Kirkpatrick	Plummer	
Gordon	Kiser	Ros-Lehtinen	

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended and passed HB 409, as amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 409—A bill to be entitled An act relating to the statewide criminal analysis laboratory system; amending s. 943.31, F.S., modifying legislative intent; amending s. 943.32, F.S., including certain facilities in Ft. Myers within the system; amending s. 943.35, F.S., specifying level of state funding of local laboratory operating costs; deleting matching fund requirement; providing that crime scene technicians are no longer excluded from state funding; creating ss. 943.355 and 943.356, F.S., creating the Florida Crime Laboratory Council; providing duties thereof; amending s. 943.36, F.S., revising the fiscal and budgetary process for state funding; providing authority and responsibilities of the Department of Law Enforcement; providing for review and repeal; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence and providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; providing penalties; providing an effective date.

House Amendment to Senate Amendment 1—On page 7, lines 23-27, strike all of new subsection (5) and insert:

(5) Laboratories which are partially funded by the state shall continue to be locally operated but shall provide services when possible to any law enforcement official upon request.

On motion by Senator Kiser, the Senate concurred in House Amendment 1 to Senate Amendment 1.

HB 409 passed as amended and the action of the Senate was 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
Dudley	Jenne	McPherson	Thurman
Frank	Jennings	Meek	Weinstein
Girardeau	Johnson	Myers	Weinstock
Gordon	Kirkpatrick	Peterson	Woodson
Grant	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 824 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 824—A bill to be entitled An act relating to highway safety; amending s. 775.08, F.S.; revising the term "misdemeanor" as a classification of certain criminal offenses to include certain violations of ch. 316, F.S.; amending s. 921.143, F.S.; requiring a court to permit the victim of a criminal violation of ch. 316, F.S., or his next of kin to appear at the sentencing hearing of the person who has pleaded guilty or nolo contendere to the violation; amending s. 25.387, F.S.; changing the term "DWI school" to "DUI program"; increasing the assessment imposed for DUI program attendance; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; amending s. 316.193, F.S.; requiring certain notice to persons upon arraignment for a violation of provisions relating to driving under the influence; providing an effective date.

Amendment 1—On page 4, lines 12 and 13, strike "or reasonably should have known"

Amendment 2—On page 5, line 3, after "action." insert: *Failure to provide such notice shall not affect the Court's suspension or revocation of the person's driver's license.*

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

SB 824 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	Grant	Langley	Scott
Brown	Grizzle	Lehtinen	Stuart
Childers, D.	Hair	Malchon	Thomas
Childers, W. D.	Hill	Margolis	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jennings	Meek	Weinstock
Frank	Johnson	Myers	Woodson
Girardeau	Kirkpatrick	Peterson	
Gordon	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford, Ros-Lehtinen

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 184 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 184—A bill to be entitled An act relating to county officers; amending s. 145.022, F.S.; prescribing applicability and duration of resolutions of boards of county commissioners which guarantee and appropriate salaries to certain county officials; authorizing boards of county commissioners to rescind such resolutions under certain conditions; amending s. 195.087, F.S.; requiring tax collectors to submit their budgets to the Department of Revenue for approval; providing exceptions; repealing certain special acts and general acts of local application; providing an effective date.

Amendment 1—On page 1, between lines 17 and 18, insert:

Section 1. Subsection (2) of s. 129.03, Florida Statutes, is amended to read:

129.03 Preparation and adoption of budget.—

(2) On or before May 1 of each year, the sheriff; the clerk of the circuit court and county comptroller; the tax collector~~, unless the tax collector is a fee officer~~ *subject to a resolution entered into pursuant to s. 145.022(1)*; and the supervisor of elections shall each submit to the board of county commissioners a tentative budget for their respective offices for the ensuing fiscal year.

(Renumber subsequent sections.)

Amendment 2—On page 1, in the title, line 2, after the semicolon (;) insert: amending s. 129.03, F.S., clarifying the requirement for certain tax collectors to submit their budgets to the board of county commissioners; amending s.

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

SB 184 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	Grizzle	Langley	Ros-Lehtinen
Brown	Hair	Lehtinen	Scott
Childers, D.	Hill	Malchon	Stuart
Childers, W. D.	Hollingsworth	Margolis	Thomas
Deratany	Jenne	McPherson	Thurman
Dudley	Jennings	Meek	Weinstein
Frank	Johnson	Myers	Weinstock
Girardeau	Kirkpatrick	Peterson	Woodson
Grant	Kiser	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 1381 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1381—A bill to be entitled An act relating to Pinellas County; amending s. 2.01, Art. II, Home Rule Charter for Pinellas County, as created by s. 1, ch. 80-590, Laws of Florida; granting to the Pinellas County Board of County Commissioners countywide land use planning authority; providing for a county ordinance adopted pursuant to such authority to prevail over a municipal ordinance in the event of a conflict; providing for a referendum; providing an effective date.

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

Section 1. Section 2.04, Article II of the Home Rule Charter of Pinellas County, as created by section 1 of chapter 80-590, Laws of Florida, is amended to read:

Section 2.04 Special Powers of the County

The County shall have all special and necessary power to furnish within the various municipalities the services *and regulatory authority* listed below. When directly concerned with the furnishing of the services *and regulatory authority* described in this section, County ordinances shall prevail over municipal ordinances, when in conflict. Governmental powers not listed or described in this Charter or granted to the County by general statute or special act shall remain with the municipalities.

(a) Development and operation of 911 emergency communication system.

(b) Development and operation of solid waste disposal facilities, exclusive of municipal collection systems.

(c) Development and operation of regional sewage treatment facilities in accordance with federal law, state law, and existing or future interlocal agreements, exclusive of municipal sewage systems.

(d) Acquisition, development and control of county-owned parks, buildings, and other county-owned property.

(e) Development and operation of public health or welfare services or facilities in Pinellas County.

(f) Operation, development and control of the St. Petersburg-Clearwater International Airport.

(g) Design, construction and maintenance of major drainage systems in both the incorporated and unincorporated area.

(h) Design, construction and maintenance of county roads in accordance with law.

(i) Implementation of regulations and programs for protection of consumers.

(j) Implementation of animal control regulations and programs.

(k) Development and implementation of civil preparedness programs.

(l) Coordination and implementation of fire protection for the unincorporated areas of the County.

(m) Operation of motor vehicle inspection facilities, including inspection of auto emissions systems.

(n) Production and distribution of water, exclusive of municipal water systems and in accordance with existing and future interlocal agreements.

(o) Implementation of programs for regulation of charitable solicitations.

(p) All powers necessary to provide municipal services in the unincorporated areas of the county and in accordance with any existing and future interlocal agreement.

(q) All powers necessary to transfer the functions and powers of any other governmental agency upon approval by the governing body of that agency and the Board of County Commissioners.

(r) All power necessary, upon approval of a vote of the electors, to levy a 1-mill increase in ad valorem taxes in order to make funds available to be used solely to acquire beach front and other property to be dedicated as public parks for recreational use. This subsection shall in no manner limit a municipality from levying any such tax under any authorization it might have at this time or may receive in the future.

(s) Countywide planning authority as provided by special law. In the event of a conflict between a county ordinance adopted pursuant to the County's countywide planning authority as provided by special law and a municipal ordinance, the county ordinance shall prevail over the municipal ordinance; however, a municipal ordinance shall prevail over a county ordinance in the event a municipal ordinance provides for a less intense land use or a lesser density land use within the corporate boundaries of the municipality than that provided by county ordinance.

Section 2. This act, except for this section which shall take effect upon becoming a law, shall take effect only upon approval by a majority vote of the electors of Pinellas County voting in a referendum election which shall be called and held by the Board of County Commissioners of Pinellas County in that county at the next general or special election. There shall be at least 30 days' notice of the election as provided by section 100.342, Florida Statutes.

Amendment 2—On page 1, in the title, lines 1-11, strike all of said lines and insert: A bill to be entitled An act relating to Pinellas County; amending s. 2.04, Art. II, Home Rule Charter for Pinellas County, as created by s. 1, ch. 80-590, Laws of Florida; granting to the Pinellas County Board of County Commissioners countywide planning authority as provided by special law; providing for a county ordinance adopted pursuant to such authority to prevail over a municipal ordinance in the event of a conflict, except where a municipal ordinance provides for a less intense land use or a lesser density land use than that provided by county ordinance; providing for a referendum; providing an effective date.

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

SB 1381 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	Childers, D.	Deratany	Frank
Brown	Childers, W. D.	Dudley	Girardeau
Grant	Johnson	Meek	Thomas
Grizzle	Kirkpatrick	Myers	Thurman
Hair	Langley	Peterson	Weinstein
Hill	Lehtinen	Plummer	Weinstock
Hollingsworth	Malchon	Ros-Lehtinen	Woodson
Jenne	Margolis	Scott	
Jennings	McPherson	Stuart	

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 599 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 599—A bill to be entitled An act relating to local government code enforcement boards; amending ss. 162.05, 162.07, F.S.; providing for the creation of five-member boards in certain municipalities and counties; providing for terms of office; prescribing the quorum for five-member boards; providing for reduction of the membership of seven-member boards; providing for a hearing to be called upon written notice signed by at least two members of a five-member board; providing that three members' votes are required on a five-member board for certain board actions to be official; providing an effective date.

Amendment 1—On page 1, line 17, strike everything after the enacting clause and insert:

Section 1. Subsections (1), (2), and (3) of section 162.05, Florida Statutes, are amended to read:

162.05 Local government code enforcement boards; organization.—

(1) The local governing body may appoint one or more ~~seven-member~~ code enforcement boards *composed of five or seven members,* and legal counsel for the enforcement boards. Members of the enforcement boards shall be residents of the municipality, in the case of municipal enforcement boards, or residents of the county, in the case of county enforcement boards. Appointments shall be made in accordance with applicable law and ordinances on the basis of experience or interest in the fields of zoning and building control. The membership of each enforcement board shall, whenever possible, include an architect, a businessman, an engineer, a general contractor, a subcontractor, and a realtor.

(2) ~~The initial~~ Appointments to an enforcement board shall be ~~as follows:~~

~~(a) Two members appointed for a term of 1 year each.~~

~~(b) Three members appointed for a term of 2 years each.~~

~~(c) Two members appointed for a term of 3 years each. Thereafter, any appointment shall be~~ made for a term of 3 years. A member may be reappointed upon approval of the local governing body. An appointment to fill any vacancy on an enforcement board shall be for the remainder of the unexpired term of office. If any member fails to attend two of three successive meetings without cause and without prior approval of the chairman, the enforcement board shall declare the member's office vacant, and the local governing body shall promptly fill such vacancy. The members shall serve in accordance with ordinances of the local governing body and may be suspended and removed for cause as provided in such ordinances for removal of members of boards.

(3) The members of an enforcement board shall elect a chairman, who shall be a voting member, from among the members of the board. The presence of *three* ~~four~~ or more members shall constitute a quorum of *a five-member* ~~any~~ enforcement board. *The presence of four or more members shall constitute a quorum of a seven-member enforcement board.* Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the local governing body or as are otherwise provided by law.

Section 2. This act shall take effect October 1, 1988.

House Amendment 1 to House Amendment 1—On page 2, between lines 24 and 25, insert a new Section 2:

Section 162.03, Florida Statutes, is amended to read:

162.03 Applicability.—

(1) Each county or municipality may, at its option, create or abolish by ordinance local government code enforcement boards as provided herein.

(2) A charter county may, by county ordinance, be exempted from the provisions of this act. A charter county *or municipality* may, by ordinance, adopt an alternate code enforcement system which gives code enforcement boards or county *or municipal*-designated special masters the authority to hold hearings and assess fines against violators of county *or municipal* codes and ordinances.

(Renumber subsequent section.)

House Amendment 3 to House Amendment 1—On page 1, line 13, insert:

Section 1. *The county-owned park, located at Newnans Lake on Highway 20 in Alachua County, is hereby named the "Earl P. Powers Park" in recognition of the great accomplishments and outstanding service afforded by Earl P. Powers to the Gainesville community, Alachua County, and the State of Florida.*

Section 2. *The East Gainesville Garden Club, in cooperation with the Alachua County Board of County Commissioners, shall be authorized to erect suitable markers bearing the designation made by this act.*

Amendment 2—On page 1, in the title, lines 9-15, after "boards," strike all of said lines and insert: *providing an effective date.*

House Amendment 2 to House Amendment 2—On page 1, line 12, strike "*providing an effective date*" and insert: *authorizing municipalities to utilize alternative code enforcement procedures; providing an effective date.*

Amendment 4—On page 1, line 3, after the semicolon insert: naming the county-owned park at Newnans Lake on Highway 20 in Alachua County the "Earl P. Powers Park"; authorizing the East Gainesville Garden Club, in cooperation with the Alachua County Board of County Commissioners, to erect suitable markers;

On motions by Senator Kirkpatrick, the Senate concurred in House Amendments 1 and 2, House Amendment 1 to House Amendment 1, House Amendment 2 to House Amendment 2; and refused to concur in House Amendment 3 to House Amendment 1, and House Amendment 4 and the House was requested to recede. SB 599 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Crawford

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives requests the return of SB 1391.

John B. Phelps, Clerk

SB 1391—A bill to be entitled An act relating to Palm Beach County; amending sections 3, 4, 6, 9, and 12 of chapter 87-450, Laws of Florida; relating to the Palm Beach County Health Care Act; providing for the prohibition of hospital construction by the district; providing for the adoption of criteria for the provision of health care; providing for the membership of the district board; providing for limitations on the assessment and levying of ad valorem taxes for the district; providing for the membership of subdistrict boards of the Palm Beach County Health Care District; providing for the submission of an annual report and budget to the Palm Beach County Board of County Commissioners by the district board; providing for the submission of an annual report and budget to the Palm Beach County Legislative Delegation; providing severability; providing an effective date.

On motion by Senator Weinstock, the Senate refused to return SB 1391 as requested, and the action of the Senate was certified to the House.

By direction of the President, the following Conference Committee Report was read:

CONFERENCE COMMITTEE REPORT ON CS for CS for SB 1192

June 3, 1988

The Honorable John W. Vogt
President of the Senate

The Honorable Jon Mills
Speaker, House of Representatives

Dear Sirs:

Your Conference Committee on the disagreeing votes of the two Houses on CS for CS for SB 1192, same being:

An act relating to waste management;

having met, and after full and free conference, do recommend to their respective Houses as follows:

1. That the House recede from the House amendments to CS for CS for SB 1192.

2. That the House and Senate adopt the Conference Committee amendments to CS for CS for SB 1192 attached hereto; and by reference made a part of this report.

3. That the House and Senate pass CS for CS for SB 1192 as amended by said Conference Committee amendments, attached hereto and made a part of this report.

s/George Kirkpatrick	*s/Sidney Martin*
s/Robert Crawford	*s/Michael Friedman*
s/Dexter Lehtinen	*s/Peter M. Dunbar*
Managers on the part of the Senate	Managers on the part of the House of Representatives

Summary of Conference Committee Amendments to CS for CS for SB 1192

The bill represents the work product of both Houses, and contains provisions which comprehensively address waste management by state agencies, local governments, and the private sector. The major features of this legislation are as follows:

1. A statewide goal is established to reduce the amount of solid waste by 30 percent by 1994. (This represented a compromise between the 5-year goal in the Senate Bill and a 7-year goal in the House Bill.)

2. Each county shall initiate a recycling program by July 1, 1989. A majority of the newspaper, glass, plastic bottles and aluminum cans must be separated from the solid waste stream and recycled. Counties have the option of how to implement recycling programs - either at a central location or through curbside collection programs. (This was compromise language with the House Bill which required 4 out of 7 listed items to be recycled.)

3. Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a permitted disposal site. Yard trash, white goods, construction and demolition debris, and tires shall count for no more than one-half of the waste which must be recycled to meet the recycling goals.

4. After January 1, 1989, no lead acid batteries can be disposed at landfills or waste-to-energy facilities. Retailers who sell these items must accept used lead-acid batteries as trade-ins for new lead-acid batteries.

5. Restrictions on the sale of certain types of products:

a. After January 1, 1989, the sale of beverage containers opened with detachable metal rings or tabs is prohibited.

b. After July 1, 1989, the sale of containers connected to each other by a separate plastic ring or by any other device is prohibited unless such rings are composed of material which is capable of degrading within 120 days. A notice of degradability shall be indicated on the holding device. (House/Senate language)

c. On or after October 1, 1990, any product packaged in a container or material containing fully halogenated chlorofluorocarbons is prohibited. (House language)

d. After January 1, 1990, plastic bags used for carrying items purchased by the customer are prohibited unless the bag is composed of material which is degradable within 120 days. Notice of degradability shall be printed on each bag. (House language)

e. Any polystyrene foam or plastic coated paper to be used in connection with food for human consumption is prohibited unless such products are capable of degrading within 12 months. This requirement shall be effective 12 months after such material has been certified as safe by the U.S. Food and Drug Administration and is available in commercial quantities. Businesses are encouraged to meet this requirement by January 1, 1992. (Senate language)

f. After July 1, 1992, a plastic container may not be sold or offered for sale unless it has a molded label indicating the plastic resin used to produce the container. All plastic beverage containers and all nonsolid food liquid containers of less than 16 ounces and all rigid plastic containers of less than 8 ounces are exempt from the labeling requirement. (Senate language)

6. A new Solid Waste Management Trust Fund is created within the Department of Environmental Regulation to carry out the purposes of this act.

7. A Solid Waste Grant Program is authorized to be administered by DER to assist counties and municipalities in operating recycling and related education programs. Twenty-five percent of the funds available will be distributed as base portions grants to counties and municipalities with populations over 50,000. Seventy-five percent of the funds available will be distributed as incentive portions of grants. The incentive portion requires a 50 percent match if the county or municipality is applying individually. Small counties are exempt from this match requirement. The incentive portion will not require a match when the county applies jointly with municipalities constituting at least 75 percent of the total incorporated population within the county. The grants will be distributed bsaed on the population of the group applying, with a county being credited for unincorporated populations. Counties and municipalities shall enter into interlocal agreements to determine how the grant funds shall be used. (These provisions represent a compromise between the House and Senate Bills.)

Specific Grant Provisions

Grants for recycling shall provide funding for capital costs and, if justified, temporary operating subsidies to assist eligible local governments in recycling paper, glass, plastic, construction and demolition debris, white goods and in composting organic materials. Specific grant criteria are included in the legislation. Beginning in FY 1989-90, requests for grants must be justified according to specific requirements designed to insure that the local programs are adequately planned and organized.

Small County Assistance Grant Program

Counties with populations of less than 30,000 will receive $25,000 each year for 5 years. These grants can be used for purchasing weight scales and meeting other requirements of this legislation.

Recycling Awards

$750,000 will be shared among a group of local governments on a one time basis to recognize their initiatives for starting recycling programs before passage of this legislation. Criteria for eligibility are specified in the bill.

8. Rulemaking to address the management of biohazardous waste and biological waste by the Department of Environmental Regulation must be initiated by February 1, 1989. The Department of Health and Rehabilitative Services shall initiate rulemaking on the management of biohazardous waste by March 1, 1989. (The language in the bill is from the more recent Senate version.)

9. DER is directed to adopt and enforce standards for the production of compost and shall prescribe the allowable types of applications of compost for agricultural and other uses.

10. The owner or operator of any waste tire site must notify DER of the existence of such site within six months of the effective date of the bill and initiate steps to meet the following provisions. On or after July 1, 1989, a person may not operate a waste tire site unless such site is an integral part of a permitted waste tire processing facility. A person may not dispose of waste tires unless they are disposed for processing, or collected for processing at a permitted solid waste disposal facility, a waste tire site which is an integral part of a permitted waste tire processing facility, a permitted waste tire processing facility, or a waste tire collection center. Waste tires may not be deposited in a landfill as a method of ultimate disposal. DER shall adopt rules to administer the waste tire program by January 1, 1989. A permit is not required for a tire retreading business where waste tires are kept on the business premises, a business that removes waste tires from motor vehicles if fewer than 1,000 of such tires are kept on the business premises, or a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises. DER shall encourage the voluntary establishment of waste tire collection centers for the public at retail tire-selling businesses, waste tire processing facilities, and solid waste disposal facilities. (Senate language)

11. A fee of 50¢ is imposed on the sale of each new tire at the retail level for the period January 1, 1989 through December 31, 1989. Beginning January 1, 1990, and thereafter such fee shall be $1 per new tire sold at retail. The revenue derived from this fee shall be deposited in the Solid Waste Management Trust Fund. (Provision derived from the Senate bill)

12. The Florida House of Representatives, the Florida Senate, and the Offices of the Governor and Cabinet shall institute recycling programs in the House and Senate office buildings and the Capitol by January 1, 1989. (From the Senate Bill with modifications).

13. All state agencies are required to establish programs for recycling waste materials generated in the course of agency operations and to use composted materials when feasible. The bill requires the Department of Education, working with the DER and the state university system, to develop guidelines for recycling with in the state education system. School districts in the state are requireed to develop programs for recycling awareness and the Department of Education is required to develop curriculum materials for recycling in all school levels. (Primarily House language).

14. DER is directed to establish qualifications for, and encourage the development of training programs for operators of landfills, coordinators of local recycling programs, and other solid waste management facilities. DER shall work with educational institutions in developing educational materials for persons wishing to be trained as operators of solid waste management facilities. A person must be appropriately trained in order to operate such a facility after January 1, 1990. (Senate language).

15. The Florida Youth Conservation Corps and local governments are encouraged to initiate programs to supplement existing DOT litter programs. (Senate language)

16. Disposal of ash from incinerators must occur in compliance with standards developed by the department. (House language)

17. Enacts certain provisions relating to used oil:

a. Certain mixing or comingling of used oil is prohibited.

b. The procurement of used oil by the department is encouraged.

c. Registration requirements for transporters and collectors of used oil are clarified.

d. The department is directed to encourage the establishment of public used oil collection centers and recycling programs. (Does not affect the obligations or liability of any person under any other provisions of state or federal law.)

e. The department is authorized to establish an incentives program for those who change their own oil to return their used oil to a collection center.

f. A grants program for local governments is authorized.

g. Certification of certain used oil transporters is required.

h. The department is directed to establish a permitting system for used oil recycling facilities by January 1, 1990. (Primarily House language)

18. Owners or operators of landfills are to establish a fee, surcharge, etc., to ensure the proper closure of their respective landfills. Revenues derived therefrom are to be deposited into an interest bearing escrow account. (Senate language)

19. The establishment of regional solid waste authorities is encouraged. The use of eminent domain is authorized for public entities formed via interlocal agreements among counties and municipalities, and sovereign immunity is extended to entities formed in such a manner. (House language)

20. The disposal of certain animal wastes and oils is limited. (Senate language)

21. The Department of Transportation is directed to expand its current use of recovered materials in its construction programs. The department is to undertake demonstration projects to determine the feasibility of using certain recyclable materials for paving purposes. In addition, the department shall contract with the state university system for research. The department's specification and procurement procedures are to be reviewed, as well. (This represents mainly Senate language, but includes House language on review of specifications and procurement procedures.) The Department of General Services is required to evaluate products or materials normally purchased by the state to determine if products or materials with recycled content can be purchased instead. The DGS is to determine how much recycled content could feasibly be contained in such products or materials. The DGS and other agencies are authorized to grant up to a 10 percent price preference to persons bidding on public contracts that involve the purchase of materials when such persons offer materials containing a specified amount of recycled content. (House language) The DGS is required to review its procurement and bid specifications to ensure that recyclable materials, or products or materials with recycled content, are purchased or used when possible.

22. The Board of Regents, through the Chancellor, is directed to coordinate research and training activities relating to solid and hazardous waste management conducted by state universities. There is to be an advisory board made up of representatives appointed by the presidents of the participating institutions and the Chancellor. The institutions shall conduct research and compile and disseminate information on this research to agencies and the public. The research shall cover methods and processes for recycling solid and hazardous waste, methods of treatment for detoxifying hazardous waste, and evaluation of solid and hazardous waste disposal technologies. A study of product packaging is authorized. (Primarily Senate language, with the product packaging study being derived from the House bill)

23. The Public Service Commission is directed to establish rules relating to the purchase of capacity or energy by electric utilities from solid waste management facilities.

24. A nonprofit organization with the name of Keep Florida Beautiful, Inc. is established to coordinate state, local, and private interests to curb the litter problems in the state. (Primarily House language)

25. A Clean Florida Commission is established within the Department of Transportation to be responsible for coordinating a statewide litter prevention program. (House language)

26. The Florida litter law is revised to provide the following penalties:

a. A civil penalty of $50 for dumping 15 pounds or 27 cubic feet or less of noncommerical litter.

b. Misdemeanor of the first degree for dumping more than 15 pounds or 27 cubic feet, but less than 500 pounds or 100 cubic feet, of noncommercial litter. A violation involving a motor vehicle may result in a penalty of three points on the person's drivers license.

c. A felony of the third degree for dumping more than 500 pounds or 100 cubic feet of commercial litter or hazardous waste. Additional punishment may include: removing the litter from the dump site, restoration of damaged property, or community service.

A motor vehicle, vessel aircraft, container, crane, winch, or machine used to dump more than 500 pounds or 100 cubic feet of litter is contraband. A person who violates the litter provisions which are punishable as felonies, may be required to pay the injured party up to $200 for damages, and court costs and attorneys' fees. (Primarily Senate language)

27. The Department of Agriculture and Consumer Services in cooperation with the Institute of Food and Agricultural Sciences is authorized to implement composting demonstration projects. The Department of Environmental Regulation is authorized to implement seafood processing byproduct waste disposal demonstration projects. (Senate language)

28. The Applications Demonstration Center for Resource Recovery from Solid Organic Materials is created to demonstrate technologies for reducing eutrophication of water bodies which results from conventional solid waste treatment, for extracting nutrients from wastewater and sludge, and for producing methane gas and compost from solid waste. (Senate language)

29. Local governments and state agencies are encouraged to provide solid waste services in the most cost-effective manner and to contract with private persons for such services. Counties and municipalities shall not discriminate against privately owned solid waste management facilities. (House/Senate compromise language)

30. Provides procedures for collection of combined non-ad valorem and ad valorem assessments.

31. Imposes a 10¢ per ton disposal fee on newsprint, allowing equal refunds for over runs and use of recycled newsprint. By October 1, 1992, if the Department of Environmental Regulation determines that newsprint is being recycled at a rate of less than 50 percent of the quantities represented in the waste stream, the newsprint disposal fee shall be increased to 50¢ per ton with equal credits as described above. These provisions shall be repealed October 1, 1995, and subject to review prior to that date. (Senate language)

32. On October 1, 1992, if the Department of Environmental Regulation determines that containers made of glass, plastic, plastic coated paper, aluminum, or other metals which are sold in the state are not being recycled at a sustained rate of 50 percent of the quantities sold, then an advance disposal fee of 1¢ per container shall be charged by retail establishments on those containers. Such containers may be returned to recycling centers for a refund. If the Department of Environmental Regulation determines by October 1, 1995, that such containers are not being recycled at a rate of 50 percent of the quantities sold, then the advance disposal fee shall increase to 2¢ per container and specific labeling, redemption, and information requirements shall apply. (Senate language, except for inclusion of plastic-coated paper)

33. Dealers who collect sales tax shall be allowed to keep 2.5 percent of the amount for compensation for collecting the tax, unless the amount of tax due for the reporting period exceeds $1,200 and then the allowance shall be reduced to 0.83 percent for all amounts in excess of $1,200. (Senate language)

34. Each person who holds a sales tax certificate of registration and who had taxable sales during the preceding calendar year of $30,000 or more shall pay a registration fee of $25 or $50 depending on the amount of taxable sales. (Senate language)

35. A sales tax credit is provided for industrial machinery and equipment purchased after July 1, 1988, for use in manufacturing plants

if such equipment is integral to recycling, expressly designed to utilize recyclable materials, and is directly utilized to increase consumption of Florida recyclable materials by not less than 10 percent. The exemption is available by refund after the first full year of production. (Senate language)

36. The establishment of recycling and solid waste reduction programs shall be required within each state agency, the legislative and judicial branches of state government, and the state university system, by September 1, 1989. Directs agencies responsible for the maintenance of public lands to give preference to the use of compost materials in all such maintenance performed with public funds; requires the Department of Education to develop a recycling and solid waste reduction program that at least addresses solid waste generated in administrative offices, classrooms, dormitories, and cafeterias. The Department of Agriculture and Consumer Services is directed to investigate the potential markets for composted materials. (House/Senate language)

37. Authority is granted to DER to refuse to issue solid waste permits to repeat violators of solid waste regulations.

Summary of Financial Features

REVENUE GENERATION FEATURES:	FY *1988-89*
1. Beginning January 1, 1989, a charge of 50 cents per tire at the retail level. Beginning January 1, 1990, the charge will be increased to $1.00 per tire.	$ 3,750,000
2. A special fee of 10 cents per ton of newsprint charged to publishers. (A credit of 10 cents per ton of newsprint may be claimed for newsprint which has been collected from persons for recycling.)	$ 350,000
3. Rollback of windfall on sales tax collections and creation of registration fees for businesses paying sales tax. First year revenue will not be as great as the estimated $22.5 annual amount.	$15,000,000
4. Transfer from the oil overcharge settlement funds in the Grants and Donations Trust Fund in the Governor's Energy Office to the Solid Waste Management Trust Fund.	$19,000,000
Total	$38,100,000

APPROPRIATIONS FEATURES:	FY 1988-89
1. Appropriates $25 million for grants to local governments for operating recycling and education programs.	$25,000,000
2. Appropriates $3.7 million for grants relating to recycling waste tires.	$ 3,750,000
3. Appropriates $2.5 million to DER to carry out the Used Oil Recycling provisions.	$ 2,500,000
4. Appropriates $750,000 for recycling awards to local governments which exhibited an interest to reduce the volume of solid waste through recycling activities prior to passage of this act.	$ 750,000
5. Appropriates $675,000 for grants of $25,000 to counties with populations of 30,000 or less for solid waste management and recycling activities. Such grants would end in 1993.	$ 675,000
6. Appropriates $500,000 for use by the Board of Regents to coordinate research activities among State and private universities to help solve solid waste management problems.	$ 500,000
7. Appropriates $100,000 to Department of Agriculture and Consumer Services to work with Institute of Food and Agricultural Sciences for demonstration projects on composting yard trash from a typical municipal waste stream.	$ 100,000
8. Appropriates $500,000 to the Department of Environmental Regulation for a demonstration project on alternative methods for disposing of seafood processing by-products.	$ 500,000
9. Appropriates $150,000 to PRIDE to determine the feasibility of having certain correction facilities serve as waste tire processing facilities to produce products from waste tires for resale. Also to determine the feasibility of having certain correction facilities serve as processing facilities for recycling plastic materials recovered from the local government solid waste stream and which may be used for products by the Department of Transportation and other state agencies.	$ 150,000
10. Appropriates $850,000 and authorizes 15 positions for the Department of Environmental Regulation to carry out its responsibilities of this act.	$ 850,000
11. Appropriates $50,000 and authorizes 2 positions for the Department of Health and Rehabilitative Services to carry out its biohazardous responsibilities of this act.	$ 50,000
12. Appropriates $200,000 and authorizes 3 positions for the Department of General Services for its responsibilities for recycling programs.	$ 200,000
13. Appropriates $110,000 and authorizes 3 positions for the Department of Revenue for its responsibilities in this legislation.	$ 110,000
14. Appropriates $1,000,000 to the Department of Transportation for the Clean Florida Commission and other litter program responsibilities.	$1,000,000
15. Appropriates $90,000 to the Department of Natural Resources for the Youth Conservation Corps litter clean-up program.	$ 90,000
SUBTOTAL	$36,225,000

OTHER APPROPRIATION FEATURES:

$225,000 in the Professional Regulation Trust Fund is reserved to undertake research or contract for research, to determine ways to use ground rubber from used tires in roofing materials and other building construction applications, and to determine ways to demonstrate the use of recycled, comingled plastic products in Florida building applications, such as dock facilities, agricultural structures, or ornamental landscaping.	$ 225,000
$750,000 is transferred from the Florida High Technology Innovative Research Trust Fund to the Solid Waste Management Trust Fund to demonstrate applications and products from recyclable materials including plastics, tires, roofing materials and others designated by the Department of Environmental Regulation. No later than June 30, 1989, the sum of $1,000,000 shall be transferred from the Solid Waste Management Trust Fund to the Florida High Technology Innovation Research and Development Trust Fund.	($ 250,000)

Conference Committee Amendment 1—

Strike everything after the enacting clause and insert:

Section 1. *Section 403.701, Florida Statutes, is hereby repealed.*

Section 2. Section 403.702, Florida Statutes, is amended to read:

403.702 Legislative findings; public purpose.—

(1) In order to enhance the beauty and quality of our environment; conserve and recycle our natural resources; prevent the spread of disease and the creation of nuisances; protect the public health, safety, and welfare; and provide a coordinated statewide *solid waste* ~~resource recovery and~~ management program, the Legislature finds that:

(a) Inefficient and improper methods of managing solid waste create hazards to public health, cause pollution of air and water resources, constitute a waste of natural resources, have an adverse effect on land values, and create public nuisances.

(b) Problems of *solid waste* ~~solid waste~~ management have become a matter statewide in scope and necessitate state action to assist local government in improving methods and processes to promote more efficient methods of *solid waste* ~~solid waste~~ collection and disposal.

(c) The continuing technological progress and improvements in methods of manufacture, packaging, and marketing of consumer products *have* ~~has~~ resulted in an ever-mounting increase of the mass of material discarded by the purchasers of such products, thereby necessitating a statewide approach *to assist* ~~which will avoid varied and uncoordinated solutions by~~ local governments around the state *with their solid waste management programs.*

(d) The economic and population growth of our state and the improvements in the standard of living enjoyed by our population have required increased industrial production together with related commercial and agricultural operations to meet our needs, which have resulted in a rising tide of unwanted and discarded materials.

(e) The failure or inability to economically recover material and energy resources from solid waste results in the unnecessary waste and depletion of our natural resources, and, therefore, maximum resource recovery from solid waste and maximum recycling and reuse of such resources must be considered goals of the state.

(f) Certain solid waste, due to its quantity; concentration; or physical, chemical, biological, or infectious characteristics, is ~~exceptionally~~ hazardous to human health, safety, and welfare and to the environment, and exceptional attention to the transportation, disposal, storage, and treatment of such waste is necessary to protect human health, safety, and welfare and the environment.

(g) This act should be integrated with other acts *and parts of this chapter* such that nonhazardous waste discharges currently regulated under this chapter, water or solid waste construction, modification, or operating permits, air emissions, special wastes, and other activities regulated under other more appropriate *provisions of law* ~~acts~~ remain in full force and effect and are not preempted by the requirements of this act.

(2) It is declared to be the purpose of this act to:

(a) Plan for and regulate in the most economically feasible, cost-effective, and environmentally safe manner the storage, collection, transport, separation, processing, recycling, and disposal of solid waste in order to protect the public safety, health, and welfare; enhance the environment for the people of this state; and recover resources which have the potential for further usefulness.

(b) Establish and maintain a cooperative state program of planning and technical *and financial* assistance for *solid waste* ~~resource recovery and~~ management.

(c) Provide the authority, and require counties and municipalities, to adequately plan and provide efficient, environmentally acceptable *solid waste* ~~resource recovery and~~ management and require counties to plan for proper hazardous waste management.

(d) Require review of the design, and issue permits for the *construction,* operation, *and closure* of *solid waste* ~~resource recovery and~~ management facilities.

(e) Promote the application of resource recovery systems which preserve and enhance the quality of air, water, and land resources.

(f) Ensure that ~~exceptionally~~ hazardous ~~solid~~ waste is transported, disposed of, stored, and treated in a manner adequate to protect human health, safety, and welfare and the environment.

(g) Promote the *reduction,* recycling, reuse, or treatment of solid waste, specifically including hazardous waste, in lieu of disposal of such wastes.

(h) Promote the application of methods and technology for the treatment, disposal, and transportation of hazardous wastes which are practical, cost-effective, and economically feasible.

(i) Encourage counties and municipalities to utilize all means reasonably available to promote efficient and proper methods of managing solid waste and to promote the economical recovery of material and energy resources from solid waste, including, but not limited to, contracting with persons to provide or operate resource recovery services or facilities on behalf of the county or municipality.

(j) Promote the education of the general public and the training of solid waste professionals to reduce the production of solid waste, to ensure proper disposal of solid waste, and to encourage recycling.

(k) Encourage the development of waste reduction and recycling as a means of managing solid waste, conserving resources, and supplying energy through planning, grants, technical assistance, and other incentives.

(l) Encourage the development of the state's recycling industry by promoting the successful development of markets for recycled items and by promoting the acceleration and advancement of the technology used in manufacturing processes that use recycled items.

(m) Require all state agencies to aid and promote the development of recycling through their procurement policies for the general welfare and economy of the state.

(n) Require counties to develop and implement recycling programs within their jurisdictions to return valuable materials to productive use, to conserve energy and natural resources, and to protect capacity at solid waste management facilities.

(o) Ensure that biohazardous waste is transported, stored, treated, and disposed of in a manner adequate to protect human health, safety, and welfare and the environment.

(p) Require counties, municipalities, and state agencies to determine the full cost for providing, in an environmentally safe manner, storage, collection, transport, separation, processing, recycling, and disposal of solid waste material, and encourage counties, municipalities, and state agencies affected to contract with private persons for any or all such services in order to assure that such services are provided on the most cost-effective basis.

Section 3. Section 403.703, Florida Statutes, is amended to read:

403.703 Definitions.—As used in this act, *unless the context clearly indicates otherwise,* the term:

(1) "Department" means the Department of Environmental Regulation or any successor agency performing a like function.

(2) "County ~~or municipality~~," or any like term, *means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution, and when s. 403.706(20) applies means a special district or other entity* ~~includes political subdivisions engaged in resource recovery and management~~.

(3) "Municipality," or any like term, means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution, and when s. 403.706(20) applies means a special district or other entity.

(4)~~(3)~~ "Person" means any and all persons, natural or artificial, including any individual, firm, or association; any municipal or private corporation organized or existing under the laws of this state or any other state; any county of this state; and any governmental agency of this state or the Federal Government.

(5) "Recyclable material" means those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

(6)~~(4)~~ "Recycling" means *any process by which solid waste, or materials which would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or products* ~~the reuse of solid waste in manufacturing, agriculture, power production, or other processes~~.

(7) "Recovered materials" means those materials which have known recycling potential, can be feasibly recycled, and have been diverted or removed from the solid waste stream for sale, use, or reuse, by separation, collection, or processing.

(8)~~(5)~~ "*Solid waste* ~~Resource~~ management" means the process by which solid waste is collected, transported, stored, separated, processed, or disposed of in any other way, according to an orderly, purposeful, and planned program.

(9)~~(6)~~ "Resource recovery" means the process *of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission* ~~by which materials, excluding those under control of the Atomic Energy Commission, which still have useful physical or chemical properties after serving a specific purpose are reused or recycled for the same or other purposes, including use as an energy source~~.

(10)~~(7)~~ "*Solid waste* ~~Resource recovery and~~ management facility" means any solid waste disposal area, volume reduction plant, *transfer station,* or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. *The term does not include facilities which use or ship recovered materials unless such facilities are managing solid waste.*

(11) "Solid waste disposal facility" means any solid waste management facility which is the final resting place for solid waste, including landfills and incineration facilities that produce ash from the process of incinerating municipal solid waste.

(12)~~(8)~~ "Resource recovery equipment" means equipment or machinery exclusively and integrally used in the actual process of recovering material or energy resources from solid waste.

(13)~~(9)~~ "Solid waste" *includes garbage, refuse, yard trash, clean debris, white goods, special waste, ashes,* ~~means~~ sludge, ~~from a waste treatment works, water supply treatment plant, or air pollution control facility or garbage, rubbish, refuse,~~ or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.

(14)~~(10)~~ "Volume reduction plant" includes~~, but is not limited to,~~ incinerators, pulverizers, compactors, shredding and baling plants, ~~transfer stations,~~ composting plants, and other plants which accept and process solid waste for recycling or disposal.

(15)~~(11)~~ "Yard trash" means vegetative matter resulting from landscaping maintenance and land-clearing operations.

(16) "Transfer station" means a site the primary purpose of which is to store or hold solid waste for transport to a processing or disposal facility.

~~(12) "Trash landfills" means combinations of yard trash and construction and demolition debris along with paper, cardboard, cloth, glass, white goods, street sweepings, vehicle tires, and other like matter.~~

(17)~~(13)~~ "Construction and demolition debris" means *materials* ~~material~~ generally considered to be not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, ~~or~~ asphalt roofing material, *pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project, and including rocks, soils, tree remains, trees, and other vegetative matter which normally results from land clearing or land development operations for a construction project. Mixing of construction and demolition debris with other types of solid waste, including material from a construction or demolition site which is not from the actual construction or destruction of a structure, will cause it to be classified as other than construction and demolition debris.*

(18)~~(14)~~ "Class I solid waste disposal area" means a disposal facility which receives an average of 20 tons or more per day, if scales are available, or 50 cubic yards or more per day of solid waste, as measured in place after covering, and which receives an initial cover daily.

(19)~~(15)~~ "Class II solid waste disposal area" means a disposal facility which receives an average of less than 50 cubic yards per day of solid waste, as measured in place after covering, and which receives an initial cover at least once every 4 days.

~~(16) "Initial cover" means a 6 inch layer of compacted earth, or other suitable material as approved by the department, used to enclose a volume of solid waste prior to intermediate or final cover.~~

~~(17) "Monitoring well" means a strategically located well from which water samples are drawn for water quality analysis.~~

(20)~~(18)~~ "Closure" means the cessation of operation of a *solid waste* ~~resource recovery and~~ management facility and the act of securing such facility so that it will pose no significant threat to human health or the environment.

(21)~~(19)~~ "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or upon any land or water so that such solid waste or hazardous waste or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including ground waters, or otherwise enter the environment.

(22)~~(20)~~ "Generation" means the act or process of producing *solid or* hazardous waste.

(23)~~(21)~~ "Hazardous waste" means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

(24)~~(22)~~ "Hazardous waste facility" means any building, site, structure, or equipment at or by which hazardous waste is disposed of, stored, or treated.

(25)~~(23)~~ "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, *recycling,* and disposal of hazardous wastes.

(26)~~(24)~~ "Manifest" means the *recordkeeping system* ~~method~~ used for identifying the concentration, quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, storage, or treatment.

(27)~~(25)~~ "Operation," with respect to any *solid waste* ~~resource recovery and~~ management facility, means the disposal, storage, or *processing* ~~treatment~~ of solid waste at and by the facility.

(28)~~(26)~~ "Storage" means the containment or holding of a hazardous waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such hazardous waste.

(29)~~(27)~~ "Transport" means the movement of hazardous waste from the point of generation or point of entry into the state to any offsite intermediate points, and to the point of offsite ultimate disposal, storage, treatment, or exit from the state.

(30)~~(28)~~ "Treatment," when used in connection with hazardous waste, means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize it or render it nonhazardous, safe for transport, amenable to recovery, amenable to storage or disposal, or reduced in volume or concentration. The term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.

(31)~~(29)~~ "Hazardous substance" means any substance which is defined as a hazardous substance in the *United States* Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 94 Stat. 2767.

(32)~~(30)~~ "Guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this act.

(33)~~(31)~~ "Land disposal" means any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt bed formation, salt dome formation, or underground mine or cave.

(34) "Special wastes" means solid wastes that can require special handling and management, including, but not limited to, white goods, whole tires, used oil, mattresses, furniture, lead-acid batteries, and biological wastes.

(35) "Clean debris" means any solid waste which is virtually inert and which is not a pollution threat to groundwater or surface waters and is not a fire hazard, and which is likely to retain its physical and chemical structure under expected conditions of disposal or use. The term includes uncontaminated concrete, including embedded pipe or steel, brick, glass, ceramics, and other wastes designated by the department.

(36) "Processing" means any technique designed to change the physical, chemical, or biological character or composition of any solid waste so as to render it safe for transport, amenable to recovery, storage or recycling, or safe for disposal, or reduced in volume or concentration.

(37) "Sludge" includes the accumulated solids, residues, and precipitates generated as a result of waste treatment or processing, including wastewater treatment, water supply treatment, or operation of an air pollution control facility, and mixed liquids and solids pumped from septic tanks, grease traps, privies, or similar waste disposal appurtenances.

(38) "White goods" includes inoperative and discarded refrigerators, ranges, water heaters, freezers, and other similar domestic and commercial large appliances.

(39) "Biohazardous waste" means any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; used disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the Department of Health and Rehabilitative Services represent a significant risk of infection to persons outside the generating facility.

(40) "Biohazardous waste generator" means a facility or person that produces or generates biohazardous waste. The term includes, but is not limited to, hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians offices, laboratories, veterinary clinics, and funeral homes.

(41) "Biological waste" means solid waste that causes or has the capability of causing disease or infection and includes, but is not limited to, biohazardous waste, diseased or dead animals, and other wastes capable of transmitting pathogens to humans or animals.

Section 4. Subsection (69) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(69) HAZARDOUS MATERIAL.—Any substance or material which has been determined by the secretary of the United States Department of Transportation to be capable of imposing an unreasonable risk to health, safety, and property. This term includes hazardous waste as defined in s. 403.703*(23)*~~(21)~~.

Section 5. Paragraph (a) of subsection (2) and subsection (3) of section 319.30, Florida Statutes, are amended to read:

319.30 Dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(2)(a) As used in this section:

1. A motor vehicle or mobile home is a "total loss" when an insurance company pays to the vehicle owner 80 percent or more of the cost, at the time of loss, of replacing the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the owner upon the theft of the motor vehicle or mobile home. An uninsured motor vehicle or mobile home that is wrecked or damaged is defined to be a total loss when the cost, at the time of loss, of repairing or rebuilding the vehicle is 80 percent or more of the cost to the owner of replacing the wrecked or damaged vehicle with one of like kind and quality.

2. A motor vehicle or mobile home is "salvage" when the frame or engine is removed from the motor vehicle or mobile home and not immediately replaced by another frame or engine or when the motor vehicle or mobile home is a total loss as defined in this paragraph.

3. "Junk" means any motor vehicle or mobile home, with or without all component parts, which is inoperable at the time of receipt by a junkyard, salvage yard, or scrap metal processing plant meeting the definition of a *solid waste* ~~resource recovery and~~ management facility in s. 403.703*(10)*~~(7)~~, which vehicle is in such condition that its highest or primary value is either as scrap material or as component parts or a combination of the two.

(3) It is unlawful for the owner of any junkyard, scrap metal processing plant which meets the criteria of a *solid waste* ~~resource recovery and~~ management facility as defined in s. 403.703*(10)*~~(7)~~, or salvage yard or his agent or employee to have in his possession any motor vehicle or mobile home which is junk or salvage, as defined in paragraph (2)(a), when the manufacturer's identification number plate or serial plate has been removed therefrom. However, nothing in this subsection shall be applicable when a vehicle defined in this section as junk or salvage was purchased or acquired from a foreign state requiring such vehicle's identification number plate and license plate to be surrendered to such state, provided the owner of the junkyard or salvage yard or his agent or employee shall have a notarized bill of sale describing the vehicle by manufacturer's serial number and the state to which such vehicle's identification number plate was surrendered. Any person who violates 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 6. Section 403.704, Florida Statutes, is amended to read:

403.704 Powers and duties of the department.—The department shall have responsibility for the implementation and enforcement of the provisions of this act. In addition to other powers and duties, the department shall:

(1) *Develop and implement, in consultation with local governments, a state solid waste* ~~Adopt by rule for the state a resource recovery and~~ management program, as defined in s. 403.705, *and update the program at least every 3 years* ~~by July 1, 1976~~. In developing *rules to implement* the state *solid waste* ~~resource recovery and~~ management program, the department shall hold public hearings around the state ~~in accordance with chapter 120~~ and shall give notice of such public hearings to all local governments and regional planning agencies.

(2) Provide technical assistance to counties, municipalities, and other persons, and cooperate with appropriate federal agencies and private organizations in carrying out the provisions of this act.

(3) Promote the planning and application of recycling and resource recovery systems which preserve and enhance the quality of the air, water, and other natural resources of the state *and assist in and encourage, where appropriate, the development of regional solid waste management facilities.*

(4) Serve as the official state representative for all purposes of the Federal Solid Waste Disposal Act, as amended by Pub. L. No. 91-512, or as subsequently amended.

(5) *Use* ~~Utilize~~ private industry *or the State University System* through contractual arrangements for implementation of some or all of the requirements of the state *solid waste* ~~resource recovery and~~ management program and for such other activities as may be considered necessary, desirable, or convenient.

(6) Encourage recycling and resource recovery as *a source of* ~~an~~ energy *and materials* ~~source~~.

(7) Assist in and encourage, as much as possible, the development within the state of industries and commercial enterprises which are based upon resource recovery, recycling, and reuse of solid waste.

(8) Charge reasonable fees for any services it performs pursuant to this act, provided user fees shall apply uniformly within each municipality or county to all users who are provided with *solid waste* ~~resource recovery and~~ management services.

(9) Acquire, at its discretion, personal or real property or any interest therein by gift, lease, or purchase for the purpose of providing sites for *solid waste* ~~resource recovery and~~ management facilities.

(10) Acquire, construct, reconstruct, improve, maintain, equip, furnish, and operate, at its discretion, such *solid waste* ~~resource recovery and~~ management facilities as are called for by the state *solid waste* ~~resource recovery and~~ management program.

(11) Receive funds or revenues from the sale of products, materials, fuels, or energy in any form derived from processing of solid waste by state-owned or state-operated facilities, which funds or revenues shall be deposited into the *Solid Waste Management Trust* ~~General Revenue~~ Fund.

(12) Determine by rule the facilities, equipment, personnel, and number of monitoring wells to be provided at each Class I solid waste disposal area.

(13) Encourage, but not require, as part of a Class II solid waste disposal area, a potable water supply; an employee shelter; handwashing and toilet facilities; equipment washout facilities; electric service for operations and repairs; equipment shelter for maintenance and storage of parts, equipment, and tools; scales for weighing solid waste received at the disposal area; a trained equipment operator in full-time attendance during operating hours; and communication facilities for use in emergencies. The department may require an attendant at a Class II solid waste disposal area during the hours of operation if the department affirmatively demonstrates that such a requirement is necessary to prevent unlawful fires, unauthorized dumping, or littering of nearby property.

(14) Require a Class II solid waste disposal area to have at least one monitoring well which shall be placed adjacent to the site in the direction of ground water flow unless otherwise exempted by the department. The department may require additional monitoring wells not farther than 1 mile from the site if it is affirmatively demonstrated by the department that a significant change in the initial quality of the water has occurred in the downstream monitoring well which adversely affects the beneficial uses of the water. These wells may be public or private water supply wells if they are suitable for use in determining background water quality levels.

~~(15) Promulgate rules for solid waste disposal areas limited exclusively to yard trash, for solid waste disposal areas limited exclusively to construction and demolition debris, and for solid waste disposal areas limited exclusively to trash. Such rules shall take into account the reduced environmental threat caused by the segregated disposal of these solid wastes. Reduced requirements for engineering, location, covering, monitoring wells, or forced draft burning may be allowed for such solid waste disposal areas, providing the requirements will not allow a threat to the public health or environment to exist and providing the requirements are consistent with all other state or local laws, ordinances, rules, regulations, or orders.~~

(15)~~(16)~~ Adopt, repeal, or amend rules to implement, administer, and enforce this act~~.~~*, including requirements for the classification, construction, operation, maintenance, and closure of solid waste management facilities. When classifying solid waste management facilities, the department shall consider the hydrogeology of the site for the facility, the types of wastes to be handled by the facility, and methods used to control the types of waste to be handled by the facility, and shall seek to minimize the adverse effects of solid waste management on the environment.* Whenever the department adopts any rule stricter or more stringent than one which has been set by the United States Environmental Protection Agency, the procedures set forth in s. 403.804(2) shall be followed. The department shall not, however, adopt hazardous waste rules for solid waste for which special studies *were* ~~are~~ required *prior to October 1, 1988,* under *s. 8002 of* the Resource Conservation and Recovery Act, *42 U.S.C. ss. 6982,* as amended, until the studies are completed by the United States Environmental Protection Agency and the information is available to the department for consideration in adopting its own rule.

(16)~~(17)~~ Issue or modify permits on such conditions as are necessary to effect the intent and purposes of this act, and may deny or revoke permits.

(17)~~(18)~~ *Conduct* research, *using the State University System, solid waste professionals from local governments, private enterprise, and other organizations, on* alternative, economically feasible, cost-effective, and environmentally safe *solid waste management and* landfill closure methods which ~~serve to~~ protect the health, safety, and welfare of the public and the environment *and which may assist in developing markets and provide economic benefits to local governments, the state, and its citizens, and* ~~;~~ solicit public participation during the research process~~; create a three-member research oversight review committee comprised of industry, university, and legislative staff representatives; and submit a report on these alternatives to the Legislature by February 1, 1985~~. The department shall incorporate such cost-effective landfill closure methods in the appropriate department rule as alternative closure requirements.

(18) Develop and implement or contract for services to develop information on recovered materials markets and strategies for market development and expansion for use of these materials. Additionally, the department shall maintain a directory of recycling businesses operating in the state and shall serve as a coordinator to match recovered materials with markets. Such directory shall be made available to the public and to local governments to assist with their solid waste management activities.

(19) Authorize variances from solid waste closure rules adopted pursuant to this part, provided such variances are applied for and approved in accordance with s. 403.201 and will not result in significant threats to human health or the environment.

(20) Establish accounts and deposit to the Solid Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(21)~~(20)~~ Establish an account and deposit to the Hazardous Waste Management Trust Fund and control and administer moneys it may withdraw from the fund.

(22) Manage a program of grants, using funds from the Solid Waste Management Trust Fund and funds provided by the Legislature for solid waste management, for programs for recycling, litter control, and special waste management and for programs which provide for the safe and proper management of solid waste.

(23)~~(21)~~ Budget and receive appropriated funds and accept, receive, and administer grants or other funds or gifts from public or private agencies, including the state and the Federal Government, for the purpose of carrying out the provisions of this act.

(24)~~(22)~~ Delegate its powers, enter into contracts, or take such other actions as may be necessary to implement this act.

(25)~~(23)~~ Receive and administer funds appropriated for county hazardous waste management assessments.

(26)~~(24)~~ Provide technical assistance to local governments and regional agencies to ensure consistency between county hazardous waste management assessments; coordinate the development of such assessments with the assistance of the appropriate regional planning councils; and review and make recommendations to the Legislature relative to the sufficiency of the assessments to meet state hazardous waste management needs.

(27)~~(25)~~ *Increase* ~~Promote~~ public *education and public* awareness of *solid and* hazardous waste issues, *by developing and promoting statewide programs of litter control, recycling, volume reduction,* and proper methods of *solid waste and hazardous waste* management.

(28)~~(26)~~ Assist the hazardous waste storage, treatment, or disposal industry by providing to the industry any data produced on the types and quantities of hazardous waste generated.

(29)~~(27)~~ Institute a hazardous waste emergency response program which would include emergency telecommunication capabilities and coordination with appropriate agencies.

(30)~~(28)~~ Promulgate rules necessary to accept delegation of the hazardous waste management program from the Environmental Protection Agency under the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

(31) Not later than February 1, 1989, initiate rulemaking to address the management of biohazardous waste and biological waste within the state. Such rules shall address onsite and offsite incineration, and shall regulate biohazardous waste from the point at which such waste is transported from a facility which generates such waste, for the purpose of offsite shipment for storage, treatment, or disposal, and shall include provisions for the registering of transporters of biohazardous waste.

Section 7. Section 403.7043, Florida Statutes, is created to read:

403.7043 Compost standards and applications.—

(1) In order to protect the state's land and water resources, compost produced, utilized, or disposed of by the composting process at solid waste management facilities in the state must meet criteria established by the department.

(2) Within 6 months after the effective date of this section, the department shall initiate rulemaking to establish standards for the production of compost and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking, including rules establishing:

(a) Requirements necessary to produce hygienically safe compost products for varying applications.

(b) A classification scheme for compost based on: the types of waste composted, including at least one type containing only yard trash; the maturity of the compost, including at least three degrees of decomposition for fresh, semi-mature and mature; and the levels of organic and inorganic constituents in the compost. This scheme shall address:

1. Methods for measurement of the compost maturity.

2. Particle sizes.

3. Moisture content.

4. Average levels of organic and inorganic constituents, including heavy metals, for such classes of compost as the department establishes, and the analytical methods to determine those levels.

(3) Within 6 months after the effective date of this section, the department shall initiate rulemaking to prescribe the allowable uses and application rates of compost and shall complete and promulgate those rules within 12 months after initiating the process of rulemaking, based on the following criteria:

(a) The total quantity of organic and inorganic constituents, including heavy metals, allowed to be applied through the addition of compost to the soil per acre per year.

(b) The allowable uses of compost based on maturity and type of compost.

(4) If compost is produced which does not meet the criteria prescribed by the department for agricultural and other use, the compost must be reprocessed or disposed of in a manner approved by the department, unless a different application is specificaliy permitted by the department.

(5) Compost produced as a result of contracts with city or county governments entered into prior to the effective date of this section shall not be required to meet the provisions of this section until 10 years after the effective date of this section.

(6) The provisions of s. 403.706 shall not prohibit any county or municipality which has in place a memorandum of understanding or other written agreement as of the effective date of this section from proceeding with plans to build a compost facility.

Section 8. Section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(a) Byproduct material, source material, and special nuclear material, the generation, transportation, disposal, storage, or treatment of which is regulated under chapter 404 or under the federal Atomic Energy Act of 1954, Chapter 1073, 68 Stat. 923, as amended;

(b) Suspended solids and dissolved materials in domestic sewage effluent or irrigation return flows or other discharges which are point sources subject to permits pursuant to provisions of chapter 403 or pursuant to s. 402 of the Clean Water Act, Pub. L. No. 95-217;

(c) Emissions to the air from a stationary installation or source regulated under provisions of chapter 403 or under the Clean Air Act, Pub. L. No. 95-95;

(d) Drilling fluids, produced waters, and other wastes associated with the exploration for, or development and production of, crude oil or natural gas which are regulated under chapter 377; ~~or~~

(e) Activities which are regulated pursuant to the Florida Hazardous Substances Law, ss. 501.061-501.121; *or*~~.~~

(f) Recovered materials, if:

1. A majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within 1 year;

2. The recovered materials or the products or byproducts of operations that process recovered materials are not discharged, deposited, injected, dumped, spilled, leaked, or placed into or upon any land or water so that such products or byproducts or any constituent thereof may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment or pose a threat to public health and safety; and

3. The recovered materials are not hazardous wastes and have not been recovered from solid wastes which are defined as hazardous wastes under s. 403.703, and rules promulgated pursuant thereto.

(2) Except as provided in s. 403.704*(15)*~~(16)~~, the following wastes shall not be regulated as a hazardous waste~~, including a special waste,~~ pursuant to this act, except when determined by the United States Environmental Protection Agency to be a hazardous waste~~, including a special waste~~:

(a) Ashes and scrubber sludges generated from the burning of boiler fuel for generation of electricity or steam.

(b) Agricultural and silvicultural byproduct material and agricultural and silvicultural process waste from normal farming or processing.

(c) Discarded material generated by the mining and beneficiation and chemical or thermal processing of phosphate rock; and precipitates resulting from neutralization of phosphate chemical plant process and nonprocess waters.

(3) The following wastes or activities shall be regulated pursuant to this act in the following manner:

(a) Dredge spoil or fill material shall be disposed of pursuant to a dredge and fill permit; but whenever hazardous components are disposed of within the dredge or fill material, the dredge and fill permits shall specify the specific hazardous wastes contained and the concentration of each such waste. The department may then limit or restrict the sale or use of the dredge and fill material and may specify such other conditions relative to this material as are reasonably necessary to protect the public from the potential hazards.

(b) Hazardous wastes which are contained in artificial recharge waters or other waters intentionally introduced into any underground formation and which are permitted pursuant to s. 373.106 shall also be handled in compliance with the requirements and standards for disposal, storage, and treatment of hazardous waste under this act.

(c) Solid waste or hazardous waste facilities which are operated as a part of the normal operation of a power generating facility and which are licensed by certification pursuant to the Florida Electrical Power Plant Siting Act, ss. 403.501-403.517, shall undergo such certification subject to the substantive provisions of this act.

(d) *Biohazardous* ~~Infectious~~ waste *and biological waste* ~~as defined in s. 395.002(13) which emanates from a hospital or ambulatory surgical center as defined in s. 395.002~~ shall be disposed of *only as* ~~by any means~~ authorized by the department~~, including land disposal after sterilization or incineration~~. *However,* any person who unknowingly disposes into a sanitary landfill any such waste which has not been properly segregated or separated from other solid wastes by the generating facility is not guilty of a violation under this act. Nothing in this paragraph shall be construed to prohibit the department from seeking injunctive relief pursuant to s. 403.131 to prohibit the unauthorized disposal of *biohazardous* ~~infectious~~ waste *or biological waste.*

(4) Disposal of dead animals, including those which were diseased, shall be consistent with applicable federal and state laws and regulations.

(5) Ash generated by a solid waste management facility from the burning of solid waste shall be disposed of in a properly designed solid waste disposal area that complies with standards developed by the department for the disposal of such ash. Rulemaking shall be initiated and at least one public hearing held by February 1, 1989. The department shall work with solid waste management facilities which burn solid waste to identify and develop methods for recycling and reuse of incinerator ash or treated ash.

Section 9. Section 403.7049, Florida Statutes, is created to read:

403.7049 Determination of full cost for solid waste management; local solid waste management fees.—

(1) Within 1 year of the effective date of this act or within 1 year after rules are established by the department, whichever occurs later, each county and each municipality shall determine the full cost for solid waste management within the service area of the county or municipality for the 1-year period beginning on the effective date of this act, and shall update the full cost every year thereafter. The department shall establish by rule the method for local governments to use in calculating

full cost. Rulemaking shall be initiated and at least one public hearing shall be held by March 1, 1989. In developing the rule, the department shall examine the feasibility of the use of an enterprise fund process by local governments in operating their solid waste management systems.

(2)(a) Within 1 year from the effective date of this act, each municipality shall establish a system to inform, no less than once a year, residential and nonresidential users of solid waste management services within the municipality's service area of the user's share, on an average or individual basis, of the full cost for solid waste management as determined pursuant to subsection (1). Counties shall provide the information required of municipalities only to residential and nonresidential users of solid waste management services within the county's service area that are not served by a municipality. Municipalities shall include costs charged to them or persons contracting with them for disposal of solid waste in the full cost information provided to residential and nonresidential users of solid waste management services.

(b) Counties and municipalities are encouraged to operate their solid waste management systems through use of an enterprise fund.

(3) For purposes of this section, "service area" means the area in which the county or municipality provides, directly or by contract, solid waste management services. The provisions of this section shall not be construed to require a person operating under a franchise agreement to collect or dispose of solid waste within the service area of a county or municipality to make the calculations or to establish a system to provide the information required under this section, unless such person agrees to do so as part of such franchise agreement.

(4) In order to assist in achieving the municipal solid waste reduction goal and the recycling provisions of s. 403.706(4), a county or a municipality which owns or operates a solid waste management facility is hereby authorized to charge solid waste disposal fees which may vary based on a number of factors, including, but not limited to, the amount, characteristics, and form of recyclable materials present in the solid waste that is brought to the county's or the municipality's facility for processing or disposal.

(5) In addition to all other fees required or allowed by law, a county or a municipality, at the discretion of its governing body, may impose a fee for the services the county or municipality provides with regard to the collection, processing, or disposal of solid waste, to be used for developing and implementing a recycling program. For such fees, the local governing body of any county or municipality may use the non-ad valorem levy, collection, and enforcement method as provided for in chapter 197.

(6) This section does not prohibit a county, municipality, or other person from providing grants, loans, or other aid to low-income persons to pay part or all of the costs of such persons' solid waste management services.

Section 10. Section 403.705, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.705, F.S., for present text.)

403.705 State solid waste management program.—

(1) The state solid waste management program shall:

(a) Provide guidelines for the orderly collection, transportation, storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state;

(b) Encourage coordinated local activity for solid waste management within a common geographical area;

(c) Investigate the present status of solid waste management in the state with positive proposals for local action to correct deficiencies in present solid waste management processes;

(d) Provide planning, technical, and financial assistance to local governments and state agencies for reduction, recycling, reuse, and processing of solid waste and for safe and environmentally sound solid waste management and disposal;

(e) Assist in the development of solid waste reduction and recycling programs to properly manage solid waste and conserve resources; and

(f) Provide for the education of the general public and the training of solid waste management professionals to reduce the production of solid waste, to ensure proper processing and disposal of solid waste, and to encourage recycling and solid waste reduction.

(2) The state solid waste management program shall be initiated by the department by February 1, 1989, and the department shall begin adoption of rules necessary to implement the program by December 31, 1988. The program shall be updated at least once every 3 years.

(3) The state solid waste management program shall include, at a minimum:

(a) Procedures and requirements to ensure cooperative efforts in solid waste management by counties and municipalities and groups of counties and municipalities where appropriate.

(b) Provisions for the continuation of existing effective regional resource recovery, recycling, and solid waste management facilities and programs.

(c) Planning guidelines and technical assistance to counties and municipalities to aid in meeting the municipal solid waste reduction goals established in s. 403.706(4).

(d) Planning guidelines and technical assistance to counties and municipalities to develop and implement recycling programs.

(e) Technical assistance to counties and municipalities in determining the full cost for solid waste management as required in s. 403.7049(1).

(f) Planning guidelines and technical assistance to counties and municipalities to develop and implement programs for alternative disposal or processing or recycling of the solid wastes prohibited from disposal in landfills under s. 403.708(15) and for special wastes.

(g) A public education program, to be developed in cooperation with the Department of Education, local governments, other state agencies, and business and industry organizations, to inform the public of the need for and the benefits of recycling of solid waste and reducing the amounts of solid and hazardous waste generated and disposed of in the state. The public education program shall be implemented through public workshops and through the use of brochures, reports, public service announcements, and other materials.

(4) The department shall prepare by October 1, 1989, and every year thereafter, a report on the status of solid waste management efforts in the state. The report shall include, at a minimum:

(a) A comprehensive analysis, to be updated in each report, of solid waste generation and disposal in the state projected for the 20-year period beginning on the effective date of this act.

(b) The total amounts of solid waste generated, recycled, and disposed of and the methods of solid waste recycling and disposal used during the calendar year prior to the year in which the report is published.

(c) An evaluation of the development and implementation of local solid waste management programs and county and municipal recycling programs.

(d) An evaluation of the success of each county or group of counties in meeting the municipal solid waste reduction goal established in s. 403.706(4).

(e) Recommendations concerning existing and potential programs for solid waste reduction and recycling that would be appropriate for local governments and state agencies to implement to meet the requirements of this act.

(f) An evaluation of the markets for recycled materials and the success of state, local, and private industry efforts to enhance the markets for such materials.

(g) Recommendations to the Governor and the Legislature to improve the management and recycling of solid waste in this state.

(5) The Department of Environmental Regulation shall develop descriptive literature to inform local governments of the solid waste management responsibilities and opportunities described in this act. The department shall also hold at least one regional workshop in each regional planning council region during fiscal year 1988-1989 for the purposes of:

(a) Informing the public and the private sector of the provisions of this act; and

(b) Identifying solid waste management issues which may need to be discussed by the 1989 Legislature.

Section 11. Section 403.706, Florida Statutes, is amended to read:

403.706 Local *government solid waste responsibilities* ~~resource recovery and management programs.—~~

(1) The governing body of a county has the responsibility and power to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county. Unless otherwise approved by an interlocal agreement or special act, municipalities may not operate solid waste disposal facilities unless a municipality demonstrates by a preponderance of the evidence that the use of a county designated facility, when compared to alternatives proposed by the municipality, places a significantly higher and disproportionate financial burden on the citizens of the municipality when compared to the financial burden placed on persons residing within the county but outside of the municipality. However, a municipality may construct and operate a resource recovery facility, and related onsite solid waste disposal facilities, without an interlocal agreement with the county if the municipality can demonstrate by a preponderance of the evidence that the operation of such facility will not significantly impair financial commitments made by the county with respect to solid waste management services and facilities or result in significantly increased solid waste management costs to the remaining persons residing within the county but not served by the municipality's facility. This section shall not prevent a municipality from continuing to operate or use an existing disposal facility permitted on or prior to the effective date of this section. Any municipality which establishes a solid waste disposal facility under this subsection and subsequently abandons such facility shall be responsible for the payment of any capital expansion necessary to accommodate the municipality's solid waste for the remaining projected useful life of the county disposal facility. Pursuant to this section and notwithstanding any other provision of this chapter, counties shall have the power and authority to adopt ordinances governing the disposal of solid waste generated outside of the county at the county's solid waste disposal facility. In accordance with this section, municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county. Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities. The fees charged to municipalities at a solid waste management facility specified by the county shall not be greater than the fees charged to other users of the facility except as provided in s. 403.7049(4). Solid waste management fees collected on a countywide basis shall be used to fund solid waste management services provided countywide.

(2) Each county shall initiate a recyclable materials recycling program by July 1, 1989. Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling programs. The following requirements shall apply:

(a) Construction and demolition debris must be separated from the solid waste stream and segregated in separate locations at a solid waste disposal facility or other permitted site.

(b) At a minimum, a majority of the newspaper, aluminum cans, glass, and plastic bottles must be separated from the solid waste stream prior to final disposal at a solid waste disposal facility and must be offered for recycling.

(c) Local governments are encouraged to separate all plastics, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other mechanically treated solid waste into compost available for agricultural and other acceptable uses.

(3)~~(1)~~ *Each county shall ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements pursuant to s. 163.01 or other means provided by law. Nothing in a county's solid waste management or recycling program shall affect the authority of a municipality to franchise or otherwise provide for the collection of solid waste generated within the boundaries of the municipality.* ~~Within 3 years after the department adopts the state resource recovery and management program, there shall be established, by special act of the Legislature or interlocal agreement between counties, between municipalities, or between municipalities and counties, in those areas designated under the rule adopted pursuant to s. 403.705, a local resource recovery and management program which shall be approved by the department and which shall implement the provisions of the state program by adequately providing for the receiving in bulk, storage, separation, processing, recovery, recycling, or disposal of solid waste generated or existing within the boundaries of the county or incorporated limits of the municipality or in the area served thereby.~~

(4) A county's solid waste management and recycling programs shall be designed to provide for sufficient reduction of the amount of solid waste generated within the county and the municipalities within its boundaries in order to meet goals for the reduction of municipal solid waste prior to the final disposal or the incineration of such waste at a solid waste disposal facility. The goals shall provide, at a minimum, that the amount of municipal solid waste that would be disposed of in the absence of municipal solid waste recycling efforts undertaken within the county and the municipalities within its boundaries is reduced by at least 30 percent by the end of 1994. In determining whether the municipal solid waste reduction goal established by this subsection has been achieved, no more than one-half of the goal may be met with yard trash, white goods, construction and demolition debris, and tires that are removed from the total amount of municipal solid waste that would be disposed of in the absence of municipal solid waste recycling efforts.

(5) As used in this section, "municipal solid waste" includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service. The term includes yard trash, but does not include solid waste from industrial, mining, or agricultural operations.

(6) The department may reduce or modify the municipal solid waste reduction goal that a county is required to achieve pursuant to subsection (4) if the county demonstrates to the department that:

(a) The achievement of the goal set forth in subsection (4) would have an adverse effect on the financial obligations of a county that are directly related to a waste-to-energy facility owned or operated by or on behalf of the county; and

(b) The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.

The goal shall not be waived entirely and may only be reduced or modified to the extent necessary to alleviate the adverse effects of achieving the goal on the financial viability of a county's waste-to-energy facility. Nothing in this subsection shall exempt a county from developing and implementing a recycling program pursuant to this act.

(7) In order to assess the progress in meeting the goal established in subsection (4), each county shall, by October 1, 1989, and each year thereafter, report to the department its annual solid waste management program and recycling activities. The report by the county must include:

(a) A description of its public education program on recycling;

(b) The amount of solid waste disposed of at solid waste disposal facilities, by type of waste such as yard trash, white goods, clean debris, tires, and unseparated solid waste;

(c) The amount and type of materials from the solid waste stream that were recycled;

(d) The percentage of the population participating in various types of recycling activities instituted;

(e) The percent reduction each year in municipal solid waste disposed of at solid waste disposal facilities;

(f) A description of the recycling activities attempted, their success rates, the perceived reasons for failure or success, and the recycling activities which are ongoing and most successful; and

(g) In its first report, a description of any recycling activities implemented prior to July 1, 1989.

(8) A county or municipality may enter into a written agreement with other persons, including persons transporting solid waste on the effective date of this act, to undertake to fulfill some or all of the county's or municipality's responsibilities under this section.

(9) In the development and implementation of a curbside recyclable materials collection program, a county or municipality shall enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality. If the county or municipality and such franchisee fail to reach an agreement within 60 days from the initiation of such negotiations, the county or municipality may solicit proposals from other persons to undertake curbside recyclable materials collection responsibilities for the county or municipality as it may require. Upon the determination of the lowest responsible proposal, the county or municipality may undertake, or enter into a written agreement with the person who submitted the lowest responsible proposal to undertake, the curbside recyclable materials collection responsibilities for the county or municipality, notwithstanding the exclusivity of such franchise agreement.

(10) In developing and implementing recycling programs, counties and municipalities shall give consideration to the collection, marketing, and disposition of recyclable materials by persons engaged in the business of recycling on the effective date of this section, whether or not the persons were operating for profit. Counties and municipalities are encouraged to use for-profit and nonprofit organizations in fulfilling their responsibilities under this act.

(11) A county and the municipalities within the county's boundaries may jointly develop a recycling program, provided that the county and each such municipality must enter into a written agreement to jointly develop a recycling program. If a municipality does not participate in jointly developing a recycling program with the county within which it is located, the county may require the municipality to provide information on recycling efforts undertaken within the boundaries of the municipality in order to determine whether the goal for municipal solid waste reduction are being achieved.

(12)~~(2)(a) Each local resource recovery and management program established pursuant to this section shall include an implementation schedule which provides a timetable indicating when the total program, as well as its component parts, will be carried out. The implementation schedules shall:~~

~~1. Be mutually agreed upon by the local governments participating in the development of the program plan and the department.~~

~~2. Expedite and accomplish, within reason and practicality, the provisions of the program plan.~~

~~3. Be adhered to by each local program.~~

~~4. Be monitored by the department to assure compliance.~~

~~5. Be modified only upon approval by the department of a request of a local program, showing sufficient evidence and justification for a modification.~~

~~(b)~~ It is the policy of the state that a county and its municipalities may jointly determine, through an interlocal agreement pursuant to s. 163.01 or by requesting the passage of special legislation, which local governmental agency shall administer *a solid waste* ~~the local resource recovery and~~ management *or recycling* program. ~~If, on December 1, 1978, no interlocal agreement has been effectuated and no special act has become law, the board of county commissioners shall administer and be responsible for the local resource recovery program, except sludge from a waste treatment works, air pollution control facility, or water supply treatment plant or other liquid, semisolid, or contained gaseous material, for the entire county.~~

~~(c) Each local resource recovery and management program shall be reviewed at least once in every 3 years. Each county and its municipalities shall be responsible for updating their local program in a manner consistent with the rules adopted by the department.~~

~~(d) The department shall review, at least once in every 3 years, those counties or municipalities not required to plan for resource recovery under the provisions of subsection (4) to determine if sufficient solid waste is generated to make it economically practical to plan for, and engage in, resource recovery and management programs.~~

(13) The county shall provide written notice to all municipalities within the county when recycling program development begins and shall provide periodic written progress reports to the municipalities concerning the preparation of the recycling program.

(14)~~(3)~~ Nothing in this act shall be construed to prevent the governing body of any county or municipality from providing by ordinance or regulation for *solid waste* ~~resource recovery and~~ management requirements which are stricter or more extensive than those imposed by the state *solid waste* ~~resource recovery and~~ management program and rules, regulations, and orders issued thereunder.

(15)~~(4)~~ Nothing in this act or in any rule adopted by any agency shall be construed to require any county or municipality to participate in any *regional solid waste management or regional* resource recovery program until the governing body of such county or municipality has determined that participation in such a program is economically feasible for that county or municipality. Nothing in this act or in any special or local act or in any rule adopted by any agency shall be construed to limit the authority of a municipality to regulate the disposal of solid waste within its boundaries or generated within its boundaries so long as *a facility for* any such disposal ~~facility~~ has been approved by the department, unless the municipality is included within a *solid waste management* ~~resource recovery~~ program created by interlocal agreement or special or local act. If~~, on December 1, 1978,~~ bonds had been issued to finance a resource recovery or management program *or a solid waste management program* in reliance on state law granting to *a* ~~said~~ county the responsibility for the resource recovery or management program *or a solid waste management program*, nothing herein shall permit any governmental agency to withdraw from said program if said agency's participation is necessary for the financial feasibility of the project, so long as said bonds are outstanding.

~~(5) The time limit set out in subsection (1) shall be extended by the department upon application to the department by the local unit of government involved and on due cause shown that good faith efforts to meet the requirements of this act have been and are being made.~~

(16)~~(6)~~ Nothing in this chapter or in any rule adopted by any state agency hereunder shall require any person to subscribe to any private solid waste collection service.

(17)~~(7)~~ To effect the purposes of this part, counties and municipalities are authorized, in addition to other powers granted pursuant to this part:

(a) To contract with persons to provide resource recovery services or operate resource recovery facilities on behalf of the county or municipality.

(b) To indemnify persons providing resource recovery services or operating resource recovery facilities for liabilities or claims arising out of the provision or operation of such services or facilities that are not the result of the sole negligence of the persons providing such services or operating such facilities.

(c) To waive sovereign immunity and immunity from suit in federal court by vote of the governing body of the county or municipality to the extent necessary to carry out the authority granted in paragraphs (a) and (b) of this subsection, notwithstanding the limitations prescribed in s. 768.28.

(18) On and after July 1, 1989, each operator of a solid waste management facility owned or operated by or on behalf of a county or municipality, except existing facilities which will not be in use 1 year after the effective date of this section, shall weigh all solid waste when it is received. The scale used to measure the solid waste shall conform to the requirements of chapter 531 and any rules promulgated thereunder.

(19) A county listed in s. 17-7, F.A.C. which was required to submit to the department a local resource recovery and management program shall revise its existing local resource recovery and management program if necessary to meet the requirements of this act.

(20) In the event the power to manage solid waste has been granted to a special district or other entity by special act or interlocal agreement, any duty or responsibility or penalty imposed under this part on a county or municipality shall apply to such special district or other entity to the extent of the grant of such duty or responsibility or imposition of such penalty. To the same extent, such special district or other entity shall be eligible for grants or other benefits provided pursuant to this part.

(21) In addition to any other penalties provided by law, a local government that does not comply with the requirements of subsections (2) and (4) shall not be eligible for grants from the Solid Waste Management Trust Fund, and the department may notify the State Treasurer to withhold payment of all or a portion of funds payable to the local government by the department from the General Revenue Fund or by the department from any other state fund, to the extent not pledged to retire bonded indebtedness, unless the local government demonstrates that good faith efforts to meet the requirements of subsections (2) and (4) have been made or that the funds are being or will be used to finance the correction of a pollution control problem that spans jurisdictional boundaries.

Section 12. Section 403.7065, Florida Statutes, is amended to read:

403.7065 Procurement of *products or materials with recycled content* ~~recovered materials~~.—

(1) Except as provided in s. 287.05, any state agency or agency of a political subdivision of the state which is using state funds, or any person contracting with any such agency with respect to work performed under contract, is required to procure *products or materials with recycled content* ~~recovered materials~~ when those *products or* materials are available at reasonable prices. A decision not to procure such items must be based on a determination that such procurement:

(a)~~(1)~~ Is not ~~reasonably~~ available within a reasonable period of time; *or*

(b)~~(2)~~ Fails to meet the performance standards set forth in the applicable specifications or fails to meet the reasonable performance standards of the agency.~~; or~~

~~(3) Is only available at an unreasonable price.~~

When the requirements of s. 287.05 are met, agencies shall be subject to the procurement requirements of that section for procuring products or materials with recycled content.

(2) For the purposes of this section, "recycled content" means materials that have been recycled that are contained in the products or materials to be procured, including, but not limited to, paper, aluminum, glass, and composted material. The term does not include internally generated scrap that is commonly used in industrial or manufacturing processes or waste or scrap purchased from another manufacturer who manufactures the same or a closely related product.

Section 13. Section 403.707, Florida Statutes, is amended to read:

403.707 Permits.—

(1) No *solid waste* ~~resource recovery and~~ management facility ~~or site~~ may be operated, maintained, constructed, expanded, modified, or closed without an appropriate and currently valid permit issued by the department. *Effective October 1, 1989, solid waste construction permits issued under this section may include any permit conditions necessary to achieve compliance with the recycling requirements of this act.* The department shall pursue reasonable time frames for closure and construction requirements, considering pending federal requirements and implementation costs to the permittee. The department shall adopt a rule establishing performance standards for construction and closure of solid waste *management* ~~land disposal areas, sites, and~~ facilities. The standards shall allow flexibility in design and consideration for site-specific characteristics.

(2) Except as provided in s. 403.722(6), no permit under this section is required for the following ~~activities~~, provided no public nuisance or any condition adversely affecting the environment or public health is created and the activity does not violate other state or local laws, ordinances, rules, regulations, or orders:

(a) Disposal by persons of solid waste resulting from their own activities on their own property, *provided such waste is either from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter which normally results from land development operations.* ~~However, the department may by rule require any such person to file a written notification to the department of the type of solid waste being disposed of, the location of disposal, and methods of solid waste management being performed. However, no waste, other than construction and normal demolition debris, and normal farming operations, collected from a noncontiguous property shall be disposed of without a permit as required by subsection (1).~~

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c)~~(b)~~ *Disposal by persons of solid waste resulting from their own activities on their property, provided the environmental effects of such disposal on groundwater and surface waters are:*

1. Addressed or authorized by a site certification order issued under part II of this chapter or a permit issued by the department pursuant to this chapter or rules adopted pursuant thereto; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. ~~Normal farming operations.~~

(d)~~(c)~~ Solid waste disposal areas limited solely to the disposal of construction and demolition debris, *provided that all such areas must be covered, graded, and vegetated as necessary when disposal is completed. For situations where the department determines that additional regulation of off-site disposal is appropriate, the department shall, by December 31, 1988, initiate rulemaking to provide for a general permit pursuant to s. 403.814 for disposal of construction and demolition debris for off-site disposal areas. The department shall not require the applicant to publish the notice described in s. 403.814(3). The exemption under this paragraph is superseded by such general permit 90 days after implementing rules become effective, and shall remain superseded so long as these rules remain in effect. The department is authorized to delegate its authority under this paragraph to local governments where appropriate. Such general permit shall include, at a minimum, the following requirements:*

1. Public access to the disposal site is controlled through fencing or other appropriate means until the site is closed as provided for in subparagraph 4.

2. Provisions must be made for proper disposal of solid waste which is not clean debris.

3. The department must have been advised of the location of the site and must have been given permission to inspect the site during normal business hours.

4. Provisions must be made for final cover, grading, and vegetation to prevent erosion.

(e) Disposal by persons of solid waste resulting from their own activities on their own property, provided that such disposal occurred prior to October 1, 1988.

(f) Disposal of solid waste resulting from normal farming operations as defined by department rule.

(g) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining a dredge and fill permit from the department, nor does it affect a person's responsibility to dispose of clean debris in permitted areas if it is not to be used as fill material.

(3) All applicable provisions of ss. 403.087 and 403.088, relating to permits and temporary operation permits, *apply* ~~shall be construed~~ to ~~include~~ the control of *solid waste* ~~resource recovery and~~ management facilities.

(4) When application for a permit for a Class I or Class II solid waste disposal area is made, it is the duty of the department to provide a copy of the application, within 7 days after filing, to the water management district having jurisdiction where the area is to be located. The water management district shall prepare *an advisory* ~~a~~ report as to the impact on water resources. This report shall *contain the district's recommendations as to the disposition of the application and shall* be submitted to the department no later than 30 days prior to the deadline for final agency action by the department.

(5) The department may not issue a construction permit pursuant to this part for a new *solid waste* ~~sanitary~~ landfill within 3,000 feet of Class I surface waters.

(6) The department may issue a construction permit pursuant to this part only to a solid waste *management* ~~land disposal area, site, or~~ facility

which provides the conditions necessary to control the *safe* movement of wastes or waste constituents into surface or ground waters or the atmosphere *and which will be operated, maintained, and closed by qualified and properly trained personnel.* Such facility shall, if necessary:

(a) Use natural or artificial barriers which are capable of controlling lateral or vertical movement of wastes or waste constituents into surface or ground waters.

(b) Have a foundation or base which is capable of providing support for structures and waste deposits and capable of preventing foundation or base failure due to settlement, compression, or uplift.

(c) Provide for the most economically feasible, cost-effective, and environmentally safe control of leachate, gas, stormwater, and disease vectors and prevent the endangerment of public health and the environment.

Open fires shall not be allowed to be used as a means of disposal at *a solid waste* ~~such~~ landfill.

(7) Prior to application for a construction permit, *an applicant shall designate to the department temporary backup disposal areas or processes for the resource recovery facility. Failure to designate temporary backup disposal areas or processes shall result in a denial of the construction permit.* ~~after January 1, 1986, applicants shall give consideration to those plans for resource recovery and management facilities, the purpose of which is resource recovery, that include temporary backup disposal areas or processes that are at the site of the facility itself.~~

(8) After July 1, 1990, any person who transports biohazardous waste within the state must register with the department prior to engaging in the transport of biohazardous waste.

(9) The department may refuse to issue a permit to an applicant who by past conduct in this state has repeatedly violated pertinent statutes, rules, or orders or permit terms or conditions relating to any solid waste management facility and who is deemed to be responsible as defined by department rule. For the purposes of this subsection, an applicant includes the owner or operator of the facility, or if the owner or operator is a business entity, a parent of a subsidiary corporation, a partner, a corporate officer or director, or a stockholder holding more than 50 percent of the stock of the corporation.

Section 14. Section 403.7075, Florida Statutes, is amended to read:

403.7075 Submission of plans for certain solid waste *management facilities* ~~disposal areas~~; conditions.—All plans and applications for a permit to construct and operate a solid waste *management facility* ~~disposal area~~ as provided in s. 403.707 may be prepared and submitted by any person acting as a public officer employed by a county or a municipality when said public officer states therein that the construction of the solid waste *management facility* ~~disposal area~~ is estimated to cost less than $10,000. Any law to the contrary notwithstanding, the construction cost of a solid waste *management facility* ~~disposal area~~, for the purposes of this section, shall not include land acquisition cost or the cost of equipment used to construct and maintain same.

Section 15. Section 403.708, Florida Statutes, is amended to read:

403.708 Prohibition; penalty.—

(1) No person shall:

(a) Place or deposit any solid waste in or on the land or waters located within the state except in a manner approved by the department and consistent with applicable approved programs of counties or municipalities. However, nothing in this act shall be construed to prohibit the disposal of solid waste without a permit as provided in s. 403.707(2).

(b) Burn solid waste except in a manner prescribed by the department and consistent with applicable approved programs of counties or municipalities.

(c) Construct, alter, modify, or operate a *solid waste* ~~resource recovery and~~ management facility or site without first having obtained *from the department any permit required by s. 403.707* ~~a valid permit from the department as provided in s. 403.707~~.

(d) Transport biohazardous waste within the state without first having registered with the department as provided in s. 403.707.

(2) After January 1, 1989, no beverage shall be sold or offered for sale within the state in a beverage container designed and constructed so that the container is opened by detaching a metal ring or tab.

(3) After July 1, 1989, no container shall be sold or offered for sale within the state that is connected to other containers by a separate holding device constructed of plastic rings unless such rings are composed of material which is degradable within 120 days, or by any other device unless such device is composed of material which is degradable within 120 days. Notice of degradability shall be embossed or otherwise indicated on the holding device for ease of inspection.

(4) For purposes of subsections (2), (3), (10) and (11):

(a) "Degradable," with respect to any material, means that such material, after being discarded, is capable of decomposing to components other than heavy metals or other toxic substances, after exposure to bacteria, light, or outdoor elements.

(b) "Beverage" means soda water, carbonated natural or mineral water, or other nonalcoholic carbonated drinks; soft drinks, whether or not carbonated; beer, ale, or other malt drink of whatever alcoholic content; or a mixed wine drink or a mixed spirit drink.

(c) "Beverage container" means an airtight container which at the time of sale contains 1 gallon or less of a beverage, or the metric equivalent of 1 gallon or less, and which is composed of metal, plastic, or glass or a combination thereof.

(5) The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may impose a fine of not more than $100 on any person currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2) or subsection (3). If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(6) The Department of Agriculture and Consumer Services may impose a fine of not more than $100 on any person not currently licensed pursuant to s. 561.14 for each violation of the provisions of subsection (2) or subsection (3). If the violation is of a continuing nature, each day during which such violation occurs shall constitute a separate and distinct offense and shall be subject to a separate fine.

(7) Fifty percent of each fine collected pursuant to subsections (5) and (6) shall be deposited into the Solid Waste Management Trust Fund. The balance of fines collected pursuant to subsection (5) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund for the use of the division for inspection and enforcement of the provisions of this section. The balance of fines collected pursuant to subsection (6) shall be deposited into the General Inspection Trust Fund for the use of the Department of Agriculture and Consumer Services for inspection and enforcement of the provisions of this section.

(8) The Division of Alcoholic Beverages and Tobacco and the Department of Agriculture and Consumer Services shall coordinate their responsibilities under the provisions of this section to ensure that inspections and enforcement are accomplished in an efficient, cost-effective manner.

(9) On or after July 1, 1990, no person shall distribute, sell, or expose for sale in this state any plastic container product unless the product has a molded label indicating the plastic resin used to produce the plastic container product. The label must appear on the bottom of the plastic container product and be clearly visible. This label must consist of a number placed inside a triangle and letters placed below the triangle. All plastic beverage containers and all nonsolid food liquid containers of less than 16 ounces and all rigid plastic containers of less than 8 ounces shall not be required to be labeled under this section. The numbers and letters shall be as follows:

(a) For polyethylene terephthalate, the letters "PET" and the number 1.

(b) For high density polyethylene, the letters "HDPE" and the number 2.

(c) For vinyl, the letter "V" and the number 3.

(d) For low density polyethylene, the letters "LDPE" and the number 4.

(e) For polypropylene, the letters "PP" and the number 5.

(f) For polystyrene, the letters "PS" and the number 6.

(g) For any other, including multilayer, the letters "OTHER" and the number 7.

(10)(a) After January 1, 1990, no plastic bag shall be provided at any retail outlet to any retail customer to use for the purpose of carrying items purchased by that customer unless the bag is composed of material which is degradable within 120 days. Notice of degradability shall be printed on each bag.

(b) For purposes of this subsection, "retail outlet" means any establishment 80 percent or more of the income of which is from retail sales. This term does not mean any establishment whose primary purpose is to sell food prepared at such establishment for immediate consumption.

(c) The owner of a retail outlet violating this subsection shall be subject to a fine of $100 per location. Each day of a continuing violation shall be considered as a separate violation.

(d) One half of the fines collected pursuant to this subsection shall be deposited in the Solid Waste Management Trust Fund. The balance of such fines shall be deposited into the operating account of the enforcing agency.

(11) No person shall:

(a) On or after October 1, 1990, distribute, sell, or expose for sale in this state, any product packaged in a container or packing material manufactured with fully halogenated chlorofluorocarbons (CFC). Producers of containers or packing material manufactured with chlorofluorocarbons (CFC) are urged to introduce alternative packaging materials which are environmentally compatible.

(b) Distribute, sell, or offer for sale in this state any polystyrene foam or plastic-coated paper product which is to be used in conjunction with food for human consumption unless such product is composed of material which is degradable within 12 months or less. This requirement shall be effective 1 year after such products have been certified as safe by the United States Food and Drug Administration and are made available in commercial quantities. Determination of the degradability of these products shall be made by the Secretary of Environmental Regulation based on a preponderance of evidence available from reputable private and government research agencies. Businesses and industries that use polystyrene foam and plastic-coated paper products that are not degradable as required by this paragraph are encouraged to formulate a 3-year plan to research, test, and implement production technologies that will allow the product to meet the degradability requirements by January 1, 1992.

(12)~~(2)~~ The packaging of products manufactured or sold in the state may not be controlled by governmental rule, regulation, or ordinance adopted after March 1, 1974, *other than as expressly provided in this act.*

(13)~~(3)~~ Violations of *this part* ~~the state resource recovery and management program~~ or rules, regulations, permits, or orders issued thereunder by the department, and violations of approved local programs of counties or municipalities, or rules, regulations, or orders issued thereunder, shall be punishable by a civil penalty as provided in s. 403.141.

(14)~~(4)~~ The department or any county or municipality may also seek to enjoin the violation of, or enforce compliance with, this *part* ~~act~~ or any program adopted hereunder as provided in s. 403.131.

(15) In accordance with the following schedule, no person who knows or who should know of the nature of such solid waste shall dispose of such solid waste in landfills:

(a) Lead-acid batteries, after January 1, 1989. Lead-acid batteries also shall not be disposed of in any waste-to-energy facility after January 1, 1989. To encourage proper collection and recycling, all persons who sell lead-acid batteries at retail shall accept used lead-acid batteries as trade-ins for new lead-acid batteries.

(b) Used oil, after October 1, 1988.

(c) Yard trash, after January 1, 1992, except in unlined landfills classified by department rule. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where the area provides and maintains separate yard trash composting facilities.

(d) White goods, after January 1, 1990.

Prior to the effective dates specified in paragraphs (a)-(d), the department shall identify and assist in developing alternative disposal, processing, or recycling options for the solid wastes identified in paragraphs (a)-(d).

Section 16. Section 403.7085, Florida Statutes, is created to read:

403.7085 Animal parts, fats, byproducts, waste products, vegetable oils disposal.—A commercial establishment, excluding an establishment licensed pursuant to chapter 509, that processes food products for human consumption may not dispose of any animal parts, fats, byproducts, waste products, or vegetable oils, liquid or solid, in a landfill unless approved by the department. The department may establish by rule appropriate thresholds or amounts for these materials, as well as additional subcategories of these materials, that are exempt from this requirement. In making a determination for exemption the department shall find that such an exemption is not likely to be harmful to the public health, safety, or welfare.

Section 17. Section 403.709, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 403.709, F.S., for present text.)

403.709 Solid Waste Management Trust Fund.—

(1) There is created the Solid Waste Management Trust Fund, to be administered by the Department of Environmental Regulation for the purposes of:

(a) Funding solid waste activities of the department, such as providing technical assistance to local governments, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs;

(b) Making grants and awards to local governments as provided in this act;

(c) Providing funding for demonstration projects as provided by this act; and

(d) Providing funding for research by state universities and independent nonprofit colleges and universities within the state which are accredited by the Southern Association of Colleges and Schools as provided by this act.

(2) Moneys allocated to the fund from waste tire fees shall be accounted for separately within the fund and shall be used in the following manner, in order of priority:

(a) To pay department administration costs for administering these funds and programs.

(b) To provide funding for research and demonstration projects relating to solving solid waste problems resulting from waste tires.

(c) To provide funds for removal of tires from an illegal waste tire site when the site owner is financially incapable of complying with the law.

(d) To provide grants to local governments as provided in this act.

Section 18. Section 403.7095, Florida Statutes, is created to read:

403.7095 Solid waste management grant program.—

(1) The department shall develop a grant program to enable counties and municipalities to operate solid waste management recycling and education programs to carry out the purposes of this section. Counties and municipalities are encouraged to form interlocal agreements to implement solid waste recycling and education programs.

(2) Twenty-five percent of the funds available for recycling and education grants in subsections (4) and (5) shall be distributed as base portions of grants to counties and to municipalities with populations over 50,000. The base portion of grants shall be awarded in equal amounts to all applicants determined eligible by the department according to the provisions of this section.

(3) Seventy-five percent of the funds available for recycling and education grants in subsections (4) and (5) shall be distributed as incentive portions of grants based on the formula set forth in this subsection. Each county and each municipality with a population of greater than 50,000 may apply for the incentive portions of recycling and education grants individually and counties may apply individually or in conjunction with other municipalities.

(a) The incentive portions of grants shall be available to municipalities with populations greater than 50,000 applying individually on a 50 percent matching basis. The incentive portion of grants shall be available to counties with unincorporated populations of greater than 30,000 applying individually or in combination with municipalities within the county on a 50 percent matching basis, except for such grant applications meeting the requirements of paragraph (c). Counties with populations of 30,000 or less applying individually or in combination with municipalities within the county shall not be required to match incentive portions of grants.

(b) In all cases, the incentive portions of grants shall be distributed based proportionately on the total population of each county and the municipalities within the counties applying jointly during a grant period. Counties shall be credited only with the population of the unincorporated areas and municipalities shall be credited with their total population.

(c) However, the incentive portion of grants shall be available without a required match to counties with incorporated and unincorporated populations of greater than 30,000, jointly applying with municipalities constituting at least 75 percent of the total incorporated population within the county; except that when a county has at least one municipality within it that has a population exceeding 25 percent of the incorporated population of the county, such county shall not be required to match if municipalities constituting at least 75 percent of the remaining incorporated population of such county apply jointly with such county.

(d) Population of municipalities shall be determined by the most recent population census determination under s. 186.901.

(e) To effectuate the intent of this subsection, counties and municipalities shall enter into interlocal agreements that determine how the grant funds shall be used. These agreements shall be part of the joint grant application.

(4)(a) Solid waste recycling grants shall provide funding for capital costs and, if justified, temporary operating subsidies to assist local governments in recycling paper, glass, plastic, construction and demolition debris, white goods, and metals and in composting organic materials.

(b) The department shall consider the following factors in selecting recipients of recycling program grants:

1. The likelihood of project success.

2. The availability of an appropriate site.

3. A demonstration by the local government that the materials to be collected or processed, or both, are not presently being recovered to the extent necessary to meet the goal established in s. 403.706(4), and would not be so recovered otherwise, but for the proposed recycling or composting project.

4. The business and accounting plans for the proposed project.

5. The need for a new or expanded recycling program in the area to be served, relative to the needs of other areas in the state.

6. The availability of capacity at existing permitted solid waste management facilities that serve the area to be served by the proposed recycling program.

7. The demonstrated municipal, community, or volunteer interest in undertaking the recycling project.

(c) The department shall determine grant eligibility after receiving an application for a recycling grant from a local government.

(d) The department may not approve a grant unless the appropriate county or municipality provides sufficient data justifying the proposed program.

(5)(a) Solid waste education grants shall provide funds to local governments to promote recycling, volume reduction, the proper disposal of solid wastes, and market development for recyclable materials.

(b) The department shall consider the following factors in selecting recipients of solid waste education grants:

1. Whether the education program has measurable objectives.

2. The type and extent of follow-up or evaluation.

3. The level of commitment by local officials.

4. The extent to which the local government commits its own financial resources to the education project.

5. The extent to which selection of the project contributes to the achievement of a balanced distribution of grants throughout the state.

(c) The department may not approve a grant unless a local recycling project is planned or under way and the proposed education project directly promotes the use of that project.

(6) Beginning in fiscal year 1989-1990, each eligible county or municipality, or combination thereof acting under an interlocal agreement, which requests grants pursuant to this section shall include the following items as part of the grant application:

(a) A description of the type and the weight of solid waste generated within the county's or municipality's boundaries and the general type and the weight of solid waste that will be generated within the county's or municipality's boundaries in the 20-year period beginning on the effective date of this section.

(b) An identification and description of the facilities where solid waste is being disposed of or processed, the remaining available permitted capacity of such facilities, any anticipated increases in the capacity of such facilities.

(c) An analysis of the effect of current and planned recycling on solid waste disposed.

(d) A description and evaluation of solid waste that could be recycled, including, but not limited to:

1. The type and weight of solid waste that could be recycled, giving consideration at a minimum to the following materials: glass, aluminum, steel and bimetallic materials, office paper, yard trash, newsprint, corrugated paper, and plastics.

2. The compatibility of recycling with other solid waste processing or disposal methods, describing anticipated and available markets for materials collected through recycling programs, which markets ensure that those materials are returned to use in the form of raw materials or products.

3. Estimated costs of and revenue from operating and maintaining a recycling program.

4. An explanation of how anticipated solid waste reduction or recycling will affect the type and size of any proposed solid waste management facility.

(e) An explanation of how the recycling program relates to the future land use elements; sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge elements; intergovernmental coordination elements; and capital improvements elements of the local government comprehensive plans prepared pursuant to part II of chapter 163 by the county or the municipality.

(f) A description of how the county's or municipality's existing recycling programs will be continued. The continued programs shall be based on the recycling program initiated under s. 403.706(2), and, in addition to yard trash, shall involve the recycling of at least the materials required to be separated pursuant to s. 403.706(2).

(g) The recycling program shall contain, at a minimum:

1. An explanation of the manner in which the recycling program will be implemented.

2. A timetable for the continued development and implementation of the recycling program.

3. Any contracts or agreements entered into or summaries of contemplated agreements or contracts to develop and implement the recycling program.

4. The estimated costs of the recycling program, including a description of the estimated avoided costs of solid waste disposal or processing resulting from the implementation of the recycling program.

The recycling program shall serve as the primary means of meeting the goals established for municipal solid waste reduction in s. 403.706(4).

(h) A description of a public education program for the recycling program.

(i) A description for a program for the management of special wastes. The county or municipality shall work with the construction industry to plan for and identify suitable construction and demolition debris disposal sites.

(7)(a) Annual solid waste and recycling grants shall be available to counties with populations of less than 30,000. The sum of $25,000 shall be available annually to each eligible county from the Solid Waste Management Trust Fund through 1993. These grants shall be made by October 1 of each year to any county applying to the department prior to August 1 of any given year.

(b) A county may use the grants authorized by this subsection for purchasing or repairing solid waste weight scales, annual solid waste management program operating costs, planning, construction, and maintenance of solid waste management facilities or recycling facilities, solid waste management education for employees or the public, or recycling demonstration projects. In fiscal year 1988-1989, counties which do not have operational weight scales at solid waste disposal facilities operated by or for the counties must purchase or require purchase of such scales, or repair or require repair of inoperable scales prior to using the annual grant for any other authorized uses unless the facility will be closed within 1 year of the effective date of this section.

(c) The department shall release the grant money authorized by this subsection for fiscal year 1988-1989, whether or not rules have been developed to regulate the use of these funds. However, the department shall adopt such rules within 9 months after the effective date of this section to implement this annual grant program.

(8)(a) The Department of Environmental Regulation shall, in fiscal year 1988-1989, reserve $750,000 of the Solid Waste Management Trust Fund to be used for recycling awards to local governments. These awards shall be made one time only to eligible counties and municipalities to reward those local governments which exhibited an initiative to reduce the amount of solid waste disposed of at solid waste management facilities and to raise the level of awareness of solid waste concerns among the public and private sectors.

(b) The awards shall be equally divided among the eligible applicants. An eligible applicant is a county or municipality which has instituted a recycling program for recyclable materials that is operational on the effective date of this section and which:

1. Covers at least 3 percent of the residential garbage customers within the local jurisdiction and provides for the separation from municipal solid waste, at the point of collection or at a time prior to final disposal at a solid waste management facility, of at least two of the following materials: newspaper, plastic, aluminum cans, or glass; or

2. Covers at least 8 percent of the residential garbage customers within the local jurisdiction and provides for the separation from municipal solid waste, at the point of collection or at a time prior to final disposal at a solid waste management facility, of one of the following materials: newspaper, plastic, aluminum cans, or glass.

(c) By September 1, 1988, the department shall develop a form for use by local governments in applying for awards under this subsection. Such forms shall be sent out to local governments, upon request, and shall be submitted to the department by January 1, 1989.

(d) Awards made under this subsection may only be used by local governments to fund their recycling programs.

Section 19. Subsection (1) of section 403.712, Florida Statutes, is amended to read:

403.712 Revenue bonds.—

(1) Revenue bonds payable from funds which result from the revenues derived from the operation of ~~such~~ solid waste *management* ~~recycling~~ facilities and from any revenues which may be pledged under s. 14, Art. VII *of the State Constitution*~~, State Const.~~, and s. 403.1834, including, without limiting the generality of the foregoing, any legally available revenues derived from public or private sources, may be issued by the Division of Bond Finance of the Department of General Services on behalf of the state or any county or municipality in the manner provided by the State Bond Act, ss. 215.57 et seq., except as otherwise provided herein, and the Revenue Bond Act of 1953, as amended, part I, chapter 159. Such bonds shall be issued only to finance the cost of construction *or*~~,~~ maintenance~~, or operation~~ of *solid waste* ~~resource recovery and~~ management facilities, which cost may include the acquisition of real property and easements therein for such purposes, *and the closure of solid waste landfills.*

Section 20. Section 403.713, Florida Statutes, is amended to read:

403.713 Transport of solid waste.—Nothing in this act or in any local act or ordinance shall be construed to limit the free flow of solid waste across municipal or county boundaries provided such solid waste is transported or disposed of pursuant to the provisions of this part. However, any local government that undertakes resource recovery of solid waste pursuant to general law or special act may control the collection and disposal of solid waste, as defined by general law or such special act, which is generated within the territorial boundaries of such local government and other local governments which enter into interlocal agreements for the disposal of solid waste with the local government sponsoring the resource recovery facility. Any local government which undertakes resource recovery of solid waste pursuant to general law or special act may institute a flow control ordinance for the purpose of ensuring that the resource recovery facility receives an adequate quantity of solid waste from solid waste generated within its jurisdiction. *Such solid waste shall not include that portion separated at the point of generation or after collection and intended to be held for purposes of recycling pursuant to requirements of this part; however, such solid waste shall be subject to applicable state and local public health and safety laws.* ~~Such solid waste will not include scrap, or new or used material, separated at the point of generation and held for purposes of recycling, which shall be subject to state and local public health and safety laws.~~

Section 21. Section 403.714, Florida Statutes, is amended to read:

403.714 Duties of *state agencies* ~~Department of General Services.~~—

(1) It shall be the duty of *each state agency, the judicial branch of state government, and the State University System, by September 1, 1989,* ~~the Department of General Services~~ to:

(a)~~(1)~~ Establish a program, in cooperation with the Department of Environmental Regulation *and the Department of General Services*, for the collection of all *recyclable* ~~wastepaper~~ materials *generated* in state offices throughout the state, *including, at a minimum, aluminum, high grade office paper, and corrugated paper* ~~which program, in addition to requiring participation by the established executive departments, shall provide for participation by the offices of the legislative and judicial branches of state government as well~~.

(b)~~(2)~~ Provide *procedures for collecting and storing recyclable materials, containers for storing materials, and contractual or other arrangements with buyers of the recyclable materials* ~~a program to recycle all wastepaper materials collected in accordance with the provisions of this section whenever practicable~~.

(c)~~(3)~~ Evaluate the amount of *recyclable* ~~wastepaper~~ material recycled ~~by the state~~ and make all necessary modifications to said recycling program to insure that all *recyclable* ~~wastepaper~~ materials are effectively and practicably recycled.

(d) Establish and implement, in cooperation with the Department of Environmental Regulation and the Department of General Services, a solid waste reduction program for materials used in the course of agency operations. The program shall be designed and implemented to achieve the maximum feasible reduction of solid waste generated as a result of agency operations.

(2) The Department of Commerce shall assist and encourage the recycling industry in the state. Assistance and encouragement of the recycling industry shall include, but is not limited to:

(a) Identifying and analyzing, in cooperation with the Department of Environmental Regulation, components of the state's recycling industry and present and potential markets for recyclable materials in this state, other states, and foreign countries;

(b) Providing information on the availability and benefits of using recycled materials to businesses and industries in the state; and

(c) Distributing any material prepared in implementing this section to the public, businesses, industries, local governments, or other organizations upon request.

By September 1, 1989, and every other year thereafter, the Department of Commerce shall prepare a report assessing the recycling industry and recyclable materials markets in the state.

(3)(a) The Department of Agriculture and Consumer Services shall investigate the potential markets for composted materials and shall submit its findings to the Department of Environmental Regulation for the waste registry informational program administered by the department in order to stimulate absorption of available composted materials into such markets.

(b) On or before July 1, 1989, the Department of Agriculture and Consumer Services shall report to the Legislature its findings relative to:

1. Potential markets for composted materials, including private and public sector markets;

2. The types of materials which may legally and effectively be used in a successful composting operation; and

3. The manner in which the composted materials should be marketed for optimum use.

(4) All state agencies, including, but not limited to, the Department of Transportation, the Department of Natural Resources, and the Department of General Services, and local governments, are required to procure compost products when they can be substituted for, and cost no more than, regular soil amendment products, provided the compost products meet all applicable state standards, specifications, and regulations. This product preference shall apply to, but not be limited to, the construction of highway projects, road rights-of-way, highway planting projects, recultivation and erosion control programs, and other projects.

(5)(a) The Department of Education, in cooperation with the State University System and the Department of Environmental Regulation, shall develop, distribute, and encourage the use of guidelines for the collection of recyclable materials and for solid waste reduction in the state system of education. At a minimum, the guidelines shall address solid waste generated in administrative offices, classrooms, dormitories, and cafeterias. The guidelines shall be developed by September 1, 1989.

(b) In order to orient students and their families to the recycling of waste and to encourage the participation of schools, communities, and families in recycling programs, the school board of each school district in the state shall provide a program of student instruction in the recycling of waste materials. The instruction shall be provided at both the elementary and secondary levels of education.

(c) The Department of Education is directed to develop, from funds appropriated for environmental education, curriculum materials and resource guides for a recycling awareness program for instruction at the elementary, middle, and high school levels.

Section 22. *The Capitol and the House and Senate office buildings constitute the Capitol recycling demonstration area. The Florida House of Representatives, the Florida Senate, and the Office of the Governor, and each Cabinet officer who heads a department that occupies office space in the Capitol, shall, by January 1, 1989, institute a recycling program for their respective offices in the House and Senate office buildings and the Capitol. Provisions shall be made to collect and sell wastepaper and empty aluminum beverage cans generated by employee activities in these offices. The collection and sale of such materials shall be coordinated with Department of General Services recycling activities to maximize the efficiency and economy of this program. The Governor, the Speaker of the House of Representative, the President of the Senate, and the Cabinet officers may authorize the use of proceeds from recyclable material sales for employee benefits and other purposes, in order to provide incentives to their respective employees for participation in the recycling program. Such proceeds may also be used to offset any costs of the recycling program.*

Section 23. Section 403.715, Florida Statutes, is amended to read:

403.715 Certification of resource recovery *or recycling* equipment.—For purposes of implementing the tax *exemptions* ~~exemption~~ provided by s. 212.08*(5)(e) and* (7)(p), the department shall establish a system for the examination and certification of resource recovery *or recycling* equipment. Application for certification of equipment shall be submitted to the department on forms prescribed by it which include such pertinent information as the department may require. *The department may require appropriate certification by a certified public accountant or professional engineer that the equipment for which these exemptions are being sought complies with the exemption criteria set forth in s. 212.08(5)(e) and (7)(p).* Within 30 days *after* ~~of~~ receipt of an application by the department, a representative of the department *may* ~~shall~~ inspect the equipment. Within 30 days *after* ~~of~~ such inspection, the department shall issue a written decision granting or denying certification.

Section 24. *Section 203.10, Florida Statutes, is renumbered as section 403.7215, Florida Statutes.*

Section 25. Section 403.75, Florida Statutes, is amended to read:

403.75 Definitions relating to used oil.—As used in ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, the term:

(1) "Public used oil collection center" means:

(a) Automotive service facilities or governmentally sponsored collection facilities, which in the course of business accept for disposal small quantities of used oil from households; and

(b) Facilities which store used oil in aboveground tanks, which are approved by the department, and which in the course of business accept for disposal small quantities of used oil from households.

(2)~~(1)~~ "Department" means the Department of Environmental Regulation.

(3)~~(2)~~ "Person" means any individual, private or public corporation, partnership, cooperative, association, estate, political subdivision, or governmental agency or instrumentality.

(4)~~(3)~~ "Reclaiming" means the use of *methods, other than those used in rerefining, to purify* ~~cleaning methods on~~ used oil primarily to remove insoluble contaminants, making the oil suitable for further use; the methods may include settling, heating, dehydration, filtration, or centrifuging.

(5)~~(4)~~ "Recycling" means to prepare used oil for reuse as a petroleum product by rerefining, reclaiming, *reprocessing,* or other means or to use used oil in a manner that substitutes for a petroleum product made from new oil.

(6)~~(5)~~ "Rerefining" means the use of refining processes on used oil to produce high-quality base stocks for lubricants or other petroleum products. Rerefining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, *or other physical treatments other than those used in reclaiming.*

(7)~~(6)~~ "Used oil" means any oil which has been refined from crude oil *or synthetic oil* and, as a result of use, storage, or handling, has become unsuitable for its original purpose due to the presence of impurities or loss of original properties, but which may be suitable for further use and is economically recyclable.

(8) "Used oil recycling facility" means any facility that recycles more than 10,000 gallons of used oil annually.

Section 26. Section 403.751, Florida Statutes, is amended to read:

403.751 Prohibited actions; ~~authorized uses of~~ used oil.—

(1)(a) No person may collect, transport, store, recycle, use, or dispose of used oil in any manner which endangers the public health or welfare.

(b) No person may discharge used oil into sewers, drainage systems, *septic tanks,* surface or ground waters, watercourses, or marine waters.

(c) No person may mix or commingle used oil with solid waste that is to be disposed of in landfills or directly dispose of used oil in landfills in Florida unless approved by the department.

(d) Any person who unknowingly disposes into a landfill any used oil which has not been properly segregated or separated from other solid wastes by the generator is not guilty of a violation under this act.

(e) No person may mix or commingle used oil with hazardous substances that make it unsuitable for recycling or beneficial use.

(2) *Used oil shall not be used for road oiling, dust control, weed abatement, or other similar uses that have the potential to release used oil into the environment.* ~~Nothing in ss. 403.75-403.759 or in s. 526.01, as amended by chapter 84-338, Laws of Florida, prohibits the use of used oil for road maintenance purposes, as a fuel, for weed abatement on the user's property, or for agricultural dust control, unless such use violates another law or rule or endangers public health. However, used oil shall not be used for road oiling, dust control, and weed abatement in areas where sole-source aquifers have been designated.~~

Section 27. Subsection (4) of section 403.753, Florida Statutes, is amended to read:

403.753 Public educational program about collection and recycling of used oil.—The department shall conduct a public education program to inform the public of the needs for and benefits of collecting and recycling used oil and shall:

(4) Encourage the procurement of *recycled* ~~rerefined~~ automotive, ~~and~~ industrial, *and fuel* oils, *and oils blended with recycled oils,* for all state and local *government* uses~~, whenever such rerefined oils are available at prices that are competitive with those of new oil produced for the same purpose~~. *Recycled oils procured under this section shall meet equipment manufacturer's specifications. A 5-percent price preference may be given in procuring these recycled products.*

Section 28. Subsection (1) of section 403.754, Florida Statutes, is amended, subsections (3) through (6) are renumbered as subsections (4) through (7), respectively, and a new subsection (3) is added to said section, to read:

403.754 Registration of persons transporting, collecting, or recycling used oil; fees; reports and records.—

(1) ~~Beginning July 1, 1985,~~ The following persons shall register annually with the department pursuant to rules of the department on forms prescribed by it:

(a) Any person who transports over public highways more than 500 gallons of used oil annually.

(b) Any person who maintains a collection facility that receives more than 6,000 gallons of used oil annually. *For purposes of registration, the amount received does not include used oil delivered to collection centers by individuals that change their own personal motor oil.*

(c) Any facility that recycles more than 10,000 gallons of used oil annually.

(3) An onsite burner which only burns a specification used oil generated by such burner is not required to register or report pursuant to this section, provided that such burning is done in compliance with any air permits issued by the department.

Section 29. Section 403.7545, Florida Statutes, is amended to read:

403.7545 Regulation of used oil as hazardous waste.—Nothing in ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall prohibit the department from regulating used oil as a hazardous waste in a manner consistent with s. 241 of the Hazardous and Solid Waste Amendments of 1984, Pub. L. No. 98-616.

Section 30. Section 403.757, Florida Statutes, is amended to read:

403.757 Coordination with other state agencies.—

(1) The department shall coordinate its activities and functions under ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, with the Governor's Energy Office and other state agencies to avoid duplication in reporting and information gathering.

(2) The nonprofit corporation established pursuant to s. 946.502 shall examine the feasibility of using used oil to fuel boilers and furnaces of state government buildings.

(3) The Department of Transportation shall examine the feasibility of using recycled oil products in road construction activities.

(4) The Departments of Corrections and Transportation shall report to the President of the Senate and the Speaker of the House of Representatives by January 1, 1989, on the results of the tasks assigned in subsections (2) and (3).

Section 31. Section 403.758, Florida Statutes, is amended to read:

403.758 Enforcement and penalty.—

(1) Except as provided in subsection (2), the department may enforce ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, pursuant to ss. 403.121 and 403.131.

(2) Any person who fails to register with the department as required by s. 403.754 and s. 526.01, as amended by chapter 84-338, Laws of Florida, is subject to a fine of $300.

Section 32. Section 403.759, Florida Statutes, is amended to read:

403.759 Disposition of fees, fines, and penalties.—The proceeds from the registration fees, fines, and penalties imposed by ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida, shall be deposited into the *Solid Waste Management Trust Fund* ~~Department of Environmental Regulation Trust Fund~~ for use by the department in implementing the provisions of ss. *403.75-403.769* ~~403.75-403.759~~ and s. 526.01, as amended by chapter 84-338, Laws of Florida.

Section 33. Section 403.760, Florida Statutes, is created to read:

403.760 Public used oil collection centers.—

(1) The department shall encourage the voluntary establishment of public used oil collection centers and recycling programs and provide technical assistance to persons who organize such programs.

(2) All government agencies, and businesses that change motor oil for the public, are encouraged to serve as public used oil collection centers.

(3) A public used oil collection center must:

(a) Notify the department annually that it is accepting used oil from the public; and

(b) Annually report quantities of used oil collected from the public.

(4) The Department of Agriculture and Consumer Services shall assist the department in inspecting public used oil collection centers.

(5) No person may recover from the owner or operator of a used oil collection center any costs of response actions, as defined in s. 376.301(14), resulting from a release of either used oil or a hazardous substance or use the authority of ss. 376.307, 376.3071, and 403.724 against the owner or operator of a used oil collection center if such used oil is:

(a) Not mixed with any hazardous substance by the owner or operator of the used oil collection center;

(b) Not knowingly accepted with any hazardous substances contained therein;

(c) Transported from the used oil collection center by a certified transporter pursuant to s. 403.767;

(d) Stored in a used oil collection center that is in compliance with this section; and

(e) In compliance with s. 114(6) of the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended.

This subsection applies only to that portion of the public used oil collection center used for the collection of used oil and does not apply if the owner or operator is grossly negligent in the operation of the public used oil collection center. Nothing in this section shall affect or modify in any way the obligations or liability of any person under any other provisions of state or federal law, including common law, for injury or damage resulting from a release of used oil or hazardous substances. For the purpose of this section, the owner or operator of a used oil collection center may presume that a quantity of no more than 5 gallons of used oil accepted from any member of the public is not mixed with a hazardous substance, provided that such owner or operator acts in good faith.

Section 34. Section 403.761, Florida Statutes, is created to read:

403.761 Incentives program.—

(1) The department is authorized to establish an incentives program for individuals who change their own oil to encourage them to return their used oil to a used oil collection center.

(2) The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, or proper disposal of used oil.

(3) The department may contract with a promotion company to administer the incentives program.

Section 35. Section 403.763, Florida Statutes, is created to read:

403.763 Grants to local governments.—

(1) The department shall develop a grants program for local governments to encourage the collection, reuse, and proper disposal of used oil. No grant may be made for any project unless such project is approved by the department.

(2) The department shall consider for grant assistance any local government project that uses one or more of the following programs or any activity that the department feels will reduce the improper disposal and reuse of used oil:

(a) Curbside pickup of used oil containers by a local government or its designee.

(b) Retrofitting of solid waste equipment to promote curbside pickup or disposal of used oil at used oil collection centers designated by the local government.

(c) Establishment of publicly operated used oil collection centers at landfills or other public places.

(d) Providing containers and other materials and supplies that the public can utilize in an environmentally sound manner to store used oil for pickup or return to a used oil collection center.

(e) Providing incentives for the establishment of privately operated public used oil collection centers.

(3) Eligible projects shall be funded according to provisions established by the department. However, in no case shall one grant exceed $25,000.

(4) The department shall initiate rules on or before January 1, 1989, necessary to carry out the purposes of this section.

Section 36. Section 403.767, Florida Statutes, is created to read:

403.767 Certification of used oil transporters.—

(1) Any person who transports over public highways after January 1, 1990, more than 500 gallons annually of used oil must be a certified transporter.

(2) The department shall develop a certification program for transporters of used oil, and shall issue, deny, or revoke certifications authorizing the holder to transport used oil. Certification requirements shall help assure that a used oil transporter is familiar with appropriate rules and used oil management procedures.

(3) The department shall adopt rules governing certification, which shall include requirements for the following:

(a) Registration and annual reporting pursuant to s. 403.754.

(b) Evidence of familiarity with applicable state laws and rules governing used oil transportation.

(c) Proof of liability insurance or other means of financial responsibility for any liability which may be incurred in the transport of used oil.

Section 37. Section 403.769, Florida Statutes, is created to read:

403.769 Permits for used oil recycling facilities.—

(1) Each person who intends to operate, modify, or close a used oil recycling facility shall obtain an operation or closure permit from the department prior to operating, modifying, or closing the facility.

(2) By January 1, 1990, the department shall develop a permitting system for used oil recycling facilities after reviewing and considering the applicability of the permit system for hazardous waste treatment, storage, or disposal facilities.

(3) Permits shall not be required under this section for the burning of used oil as a fuel, provided:

(a) A valid department air permit is in effect for the facility; and

(b) The facility burns used oil in accordance with applicable United States Environmental Protection Agency regulations, local government regulations, and the requirements of its department air permit.

(4) No permit is required under this section for the use of used oil for the beneficiation or flotation of phosphate rock.

Section 38. *Subsection (4) of section 403.8055, Florida Statutes, is hereby repealed.*

Section 39. *Training of operators of solid waste management facilities.—*

(1) The Department of Environmental Regulation shall establish qualifications for, and encourage the development of training programs for, operators of landfills, coordinators of local recycling programs, and other solid waste management facilities.

(2) The department shall work with accredited community colleges, vocational technical centers, state universities, and private institutions in developing educational materials, courses of study, and other such information to be made available for persons seeking to be trained as operators of solid waste management facilities.

(3) A person may not perform the duties of an operator of a solid waste management facility after January 1, 1990, unless he has completed an operator training course approved by the department. An owner of a solid waste management facility may not employ any person to perform the duties of an operator unless such person has completed an approved solid waste management facility operator training course.

(4) The department may adopt rules and minimum standards to effectuate the provisions of this section and to ensure the safe, healthy, and lawful operation of solid waste management facilities in this state. The department may establish, by rule, various classifications for operators to cover the need for differing levels of training required to operate various types of solid waste management facilities due to different operating requirements at such facilities.

(5) For purposes of this section, the term "operator" means any person, including the owner, who is principally engaged in, and is in charge of, the actual operation, supervision, and maintenance of a solid waste management facility and includes the person in charge of a shift or period of operation during any part of the day.

Section 40. *Landfill management escrow account.—*

(1) As used in this section:

(a) "Landfill" means any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707, Florida Statutes, that receives solid waste for disposal in or upon land other than a land-spreading site, injection well, or a surface impoundment.

(b) "Closure" means the ceasing operation of a landfill and securing such landfill so that it does not pose a significant threat to public health or the environment and includes long-term monitoring and maintenance of a landfill.

(c) "Owner or operator" means, in addition to the usual meanings of the term, any owner of record of any interest in land whereon a landfill is or has been located and any person or corporation which owns a majority interest in any other corporation which is the owner or operator of a landfill.

(2) Every owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law.

(3) The owner or operator of a landfill shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons or their own property, as described in s. 403.707(2), Florida Statutes, is exempt from the provisions of this section.

(a) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet state and federal landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the department an annual audit of the account. The audit shall be conducted by a certified public accountant and shall be filed no later than December 31 of each year. Failure to collect or report such revenue, except as allowed in subsection (4), is a non-

criminal violation, punishable by a fine of not more than $5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for planning and construction of resource recovery or landfill facilities. Any moneys remaining in the account after paying for proper and complete closure, as determined by the department, shall, if the owner or operator does not operate a landfill, be deposited by the owner or operator into the general fund of the local government of jurisdiction.

(c) The revenue generated under this subsection and any accumulated interest thereon may be applied to the payment of, or pledged as security for, the payment of revenue bonds issued in whole or in part for the purpose of complying with state and federal landfill closure requirements. Such application or pledge may be made directly in the proceedings authorizing such bonds or in an agreement with an insurer of bonds to assure such insurer of additional security therefor.

(4) An owner or operator may establish proof of financial responsibility with the department in lieu of the requirements of subsection (3). Such proof may include surety bonds, certificates of deposit, securities, letter of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with landfill closure requirements. The owner or operator shall estimate such costs to the satisfaction of the department.

(5) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(6) The department shall adopt rules to implement this section.

Section 41. *Waste tire requirements.—*

(1) For purposes of this section and sections 42 and 43:

(a) "Department" means the Department of Environmental Regulation.

(b) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, such vehicles as run only upon a track, bicycles, mopeds, or farm tractors and trailers.

(c) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a motor vehicle.

(d) "Waste tire" means a whole tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

(e) "Waste tire collection center" means a site where used or waste tires are collected from the public prior to being offered for recycling and where fewer than 1,000 tires are kept on the site on any given day.

(f) "Waste tire processing facility" means a site where equipment is used to cut, burn, or otherwise alter whole waste tires so that they are no longer whole.

(g) "Waste tire site" means a site at which 1,000 or more whole tires are accumulated.

(2) The owner or operator of any waste tire site shall, within 6 months after the effective date of this section, provide the department with information concerning the site's location, size, and the approximate number of waste tires that are accumulated at the site and shall initiate steps to comply with subsection (3).

(3) On or after July 1, 1989:

(a) A person may not maintain a waste tire site unless such site is an integral part of the person's permitted waste tire processing facility.

(b) It is unlawful for any person to dispose of waste tires in the state, unless the waste tires are disposed of for processing, or collected for processing, at a permitted solid waste disposal facility, a waste tire site which is an integral part of a permitted waste tire processing facility, a permitted waste tire processing facility, or a waste tire collection center.

(c) Waste tires may not be deposited in a landfill as a method of ultimate disposal.

(4) By January 1, 1989, the department shall adopt rules to carry out the provisions of this section and sections 42 and 43 of this act. Such rules shall:

(a) Provide for the administration of a waste tire processing facility permit, which may not exceed $250 annually;

(b) Provide for the administration of waste tire collector and collection center permits, which may not exceed $250 annually;

(c) Set standards for waste tire processing facilities and associated waste tire sites, waste tire collection centers, and waste tire collectors;

(d) Establish procedures for administering the waste tire grants program and issuing grants;

(e) Authorize the final disposal of waste tires at a permitted solid waste disposal facility provided the tires have been cut into sufficiently small parts to assure their proper disposal; and

(f) Allow waste tire material which has been cut into sufficiently small parts to be used as daily cover material for a landfill.

(5) A permit is not required for:

(a) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(b) A business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,000 of these tires are kept on the business premises; or

(c) A retail tire-selling business which is serving as a waste tire collection center if fewer than 1,000 waste tires are kept on the business premises.

(6)(a) The department shall encourage the voluntary establishment of waste tire collection centers at retail tire-selling businesses, waste tire processing facilities, and solid waste disposal facilities, to be open to the public for the deposit of used and waste tires.

(b) The department is authorized to establish an incentives program for individuals to encourage them to return their used or waste tires to a waste tire collection center. The incentives used by the department may involve the use of discount or prize coupons, prize drawings, promotional giveaways, or other activities the department determines will promote collection, reuse, volume reduction, and proper disposal of used or waste tires.

(c) The department may contract with a promotion company to administer the incentives program.

Section 42. *Waste tire fees.—*

(1) For the privilege of engaging in business, a fee for each new motor vehicle tire sold at retail is imposed on any person engaging in the business of making retail sales of new motor vehicle tires within this state. For the period January 1, 1989, through December 31, 1989, such fee shall be imposed at the rate of 50 cents for each new tire sold. Beginning January 1, 1990, and thereafter, such fee shall be imposed at the rate of $1 for each new tire sold. The fee imposed shall be paid to the Department of Revenue on or before the twentieth day of the month following the calendar quarter in which the sale occurs. The terms "sold at retail" and "retail sales" do not include the sale of new motor vehicle tires to a person solely for the purpose of resale, provided the subsequent retail sale in this state is subject to the fee. This fee does not apply to recapped tires. Such fee shall be subject to general sales tax pursuant to s. 212.05, Florida Statutes. The provisions of s. 212.07(4), Florida Statutes, shall not apply to the provisions of this section.

(2) The fee imposed by this section shall be reported to the Department of Revenue. The payment shall be accompanied by such form as the Department of Revenue may prescribe. The proceeds of the waste tire fee, less administrative costs, shall be transferred by the Department of Revenue into the waste tire account within the Solid Waste Management Trust Fund. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder, and shall be only those costs solely and directly attributed to the fee.

(3)(a) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, Florida Statutes, except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fee shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a), Florida Statutes, nor shall the dealer's credit for collecting taxes or fees in s. 212.12, Florida Statutes, apply to this fee.

(b) The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

Section 43. *Waste tire grants.—*

(1) The department shall, by July 1, 1989, establish a program to make grants to counties which desire, individually or collectively, to:

(a) Construct or operate, or contract for the construction or operation of, a waste tire processing facility and equipment purchases therefor;

(b) Contract for a waste tire processing facility service within or outside the county or state;

(c) Remove or contract for the removal of waste tires from the county, region, or state;

(d) Perform or contract for the performance of research designed to facilitate waste tire recycling;

(e) Establishing waste tire collection centers at solid waste disposal facilities or waste tire processing facilities; or

(f) Provide incentives for establishing privately operated waste tire collection centers for the public.

(2) Each county shall be eligible for a pro-rata share, based on population, of the available funds in the waste tire account. Counties may join together, pooling their financial resources, when utilizing their grants for the purposes described in subsection (1).

(3) The department shall provide technical assistance, upon request, to a county or groups of counties desiring assistance in applying for waste tire grants or choosing a method of waste tire management which would be an eligible use of the grant funds.

Section 44. Subsections (2) and (5) of section 159.445, Florida Statutes, are amended to read:

159.445 Florida High Technology Innovation Research and Development Fund.—

(2) As used in this section, "small business" means an independently owned and operated business concern which is not an affiliate or subsidiary of a business dominant in its field of operation and which employs 25 or fewer full-time employees. "High technology" business means a business which provides products or services in areas including, but not limited to, robotics, automation, biotechnology, biomedical devices, specialized materials, *including recyclable materials,* computer and microprocessor applications and technology, semiconductors, integrated circuits, fiber optics, and telecommunications.

(5) The powers and duties of the board shall include, but not be limited to, the power to:

(a) Adopt an official seal.

(b) Sue and be sued.

(c) Make and execute contracts and other necessary instruments.

(d) Administer personal property.

(e) Establish agreements or other transactions with federal, state, and local agencies.

(f) Encourage financial institutions to participate in consortia for investment in high technology small business concerns.

(g) Administer real property.

(h) Invest funds not required for immediate disbursement.

(i) Appear in its own behalf before boards, commissions, or other governmental agencies.

(j) Procure insurance or require bond against any loss in connection with its property.

(k) Accept funds from any source to carry out the purposes of this section.

(l) Create, issue, hold, buy, and sell stock, evidences of indebtedness, and other capital participation instruments and underwrite the creation of a capital market for these securities in a manner designed to enhance development of capital ownership.

(m) Provide and pay for advisory and technical assistance consistent with the purposes of this section.

(n) Engage in special programs to enhance the development of high technology small business concerns.

(o) Engage in special programs to enhance the development of high technology applications and products from recyclable materials markets after consultation with the Department of Environmental Regulation.

Section 45. Present subsections (3), (4), (5), (6), and (7) of section 240.539, Florida Statutes, are renumbered as subsections (4), (5), (6), (7), and (8), respectively, and a new subsection (3) is added to said section to read:

240.539 Advanced Technology Fund.—

(3) The Florida High Technology and Industry Council shall direct and coordinate the scientific and technological resources of the state to undertake research projects which may alleviate problems of critical economic or environmental magnitude, as identified by the Legislature. The first area of concern identified by the Legislature is solid waste disposal. With funds appropriated by the Legislature, the council shall develop research programs to resolve problems associated with designing and implementing programs to recycle materials such as plastics, rubber, metal, glass, paper, and other components of the solid waste stream. The council shall consult with the Department of Environmental Regulation in developing the research programs. The council shall report its findings to the Legislature by February 1, 1989, and recommend areas where additional research is needed.

Section 46. Paragraph (f) is added to subsection (7) and paragraph (c) is added to subsection (9) of section 163.01, Florida Statutes, to read:

163.01 Florida Interlocal Cooperation Act of 1969.—

(7)

(f) Notwithstanding anything to the contrary, any separate legal entity, created pursuant to the provisions of this section, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties of this state, may exercise the right and power of eminent domain, including the procedural powers under chapters 73 and 74, if such right and power is granted to such entity by the interlocal agreement creating the entity.

(9)

(c) All of the privileges and immunities from liability and exemptions from laws, ordinances, and rules which apply to the municipalities and counties of this state apply to the same degree and extent to any separate legal entity, created pursuant to the provisions of this section, wholly owned by the municipalities or counties of this state, the membership of which consists or is to consist only of municipalities or counties of this state, unless the interlocal agreement creating such entity provides to the contrary. All of the privileges and immunities from liability; exemptions from laws, ordinances, and rules; and pension and relief, disability, and worker's compensation, and other benefits which apply to the activity of officers, agents, employees, or employees of agents of counties and municipalities of this state which are parties to an interlocal agreement creating a separate legal entity pursuant to the provisions of this section shall apply to the same degree and extent to the officers, agents, or employees of such entity unless the interlocal agreement creating such entity provides to the contrary.

Section 47. Subsection (13) 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:

(13) HAZARDOUS AND NONHAZARDOUS MATERIALS AND WASTE.—

(a) Goal.—All solid waste, including hazardous waste, wastewater, and all hazardous materials, shall be properly managed, and the use of landfills shall be eventually eliminated.

(b) Policies.—

1. By *1994* ~~1995~~, reduce *all volume of solid waste requiring disposal by 30 percent* ~~the volume of nonhazardous solid waste disposed of in landfills to 55 percent of the 1985 volume~~.

2. By 1994, provide in all counties, a countywide solid waste collection system to discourage littering and the illegal dumping of solid waste.

3. Initiate programs to develop or expand recyclable material markets, especially those involving plastics, metals, paper, and glass.

4.~~2.~~ Encourage and expedite the development of environmentally safe hazardous waste treatment, storage, and disposal facilities.

5.~~3.~~ Identify and clean up hazardous waste sites.

6.~~4.~~ Enforce and strengthen regulation of the generation, storage, treatment, disposal, and transportation of hazardous waste.

7.~~5.~~ Establish a system for identifying the location, type, and quantity of hazardous materials.

8.~~6.~~ Require all hazardous waste generators to properly manage their own wastes.

9.~~7.~~ Encourage the research, development, and implementation of recycling, resource recovery, energy recovery, and other methods of using garbage, trash, sewage, slime, sludge, hazardous waste, and other waste.

10.~~8.~~ Encourage coordination of intergovernmental and interstate waste management efforts.

11.~~9.~~ Identify, develop, and encourage environmentally sound wastewater treatment and disposal methods.

12.~~10.~~ Develop a permanent system for households, small business, and other low-volume generators of hazardous waste to safely dispose of these materials in a convenient manner.

13.~~11.~~ Encourage strict enforcement of hazardous waste laws and swift prosecution of violators.

Section 48. Section 287.05, Florida Statutes, is created to read:

287.05 Procurement of products and materials with recycled content.—

(1) The Division of Purchasing, in cooperation with the Department of Environmental Regulation, shall review and revise existing procurement procedures and specifications for the purchase of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of this state.

(2) The division shall review and revise its procurement procedures and specifications for the purchase of products and materials to ensure, to the maximum extent economically feasible, that it purchases products or materials that may be recycled or reused when these products or materials are discarded. The division shall complete an initial review and revision by September 1, 1989.

(3) As part of the review and revision required in subsection (2), the division shall review its procurement provisions and specifications for the purchase of products and materials to determine which products or materials with recycled content could be procured by the division or other agencies and the amount of recycled content that can economically and technologically be contained in such products or materials. The division and other agencies shall use the amounts of recycled content determined by the division in issuing invitations to bid for contracts for the purchase of such products or materials. The review shall be completed by September 1, 1989, and the amounts of recycled content determined by the division shall be used by the division and other agencies thereafter.

(4) Upon completion of the review required in subsection (3), the division or an agency shall require that a person who submits a bid for a contract for the purchase of products or materials identified in subsection (3) and who wishes to be considered for the price preference described in subsection (5) shall certify, in writing, the percentage of recycled content in the product or material that is subject to the bid. A person may certify that the product or material contains no recycled content.

(5) Upon evaluation of bids for every public contract that involves the purchase of products or materials identified in subsection (3), the division or an agency shall identify the lowest responsive bidder, and any other responsive bidders who have certified that the products or materials contain at least the minimum percentage of recycled content that is set forth in the invitation for the bids. In awarding a contract for the purchase of products or materials, the division or an agency may allow up to a 10 percent price preference to a responsive bidder who has certified that the products or materials contain at least the minimum percentage of recycled content. If no bidders offer products or materials with the minimum prescribed recycled content, the contract shall be awarded to the lowest bidder.

(6) For the purposes of this section, "recycled content" means materials that have been recycled that are contained in the products or materials to be procured. The term does not include internally generated scrap that is commonly used in industrial or manufacturing processes or waste or scrap purchased from another manufacturer who manufactures the same or a closely related product.

(7) Any person who believes that a particular product or material with recycled content may be beneficially used instead of another product or material may request the division to evaluate that product or material. The division shall review each reasonable proposal to determine its merit and, if it finds that the product or material may be used beneficially, it may incorporate that product or material into its procurement procedures.

(8) The division shall review and revise its procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content.

(9) All agencies shall cooperate with the division in carrying out the provisions of this section.

Section 49. Section 336.044, Florida Statutes, is created to read:

336.044 Use of recyclable materials in construction.—

(1) It is the intent of the Legislature that the Department of Transportation continue to expand its current use of recovered materials in its construction programs.

(2) The Legislature declares it to be in the public interest to find alternative ways to use certain recyclable materials that currently are part of the solid waste stream and that contribute to problems of declining space in landfills. To determine the feasibility of using certain recyclable materials for paving materials, the department shall before January 1, 1990, undertake, as part of its currently scheduled projects, demonstration projects using the following materials in road construction:

(a) Ground rubber from automobile tires in road resurfacing or subbase materials for roads;

(b) Ash residue from coal combustion byproducts for concrete and ash residue from waste incineration facilities and oil combustion byproducts for subbase material;

(c) Recycled mixed-plastic material for guard rail posts or right-of-way fence posts;

(d) Construction steel, including reinforcing rods and I-beams, manufactured from scrap metals disposed of in the state; and

(e) Glass, and glass aggregates.

Within 1 year after the conclusion of the demonstration projects the department shall report to the Governor and the Legislature on the maximum percentage of each recyclable material that can be effectively utilized in road construction projects. Concurrent with the submission of the report the department shall review and modify its standard road and bridge construction specifications to allow and encourage the use of recyclable materials consistent with the findings of the demonstration projects.

(3) The department shall contract for the investigation and evaluation of the use of ground tire rubber as an additive to asphalt concrete and other alternatives which would utilize waste tires. The development of the scope of services and technical guidance and review of the work shall be a cooperative effort of the department's Bureau of Materials and Research and the State University System. Activities shall include, but not be limited to:

(a) Determining the type and amount of ground tire rubber that would provide acceptable properties in an asphalt concrete mix;

(b) Determining preprocessing requirements and the method of incorporation of ground tire rubber in the asphalt concrete mix and identifying potential effects on pavement construction and performance;

(c) Determining effects and procedures for the recycling of asphalt concrete containing ground tire rubber;

(d) Determining the amount of ground tire rubber that may be used in road construction and the expected cost of such use; and

(e) Identifying changes needed in department and local government specifications and procedures to allow for use of ground tire rubber from waste tires in asphalt concrete pavements.

This evaluation shall be completed by March 1, 1989, and the department shall report its findings to the Governor and the Legislature.

(4) The department shall review and revise existing bid procedures and specifications for the purchase or use of products and materials to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content, except where such procedures and specifications are necessary to protect the health, safety, and welfare of the people of this state.

(5) The department shall review and revise its bid procedures and specifications on a continuing basis to encourage the use of products and materials with recycled content and shall, in developing new procedures and specifications, encourage the use of products and materials with recycled content.

(6) All agencies shall cooperate with the department in carrying out the provisions of this section.

Section 50. *(1) Research, training, and service activities related to solid and hazardous waste management conducted by state universities shall be coordinated by the Board of Regents through the Office of the Chancellor. Proposals for research contracts and grants; public service assignments; and responses to requests for information and technical assistance by state and local government, business, and industry shall be addressed by a formal Type I Center process involving an advisory board of university personnel appointed by the chancellor and chaired and directed by an individual appointed by the chancellor. The Board of Regents shall consult with the Department of Environmental Regulation in developing the research programs and provide the department with a copy of the proposed research program for review and comment before the research is undertaken. Research contracts shall be awarded to independent nonprofit colleges and universities within the state which are accredited by the Southern Association of Colleges and Schools on the same basis as those research contracts awarded to the state universities. Research activities shall include, but are not limited to, the following areas:*

(a) Methods and processes for recycling solid and hazardous waste;

(b) Methods of treatment for detoxifying hazardous waste; and

(c) Technologies for disposing of solid and hazardous waste.

(2) The Board of Regents shall designate an institution or several institutions within the State University System or independent nonprofit colleges and universities identified in subsection (1) to conduct a study of the effects of commercial product packaging on the management of solid waste in the state. Such study shall involve, but is not limited to:

(a) Evaluation of packaging which contains large concentrations of chloride, such as packaging made with polyvinyl chloride.

(b) Evaluation of polystyrene packaging.

(c) Evaluation of packaging that introduces heavy metals into the waste stream.

(d) Identification of unnecessary packaging.

(e) Identification of packaging that is nonrecyclable and nonbiodegradable.

The study and, if necessary, recommendations for legislative action, shall be completed by October 1, 1989, and shall be submitted to the Governor and the Legislature. In conducting the study, the designated institute or institutes shall consult with businesses and industries, environmental interests, local governments involved in developing solid waste management or recycling programs, state agencies, other institutions of the State University System, and independent nonprofit colleges and universities identified in subsection (1).

Section 51. Section 381.80, Florida Statutes, is created to read:

381.80 Biohazardous waste.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to protect the public health by establishing standards for the safe packaging, storage, treatment, and disposal of biohazardous waste. The Department of Health and Rehabilitative Services shall regulate the packaging, storage, and treatment of biohazardous waste which occurs at facilities where biohazardous waste is generated. The Department of Environmental Regulation shall regulate biohazardous waste from the point at which the waste is transported from the facility where it was generated. The Department of Environmental Regulation shall also regulate on-site and off-site incineration of biohazardous waste and its off-site transport, storage, treatment, or disposal. An interagency agreement between the Department of Environmental Regulation and the Department of Health and Rehabilitative Services shall be developed to ensure maximum efficiency in coordinating, administering, and regulating biohazardous wastes.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Biohazardous waste" means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contains human-disease-causing agents; used disposable sharps; human blood, blood products, and body fluids; and other materials which in the opinion of the department represent a significant risk of infection to persons outside the generating facility.

(b) "Biohazardous waste generator" means a facility or person that produces or generates biohazardous waste. The term includes, but is not limited to, hospitals, skilled nursing or convalescent hospitals, intermediate care facilities, clinics, dialysis clinics, dental offices, health maintenance organizations, surgical clinics, medical buildings, physicians' offices, laboratories, veterinary clinics, and funeral homes.

(c) "Department" means the Department of Health and Rehabilitative Services.

(d) "Sharps" mean those biohazardous wastes which as a result of their physical characteristics are capable of puncturing, lacerating, or otherwise breaking the skin when handled.

(e) "Treatment" means any process, including steam sterilization, chemical treatment, and incineration, which changes the character or composition of biohazardous waste so as to render it noninfectious.

(3) OPERATING STANDARDS.—No later than March 1, 1989, the department shall adopt rules necessary to protect the health, safety, and welfare of the public and to carry out the purpose of this section. Such rules shall address, but need not be limited to, the packaging of biohazardous waste, including specific requirements for the safe pack-

aging of sharps and the segregation, storage, treatment, and disposal of biohazardous wastes at the facilities in which such waste is generated.

(4) ENFORCEMENT AND PENALTIES.—Any person or public body in violation of this section or rules adopted under this section is subject to penalties provided in ss. 381.112 and 381.411; however, an administrative fine not to exceed $2,500 may be imposed for each day such person or public body is in violation of this section.

Section 52. Subsection (13) of section 395.002, Florida Statutes, is amended to read:

395.002 Definitions.—As used in this chapter:

(13)(a) "Solid waste" means any solid material emanating from patient care, which includes, but is not limited to, the following disposables: linens, gowns, intravenous material, catheters, syringes, needles, clinical laboratory specimen containers, tubes, drainage systems, renal dialyzers and accessories, and other disposable items which may be contaminated with urine, feces, blood, secretions, or other bodily fluids.

(b) "Liquid waste" means any material emanating from patient care that may be and is routinely placed into the sewerage system, which includes, but is not limited to, urine, feces, blood, secretions, drainage fluids, and other bodily fluids.

(c) *"Biohazardous waste" means any solid or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, nonliquid human tissue and body parts; laboratory and veterinary waste which contains human-disease-causing agents; used disposable sharps; human blood, and human blood products and body fluids; and other materials which in the opinion of the department represent a significant risk of infection to persons outside the generating facility.* ~~"Infectious waste" means any solid wastes from patients under strict or respiratory infectious isolation; any solid wastes from patients pertaining to the maintenance of enteric, wound/skin, discharge, and blood infectious precautions; or any unautoclaved microbiologic waste derived from processing clinical specimens, which includes, but is not limited to, any cultures and disposable items that may be contaminated with culture organisms; or any solid waste which constitutes solid pathological tissue specimens. For the purposes of this definition, the term "infectious waste" does not include solid waste emanating from:~~

~~1. Patients not in infectious isolation or on infectious precautions;~~

~~2. Patients on infectious precautions but which waste emanates from bodily excretions or secretions from areas not under precaution;~~

~~3. Operating rooms, except for such wastes emanating from patients under infectious isolation or on infectious precautions;~~

~~4. Emergency rooms, except from patients under infectious isolation or on infectious precautions; or~~

~~5. Patients in dialysis units, unless the patient is under infectious isolation or on infectious precautions~~

~~or any liquid waste from any patient, unless the patient is infected with a Class IV viral agent as designated by the United States Public Health Service Center for Disease Control, in which case the liquid waste shall be considered as infectious waste.~~

Section 53. Section 395.0101, Florida Statutes, is amended to read:

395.0101 Identification, segregation, and separation of *biohazardous* ~~infectious~~ waste.—Each hospital and ambulatory surgical center shall ensure that *biohazardous* ~~infectious~~ waste is properly identified, segregated, and separated from other solid waste at the generating facility. Any transporter or potential transporter of such waste shall be notified of the existence and locations of such waste.

Section 54. Section 377.709, Florida Statutes, is amended to read:

377.709 ~~Advanced~~ Funding by electric utilities of local governmental solid waste facilities that generate electricity.—

(1) *LEGISLATIVE INTENT.*—The Legislature declares that it is critical to encourage energy conservation in order to protect the health, prosperity, and general welfare of this state and its citizens. The Legislature also declares that the disposal of solid refuse is an important governmental obligation and that, if the disposal is not accomplished in a proper manner, such refuse poses a definite threat to the public health and welfare. The Legislature further declares that the combustion of refuse by solid waste facilities to supplement the electricity supply not only represents effective conservation efforts but also represents an environmentally preferred alternative to conventional solid waste disposal in this state. Therefore, the Legislature directs the Florida Public Service Commission to establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity.

(2) *DEFINITIONS.*—As used in this section, the term:

(a) "Commission" means the Florida Public Service Commission.

(b) "Cost-effective" means that the cost of electrical capacity and energy produced by a solid waste facility financed and constructed pursuant to this section and delivered to an electric utility is no greater than the cost to that utility of producing an equivalent amount of capacity and energy had the alternative facility not been constructed and operated.

(c) "Electric utility" means any electric utility over which the commission has ratesetting authority.

(d) "Electrical component" means the turbine, generator, and associated transmission facilities of a solid waste facility.

(e) "Local government" means any municipality, county, consolidated government, or special district, authority, or commission, or any combination thereof.

(f) "Solid waste facility" means a facility *owned or operated by, or on behalf of, a local government, for the purpose of disposing* ~~which disposes~~ of solid *waste, as that term is defined in section 403.703(13),* ~~refuse~~ by any process that produces heat and incorporates, as a part of the facility, the means of converting heat to electrical energy in amounts greater than actually required for the operation of the facility.

(3) *ADVANCE FUNDING PROGRAM.*—

(a) Upon the petition of a local government, the commission shall have the authority, subject to the provisions of this section, to require an electric utility to enter into a contract with the local government to provide advanced funding to such government for the construction of the electrical component of a solid waste facility.

(b) A contract may not be entered into without the prior approval of the contract by the commission. The commission may approve or disapprove a contract, or it may modify a contract with the concurrence of the parties to the contract. When reviewing a contract, the commission shall consider those items it deems appropriate, including, but not limited to, the cost-effectiveness of the unit and the financial ability of the electric utility to provide the funding. If an electric utility and a local government cannot agree to the terms of a contract, or if it is shown that an electric utility has refused to negotiate a contract with a local government, the commission may prescribe the terms of the contract subject to the provisions of this section. The commission, however, shall not approve a contract which is violative of any of the following provisions:

1. If the commission determines that advanced-capacity payments to the local government during the period of construction are appropriate, such payments must be the lesser of:

a. The net present value of avoided-capacity cost for the electric utility calculated over the period of time during which the local government contracts to provide electrical capacity to the utility. The avoided-capacity cost is that cost established by the commission pursuant to s. 366.05(9) and in effect by commission rule at the time the order approving the contract is issued; or

b. An amount which is not more than the amount of the design costs of the electrical component of the solid waste facility as determined by the commission to be reasonable and prudent at the time of its order, or such portion thereof that is proportionate to the electrical capacity made available by contract to the electric utility.

2. If the commission determines that energy payments to the local government are appropriate, such payments may not be greater than the lesser of:

a. The hourly incremental energy rates of the electric utility as provided for in its approved tariffs over the period of the contract; or

b. The energy costs associated with the avoided-capacity costs of the electric utility as determined by the commission.

3. The electric utility must currently be providing electrical energy at retail within the geographic area of the local government or within the geographic area of one or more of the participating local governments.

4. The amount of financing, including all carrying costs, plus reasonable and prudent administrative costs incurred by the electric utility, must be recovered from the ratepayers of the electric utility pursuant to the provisions of the Florida Energy Efficiency and Conservation Act. An electric utility may not be required to pay to the local government any funding in excess of that collected from its ratepayers.

5. Funding of the electrical component of the solid waste facility must be cost-effective to the ratepayer and must not cause or contribute to the uneconomic duplication of electric facilities.

(4) *ADVANCED-CAPACITY PAYMENTS AND REFUNDS.*—The amounts required of an electric utility as advanced-capacity payments shall be paid to the local government unit during the construction of the project as established by the contract and approved by the order. Such payments are subject to being refunded in full or proportionately to the electric utility if the electrical component of the solid waste facility fails, for any reason, to operate at a 70-percent-capacity factor based on a 12-month rolling average. Any refund shall be calculated and paid annually. If during the life of the contract a solid waste facility is abandoned, closed down, or rendered illegal by applicable law, ordinance, or regulation, the full amount of any unrefunded advanced-capacity payments is subject to being refunded to the electric utility. Any refund by a local government of advanced-capacity payments to an electric utility shall be refunded by the electric utility to its customers as a credit shown on the customers' bills as soon as is practicable after the receipt of the refunded portions. The obligation to make a refund is binding on the local government and its successors in interest. In the case of a combination of local governments, if such combination is dissolved or otherwise ceases to function, the refund is a legal and binding obligation of the individual local governments which participated in the formation of the combination, in proportion to their interests.

(5) *ELECTRIC ENERGY PRICING PROGRAM.*—

(a) The commission shall establish rules relating to the purchase of capacity or energy by electric utilities as defined in this section from solid waste management facilities. In setting these rates solid waste management facilities may be exempted from any risk-related consideration which the commission may use in determining the avoided-capacity cost applicable to other cogenerators, small power producers, or solid waste facilities that are not operated by, or on behalf of, a local government. Such exemptions are intended to foster the development of solid waste management facilities that generate electricity and provide incentives for the development of environmentally sound methods of disposing of solid wastes without imposing undue risk or cost to electric consumers in this state. The commission shall authorize levelized payments for purchase of capacity or energy from a local government solid waste management facility. Payments provided pursuant to this subsection are subject to the terms and conditions set out in subsection (4) for advanced-capacity payments, and are recoverable from ratepayers of the electric utility as provided in subparagraph (3)(b)4.

(b) It is the intent of the Legislature to encourage parties to review contracts in effect as of the effective date of this subsection to incorporate the applicable provisions of this section, subject to approval of the commission.

(6)~~(5)~~ *RULES.*—The commission shall adopt all rules necessary to implement this section.

Section 55. *(1) It is the intent of the Legislature that a coordinated effort of interested state and local agencies of government and other public and private organizations and interests be developed to plan for and implement a solution to the litter problems in this state, and that the state provide financial assistance for the establishment of a nonprofit organization with the name of "Keep Florida Beautiful, Incorporated" which shall be registered, incorporated, and operated in compliance with chapter 617, Florida Statutes. This nonprofit organization shall operate as the grassroots arm of the state's effort and shall serve as an umbrella organization for volunteer-based community programs dedicated to a cleaner environment through sustained litter prevention. The membership of the board of directors of this nonprofit organization may include representatives of the following organizations: the Florida League of Cities, the Florida Association of Counties, the Florida Chapter of the National Solid Waste Management Association, the Florida Audubon Society, the Florida Nature Conservancy, the Florida Chapter of the Sierra Club, the Associated Industries of Florida, the Florida Soft Drink Association, the Florida Petroleum Council, the Florida Retail Grocers Association, the Florida Retail Federation, the Pulp and Paper Association, the Florida Automobile Dealers Association, the Beer Industries of Florida, the Florida Beer Wholesalers Association, and the Distilled Spirits Wholesalers.*

(2) As used in this section:

(a) "Department" means the Department of Transportation.

(b) "Litter" means any garbage, rubbish, trash, refuse, can, bottle, container, paper, lighted or unlighted cigarette or cigar, or flaming or glowing material.

(c) "Littering" means the act of throwing, discarding, placing, depositing, or otherwise disposing of litter improperly along public highways, on public or private lands, or in public waters.

(3) There is created within the Department of Transportation the Clean Florida Commission, which shall be responsible for coordinating a statewide litter prevention program involving state agencies, local governments, local organizations and individuals. The Clean Florida Commission shall consist of the following members or their designees:

(a) The Secretary of Environmental Regulation, who shall be the chairman.

(b) The Secretary of Transportation.

(c) The Executive Director of the Department of Natural Resources.

(d) The Commissioner of Education.

(e) The Secretary of Commerce.

These members shall serve as ex officio members of the commission and shall be considered as the base members of the commission. Additional members from interested state agencies, local governments, and state and local organizations may serve on the commission by unanimous consent of the commission's base members.

(4) The commission shall have the following powers and duties:

(a) To appoint an executive director, who may employ such other administrative staff and clerical staff as are necessary to carry out the purpose of litter prevention in this state as identified in this section. Such employment by the commission may be pursuant to contract with a public or private entity.

(b) To contract for the development of a highly visible anti-litter campaign which shall, at a minimum:

1. Identify groups that habitually litter.

2. Design appropriate advertising to promote proper disposal of litter by groups that habitually litter.

3. Foster public awareness of the litter problem in this state and the litter prevention program.

4. Develop educational programs and materials to promote proper disposal of litter.

5. Use talent, equipment or expertise donated from the private sector for producing multi-media materials.

(c) To make and execute contracts necessary to the exercise of its powers, including interagency agreements.

(d) To engage in the planning of a litter prevention program.

(e) To conduct, direct, encourage, coordinate, and organize a continuous program of public education relating to litter prevention.

(f) To review, upon request, all plans and activities pertinent to reducing litter and littering and to coordinate these activities with the various levels of government as well as other local organizations.

(g) To coordinate with state and local organizations to market programs promoting litter prevention and to facilitate the exchange of such programs between local organizations through annual conferences.

(h) To make available to elementary and secondary schools and other public forums, educational programs and materials to promote proper disposal of litter.

(i) To develop and implement statewide incentive programs designed to motivate individual citizens, local organizations, local governments, and other groups interested in participating in litter prevention program activities.

(j) To provide grants to local governments and nonprofit organizations to be used to implement litter prevention programs through education and broad-based citizen involvement at the community level. Except as specifically appropriated, such grants may provide up to one-half of the first year costs to initiate and operate such programs, or $25,000, whichever is less. Such grants shall be awarded on a priority basis, with applicants requesting funding for the establishment of local litter prevention systems receiving first priority.

(k) To monitor the effectiveness of the litter prevention program on an annual basis and to prepare an annual report of operations that includes the results of such monitoring. The annual report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than February 1 of each year, beginning on February 1, 1990.

(5) The department shall place signs discouraging litter at all off-ramps of the interstate highway system in the state. The department shall place other highway signs as necessary to discourage littering through use of the anti-litter program developed by the commission.

Section 56. Section 403.413, Florida Statutes, is amended to read:

403.413 Florida Litter Law.—

(1) SHORT TITLE.—This section ~~shall be known as and~~ may be cited as the "Florida Litter Law ~~of 1971~~."

(2) DEFINITIONS.—As used in this section:

(a) "Litter" means any garbage~~,~~; rubbish~~,~~; trash~~,~~; refuse~~,~~; can~~,~~; bottle~~,~~; *box;* container~~,~~; paper~~,~~; *tobacco product; tire; appliance; mechanical equipment or part; building or construction material; tool; machinery; wood; motor vehicle or motor vehicle part; vessel; aircraft; farm machinery or equipment; sludge from a waste treatment facility, water supply treatment plant, or air pollution control facility; or substance in any form resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations* ~~lighted or unlighted cigarette or cigar, or flaming or glowing material~~.

(b) "Person" means any individual, firm, *sole proprietorship, partnership,* corporation, or unincorporated association.

(c) "Law enforcement officer" means any officer of the Florida Highway Patrol, *a* county *sheriff's department* ~~sheriffs' departments~~, *a* municipal law enforcement *department* ~~departments~~, *a* law enforcement *department* ~~departments~~ of any other political subdivision, *the* Department of Natural Resources, *or the* ~~and~~ Game and Fresh Water Fish Commission. In addition, and solely for the purposes of this section, "law enforcement officer" means any employee of a county or municipal park or recreation department designated by the department head as a litter enforcement officer.

(d) "Aircraft" means a motor vehicle or other vehicle that is used or designed to fly, but does not include a parachute or any other device used primarily as safety equipment.

(e) "Commercial purpose" means for the purpose of economic gain.

(f) "Commercial vehicle" means a vehicle that is owned or used by a business, corporation, association, partnership, or sole proprietorship or any other entity conducting business for a commercial purpose.

(g) "Dump" means to dump, throw, discard, place, deposit, or dispose of.

(h) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor, or semitrailer combination or any other vehicle that is powered by a motor.

(i) "Vessel" means a boat, barge, or airboat or any other vehicle used for transportation on water.

(3) RESPONSIBILITY OF BOARD OF COUNTY COMMISSIONERS.—The board of county commissioners shall determine the training and qualifications of any employee of the county or municipal park or recreation department designated to enforce the provisions of this section if the designated employee is not a regular law enforcement officer.

(4) *DUMPING LITTER* ~~ACTS~~ PROHIBITED.—*Unless otherwise authorized by law or permit,* it is unlawful for any person to *dump* ~~throw, discard, place, or deposit~~ litter in any manner or amount:

(a) In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor; when any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;

(b) In or on any freshwater lake, river, or stream or tidal or coastal water of the state; when any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or

(c) In or on any private property, unless prior consent of the owner has been given and unless such litter will not cause a public nuisance or be in violation of any other state or local law, rule, or regulation.

(5) PENALTIES; ENFORCEMENT.—

(a) Any person who dumps litter in violation of subsection (4) in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes is guilty of a noncriminal infraction, punishable by a civil penalty of $50. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

(b) Any person who dumps litter in violation of subsection (4) in an amount exceeding 15 pounds in weight or 27 cubic feet in volume, but not exceeding 500 pounds in weight or 100 cubic feet in volume, and not for commercial purposes, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, the court shall require the violator to pick up litter or perform other community service commensurate with the offense committed. Further, if the violation involves the use of a motor vehicle, upon a finding of guilt, whether or not adjudication is withheld or whether imposition of sentence is withheld, deferred, or suspended, the court shall forward a record of the finding to the Department of Highway Safety and Motor Vehicles, which shall record a penalty of three points on the violator's driver's license pursuant to the point system established by s. 322.27.

(c) Any person who dumps litter in violation of subsection (4) in an amount exceeding 500 pounds in weight or 100 cubic feet in volume or in any quantity for commercial purposes, or dumps litter which is a hazardous waste as defined in s. 403.703, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. In addition, the court may order the violator to:

1. Remove, or render harmless, the litter that he dumped in violation of this section;

2. Repair or restore property damaged by, or pay damages for any damage arising out of, his dumping litter in violation of this section; or

3. Perform public service relating to the removal of litter dumped in violation of this section or to the restoration of an area polluted by litter dumped in violation of this section.

(d) A court may enjoin a violation of this section.

(e) A motor vehicle, vessel, aircraft, container, crane, winch, or machine used to dump litter that exceeds 500 pounds in weight or 100 cubic feet in volume is declared contraband and is subject to forfeiture in the same manner as provided in ss. 932.703 and 932.704.

(f) If a person sustains damages arising out of a violation of this section that is punishable as a felony, a court, in a civil action for such damages, shall order the person to pay the injured party threefold the actual damages or $200, whichever amount is greater. In addition, the court shall order the person to pay the injured party's court costs and attorney's fees. A final judgment rendered in a criminal proceeding against a defendant under this section estops the defendant from asserting any issue in a subsequent civil action under this paragraph which he would be estopped from asserting if such judgment were rendered in the civil action, unless the criminal judgment was based upon a plea of no contest or nolo contendere.

(g) For the purposes of this section, if a person dumps litter from a commercial vehicle, that person is presumed to have dumped the litter for commercial purposes.

(h) In the criminal trial of a person charged with violating this section, the state does not have the burden of proving that the person did not have the right or authority to dump the litter or that litter dumped on private property causes a public nuisance. The defendant has the burden of proving that he had authority to dump the litter and that the litter dumped does not cause a public nuisance.

~~(a) Any person violating the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. The court may impose the additional penalties of picking up litter or performing other labor commensurate with the offense committed.~~

(i)~~(b)~~ It shall be the duty of all law enforcement officers~~, as defined herein,~~ to enforce the provisions of this section.

(6) ENFORCEMENT OF OTHER REGULATIONS.—This section does not limit the authority of any state or local agency to enforce other laws, rules, or ordinances relating to litter or solid waste management.

Section 57. Subsection (3) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(3) There is established a point system for evaluation of convictions of violations of motor vehicle laws or ordinances, *and violations of applicable provisions of s. 403.413(5)(b) when such violations involve the use of motor vehicles,* for the determination of the continuing qualification of any person to operate a motor vehicle. The department is authorized to suspend the license of any operator or chauffeur upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances, *or applicable provisions of s. 403.413(5)(b),* amounting to 12 or more points as determined by the point system. The suspension shall be for a period of not more than 1 year.

(a) When a licensee accumulates 12 points within a 12-month period, the period of suspension shall be for not more than 30 days.

(b) When a licensee accumulates 18 points, including points upon which suspension action is taken under paragraph (a), within an 18-month period, the suspension shall be for a period of not more than 3 months.

(c) When a licensee accumulates 24 points, including points upon which suspension action is taken under paragraphs (a) and (b), within a 36-month period, the suspension shall be for a period of not more than 1 year.

(d) The point system shall have as its basic element a graduated scale of points assigning relative values to convictions of the following violations:

1. Reckless driving, willful and wanton—4 points.

2. Leaving the scene of an accident resulting in property damage of more than $50—6 points.

3. Unlawful speed resulting in an accident—6 points.

4. Passing a stopped school bus—4 points.

5. Unlawful speed:

a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.

b. In excess of 15 miles per hour of lawful or posted speed—4 points.

6. Improper equipment or the operation of a motor vehicle which is in an unsafe condition pursuant to s. 316.610—2 points; except that when the operator corrects the defect within 10 days from the date upon which the traffic citation was issued—0 points. The provisions of this subparagraph shall not apply to violations of s. 316.610 by a commercial motor vehicle as defined in s. 316.003(66) or transit buses owned and operated by a governmental entity.

7. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points. However, no points shall be imposed for a violation of s. 316.1001.

8. Any moving violation covered above resulting in an accident—4 points.

9. Any conviction under s. 403.413(5)(b)—3 points.

(e) A conviction in another state of a violation therein which, if committed in this state, would be a violation of the traffic laws of this state, or a conviction of an offense under any federal law substantially conforming to the traffic laws of this state, except a violation of s. 322.26, may be recorded against a driver on the basis of one-half the number of points received had the conviction been made in a court of this state.

(f) In computing the total number of points, when the licensee reaches the danger zone, the department is authorized to send the licensee a warning letter advising that any further convictions may result in suspension of his driving privilege.

(g) The department shall administer and enforce the provisions of this law and may make rules and regulations necessary for its administration.

(h) Three points shall be deducted from the driver history record of any person whose driving privilege has been suspended only once pursuant to this subsection and has been reinstated, if such person has complied with all other requirements of this chapter.

(i) This subsection shall not apply to persons operating a nonmotorized vehicle for which a driver's license is not required.

Section 58. *Litter pickup and removal.—The Florida Youth Conservation Corps and local governments are encouraged to initiate programs to supplement the existing litter removal program for public places and highway systems operated by the Department of Transportation. To the extent that funds are available from the department for litter pickup and removal programs beyond those annually available to the Department of Corrections, priority shall be given to contracting for supplemental litter removal programs that use youth employment programs.*

Section 59. *The Department of Agriculture and Consumer Services in cooperation with the Institute of Food and Agricultural Sciences and the Department of Environmental Regulation shall implement demonstration projects in Alachua County to exhibit the feasibility of composting yard trash from a typical municipal solid waste stream. Funds shall be made available from the Solid Waste Management Trust Fund for such project activities in fiscal year 1988-1989. At least one demonstration project shall be in Alachua County. All such projects must be completed by February 1, 1990.*

Section 60. *The Department of Environmental Regulation, in cooperation with Brevard, Dixie, Franklin, Taylor, and Wakulla Counties, shall undertake demonstration projects in fiscal year 1988-1989 to find acceptable solutions to problems created from the disposal of seafood processing byproducts, including shellfish parts, at public landfills. Such project shall:*

(1) Identify alternatives for disposing of such seafood processing byproducts; and

(2) Determine the feasibility of disposing of such seafood processing byproducts in an environmentally acceptable manner.

Section 61. *(1) The Applications Demonstration Center for Resource Recovery from Solid Organic Materials is hereby created, which shall be operated to demonstrate and evaluate advanced low-cost technologies for treatment of solid waste and improvement of water quality that were developed from research in the state for treating municipal solid waste and wastewater while producing methane gas and other beneficial products, which research was funded by the United States Department of Energy, the Environmental Protection Agency, the Gas Research Institute, United Gas Pipeline, Southern California Edison, and the State of Florida, and from similar research and development programs in this state and elsewhere directed toward developing resource recovery technologies applicable to brewery wastes, food-processing residues, municipal wastes, and other industrial organic wastes that threaten the quality of the environment in this state.*

(2) The demonstration center shall use existing wastewater treatment channels and test-beds with engineered anaerobic digester devices, sludge, organic municipal solid waste, energy crops, and associated lands, in cooperation with Reedy Creek Energy Services, Inc., the manager of the land and treatment plant, and the Gas Research Institute, the owner of the anaerobic digestion system.

(3) The Institute of Food and Agricultural Sciences at the University of Florida shall operate the demonstration center in cooperation with Reedy Creek Energy Services, Inc.

(4) The Florida Cooperative Extension Service shall conduct workshops at the Applications Demonstration Center for Resource Recovery from Solid Organic Materials to demonstrate applicable technologies to municipal, county, and industrial waste managers:

(a) For reducing the potential for eutrophication in off-site waterbodies and the adverse effects associated with conventional ways of treating solid organic wastes;

(b) For using energy crops to extract nutrients from waste water and sludges spread on land; and

(c) For producing methane gas, compost, and other useful products in the process of managing wastes.

(5) There is hereby created a program advisory committee consisting of seven members to advise the Institute of Food and Agricultural Sciences in the operation of the Applications Demonstration Center for Resource Recovery from Solid Organic Materials. The Department of Environmental Regulation, the Department of Natural Resources, and the Governor's Energy Office shall each appoint a representative to serve as a member of the advisory committee. The Dean of the Cooperative Extension Service and the Director of Energy Extension Programs at the University of Florida shall appoint the other four members of the advisory committee for terms not exceeding 4 years.

Section 62. *Use of private services in solid waste management.—In providing services or programs for solid waste management, local governments and state agencies should use the most cost-effective means for the provision of services and are encouraged to contract with private persons for any or all of such services or programs in order to assure that such services are provided on the most cost-effective basis. Notwithstanding any special or general law to the contrary, no county or municipality shall adopt or enforce regulations that discriminate against privately owned solid waste management facilities because they are privately owned. However, nothing in this section shall interfere with the county's or municipality's ability to control the flow of solid waste within its boundaries pursuant to this chapter.*

Section 63. *Notice of taxes; publication and mail.—*

(1) Within 20 days after receipt of the certified roll, the tax collector shall mail to each taxpayer appearing on the assessment roll, whose post-office address is known to him, a tax notice stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment. The notice shall be accompanied by a printed statement as provided in s. 197.342, Florida Statutes. The postage shall be paid out of the general fund of the county, upon statement thereof by the tax collector. The form of the notice must contain:

(a) The name of the county, the tax year, and the complete mailing address of the tax collector for that county to which the taxpayer can return the receipt part of the tax notice;

(b) The complete mailing address for at least one of the owners of the property;

(c) The legal description of the property up to at least 25 characters and the unique parcel or tax identification number of the property;

(d) A disclosure, appropriately labeled, showing the total amount of combined levies and the total discounted amount due each month when paid in advance;

(e) A schedule listing the assessed value, exempted value, and taxable value of the property;

(f) Subheadings for columns listing the local governments, the corresponding millage rates expressed in dollars and cents per $1,000 of taxable value, and the associated tax amounts; and

(g) The names of the local governments listed in the same sequence and manner in which they were listed on the notice of proposed property taxes as required by s. 200.069(4)(a), Florida Statutes, with the exception that independent special districts, municipal service taxing units, and voted debt service millages for each local government must be listed separately. If a county has too many municipal service taxing units to list separately, it shall combine them to disclose the total number of such units and the amount of taxes levied.

(2) Notwithstanding s. 197.322(3), Florida Statutes, the provisions of this section shall be effective and shall operate only for tax year 1989.

Section 64. Effective January 1, 1990, and applicable to tax years beginning on or after that date, subsections (3) and (4) of section 197.102, Florida Statutes, are amended, and subsection (7) is added to said section, to read:

197.102 Definitions.—As used in this chapter, the following definitions apply, unless the context clearly requires otherwise:

(3) "Tax certificate" means the document issued when *the combined total of* any real property *ad valorem* taxes *and non-ad valorem* ~~or special~~ assessments collectible under this chapter *becomes* ~~become~~ delinquent and *the combined total of* such taxes *and non-ad valorem* ~~or~~ assessments *is* ~~are~~ paid by a person who is not the property owner or acting as an agent of the property owner or when *the combined total of* such taxes *and non-ad valorem* ~~or~~ assessments *is* ~~are~~ not paid and the certificate is issued to the county in which the real property lies.

(4) "Tax notice" means the tax bill sent to taxpayers for payment of any taxes or special assessments collected pursuant to this chapter, *or the bill sent to taxpayers for payment of the total of ad valorem taxes and non-ad valorem assessments collected pursuant to s. 197.3632.*

(7) When a local government uses the method set forth in s. 197.3632, the following definitions shall apply:

(a) "Ad valorem tax roll" means the roll prepared by the property appraiser and certified to the tax collector for collection.

(b) "Non-ad valorem assessment roll" means a roll prepared by a local government and certified to the tax collector for collection.

Section 65. Effective January 1, 1990, and applicable to tax years beginning on or after that date, subsection (3) of section 197.322, Florida Statutes, is amended to read:

197.322 Delivery of *ad valorem tax and non-ad valorem* assessment *rolls* ~~roll~~; notice of taxes; publication and mail.—

(3) Within 20 *working* days after receipt of the certified *ad valorem tax* roll *and the non-ad valorem assessment rolls*, the tax collector shall mail to each taxpayer appearing on *said rolls* ~~the assessment roll~~, whose post-office address is known to him, a tax notice stating the amount of current taxes due from the taxpayer and, if applicable, the fact that back taxes remain unpaid and advising the taxpayer of the discounts allowed for early payment. *Pursuant to s. 197.3632, the form of the notice of non-ad valorem assessments and notice of ad valorem taxes shall be as provided in s. 197.3635 and no other form shall be used, notwithstanding the provisions of s. 195.022.* The notice shall be accompanied by a printed statement as provided in s. 197.342. The postage shall be paid out of the general fund of *each local governing board* ~~the county~~, upon statement thereof by the tax collector.

Section 66. Effective January 1, 1990, and applicable to tax years beginning on or after that date, section 197.363, Florida Statutes, is amended to read:

197.363 Special assessments and service charges; optional method of collection.—

(1) At the option of the property appraiser, special assessments collected pursuant to this section prior to the effective date of this subsection may be collected pursuant to this section after the effective date of this subsection. However, any local governing board collecting non-ad valorem assessments pursuant to s. 197.363 on the effective date of this subsection may elect to collect said assessments pursuant to s. 197.3632. In the event of such election, the local governing board shall notify the property appraiser and tax collector in writing and comply with s. 197.3632(2) and the applicable certification provisions of s. 197.3632(5). If a local governing board amends any non-ad valorem assessment roll certified under this provision, the local governing board shall comply with all applicable provisions of s. 197.3631.

(2)~~(1)~~ *In accordance with subsection (1)* ~~Notwithstanding other provisions of law~~, special assessments authorized by general or special law or the State Constitution may be collected as provided for ad valorem taxes under this chapter if:

(a) The entity imposing the special assessment has entered into a written agreement with the property appraiser, at his option, providing for reimbursement of administrative costs incurred under this section;

(b) A resolution authorizing use of this method for collection of special assessments is adopted at a public hearing;

(c) Affected property owners have been provided by first-class mail prior notice of both the potential for loss of title that exists with use of this collection method and the time and place of the public hearing required by paragraph (b);

(d) The property appraiser has listed on the assessment roll the special assessment for each affected parcel;

(e) The dollar amount of the special assessment has been included in the notice of proposed property taxes; and

(f) The dollar amount of the special assessment has been included in the tax notice issued pursuant to s. 197.322.

(3)~~(2)~~ When collected by using the method provided for ad valorem taxes, special assessments shall be subject to all collection provisions of this chapter, including provisions relating to discount for early payment, prepayment by installment method, penalty for delinquent payment, and issuance of tax certificates and tax deeds for nonpayment, and shall also be subject to the provisions of s. 192.091(2)(b)2.

(4)~~(3)~~ If the requirements of subsection *(2)*~~(1)~~ which are imposed upon the collection of special assessments are not met, the collection of such special assessments shall be by the manner provided in the ordinance or resolution establishing such special assessments. The manner of collection established in any ordinance or resolution shall be in compliance with all general or special laws authorizing the levy of such special assessments, and in no event shall the ordinance or resolution provide for use of the ad valorem collection method.

(5)~~(4)~~ The tax collector of a county may act as agent for the county in collecting service charges if the board of county commissioners of the county and the tax collector establish by agreement a manner in which service charges may be collected. The board of county commissioners shall compensate the tax collector for the actual cost of collecting such service charges. However, tax certificates and tax deeds may not be issued for nonpayment of service charges, and such charges shall not be included on a bill for ad valorem taxes.

(6) Effective January 1, 1990, no new special assessments may be collected pursuant to this section.

Section 67. Effective January 1, 1990, and applicable to tax years beginning on or after that date, section 197.3631, Florida Statutes, is created to read:

197.3631 Non-ad valorem assessments: general provisions.—Non-ad valorem assessments as defined in s. 197.3632 may be collected pursuant to the method provided for in ss. 197.3632 and 197.3635. The method specified in s. 197.3632 is one authorized alternative for imposing non-ad valorem assessments by local governing boards. Non-ad valorem assessments may also be collected pursuant to any alternative method which is authorized by law, but such alternative method shall not require the tax collector or property appraiser to perform those services as provided for in ss. 197.3632 and 197.3635. However, a property appraiser or tax collector may contract with a local government to supply information and services necessary for any such alternative method. Any county operating under a charter adopted pursuant to s. 11, Art. VIII of the Constitution of 1885, as amended, as referred to in s. 6(e), Art. VIII of the Constitution of 1968, as amended, may use any method authorized by law for imposing and collecting non-ad valorem assessments.

Section 68. Effective October 1, 1989, and applicable to tax years beginning on or after that date, section 197.3632, Florida Statutes, is created to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(1) As used in this section:

(a) "Levy" means the imposition of a non-ad valorem assessment, stated in terms of rates, against all appropriately located property by a governmental body authorized by law to impose non-ad valorem assessments.

(b) "Local government" means a county, municipality, or special district levying non-ad valorem assessments.

(c) "Local governing board" means a governing board of a local government.

(d) "Non-ad valorem assessment" means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.

(e) "Non-ad valorem assessment roll" means the roll prepared by a local government and certified to the tax collector for collection.

(f) "Compatible electronic medium" or "media" means machine-readable electronic repositories of data and information, including, but not limited to, magnetic disk, magnetic tape, and magnetic diskette technologies, which provide, without modification, that the data and information therein are in harmony with and can be used in concert with the data and information on the ad valorem tax roll keyed to the property identification number used by the property appraiser.

(2) A local governing board shall enter into a written agreement with the property appraiser and tax collector providing for reimbursement of necessary administrative costs incurred under this section. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming.

(3)(a) Notwithstanding any other provision of law to the contrary, a local government which is authorized to impose a non-ad valorem assessment and which elects to use the uniform method of collecting such assessment as authorized in this section shall adopt a resolution at a public hearing prior to January 1. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the department by January 10.

(b) Annually by June 1, the property appraiser shall provide each local government using the uniform method with the following information by list or compatible electronic medium: the legal description of the property within the boundaries described in the resolution, and the names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform in format to that contained on the ad valorem roll submitted to the department. The property appraiser is not required to submit information which is not on the ad valorem roll or compatible electronic medium submitted to the department. If the local government determines that the information supplied by the property appraiser is insufficient for the local government's purpose, the local government shall obtain additional information from any other source.

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between June 1 and September 15, if:

1. The non-ad valorem assessment is levied for the first time;

2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;

3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or

4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

(b) At least 20 days prior to the public hearing, the local government shall notice the hearing by first class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the local government will collect by the assessment; a statement

that failure to pay the assessment will cause a tax certificate to be issued against the property, which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time and place of the hearing. However, notice by mail shall not be required if notice by mail is otherwise required by general or special law governing a taxing authority and such notice is served at least 30 days prior to the authority's public hearing on adoption of a new or amended non-ad valorem assessment roll. The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

(c) At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons. The local governing board may adjourn the hearing from time to time. If the local governing board adopts the non-ad valorem assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment. Notwithstanding the notices provided for in paragraph (b), the local governing board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the board will provide or has provided to the property with the revenue generated by the assessment.

(5) By September 15 of each year, the chairman of the local governing board or his designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chairman or his designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

(6) If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll. However, the local governing board shall annually inform the property appraiser, tax collector, and department by January 10 if it intends to continue using the uniform method of collecting such assessment.

(7) Non-ad valorem assessments collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge a non-ad valorem assessment roll to produce such a notice, he shall mail a separate notice of non-ad valorem assessments or he shall direct the local government to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the local government and taxpayers of such a separate mailing, and the adverse effects to the taxpayers of delayed and multiple notices. The local government whose roll could not be merged shall bear all costs associated with the separate notice.

(8)(a) Non-ad valorem assessments collected pursuant to this section shall be subject to all collection provisions of this chapter, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(b) Within 30 days following the hearing provided in subsection (4), any person having any right, title, or interest in any parcel against which an assessment has been levied may elect to prepay the same in whole, and the amount of such assessment shall be the full amount levied, reduced, if the local government so provides, by a discount equal to any portion of the assessment which is attributable to the parcel's proportionate share of any bond financing costs, provided the errors and insolvency procedures available for use in the collection of ad valorem taxes pursuant to s. 197.492 are followed.

(c) Non-ad valorem assessments shall also be subject to the provisions of s. 192.091(2)(b), or the tax collector at his option shall be compensated for the collection of non-ad valorem assessments based on the actual cost of collection, whichever is greater. However, a municipal or county government shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments.

(9) The department shall adopt rules to implement the provisions of this section.

Section 69. Effective January 1, 1990, and applicable to tax years beginning on or after that date, section 197.3635, Florida Statutes, is created to read:

197.3635 Combined notice of ad valorem taxes and non-ad valorem assessments; requirements.—A form for the combined notice of ad valorem taxes and non-ad valorem assessments shall be produced and paid for by the tax collector. The form shall meet the requirements of this section and department rules and shall be subject to approval by the department. By rule the department shall provide a format for the form of such combined notice. The form shall meet the following requirements:

(1) It shall contain the title "Notice of Ad Valorem Taxes and Non-ad Valorem Assessments." It shall also contain a receipt part that can be returned along with the payment to the tax collector.

(2) It shall provide a clear partition between ad valorem taxes and non-ad valorem assessments. Such partition shall be a bold horizontal line approximately 1/8 inch thick.

(3) Within the ad valorem part, it shall contain the heading "Ad Valorem Taxes." Within the non-ad valorem assessment part, it shall contain the heading "Non-ad Valorem Assessments."

(4) It shall contain the county name, the assessment year, the mailing address of the tax collector, the mailing address of one property owner, the legal description of the property to at least 25 characters, and the unique parcel or tax identification number of the property.

(5) It shall provide for the labeled disclosure of the total amount of combined levies and the total discounted amount due each month when paid in advance.

(6) It shall provide a field or portion on the front of the notice for official use for data to reflect codes useful to the tax collector.

(7) The combined notice shall be set in type which is 8 points or larger.

(8) The ad valorem part shall contain the following:

(a) A schedule of the assessed value, exempted value, and taxable value of the property.

(b) Subheadings for columns listing taxing authorities, corresponding millage rates expressed in dollars and cents per $1,000 of taxable value, and the associated tax.

(c) Taxing authorities listed in the same sequence and manner as listed on the notice required by s. 200.069(4)(a), with the exception that independent special districts, municipal service taxing districts, and voted debt service millages for each taxing authority shall be listed separately. If a county has too many municipal service taxing units to list separately, it shall combine them to disclose the total number of such units and the amount of taxes levied.

(9) Within the non-ad valorem assessment part, it shall contain the following:

(a) Subheadings for columns listing the levying authorities, corresponding assessment rates expressed in dollars and cents per unit of assessment, and the associated assessment amount.

(b) The purpose of the assessment, if the purpose is not clearly indicated by the name of the levying authority.

(c) A listing of the levying authorities in the same order as in the ad valorem part to the extent practicable. If a county has too many municipal service benefit units to list separately, it shall combine them by function.

(10) It shall provide instructions and useful information to the taxpayer. Such information and instructions shall be nontechnical to minimize confusion. The information and instructions required by this section shall be provided by department rule and shall include:

(a) Procedures to be followed when the property has been sold or conveyed.

(b) Instruction as to mailing the remittance and receipt along with a brief disclosure of the availability of discounts.

(c) Notification about delinquency and interest for delinquent payment.

(d) Notification that failure to pay the amounts due will result in a tax certificate being issued against the property.

(e) A brief statement outlining the responsibility of the tax collector, the property appraiser, and the taxing authorities. This statement shall be accompanied by directions as to which office to contact for particular questions or problems.

Section 70. Section 197.342, Florida Statutes, is amended to read:

197.342 *Millage and Tax Statement* ~~Notice of taxes~~; content and form.—

(1) A statement *titled "Millage and Tax Statement"* shall accompany the original notice of taxes and shall include:

(a) One table consisting of six separate columns and appropriate totals for each column, which table shall show for each taxing authority in the aggregate:

1. In the first column, each applicable rolled-back millage rate computed pursuant to s. 200.065(1) for every nonvoted millage levy and the applicable millage levied for the prior year for each millage levy adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

2. In the second column, an extension of the amount of taxes that would have been levied had the millage rates in the first column been adopted.

3. In the third column, the actual applicable millage rate or rates levied by the taxing authority.

4. In the fourth column, the amount of taxes actually levied by the taxing authority, based on the rates shown in the third column.

5. In the fifth column, the difference between the amounts in columns four and two.

6. In the sixth column, the percentage of change from column two to column four.

(b) A separate table listing in one column the identity of each taxing authority levying an amount less than or equal to the rolled-back rate computed pursuant to s. 200.065(1) and a second column identifying each taxing authority levying an amount in excess of that rate.

(2) The form of the statement, including appropriate headings and column descriptions, shall be prescribed by department rule and shall be brief and nontechnical to minimize confusion for the average taxpayer.

Section 71. *Waste newsprint disposal fees.—*

(1) On and after January 1, 1989, there is hereby imposed upon every producer or publisher within the state a product waste disposal fee of 10 cents per ton of newsprint consumed. The waste disposal fee imposed by this section shall be collected from producers or publishers based upon the total weight of newsprint actually consumed in their publications.

(2) The product waste disposal fee imposed by this section shall be reported and paid to the Department of Revenue quarterly. A credit of 10 cents per ton of newsprint against the fee obligation may be taken by the producer or publisher for overruns or such similar products not actually circulated or delivered. The credit of 10 cents per ton is also allowed against the fee obligation for each ton of recycled newsprint used in publication of products. The payment shall be accompanied by such form as the Department of Revenue may prescribe. The proceeds of the product waste disposal fee collected pursuant to this section, less administrative costs, shall be transferred to the Solid Waste Management Trust Fund. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder, and shall be only for those costs solely and directly attributable to the fee.

(a) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, Florida Statutes, except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fees shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a), Florida Statutes, nor shall the dealer's credit for collecting taxes or fees provided in s. 212.12, Florida Statutes, apply to this fee.

(b) The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

(3) If the Department of Environmental Regulation determines on October 1, 1992, by the preponderance of evidence, that newsprint sold within the state is being recycled at a rate of 50 percent or more of the quantity sold within the state, the product waste disposal fee on newsprint shall be rescinded. If the department determines on that date, by a preponderance of evidence, that newsprint sold within the state is being recycled at a rate of less than 50 percent of the quantity sold within the state, the product waste disposal fee on newsprint shall be increased to 50 cents per ton and the credits authorized by subsection (2) shall be increased to 50 cents per ton, effective October 1, 1992. If the product waste disposal fee on newsprint is increased on October 1, 1992, the provisions of subsections (4) and (5) shall also be implemented effective on October 1, 1992.

(4) Any producer or publisher using newsprint in publications shall accept from a person for recycling purposes reasonably clean newsprint previously produced, published, or offered for sale by that producer or publisher. Publications accepted for recycling shall be accepted at the place where they were produced or published or at other convenient sites offered by the producers or publishers.

(5) The producer or publisher may claim a credit of 25 cents per ton of newsprint utilized in publications by their facility that have been returned and made available for recycling. Such claims shall be made quarterly to the Department of Revenue and shall be accompanied by such documentation of the claim as the Department of Revenue requires.

(6) In no event shall credits pursuant to this section exceed the fee obligation.

(7) For purposes of this section, "newsprint" means paper, the primary use of which is for the printing of newpapers.

(8) This section expires October 1, 1995, and shall be reviewed by the Legislature prior to that date.

Section 72. *Advance disposal fee program.—*

(1) The Legislature finds that containers which are made from plastic, glass, aluminum, plastic coated paper, or other metals and which are improperly discarded represent a significant solid waste problem in this state. Finding a solution to litter problems involving containers has been challenging and difficult for the public and private sectors. The Legislature has determined that a program operated with the established goals and implemented in phases is the most appropriate way to solve problems of litter involving containers. This act is intended to create the necessary infrastructure to help solve comprehensive solid waste management problems facing the state over the next 5 years. However, if the recycling facilities and programs created under this act are not adequate to meet the legislated recycling goals, additional mechanisms are provided to be implemented in phases to help assure that litter problems involving containers are solved and that the reduction of the solid waste stream can be accomplished.

(2) If the Department of Environmental Regulation determines on October 1, 1992, by a preponderance of evidence, that containers which are made of glass, plastic, aluminum, plastic coated paper, or other metals and which sold in this state are not being recycled at a sustained rate of 50 percent of the quantities that these individual types of containers are sold within the state, the advance disposal fee program created by subsection (3) shall be implemented. The requirements of this section that apply to plastic containers shall apply individually to the categories of plastic containers identified in s. 403.708(9), Florida Statutes.

(3)(a) If the department makes the finding specified in subsection (2), there shall be an advance disposal fee of one cent per container charged by retail establishments on those types of containers sold in the state.

(b) The proceeds of the advance disposal fee collected pursuant to paragraph (a), less the cost of administration, shall be reported and paid quarterly and shall be transferred into the Container Recycling Trust Fund which is hereby created in the Department of Revenue. For the purposes of this section, "proceeds" of the fee shall mean all funds collected and received by the department hereunder, including interest and penalties on delinquent fees. The amount deducted for the costs of administration shall not exceed 3 percent of the total revenues collected hereunder, and shall be only those costs solely and directly attributable to the fee. The Department of Revenue shall determine the amount which needs to be reserved in the Container Recycling Trust Fund each quarter for refunds and administrative costs. Any amount above that reserve shall be transferred quarterly to the Solid Waste Management Trust Fund for the purposes specified therein.

(c) The Department of Revenue shall administer, collect, and enforce the fee authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the general state sales tax imposed under chapter 212, Florida Statutes, except as provided in this section. The provisions of this section regarding the authority to audit and make assessments, keeping of books and records, and interest and penalties on delinquent fees shall apply. The fees shall not be included in the computation of estimated taxes pursuant to s. 212.11(1)(a), Florida Statutes, nor shall the dealer's credit for collecting taxes or fees provided in s. 212.12, Florida Statutes, apply to this fee.

(d) The Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses for which funds are appropriated by the Legislature. The department is empowered to adopt such rules and shall prescribe and publish such forms as may be necessary to effectuate the purposes of this section. The department is authorized to establish audit procedures and to assess delinquent fees.

(4) The Department of Environmental Regulation shall adopt rules to accomplish the following:

(a) Establishing reporting requirements necessary to obtain necessary sales and recycling information to implement this section and section 73 of this act;

(b) Establishing the criteria to determine whether the 50-percent recycling rate has been achieved; and

(c) Establishing the criteria for registration of public and private recycling centers.

(5) The information obtained for purposes of paragraph (4)(a) relating to sales information of individual businesses shall be exempt from the provisions of chapter 119, Florida Statutes. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14, Florida Statutes. All other records and information shall be considered public records for purposes of chapter 119, Florida Statutes.

(6)(a) Containers for which an advance disposal fee has been charged may be returned to recycling centers which have registered with the department, pursuant to department rule, for a refund on the advance disposal fee in addition to payment for the market value of the product from which the container is made. Unclaimed moneys which remain in the Container Recycling Trust Fund shall be allocated to support container recycling programs as follows:

1. For capital assistance grants, 60 percent;

2. For litter control, 15 percent;

3. For promotion and education, 10 percent;

4. For technical assistance, 8 percent;

5. For research and development, 5 percent; and

6. For administration, 2 percent.

(b) No more than monthly, or at times determined by rule of the Department of Revenue, operators of registered recycling centers may certify to the Department of Revenue, on forms provided by the Department of Revenue, the amount of refunds of the advance disposal fee which have been paid to purchasers and shall receive a refund from the Container Recycling Trust Fund. The Department of Revenue shall establish audit procedures for registered recycling center operators.

(7) If the Department of Environmental Regulation determines by October 1, 1995, that containers made of glass, plastic, aluminum, plastic coated paper, or other metals, and sold in the state are not being recycled at a rate of 50 percent of the quantities that these individual types of containers are sold within the state, the advance disposal fee program created by subsection (3) shall increase to two cents per container and the provisions of section 73 shall be implemented. Such fees shall not apply to those types of containers that are recycled at a rate of 50 percent or more.

(8) The provisions of this section and section 73 are repealed October 1, 1995, and shall be reviewed by the Legislature prior to that date.

Section 73. *Containers; deposit; recycling and return.—*

(1) DEFINITIONS.—As used in section 72 and this section:

(a) "Container" means the individual, separate, and sealed glass, plastic, aluminum, plastic coated paper, or other metal can, bottle, or jar, not less than 5 ounces in capacity and in which the contents have been sealed by the manufacturer.

(b) "Consumer" means any person who purchases a container for consumption of its contents with no intent to resell such container.

(c) "Dealer" means any person in this state who engages in the sale of containers to a consumer, and the term includes an operator of a vending machine containing containers. This term does not include a person licensed pursuant to chapter 509 or chapter 561, Florida Statutes, who sells or offers for sale containers, the contents of which are consumed on the premises; nor a common carrier in the conduct of interstate passenger service who sells, offers for sale, or distributes to its passengers, containers, the contents of which are consumed on the premises.

(d) "Distributor" means any person who engages in the sale of containers to a dealer in this state including any manufacturer who engages in such sales.

(e) "Manufacturer" means any person bottling, canning, or otherwise filling containers for sale to distributors or dealers.

(f) "Nonrefillable container" means a container which, after being used by a consumer, is not to be reused as a container by a manufacturer.

(g) "Refillable container" means a container which is intended to be reused as a container at least five times by a manufacturer after being initially used by a consumer.

(h) "Redemption center" means a business other than a dealer or distributor which offers to redeem for the amount of deposit any empty container.

(2) REFUND VALUE REQUIRED.—

(a) Every container sold or offered for sale in this state shall have a refund value established by the distributor of not less than 5 cents.

(b) Each container shall have the refund value, and the word "Florida" or the letters "Fla.", clearly indicated by embossing, by a stamp, or by a label or other device securely fixed to any portion of the container other than the bottom. A dealer, redemption center, or distributor may refuse to accept from a person any empty container which does not state such information on the container. This subsection does not apply to containers sold by a distributor for use by a common carrier in the conduct of interstate passenger service.

(c) This subsection does apply to any refillable container having a brand name permanently marked thereon which, on the effective date of this act, has a refund value of not less than 10 cents.

(d) The requirements of this subsection relating to refund value shall not apply to those types of containers that meet the requirements of recycling of subsection (2) in section 72.

(3) CONSUMERS, DEALERS, DISTRIBUTORS, AND VENDING MACHINE OPERATORS; REQUIRED PRACTICES.—

(a) Each consumer shall deposit with the dealer the refund value of each container purchased from that dealer. However, no deposit shall be required if the container is sold for consumption of the beverage contained therein on the premises.

(b) Except as provided in paragraph (d), a dealer shall accept from any consumer or other person not a dealer any empty, unbroken, and reasonably clean container of the type, size, and brand sold by the dealer within the past 60 days and shall pay in cash the refund value of the returned container.

(c) A dealer shall inform consumers that containers are returnable by placing a sign or shelf label, or both, in close proximity to any sales display of containers. The sign or label shall indicate the amount of deposit required for each container and that the containers are returnable. If a dealer participates in a redemption center, the location of that redemption center shall be posted.

(d) A dealer may limit the total number of containers that he will accept from any one consumer in any business day to 96 containers. The dealer may refuse to accept containers for a period of not more than 3 hours during any business day, provided that the hours during which containers will not be accepted are conspicuously posted.

(e) Each operator of a vending machine which sells containers shall post a conspicuous notice on the vending machine indicating that a refund is available on each container purchased and indicating where and from whom that refund may be obtained. This paragraph does not require vending machine operators to provide refunds at the premises wherein such vending machines are located.

(f) A distributor shall accept from a dealer any empty, unbroken, and reasonably clean container of the type, size, and brand sold by the distributor within the past 60 days and shall pay the dealer or his agent, within 10 working days, the refund value of the container plus a handling fee of at least 20 percent of the refund value of each container.

(g) A distributor may refuse to accept from any person who is not a dealer a quantity of fewer than 599 containers of the type, size, and brand sold by the distributor.

(h) A distributor shall not be required to pay a manufacturer a deposit on a nonrefillable container.

(i) Any person may establish a redemption center and may determine what type, size, and brand of container shall be accepted. The redemption center may contract with a dealer or a distributor to collect and provide for the recycling of empty containers. The distributor shall accept any empty, unbroken, and reasonably clean container of the type, size, and brand sold by the distributor within the past 60 days and shall pay to the redemption center, within 10 working days, the refund value of the container, plus a handling fee of not less than 20 percent of the refund values.

(4) DEPARTMENT OF ENVIRONMENTAL REGULATION; POWERS AND DUTIES.—The Department of Environmental Regulation shall adopt rules necessary to administer this section, including rules for the regulation of redemption centers. The rules shall provide that state informational material, including but not limited to travel pamphlets and road maps, printed after December 31, 1988, shall contain information related to this section. Such informational material shall contain a statement relating to the deposit law, urging travelers to avoid littering.

(5) EDUCATIONAL MATERIALS.—The Department of Education shall incorporate information concerning this section into educational materials distributed to primary and secondary schools within the state, urging an end to littering.

(6) PENALTY.—Any person who violates any of the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

(7) EFFECTIVE DATE.—This section shall take effect October 1, 1995.

Section 74. Effective January 1, 1989, subsections (1) and (2) of section 212.12, Florida Statutes, as amended by chapter 87-548, Laws of Florida, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner and remitter (except dealers who make mail order sales) shall be allowed *2.5* ~~3~~ percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; and the department shall allow such deduction of *2.5* ~~3~~ percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds *$1,200* ~~$1,000~~, the *2.5-percent* ~~3 percent~~ allowance shall be reduced to *0.83* ~~1~~ percent for all amounts in excess of *$1,200* ~~$1,000~~. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or $50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown.

(c) The collection allowance and other credits or deductions provided in this part shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax *or fee* imposed by this chapter fails to timely file such return or fails to pay the tax *or fee* due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes *or fees*, a specific penalty shall be added to the tax *or fee* in the amount of 5 percent of any unpaid tax *or fee* if the failure is for not more than 30 days, with an additional 5 percent of any unpaid tax *or fee* for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed, how-

ever, a total penalty of 25 percent, in the aggregate, of any unpaid tax *or fee*. In no event may the penalty be less than $5 for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax *or fee* imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax *or fee* shall be liable to a specific penalty of 50 percent of the tax bill *or fee* and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.

Section 75. Effective January 1, 1989, subsection (5) of section 212.04, Florida Statutes, as amended by chapter 87-548, Laws of Florida, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section; and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe; and the department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of *2.5* ~~3~~ percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds *$1,200* ~~$1,000~~, the *2.5-percent* ~~3-percent~~ discount shall be reduced to *0.83* ~~1~~ percent for all amounts in excess of *$1,200* ~~$1,000~~.

Section 76. Effective January 1, 1989, subsection (5) is added to section 212.18, Florida Statutes, to read:

212.18 Administration of law; rules and regulations.—

(5) In addition to any other fee imposed under this part, persons who hold a certificate of registration granted under subsection (3) and who had taxable sales or purchases during the preceding calendar year of $30,000 or more shall pay an additional annual registration fee for each certificate of registration granted. For certificateholders with taxable sales or purchases during the preceding calendar year of at least $30,000 but not more than $200,000, the fee shall be $25. For certificateholders with taxable sales or purchases during the preceding calendar year of $200,000 or more the fee shall be $50. However, the fee pursuant to this subsection shall not exceed $10,000 for any dealer who files a consolidated return pursuant to s. 212.11. The fee shall be due and payable with the person's January return or his first quarterly return each year. The department shall transfer such fees to the Secretary of the Treasury to be deposited into the Solid Waste Management Trust Fund. Failure to comply with the provisions of this subsection shall subject such person to penalties provided under s. 212.12(2), Florida Statutes.

Section 77. Effective February 1, 1989, section 212.237, Florida Statutes, is created to read:

212.237 Solid Waste Management Trust Fund deposits.—Notwithstanding ss. 212.20(1) and 218.61, an amount equal to two-tenths of 1 percent of the proceeds remitted pursuant to this part by a dealer shall be transferred into the Solid Waste Management Trust Fund which is created in the State Treasury. For purposes of this section, the term "proceeds" means all funds collected and received by the Department of Revenue, including any interest and penalties.

Section 78. Effective July 1, 1988, or upon this act becoming a law, whichever occurs later, present paragraphs (e), (f), (g), and (i) of subsection (5) of section 212.08, Florida Statutes, as amended by chapter 87-548, Laws of Florida, are redesignated as paragraphs (f), (g), (h), and (j), respectively, paragraph (h) is redesignated and amended, and a new paragraph (e) is added to said subsection to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by part I of this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(e) Machinery and equipment for processing recyclable materials.—

1. Industrial machinery and equipment purchased after July 1, 1988, for use in manufacturing facilities or plant units which manufacture, process, compound or produce for sale items of tangible personal property at fixed locations in this state and meeting the following requirements are exempt from the tax imposed by this chapter, to the extent provided in this paragraph:

a. The machinery and equipment is integral to recycling, as defined in s. 403.703 and certified to the department by the Department of Environmental Regulation under the provisions of s. 403.715;

b. The machinery and equipment is expressly designed to utilize recyclable materials in manufacturing, processing, compounding or producing for sale items of tangible personal property; and

c. The machinery and equipment is directly used to increase the consumption by the taxpayer at a single location of Florida-source recyclable materials by not less than 10 percent as certified by the taxpayer. If the taxpayer is a corporation, this requirement shall apply to all members of the affiliated group to which it belongs, if any, as defined in s. 220.03(1)(b).

2. The provisions of s. 212.08(5)(b)5. and 212.08(5)(b)6.a. shall apply to this paragraph. The department may require by rule that the increase in consumption of Florida-source recyclable materials shall be measured in the same fashion as the increase in productive output is measured pursuant to s. 212.08(5)(b) and applicable rules.

3. The exemption provided in this paragraph shall inure to the taxpayer by refunds of previously paid taxes. Following the first full year in which the machinery and equipment is in operation, the taxpayer shall apply to the department for a refund of sales taxes paid, providing such information on sales tax paid, machinery and equipment purchased and the use of Florida-source recyclable materials as the department may require. Upon the determination by the department that all requirements for a refund have been met, such refund shall be issued.

4. The provisions of s. 212.095, except for subsections (8) and (9), shall not apply to refunds granted pursuant to this paragraph.

5. This paragraph shall expire and be void on October 1, 1991.

(i)~~(h)~~ Business property used in an enterprise zone.—

1. Business property purchased for use by businesses located in an enterprise zone which is subsequently used in an enterprise zone shall be exempt from the tax imposed by this chapter if no less than 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary employees. This exemption inures to the business only through a refund of previously paid taxes. A refund shall be authorized upon an affirmative showing by the taxpayer to the satisfaction of the department that the requirements of this paragraph have been met.

2. To receive a refund, the business must file under oath, after the employment requirements of subparagraph 8. have been satisfied, an application which includes:

a. The name and address of the business claiming the refund.

b. The refund permit number assigned pursuant to s. 212.095 to such business.

c. Either the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the business is located, or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the business is located in an enterprise zone.

d. A specific description of the property for which a refund is sought, including its serial number or other permanent identification number.

e. The location of the property.

f. The sales invoice or other proof of purchase of the property, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the property was purchased.

g. The name and address of each permanent employee of the business, including, for each employee who is a resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides or such alternative proof as may be prescribed by the department, with the concurrence of the secretary of the Department of Community Affairs, that the employee is a resident of an enterprise zone.

3. The provisions of s. 212.095(4) do not apply to any refund application made pursuant to this paragraph. The amount refunded on purchases of business property under this paragraph shall be 97 percent of the sales tax paid on such business property. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. No refund shall be granted under this paragraph unless the amount to be refunded exceeds $100 in sales tax paid on purchases made within a 60-day time period.

4. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

5. If the department determines that the business property is used outside an enterprise zone within 3 years from the date of purchase, the amount of taxes refunded to the business purchasing such business property shall immediately be due and payable to the department by the business, together with the appropriate interest and penalty, computed from the date of purchase, in the manner provided by this chapter.

6. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount deposited in the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 218.61 for the county area in which the business property is located and shall transfer that amount to the General Revenue Fund.

7. For the purposes of this exemption, the term "business property" means new or used property defined as "recovery property" in s. 168(c) of the Internal Revenue Code of 1954, as amended, except:

a. Property classified as 3-year property under s. 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

b. Industrial machinery and equipment as defined in sub-subparagraph (b)6.a.; and

c. Building materials as defined in sub-subparagraph *(h)*~~(g)~~6.a.

8. The employment requirements established by this paragraph shall be met during the time period beginning 90 days prior to the date of the initial purchase for which a refund is sought and ending 90 days after the date of the last purchase for which a refund is sought under this paragraph. However, if the business did not exist or was not operating in the enterprise zone 90 days prior to the date of the initial purchase, the employment requirements established by this paragraph shall be met for not less than 90 days after the date of the last purchase for which a refund is sought.

9. The provisions of this paragraph shall expire and be void on December 31, 1994.

Section 79. Paragraphs (e) and (f) of subsection (1) of section 290.007, Florida Statutes, are amended to read:

290.007 Incentives and programs available in enterprise zones.—

(1) STATE INCENTIVES AND PROGRAMS.—The following incentives and programs are provided by the state to encourage the revitalization of enterprise zones:

(e) The sales tax exemption for building materials used in the rehabilitation of real property in enterprise zones provided in s. 212.08(5)*(h)*~~(g)~~.

(f) The sales tax exemption for business equipment used in an enterprise zone provided in s. 212.08(5)*(i)*~~(h)~~.

Section 80. Subsection (1) of section 403.7221, Florida Statutes, is amended to read:

403.7221 Research, development, and demonstration permits.—

(1) The department may issue a research, development, and demonstration permit to the owner or operator of any *solid waste management* ~~hazardous waste treatment~~ facility who proposes to utilize an innovative and experimental *solid* ~~hazardous~~ waste treatment technology or process for which permit standards have not been promulgated. Permits shall:

(a) Provide for construction and operation of the facility for not longer than 1 year, renewable no more than 3 times.

(b) Provide for the receipt and treatment by the facility of only those types and quantities of *solid* ~~hazardous~~ waste which the department deems necessary for purposes of determining the performance capabilities of the technology or process and the effects of such technology or process on human health and the environment.

(c) Include requirements *the department deems necessary which may include* ~~regarding~~ monitoring, operation, testing, financial responsibility, closure, and remedial action.

Section 81. Subsection (2) of section 196.199, Florida Statutes, is amended to read:

196.199 Exemptions for property owned by governmental units.—

(2) Property owned by the following governmental units, but used by nongovernmental lessees, shall only be exempt from taxation under the following conditions:

(a) Leasehold interests in property of the United States, of the state or any of its several political subdivisions, or of municipalities, agencies, authorities, and other public bodies corporate of the state shall be exempt from ad valorem taxation only when the lessee serves or performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(5). In all such cases, all other interests in the leased property shall also be exempt from ad valorem taxation. *However, a leasehold interest in property of the state may not be exempted from ad valorem taxation when a nongovernmental lessee uses such property for the operation of a multipurpose hazardous waste treatment facility.*

(b) Except as provided in paragraph (c), the exemption provided by this subsection shall not apply to those portions of a leasehold or other interest defined by s. 199.023(1)(d), subject to the provisions of subsection (7). Such leasehold or other interest shall be taxed only as intangible personal property pursuant to chapter 199 if rental payments are due in consideration of such leasehold or other interest. If no rental payments are due pursuant to the agreement creating such leasehold or other interest, the leasehold or other interest shall be taxed as real property. Nothing in this paragraph shall be deemed to exempt personal property, buildings, or other real property improvements owned by the lessee from ad valorem taxation.

(c) Any governmental property leased to an organization which uses the property exclusively for literary, scientific, religious, or charitable purposes shall be exempt from taxation.

Section 82. Subsection (7) of section 403.1834, Florida Statutes, is amended to read:

403.1834 State bonds to finance or refinance facilities; exemption from taxation.—

(7) It is found and declared that said facilities will constitute a public governmental purpose necessary for the health and welfare of all the inhabitants of the state, and none of said facilities or said state bonds or the interest thereon shall ever be subject to taxation by the state or any political subdivision or agency thereof. *However, a leasehold interest in property of the state or the facilities thereon may not be exempted from ad valorem taxation when a nongovernmental lessee uses such property for the operation of a multipurpose hazardous waste treatment facility.* The exemption granted by this subsection shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

Section 83. *(1) There is hereby appropriated for fiscal year 1988-1989 from the Solid Waste Management Trust Fund to the Department of Environmental Regulation the sum of $25,675,000 for grants to local governments for operating recycling and related education programs as authorized by s. 403.7095, Florida Statutes. Of this amount, $20 million shall be used for the purposes in s. 403.7095(4), Florida Statutes, relating to operating recycling programs; $5 million shall be used for the purposes of s. 403.7095(5), Florida Statutes, relating to carrying out educa-*

tional programs relating to recycling efforts; and $675,000 shall be used for the purposes of s. 403.7095(7), Florida Statutes, relating to the small county assistance program.

(2) There is hereby appropriated for fiscal year 1988-1989 from the waste tire account in the Solid Waste Management Trust Fund to the Department of Environmental Regulation the sum of $3,750,000 for grants or activities relating to recycling waste tires authorized by section 43 and s. 336.044, Florida Statutes. Of this amount, $150,000 shall be transferred to the Department of Transportation to carry out the purposes of s. 336.044, Florida Statutes, and there is hereby appropriated the sum of $150,000 from the waste tire account in the Solid Waste Management Trust Fund to the nonprofit corporation established pursuant to s. 946.504, Florida Statutes, for fiscal year 1988-1989 to:

(a) Examine the feasibility of having certain correctional facilities serve as statewide waste tire processing facilities for operating machinery which cuts waste tires into pieces or which produces products from waste tires for resale; and

(b) Determine the feasibility of having certain correctional facilities serve as statewide processing facilities for recycling plastic materials recovered from the local government solid waste stream and made into products for use by the Department of Transportation or other state agencies.

(3) There is hereby appropriated for fiscal year 1988-1989 from oil overcharge settlement funds in the Grants and Donations Trust Fund, Office of the Governor, to the Solid Waste Management Trust Fund within the Department of Environmental Regulation the sum of $2.5 million to promote public awareness and to encourage reuse, return, and proper disposal of used oil. Of such amount, the sum of $500,000 is authorized to carry out the provisions of s. 403.753, Florida Statutes; the sum of $1 million is authorized to carry out the provisions of s. 403.761, Florida Statutes; and the sum of $1 million is authorized to carry out the provisions of s. 403.763, Florida Statutes. The department shall coordinate such programs with the Governor's Energy Office to assure that funds from the Grants and Donations Trust Fund are administered according to federal and judicial requirements.

(4) There is hereby appropriated for fiscal year 1988-1989 from the Solid Waste Management Trust Fund to the Department of Environmental Regulation the sum of $750,000 for grants to local governments which operated recycling programs prior to the effective date of this act.

(5) There is hereby appropriated for fiscal year 1988-1989 from the oil overcharge settlement funds in the Grants and Donations Trust Fund, Office of the Governor, to the Solid Waste Management Trust Fund the sum of $16 million to provide initial funding for programs and activities authorized by this act. The department shall coordinate such programs with the Governor's Energy Office to assure that such appropriation is consistent with the judicially determined purpose for funds from the Grants and Donations Trust Fund and is consistent with the administrative purposes for such funds as determined by the United States Department of Energy. The Department of Environmental Regulation and the Governor's Energy Office shall cooperate to develop the necessary application information and other documentation to implement the requirements of this appropriation.

(6) There is hereby appropriated for fiscal year 1988-1989 $500,000 from oil overcharge settlement funds in the Grants and Donations Trust Fund, Office of the Governor, to the Institute of Food and Agricultural Sciences for operation of, and conducting technology transfer workshops at, the Applications Demonstration Center for Resource Recovery from Solid Organic Materials, and for conducting the workshops after a proposed operating and applications demonstration plan has been received by the Governor's Energy Office and that office has determined that the project is eligible for funding from oil overcharge settlement funds.

(7) There is hereby appropriated for fiscal year 1988-1989 the sum of $500,000 from the Solid Waste Management Trust Fund to the Board of Regents for the 1988-1989 fiscal year to perform the research activities described in section 50. Of this amount, $100,000 shall be used in conjunction with any financial resources from business and industry made available for research and testing of the process for manufacturing degradable polystyrene foam products used in conjunction with food for human consumption.

(8) There is hereby appropriated for fiscal year 1988-1989 the sum of $850,000 from the Solid Waste Management Trust Fund to the Department of Environmental Regulation and an additional 15 positions are authorized to carry out the agency's responsibilities pursuant to this act.

(9) There is hereby appropriated for fiscal year 1988-1989 from the Solid Waste Management Trust Fund to the Department of Agriculture and Consumer Services the sum of $100,000 to conduct demonstration projects on composting yard trash from a typical municipal waste stream.

(10) There is hereby appropriated for fiscal year 1988-1989 from the Solid Waste Management Trust Fund to the Department of Environmental Regulation the sum of $500,000 for a demonstration project on alternative ways for disposing of seafood processing byproducts as authorized by section 60 of this act.

(11) There is hereby reserved within the Professional Regulation Trust Fund the sum of $225,000 to be used for research, or contract for research, to determine ways to use ground rubber from used tires in roofing materials and other building construction products and to determine ways to demonstrate the use of recycled commingled plastic products in building construction applications such as dock facilities, agricultural structures, and ornamental landscaping.

(12) There is hereby transferred from the Florida High Technology Innovation Research and Development Trust Fund to the Solid Waste Management Trust Fund the sum of $750,000 to be used by the Department of Environmental Regulation for grants to private persons for innovative recycling projects which will demonstrate applications and products from recyclable materials including plastic, tires, roofing materials and other materials designated by the department. No later than June 30, 1989, the sum of $1,000,000 shall be transferred from the Solid Waste Trust Fund to the Florida High Technology Innovation Research and Development Trust Fund.

(13) There is hereby appropriated for fiscal year 1988-1989 the sum of $50,000 from the Solid Waste Management Trust Fund to the Department of Health and Rehabilitative Services and an additional 2 positions are authorized to carry out the agency's responsibilities pursuant to this act.

(14) There is hereby appropriated for fiscal year 1988-1989 from the Solid Waste Management Trust Fund to the Department of General Services the sum of $200,000, and an additional 3 positions are authorized for implementing the responsibilities required by this act.

(15) There is hereby appropriated for fiscal year 1988-1989 from the Solid Waste Management Trust Fund to the Department of Revenue the sum of $110,000, and an additional 3 positions are authorized, for implementing the responsibilities required by this act.

(16) There is hereby appropriated from the Solid Waste Management Trust Fund for fiscal year 1988-1989 the sum of $1,000,000 for the Department of Transportation to carry out the powers and duties of the Clean Florida Commission. The sum of $500,000 is authorized for the development of a highly visible anti-litter campaign. The sum of $250,000 is authorized for grants to local governments and local nonprofit organizations for the establishment of local litter prevention programs. The sum of $100,000 is authorized for the establishment and first-year operating costs of Keep Florida Beautiful, Incorporated, contingent upon its registration, incorporation, and operation as a nonprofit corporation in compliance with chapter 617, Florida Statutes. The sum of $150,000 is authorized to otherwise carry out the powers and duties of the commission. Of the $150,000 to otherwise carry out the duties of the commission, no more than $75,000 shall be used for administration. For subsequent budget years, the Department of Transportation shall include a budget request from the Solid Waste Management Trust Fund for the continuation of financial assistance to Keep Florida Beautiful, Incorporated, and any other necessary components of the state litter prevention program.

(17) There is hereby appropriated from the Solid Waste Management Trust Fund to the Department of Natural Resources the sum of $90,000 for the programs described in section 58 of this act.

Section 84. Except as otherwise provided herein, this act shall take effect October 1, 1988.

Conference Committee Amendment 2—

On page 1, line 1, through page 8, line 24, strike all of said lines and insert: A bill to be entitled An act relating to waste management; repealing s. 403.701, F.S.; removing the short title of the "Florida Resource Recovery and Management Act"; amending s. 403.702, F.S.; revising findings and purpose; amending s. 403.703, F.S.; revising definitions; amending ss. 316.003 and 319.30, F.S., to conform; amending s. 403.704, F.S.; revising powers and duties of the Department of Environmental Regulation; creating s. 403.7043, F.S.; directing the department to establish standards relating to compost; providing for compliance therewith; providing certain exceptions; amending s. 403.7045, F.S.; revising the wastes and activities regulated under the act; creating s. 403.7049, F.S.; requiring counties and municipalities to determine the full cost for solid waste management and to provide certain cost information to users of solid waste management services; encouraging the use of an enterprise fund to operate such services; authorizing the charging of certain fees and providing for collection; amending s. 403.705, F.S.; providing for a state solid waste management program and providing requirements with respect thereto; requiring an annual report; providing for development of information and workshops; amending s. 403.706, F.S.; providing duties and responsibilities of counties and municipalities with respect to operation of solid waste disposal facilities and collection and transportation of solid waste; providing for fees; requiring counties to implement recycling programs and providing requirements with respect thereto; providing for municipal participation; providing municipal solid waste reduction goals; authorizing the department to modify such goals under certain circumstances; requiring annual reports by counties; providing for the undertaking of county and municipal responsibilities by certain persons; providing procedures for determination of a franchisee or other person to undertake certain recycling responsibilities; providing for joint county and municipal development of recycling programs; providing for determination of a local agency to administer a solid waste management or recycling program; requiring certain notice; providing construction with respect to local ordinances and authority and duties of local governments; requiring certain solid waste management facilities to weigh solid waste; specifying application of the act to special districts or other entities with solid waste management powers; providing that local governments not in compliance are ineligible for certain grants and funds; amending s. 403.7065, F.S.; providing requirements with respect to procurement of products or materials with recycled content by governmental agencies; amending s. 430.707, F.S.; providing requirements for permitting of solid waste management facilities; providing activities and areas that do not require a permit; providing requirements applicable to disposal of construction and demolition debris; providing certain duties of water management districts; providing requirements with respect to construction permits; requiring registration of persons who transport biohazardous waste; providing grounds for refusal of permits; amending s. 403.7075, F.S., relating to requirements applicable to submission of plans for certain solid waste management facilities; amending s. 403.708, F.S.; specifying prohibited activities and penalties; prohibiting the sale of beverages in certain containers; prohibiting the sale of certain containers; authorizing the Division of Alcoholic Beverages and Tobacco and the Department of Agriculture and Consumer Services to impose fines for violations; providing for disposition of fines; requiring the labeling of plastic container products; prohibiting retail outlets from providing certain plastic bags to customers; providing for fines and for disposition thereof; prohibiting the distribution and sale of products packaged in certain containers and of certain foam or paper products; prohibiting the disposal of specified solid wastes in landfills and other facilities; requiring the acceptance of used lead-acid batteries as trade-ins; creating s. 403.7085, F.S., relating to the disposal of animal parts, fats, byproducts, waste products, and vegetable oils; amending s. 403.709, F.S.; eliminating provisions relating to grants for local resource recovery and management programs; creating the Solid Waste Management Trust Fund and specifying uses thereof; creating s. 403.7095, F.S.; directing the department to develop a grant program for county and municipal solid waste management recycling and education programs; providing for distribution of grants; specifying uses of grants; providing procedures and requirements for award of grants; providing for annual grants; providing for grants for recycling awards for fiscal year 1988-1989; amending s. 403.712, F.S., relating to issuance of revenue bonds for the construction or maintenance of solid waste management facilities; amending s. 403.713, F.S., relating to transport of solid waste; amending s. 403.714, F.S.; specifying the duties of state agencies, the judicial branch, and the State University System with respect to collection of recyclable materials and waste reduction; providing duties of the Department of Commerce with respect to assisting and encouraging the recycling industry; specifying duties of the Department of Agriculture and Consumer Services and other state agencies and local governments regarding compost materials; requiring reports; providing duties of the Department of Education regarding collection of recyclable materials and solid waste reduction and instructional programs; providing duties of the district school boards; providing for recycling programs within a Capitol recycling demonstration area; amending s. 403.715, F.S.; revising requirements relating to certification of resource recovery equipment for sales tax exemption purposes and providing for certification of recycling equipment; renumbering s. 203.10, F.S., relating to tax on gross receipts of commercial hazardous waste facilities; amending s. 403.75, F.S.; providing definitions relating to used oil; amending s. 403.751, F.S.; specifying prohibited actions with respect to used oil; amending s. 403.753, F.S.; providing duties of the Department of Environmental Regulation regarding procurement of recycled oils for government use; authorizing a price preference; amending s. 403.754, F.S.; revising provisions relating to registration of persons maintaining a used oil collection facility; providing an exemption from registration requirements; amending s. 403.7545, F.S.; correcting a reference; amending s. 403.757, F.S.; directing the nonprofit corporation organized to operate correctional work programs and the Department of Transportation to examine certain uses of used oil; requiring reports; amending s. 403.758, F.S.; correcting a reference; amending s. 403.759, F.S.; providing for deposit of proceeds relating to used oil in the Solid Waste Management Trust Fund; creating s. 403.760, F.S.; directing the department to encourage the establishment of public used oil collection centers and recycling programs; providing duties of such centers; providing duties of the Department of Agriculture and Consumer Services; providing conditions under which certain costs may not be recovered from owners or operators of such centers and certain authority may not be used against such persons; creating s. 403.761, F.S.; authorizing the department to establish an incentives program for return of used oil to a collection center; creating s. 403.763, F.S.; directing the department to develop a grants program for local governments to encourage reuse and proper disposal of used oil; creating s. 403.767, F.S.; providing for certification requirements for used oil transporters; creating s. 403.769, F.S.; requiring permits for the operation, modification, or closure of a used oil recycling facility; providing exemptions; repealing s. 403.8055(4), F.S., relating to the repeal of certain department rules; providing duties of the Department of Environmental Regulation relating to qualifications of and training programs for operators of solid waste landfills, coordinators of recycling programs, and other solid waste management facilities; requiring operators of solid waste management facilities to complete a training course; specifying liability of owners and operators of landfills for operation and closure thereof; providing for a fee or surcharge or other funding mechanism to ensure the financial resources to close a landfill; providing for deposit in an escrow account and providing requirements with respect thereto; providing a penalty; providing for use of revenues; authorizing an owner or operator to establish proof of financial responsibility in lieu of such requirements; providing duties of owners or operators of waste tire sites; providing requirements with respect to disposal of waste tires; directing the department to adopt rules relating to disposal of waste tires; providing for waste tire processing facility and collector and collection center permits and fees; providing exemptions; providing for an incentives program; requiring persons selling new tires to pay a fee; providing powers and duties of the Department of Revenue; providing for disposition of the proceeds; providing for administration and enforcement pursuant to chapter 212, F.S.; directing the department to establish a program of waste tire grants to counties; amending s. 159.445, F.S.; revising duties of the Florida High Technology Innovation Research and Development Board; amending s. 240.539, F.S.; revising duties of the Florida High Technology and Industry Council; amending s. 163.01, F.S.; providing that certain entities created under the Florida Interlocal Cooperation Act of 1969 may exercise the power of eminent domain; providing for application of certain privileges, immunities, and exemptions to such entities and their officers, agents, or employees; amending s. 187.201, F.S.; revising policies of the State Comprehensive Plan relating to solid waste and recycling; creating s. 287.05, F.S.; directing the Division of Purchasing to review and revise procurement procedures with respect to materials with recycled content or that may be recycled; providing requirements relating to invitations to bid; authorizing a price preference for certain bidders; authorizing requests to the division to evaluate certain products; creating s. 336.044, F.S.; requiring the Department of Transportation to review and modify certain specifications to facilitate the use of certain recycled materials; requiring the department to undertake certain demonstration projects and report to the Legislature; requiring the department to contract for certain investigation and evaluation relating to uses of waste tires; directing the depart-

ment to review and revise bid procedures with respect to materials with recycled content; providing for coordination of activities related to solid and hazardous waste management conducted by state universities by the Board of Regents; providing for award of research contracts to independent colleges and universities; providing for a study of commercial product packaging and requiring a report; creating s. 381.80, F.S.; providing for standards for the safe packaging, storage, treatment and disposal of biohazardous waste; providing duties of the Department of Health and Rehabilitative Services and the Department of Environmental Regulation; providing for enforcement and penalties; amending s. 395.002, F.S.; defining "biohazardous waste"; amending s. 395.0101, F.S., to conform; amending s. 377.709, F.S., relating to funding by electric utilities of local government solid waste facilities that generate electricity; revising a definition; directing the Public Service Commission to establish guidelines relating to purchase of capacity or energy by electric utilities from local government solid waste facilities; providing legislative intent that the state provide financial assistance for the establishment of Keep Florida Beautiful, Inc.; creating the Clean Florida Commission within the Department of Transportation to coordinate a statewide litter prevention program; providing its powers and duties; providing for grants to local governments and nonprofit organizations; requiring reports; directing placement of certain signs; amending s. 403.413, F.S.; revising the Florida Litter Law of 1971; providing definitions; prohibiting the dumping of litter in certain places; providing penalties; providing for injunctive relief; providing for forfeiture of certain property used in committing certain violations; providing for treble damages, attorney's fees, and court costs; providing that a final judgment in a criminal proceeding estops the defendant from asserting certain issues in a subsequent civil action; providing a presumption; providing for the burden of certain proof in a criminal proceeding; providing for enforcement by specified law enforcement officers; amending s. 322.27, F.S.; providing for driver's license points to be assessed for violation of specified provisions of the Florida Litter Law; authorizing the Department of Transportation to contract for certain supplemental litter removal; providing for demonstration projects by the Department of Agriculture and Consumer Services and the Department of Environmental Regulation; creating the Applications Demonstration Center for Resource Recovery from Solid Organic Materials, and prescribing its duties; creating an advisory committee; providing for contracting with private persons for solid waste management services; prohibiting certain discrimination; providing requirements with respect to non-ad valorem assessments; specifying information which must be contained in tax notices; amending s. 197.102, F.S.; redefining the terms "tax certificate" and "tax notice" and defining the terms "ad valorem tax roll" and "non-ad valorem assessment roll"; amending s. 197.322, F.S.; providing for notice of ad valorem taxes and non-ad valorem assessments; amending s. 197.363, F.S.; revising provisions relating to the method of collection of special assessments and service charges; restricting the application of such provisions; creating s. 197.3631, F.S.; providing general requirements relating to non-ad valorem assessments; creating s. 197.3632, F.S.; providing a uniform method for the levy, collection, and enforcement of non-ad valorem assessments; creating s. 197.3635, F.S.; providing for the form of combined notice of ad valorem taxes and non-ad valorem assessments; amending s. 197.342, F.S.; providing a title for a statement of tax information; providing for a waste newsprint disposal fee on newsprint; providing for credits; providing duties of the Department of Revenue; providing for administration and enforcement pursuant to chapter 212, F.S.; providing that the fee shall be rescinded or increased under certain circumstances; requiring producers and publishers to accept newsprint for recycling; providing for credits; providing for expiration; providing an advance disposal fee program; providing for disposition of proceeds of the fee; providing for administration and enforcement pursuant to chapter 212, F.S.; providing for rules; providing for refunds; providing for repeal and future review of such program; providing for deposits on containers; providing definitions; prescribing procedures for payment and refund of deposits; providing for notification of refundability; providing for establishment of redemption centers; providing for rules; requiring the distribution of certain information; prescribing penalties; amending s. 212.12, F.S.; revising the dealer's collection allowance for the collection of sales taxes; amending s. 212.04, F.S., to conform; amending s. 212.18, F.S.; requiring an annual registration fee for persons registered under said section; providing for penalties; creating s. 212.237, F.S.; providing for the deposit of certain sales tax collections in the Solid Waste Management Trust Fund; amending s. 212.08, F.S.; exempting certain machinery and equipment related to recycling from sales tax; providing requirements with respect thereto; providing for repeal; amending s. 290.007, F.S.; correcting references; amending s. 403.7221, F.S.; providing for research, development, and demonstration permits for solid waste management facilities; amending ss. 196.199 and 403.1834, F.S.; providing that a leasehold interest in property of the state or facilities thereon are not exempt from ad valorem taxation when the property is used by a nongovernmental lessee for a multipurpose hazardous waste treatment facility; providing appropriations and authorizing additional positions; providing effective dates.

On motion by Senator Kirkpatrick, the Conference Committee Report was adopted and CS for CS for SB 1192 passed as recommended and the action of the Senate was certified to the House together with the Conference Committee Report. The vote on passage was:

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Barron, Crawford, Vogt

SPECIAL ORDER, continued

The Senate resumed consideration of—

HB 1409—A bill to be entitled An act relating to the state lottery; amending s. 24.105, F.S.; prohibiting disclosure and authorizing disclosure of certain information relating to the lottery under specified circumstances; amending s. 24.108, F.S.; revising duties of the Division of Security of the Department of the Lottery; amending s. 24.111, F.S.; revising provisions which require certain vendors to post bond or deposit securities; authorizing filing of an irrevocable letter of credit; amending s. 24.112, F.S.; authorizing use of secretary's facsimile signature on contracts with retailers; revising provisions regarding access to lottery retailers for disabled persons; amending s. 24.116, F.S.; revising provisions which prohibit certain persons associated with vendors from purchasing lottery tickets; removing a prohibition against retailers, employees thereof, and their relatives purchasing lottery tickets on the retailer's premises; providing limitations on imposition of criminal sanctions for violations of s. 24.116, F.S., committed prior to the effective date of the act; amending s. 24.120, F.S.; authorizing funds in the Administrative Trust Fund to be invested by the Treasurer in annuities issued by insurance companies under certain conditions; amending s. 18.10, F.S. to conform; providing an effective date.

—as amended.

Point of Order

Senator Scott raised a point of order that pursuant to Rule 4.8, HB 1409, as amended, should be referred to the Committee on Appropriations because of the fiscal impact of Amendment 1.

The Presiding Officer appointed Senators Langley, Crenshaw and Gordon as a committee to consider the point of order and to make a recommendation to the Senate.

Further consideration of **HB 1409** was deferred.

On motions by Senator McPherson, by two-thirds vote CS for HB 1502 was withdrawn from the Committees on Economic, Community and Consumer Affairs; Finance, Taxation and Claims; and Appropriations.

On motion by Senator McPherson—

CS for HB 1502—A bill to be entitled An act relating to architecture and interior design; amending s. 20.30, F.S., renaming the Board of Architecture; amending s. 481.201, F.S., providing legislative intent; amending s. 481.203, F.S., modifying and adding definitions; amending s. 481.205, F.S., providing for additional members of the board; providing for an interior design advisory body; amending s. 481.2055, F.S., revising rulemaking authority; amending s. 481.207, F.S., expanding rulemaking authority relating to fees; providing a schedule of fees; amending s. 481.209, F.S., revising and clarifying certain examination requirements;

providing for acceptance of degrees from accredited or unaccredited schools or colleges; revising rulemaking authority relating to acceptance of certain degrees; providing a pre-examination internship requirement for architects; providing education and experience requirements for interior designers; amending s. 481.211, F.S., revising and clarifying certain internship requirements for architects; amending s. 481.213, F.S., revising and clarifying certain requirements for licensure and licensure by endorsement; creating s. 481.2131, F.S., providing practice requirements and for disclosure relative to interior designers; amending s. 481.215, F.S., providing a continuing education requirement for license renewal for interior designers; amending s. 481.217, F.S., revising requirements for license reactivation; amending s. 481.219, F.S., providing certain requirements relating to practice of architecture or use of the title "interior design" by a corporation or partnership; amending s. 481.221, F.S., providing for the use of a seal by licensees; requiring the use of certificate numbers in advertising; amending s. 481.223, F.S., providing a prohibition on the use of certain terms; amending s. 481.225, F.S., modifying grounds for disciplinary action against architects; creating s. 481.2251, F.S., providing disciplinary violations and penalties for interior designers; amending s. 481.227, F.S., conforming language; amending s. 481.229, F.S., providing exceptions and exemptions from licensure; amending s. 481.231, F.S., clarifying local effect; providing for waiver of examination requirements for interior designer license under certain circumstances; repealing s. 481.233, F.S., relating to the registration of certain architects; saving part I of chapter 481, F.S., from Sunset repeal; providing for future review and repeal; repealing s. 481.205(3), F.S., relating to the interior design advisory body; providing an appropriation; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 127 and read the second time by title.

Senator Margolis moved the following amendment which was adopted:

Amendment 1—On page 29, line 31; on page 30, lines 1-31; and on page 31, lines 1-20, strike all of said lines and renumber subsequent sections.

On motion by Senator McPherson, by two-thirds vote CS for HB 1502 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Crawford, Stuart

CS for SB 522—A bill to be entitled An act relating to water management; repealing s. 373.339, F.S., which excludes certain areas from regulation under specified laws relating to the regulation of wells; reviving and readopting ss. 373.0693, 373.0695, 373.073-373.087, 373.089-373.103, F.S., notwithstanding repeal scheduled under the Sundown Act; reviving and readopting ss. 373.323-373.336, 373.342, F.S., notwithstanding repeal scheduled under that act; providing for future repeal and review of ss. 373.323-373.336, F.S.; providing for future repeal and review of water management district regulatory programs and consideration of the report of the Environmental Efficiency Study Commission; amending s. 373.342, F.S.; providing for delegation of certain authority by a governing board of a water management district to its executive director; amending s. 373.323, F.S.; transferring from the Department of Environmental Regulation to the water management districts authority over licensing of water well contractors and registration of water well drillers; specifying prerequisites for driller registration; providing that registrations for drilling methods are valid throughout the state; amending s. 373.326, F.S.; transferring to water management districts the authority to grant exemptions from the provisions of law relating to the regulation of wells; amending s. 373.329, F.S.; specifying fees with respect to well driller registrations; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, line 14, strike "(1)"

Amendment 2—On page 2, line 18, through page 6, line 14, strike all of said lines and insert: act, and shall continue in full force and effect as amended herein.

Section 3. Section 373.302, Florida Statutes, is created to read:

373.302 Legislative findings.—The Legislature recognizes that the practice of constructing, repairing, and abandoning water wells, if conducted by incompetent contractors, is potentially threatening to the health of the public and to the environment. The Legislature finds that a threat to the public and the environment exists if water resources become contaminated as a result of wells drilled by incompetent or dishonest contractors, and that to prevent contamination it is necessary to regulate the construction, repair, and abandonment of wells, and the persons and businesses responsible therefor.

Section 4. Subsection (6) of section 373.303, Florida Statutes, is amended to read:

373.303 Definitions.—As used in this part, the term:

(6) "Water well contractor" means *a person who is responsible for the construction, repair, or abandonment of a water well and who is licensed under this part to engage* ~~any person, firm, or corporation engaged~~ in the business of *construction, repair, or abandonment of* ~~constructing~~ water wells.

Section 5. Subsection (2) of section 373.308, Florida Statutes, is amended to read:

373.308 Implementation of programs for regulating water wells.—

(2) The department shall authorize the governing board of a water management district to exercise any power authorized to be exercised by the department under ss. 373.309, 373.313, 373.316, 373.319, 373.323, ~~373.326,~~ 373.329, and 373.333 and shall encourage the district to fully exercise such powers as soon as practicable.

Section 6. Section 373.323, Florida Statutes, is amended to read:

373.323 *Licensure of* water well *contractors; application, qualifications, and examinations;* ~~contractor licenses; driller and drilling~~ equipment *identification* ~~registration.~~—

(1) ~~WATER WELL CONTRACTOR LICENSES.—~~

~~(a)~~ Every person who wishes to engage in business as a water well contractor shall obtain from the water management district a license to conduct such business.

(2) Each person desiring to be licensed as a water well contractor shall apply to take the licensure examination. Application shall be made to the water management district in which the applicant resides or in which his principal place of business is located. A resident of another state shall apply to the water management district in which most of the business of the applicant will take place. Application shall be made on forms provided by the water management district.

(3) An applicant who meets the following requirements shall be entitled to take the licensure examination to practice water well contracting:

(a) Is at least 18 years of age.

(b) Has at least 2 years' experience in constructing, repairing, or abandoning wells.

(c) Has completed the application form and remitted a nonrefundable application fee.

(4)~~(b) The department may adopt and from time to time amend rules and regulations governing applications for water well contractor licenses. The water management district shall license as a water well contractor any person properly making application therefor who is an adult for all legal purposes, has knowledge of rules and regulations adopted under this part, and has had not less than 2 years' experience in the work for which~~

~~he is applying for a license.~~ The department shall prepare an examination which *shall test an applicant's knowledge of rules and regulations adopted under this part; ability to construct, repair, and abandon a well; and ability to supervise, direct, manage, and control the contracting activities of a water well contracting business* ~~each such applicant must pass in order to qualify for such license~~. *The department shall provide each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the examination.*

(5) The water management district shall issue a water well contracting license to any applicant who receives a passing grade on the examination, has paid the initial application fee, and has complied with the requirements of this section. A passing grade on the examination shall be as established by the department by rule. A license issued by any water management district shall be valid in every water management district in the state.

(6)~~(c)~~ *An employee of* a political subdivision *or of a governmental entity* engaged in *water* well drilling shall be licensed *pursuant to* ~~under~~ this part but shall be exempt from paying ~~the license~~ fees *required pursuant to this part* ~~for the drilling done by regular employees of, and with equipment owned by, it.~~

(7) When a water management district has probable cause to believe that any person not licensed as a water well contractor has violated any provision of this part or any statute that relates to the construction, repair, or abandonment of water wells, or any rule adopted pursuant thereto, the water management district may issue and deliver to such person a notice to cease and desist from such violation. In addition, the water management district may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed construction, repair, or abandonment of a water well by employing an unlicensed person. For the purpose of enforcing a cease and desist order, a water management district may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of such order.

(8) The department shall adopt rules which specifically provide for uniformity among all water management districts for the application process and qualifications for licensure, providing each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.

~~(d) Licenses issued pursuant to this section are not transferable and shall expire on July 1 of each year. A license may be renewed without examination for an ensuing year by making application not later than 30 days after the expiration date and paying the applicable fee. Such application shall have the effect of extending the validity of the current license until a new license is received or the applicant is notified by the department that it has refused to renew his license. After July 31 of each year, a license will be renewed only upon application and payment of the applicable fee plus a penalty of $50.~~

~~(e) Whenever the department or water management district determines that the holder of any license issued pursuant to this section has violated any provision of this part or any rule or regulation adopted pursuant thereto, the department or water management district is authorized to suspend or revoke any such license. Any order issued pursuant to this subsection shall become effective 30 days after service thereof unless a written petition requesting hearing under the procedure provided in chapter 120 is filed sooner.~~

~~(f) No application for a license issued pursuant to this section may be made within 1 year after revocation thereof.~~

~~(g) No later than October 1, 1984, the department shall delegate to the water management districts the powers and duties relating to processing and issuing water well contractor licenses. A license issued by any water management district shall be valid anywhere in the state.~~

~~(2) DRILLER AND DRILLING EQUIPMENT REGISTRATION.—~~

~~(a) Every person who operates drilling equipment for the purpose of constructing wells shall register with each water management district in which construction activity takes place. The governing board shall, as minimum conditions of such registration, require:~~

~~1. A written recommendation from a licensed water well contractor verifying the status of the driller as an employee of the contractor.~~

~~2. Demonstration of sufficient experience and practical knowledge needed to operate drilling equipment of the type to be used in actual well construction.~~

~~3. A written examination considered appropriate by the board and designed to verify the driller's knowledge of commonly accepted drilling practices and applicable rules of the district and the department.~~

~~(b) It is the responsibility of each licensed water well contractor to annually notify the governing board of the district in which he resides or in which his principal place of business is located of all registered drillers in his employ. In addition, each licensed contractor shall notify the board in a timely manner if a registered driller ceases to be an employee.~~

(9)~~(c)~~ Each ~~licensed water well contractor shall register with the governing board each~~ piece of drilling equipment *owned, leased, or operated by a water well contractor shall have* ~~he owns, leases, or operates. Upon registration of the equipment,~~ the water well contractor's license number ~~shall be~~ prominently displayed thereon.

Section 7. Section 373.324, Florida Statutes, is created to read:

373.324 License renewal.—

(1) A water well contractor shall submit an application for renewal of a license to the water management district which issued the license.

(2) The water management district shall renew a license upon receipt of the renewal application and renewal fee.

(3) The department shall adopt rules establishing a procedure for the biennial renewal of licenses, which shall be adopted by each water management district.

(4) A license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to inactive status. Such license may be reactivated only if the licensee meets the qualifications for reactivation in s. 373.325.

(5) At least 60 days prior to the automatic reversion of a license to inactive status, the water management district shall mail a notice of such reversion to the last known address of the licensee.

Section 8. Section 373.325, Florida Statutes, is created to read:

373.325 Inactive status.—A license which has become inactive pursuant to s. 373.324 may be renewed or reactivated upon application to the water management district, as follows:

(1) A license which has been inactive for 1 year or less after the end of the biennium prescribed by the department may be renewed pursuant to s. 373.324 upon application to the water management district and upon payment of the renewal and penalty fees as provided in s. 373.329. Such renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(2) A license which has been inactive for more than 1 year may be reactivated upon application to the water management district for licensure pursuant to the requirements of s. 373.323.

Section 9. Section 373.326, Florida Statutes, is amended to read:

373.326 *Exemption* ~~Exemptions.—~~

~~(1) When the department finds that compliance with all requirements of this part would result in undue hardship, an exemption from any one or more such requirements may be granted by the department to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this part.~~

~~(2)~~ Nothing in this part shall prevent a person who has not obtained a license pursuant to s. 373.323 from constructing a well that is 2 inches or under in diameter, on his own or leased property, intended for use only in a single family house which is his residence, or intended for use only for farming purposes on his farm, and when the waters to be produced are not intended for use by the public or any residence other than his own~~.~~, *provided that* such *person* ~~persons shall~~ *complies* ~~comply~~ with all *local and state* rules and regulations *relating* ~~as~~ to *the* construction of *water* wells ~~adopted under this part~~.

Section 10. Section 373.329, Florida Statutes, is amended to read:

373.329 Fees *for licensure.—The department, by rule, shall establish fees to be paid for application for licensure, application for license renewal, and the penalty fee for renewal of a license which has been inactive for 1 year or less. The fees shall be based on the actual costs incurred by the water management districts in carrying out the responsibilities related to licensure of water well contractors as derived from estimates provided by the water management districts of the revenue required to implement this part, but shall not exceed the following amounts:*

(1) Application for initial licensure, $150.

(2) Biennial license renewal, $50.

(3) Penalty for renewal of a license which has been inactive for 1 year or less, $75.

All fees and other moneys collected by a water management district pursuant to this part shall be deposited in the general operating fund of the water management district. ~~The following fees are required:~~

~~(1) A fee of $100 shall accompany each new application for a license required under s. 373.323.~~

~~(2) A fee of $25 shall accompany each application for a renewal of license under s. 373.323.~~

Section 11. Section 373.333, Florida Statutes, is amended to read:

373.333 *Disciplinary guidelines; adoption and* enforcement*; license suspension or revocation.—*

(1) The department shall adopt, by rule, disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the water management districts, providing each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the disciplinary guideline rules as they are drafted. The disciplinary guidelines shall be adopted by each water management district. The guideline rules shall be consistently applied by the water management districts and shall:

(a) Specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses.

(b) Distinguish minor violations from those which endanger public health, safety, and welfare or contaminate the water resources.

(c) Inform the public of likely penalties which may be imposed for proscribed conduct.

A specific finding of mitigating or aggravating circumstances shall allow a water management district to impose a penalty other than that provided in the guidelines. Disciplinary action may be taken by any water management district, regardless of where the contractor's license was issued.

(2)~~(1)~~ Whenever the water management district has reasonable grounds for believing that there has been a violation of this part or any rule or regulation adopted pursuant hereto, it shall give written notice to the person alleged to be in violation. Such notice shall identify the provision of this part or regulation issued hereunder alleged to be violated and the facts alleged to constitute such violation.

(3)~~(2)~~ Such notice shall be served in the manner required by law for the service of process upon a person in a civil action or by registered United States mail to the last known address of the person. *The water management district shall send copies of such notice only to persons who have specifically requested such notice or to entities with which the water management district has formally agreed to provide such notice.* Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the water management district requiring remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order. *Upon compliance, notice shall be served by the water management district in a timely manner upon each person and entity who received notice of a violation, stating that compliance with the order has been achieved.*

(4) The following acts constitute grounds for which disciplinary actions specified in subsection (5) may be taken by a water management district:

(a) Attempting to obtain, obtaining, or renewing a license under this part by bribery or fraudulent misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of fraud or deceit or of gross negligence, incompetency, or misconduct in the performance of work, or of a crime in any jurisdiction which directly relates to the practice of water well contracting or the ability to practice water well contracting. A plea of nolo contendere shall create a presumption of guilt to the underlying criminal charges, and the water management district shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding his plea.

(c) Allowing any other person to use the license.

(d) Violating or refusing to comply with any provision of this part or a rule adopted by the department or water management district, or any order of the water management district previously entered in a disciplinary hearing.

(e) Constructing, repairing, or abandoning a water well without first obtaining all applicable permits.

(f) Having had administrative or disciplinary action relating to water well construction, repair, or abandonment taken by any municipality or county or by any state agency, which action shall be reviewed by the water management district before the water management district takes any disciplinary action of its own.

(g) Practicing with a revoked, suspended, or inactive license.

(5) When the water management district finds a person guilty of any of the grounds set forth in subsection (4), it may enter an order imposing one or more of the following disciplinary actions:

(a) Denial of an application for licensure or for renewal of a license.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Placement of the water well contractor on probation for a period of time subject to such conditions as the water management district may specify.

(e) Restriction of the licensee's authorized scope of practice.

(6) When disciplinary action is taken against a contractor which results in suspension or revocation of the contractor's license, a water management district shall notify each water management district of such action.

(7) The water management district shall reissue the license of a contractor whose license has been suspended or revoked upon determination by the water management district that the disciplined person has complied with all of the terms and conditions set forth in the final order.

Section 12. Section 373.335, Florida Statutes, is created to read:

373.335 Clearinghouse.—The department, in conjunction with the water management districts, shall establish a statewide clearinghouse which will allow each water management district to access information regarding water well contractor licensees and their license numbers, any violation by any such licensee, and any disciplinary action taken by a water management district.

Section 13. Section 373.336, Florida Statutes, is amended to read:

373.336 *Unlawful acts;* penalties.—

(1) It is unlawful for any person to:

(a) Practice water well contracting without an active license issued pursuant to this part.

(b) Construct, repair, or abandon a water well, or operate drilling equipment for such purpose, unless employed by or under the supervision of a licensed water well contractor or exempt under s. 373.326.

(c) Give false or forged evidence to obtain a license.

(d) Present as his own the license of another.

(e) Use or attempt to use a license to practice water well contracting which license has been suspended, revoked, or placed on inactive status.

(f) Engage in willful or repeated violation of this part or of any department rule or regulation or water management district or state agency rule or regulation relating to water wells which endanger the public health, safety, and welfare.

(2) It is unlawful for a business entity to engage in water well contracting or to perform any activity for which a license as a water well contractor is required unless a licensed water well contractor is responsible for supervising such activity of the business entity.

(3) Any person who violates any provision of this part or regulation or order issued hereunder shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in *s.* ~~ss.~~ 775.082, *s.* ~~and~~ 775.083, *or s. 775.084.* Continuing violation after *an order or conviction* ~~notice thereof~~ shall constitute a separate violation for each day so continued.

Section 14. Section 373.337, Florida Statutes, is created to read:

373.337 Rules.—The department shall, by July 1, 1989, adopt rules to implement the provisions of this part, providing each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.

Section 15. Subsection (1) of section 373.342, Florida Statutes, is amended to read:

373.342 Permits.—

(1) The governing board of any water *management* ~~regulatory~~ district which, pursuant to the authority ~~of s. 373.339 or pursuant to authority~~ delegated to it by the department under s. 373.308 or s. 373.309(2), regulates water wells may in its discretion authorize its executive director to issue permits for the construction, repair, or modification of any water well.

Section 16. *Section 373.339, Florida Statutes, is hereby repealed.*

Section 17. *Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, sections 373.323, 373.326, 373.329, 373.333, 373.336, and 373.342, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein.*

Section 18. *Sections 373.303, 373.323, 373.324, 373.325, 373.326, 373.329, 373.333, 373.335, 373.336, and 373.337, Florida Statutes, are repealed on October 1, 1998, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

(Renumber subsequent sections.)

Amendment 3—On page 2, line 26, insert:

Section 4. Section 373.083, Florida Statutes, is amended to read:

373.083 General powers and duties of the governing board.—

(1) In addition to other powers and duties allowed it by law, the governing board is authorized to:

(a)~~(1)~~ Contract with public agencies, private corporations, or other persons; sue and be sued; and appoint and remove agents and employees, including specialists and consultants.

(b)~~(2)~~ Issue orders to implement or enforce any of the provisions of this chapter or regulations thereunder.

(c)~~(3)~~ Make surveys and investigations of the water supply and resources of the district and cooperate with other governmental agencies in similar activities.

(2) The governing board is also authorized to delegate to a county or municipality, by rule, the power and duty to administer any of the statutes, rules, or regulations relating to stormwater permitting, which the district is authorized or required to administer, including those delegated by a state agency to the district, if the governing board determines that such a delegation is necessary or desirable. Such a delegation shall be made only if the governing board determines that the county's or municipality's program for administering the delegated statute, rule, or regulation:

1. Provides by ordinance, regulation, or local law for requirements compatible with or stricter or more extensive than those imposed by the statute or the rules and regulations adopted pursuant thereto;

2. Provides for the enforcement of such requirements by appropriate administrative and judicial processes; and

3. Provides for administrative organization, staff, and financial and other resources necessary to effectively and efficiently enforce such requirements.

(Renumber subsequent sections.)

Amendment 4—On page 2, line 26, insert:

Section 4. Subsection (3) of s. 373.226 is amended to read:

373.226 Existing uses.—

(3) Application for permit under the provisions of subsection (2) must be made within a period of 2 years from the effective date of implementation of these regulations in an area. *With respect to existing users of more than 150,000 gallons per day,* failure to apply within this period shall create a conclusive presumption of abandonment of the use, and the user, if he desires to revive the use, must apply for a permit under the provisions of s. 373.229. *With respect to existing users of 150,000 gallons per day or less, failure to apply within this period shall create a rebuttable presumption of abandonment of the use, and the user, if it is determined that the use has been abandoned and he desires to revive the use, must apply for a permit under the provisions of s. 373.229. Uses determined not to be abandoned shall be governed by s. 373.226(2).*

Amendment 5—On page 6, line 15, strike ", 373.414"

Amendment 6—In title, on page 1, line 20, after "director;" insert: amending s. 373.083, F.S.; authorizing water management districts to delegate certain powers and duties to local governments; providing for district remedies as an alternative to local enforcement of local regulations; providing for consolidation of law suits;

Amendment 7 —In title, on page 1, line 9, through page 2, line 3, strike all of said lines and insert: amending s. 373.323, F.S.; providing for application for licensure, examination of applicants, preparation of examination, and issuance of license with respect to water well contractors; providing for action to be taken by a water management district when unlicensed activity occurs; providing for adoption of rules; deleting provisions relating to renewal of a license, suspension, or revocation of a license, delegation of authority, and registration of drillers and drilling equipment; requiring display of contractor's license number on drilling equipment; creating s. 373.324, F.S.; providing for license renewal, adoption of rules, reversion to inactive status, and notice thereof; creating s. 373.325, F.S.; providing for renewal or reactivation of inactive license; amending s. 373.326, F.S.; providing an exemption from licensing requirements under certain circumstances; amending s. 373.329, F.S.; providing licensure fee caps as established by rule; increasing maximum fees for application for licensure and penalty fees for license renewal; amending s. 373.333, F.S.; providing for disciplinary guidelines by adoption of rules; providing grounds for disciplinary action; providing disciplinary actions, including license suspension or revocation; providing for notice; providing for reissuance of a suspended or revoked license; creating s. 373.335, F.S.; creating a statewide clearinghouse allowing water management districts to access certain information; amending s. 373.336, F.S.; providing unlawful acts and penalties; creating s. 373.337, F.S.; providing rulemaking authority of the Department of Environmental Regulation and adoption of rules by the water management districts; amending s. 373.342, F.S., to make technical changes; repealing s. 373.339, F.S., relating to preservation of existing regulations; saving ss. 373.323, 373.326, 373.329, 373.333, 373.336, and 373.342, F.S., from Sunset repeal; providing for future review and repeal; repealing ss. 373.413, 373.414, and 373.416, F.S., relating to permits for construction or alteration, wetlands, and permits for maintenance or operation; providing for future repeal and review of water management district regulatory programs and consideration of the report of the Environmental Efficiency Study Commission; providing an effective date.

Amendment 8—In title, on page 1, line 20, after "director" insert: amending s. 373.226, F.S.; providing procedures for existing users of 150,000 gallons per day or less of water who fail to timely apply for a permit;

Senator Kirkpatrick moved the following amendment:

Amendment 9—On page 2, line 7, strike everything after the enacting clause and insert:

Section 1. Paragraphs (b) and (c) of subsection (2) of section 373.069, Florida Statutes, are amended to read:

373.069 Creation of water management districts.—

(2) Notwithstanding the provisions of any other special or general act to the contrary, the boundaries of the respective districts named in subsection (1) shall include the areas within the following boundaries:

(b) Suwannee River Water Management District.—Begin in the Gulf of Mexico on the section line between Sections 29 and 32, Township 15 South, Range 15 East; thence east along the section lines to the southwest corner of Section 27, Township 15 South, Range 17 East; thence north along the section line to the northwest corner of Section 3, Township 15 South, Range 17 East; thence east along the section line to the easterly right of way line of State Road No. 337; thence northerly along said easterly right of way line of State Road No. 337 to the southerly right of way line of State Road No. 24; thence northeasterly along said southerly right of way line of State Road No. 24 to the Levy-Alachua county line; thence south along the Levy-Alachua county line, also being the range line between Range 17 and 18 East to the southeast corner of Section 36, Township 11 South, Range 17 East; thence easterly along the Levy-Alachua *and Marion-Alachua* county *lines* ~~line~~, also being the township line between Townships 11 and 12 South, to the southeast corner of Section *1* ~~36~~, Township *12* ~~11~~ South, Range *22* ~~18~~ East; thence *northward* ~~north~~ along the *Putnam-Alachua county line, also being the* range line *between Ranges 22 and 23 East,* to the *southeast* ~~northwest~~ corner of Section *13* ~~19~~, Township 9 South, Range *22* ~~19~~ East; thence *northerly and westerly* ~~east~~ along the *Alachua-Putnam county line to the south* ~~section~~ line ~~to the southeast corner~~ of Section *12* ~~13~~, Township 9 South, Range *22* ~~19~~ East; thence *easterly* ~~north~~ along the *south* ~~range~~ line ~~to the northwest corner~~ of Section *12* ~~6~~, Township 9 South, Range *22* ~~20~~ East, *also being the Bradford-Putnam county line,*~~; thence eastward along the township line to the southeast corner of Section 36, Township 8 South, Range 20 East; thence north along the township line to the northwest corner of Section 18, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 15, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of Section 23, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 26, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of the north 1/2 of Section 25, Township 8 South, Range 21 East; thence east along a line to the northeast corner of the south half of Section 25, Township 8 South, Range 21 East; thence south along the range line to the southwest corner of Section 30, Township 8 South, Range 22 East; thence east along the section line to the northeast corner of Section 32, Township 8 South, Range 22 East; thence south along the section line to the southwest corner of Section 16, Township 9 South, Range 22 East; thence eastward along the section line to the southeast corner of the west 1/8 of Section 18, Township 9 South, Range 23 East; thence northward to the northeast corner of the west 1/8 of Section 18, Township 9 South, Range 23 East; thence west~~ to the southwest corner of Section 7, Township 9 South, Range 23 East; thence northward along the Bradford-Clay County line, *also being the range line between range 22 and 23 East,* to the northeast corner of Section 36, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of the east 1/2 of Section 25, Township 8 South, Range 22 East; thence north to the northeast corner of the west 1/2 of Section 24, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of Section 13, Township 8 South, Range 22 East; thence north along the section line to the northwest corner of Section 25, Township 7 South, Range 22 East; thence east along the section line to the southeast corner of Section 24, Township 7 South, Range 22 East; thence north along the Bradford-Clay County line to the intersection of the south boundary of Baker County; thence west along the Baker-Bradford County line to the intersection of the east boundary of Union County; thence west along the Union-Baker County line to the southwest corner of Section 18, Township 4 South, Range 20 East; thence north along the range line to the northeast corner of Section 1, Township 3 South, Range 19 East; thence west along the township line to the intersection of the east boundary of Columbia County; thence north along the Baker-Columbia County line to the intersection of the north boundary line of the State of Florida; thence westward along the Georgia-Florida line to the northwest corner of Lot Number 155; thence south along the line between Lot Number 154 and 155, 168 and 169 to the Watson Line; thence east along the Watson Line to the northeast corner of Section 24, Township 3 North, Range 5 East; thence south along the range line between Ranges 5 and 6 East to the southeast corner of Section 12, Township 2 North, Range 5 East; thence west along the section line to the northwest corner of the east 1/2 of Section 13, Township 2 North, Range 5 East; thence south to the southwest corner of the east 1/2 of Section 13, Township 2 North, Range 5 East; thence east along the section line to the northeast corner of Section 24, Township 2 North, Range 5 East; thence south along the range line between Ranges 5 and 6 East to the southeast corner of Section 36, Township 2 North, Range 5 East; thence west along the township line between Townships 1 and 2 North to the northwest corner of Section 6, Township 1 North, Range 5 East; thence south along the range line between Ranges 4 and 5 East to the southeast corner of Section 36, Township 1 North, Range 4 East; thence west along the Tallahassee Base Line to the northwest corner of Section 2, Township 1 South, Range 3 East; thence south along the section line to the Gulf of Mexico; thence along the shore of the Gulf of Mexico, including the waters of said gulf within the jurisdiction of the State of Florida, to the point of the beginning.

(c) St. Johns River Water Management District.—Begin at the intersection of the south boundary of Indian River County with the Atlantic Ocean; thence west along the Indian River-St. Lucie County line to the intersection of the west boundary of St. Lucie County; thence south along the Okeechobee-St. Lucie County line to the southeast corner of Section 1, Township 34 South, Range 36 East; thence west along the section line to the northwest corner of Section 10, Township 34 South, Range 36 East; thence south along the section line to the southeast corner of Section 9, Township 34 South, Range 36 East; thence west along the section line to the northwest corner of Section 18, Township 34 South, Range 36 East; thence south along the range line between Ranges 35 and 36 East to the southeast corner of Section 12, Township 34 South, Range 35 East; thence west along the section line to the northwest corner of Section 13, Township 34 South, Range 35 East; thence south along the section line to the southeast corner of Section 35, Township 34 South, Range 35 East; thence west along the township line between Townships 34 and 35 south to the southwest corner of Section 35, Township 34 South, Range 34 East; thence north along the section line to the Okeechobee-Osceola County line; thence west along the Okeechobee-Osceola County line to the southwest corner of Section 34, Township 32 South, Range 33 East; thence north along the section line to the northwest corner of Section 3, Township 31 South, Range 33 East; thence east along the township line between Townships 30 and 31 South to the southeast corner of Section 36, Township 30 South, Range 33 East; thence north along the range line between Ranges 33 and 34 East to the northeast corner of Section 1, Township 30 South, Range 33 East; thence west along the township line between Townships 29 and 30 south to the southwest corner of Section 31, Township 29 South, Range 33 East; thence north along the range line between Ranges 32 and 33 East to the northwest corner of Section 6, Township 28 South, Range 33 East; thence east along the township line between Townships 27 and 28 south to the southeast corner of Section 36, Township 27 South, Range 32 East; thence north along the range line between Ranges 32 and 33 East to the northeast corner of Section 1, Township 26 South, Range 32 East; thence west along the township line between Townships 25 and 26 South to the southwest corner of Section 33, Township 25 South, Range 32 East; thence north along the section line to the Orange-Osceola County line; thence westerly along the Orange-Osceola County line to the Southwest corner of Section 31, Township 24 South, Range 32 East; thence north along the range line to the intersection with the northerly right-of-way line of State Road 528, also known as the Bee Line Expressway; thence westerly along the northerly right-of-way line of State Road 528 to the intersection with the northerly right-of-way line of State Road 528A; thence westerly along the northerly right-of-way line of State Road 528A to the westerly right-of-way line of U.S. Highway 441; thence northerly along the right-of-way line to the section line between sections 22 and 27 of Township 22 South, Range 29 East; thence west along the section lines to the Northeast corner of Section 25, Township 22 South, Range 28 East; thence south along the range line between Ranges 28 and 29 East to the Southeast corner of Section 36, Township 22 South, Range 28 East; thence west along the township line between Townships 22 and 23 South to the Northeast corner of Section

2, Township 23 South, Range 27 East; thence south to the Southeast corner of Section 11, Township 23 South, Range 27 East; thence west along the section lines to the Southwest corner of Section 7, Township 23 South, Range 27 East, also being the Lake-Orange County line; thence south along the range line between Ranges 26 and 27 East to the southwest corner of Section 18, Township 26 South, Range 27 East; thence east along the section line to the northeast corner of Section 19, township 26 South, Range 27 East; thence south along the section line to the southwest corner of Section 32, Township 26 South, Range 27 East; thence east along the township line between Townships 26 and 27 South to the northeast corner of Section 5, Township 27 South, Range 27 East; thence south along the section lines to the southerly right-of-way line of State Road 600; thence westerly along the southerly right-of-way line of said State Road No. 600 to the west boundary of Section 27, Township 27 South, Range 26 East; thence north along the section lines to the northeast corner of Section 16, Township 25 South, Range 26 East; thence west along the section line to the southwest corner of Section 9, Township 25 South, Range 26 East; thence north along the section lines to the Lake-Polk County line; thence west along the county line to the southwest corner of Section 32, Township 24 South, Range 26 East; thence into Lake County, north along the section lines to the northeast corner of Section 30, Township 24 South, Range 26 East; thence west along the section lines to the northeast corner of Section 28, Township 24 South, Range 25 East; thence north along the section lines to the northeast corner of Section 16, Township 24 South, Range 25 East; thence west along the section line to the northwest corner of Section 16, Township 24 South, Range 25 East; thence north along the section line to the northeast corner of Section 8, Township 24 South, Range 25 East; thence west along the section lines to the range line between Ranges 24 and 25; thence north along the range line to the northeast corner of Section 1, Township 23 South, Range 24 East, also being on the township line between Townships 22 and 23 South; thence west along the township line to the northwest corner of Section 6, Township 23 South, Range 24 East, also being on the Sumter-Lake County line; thence north along the Sumter-Lake County line, also being the range line between Ranges 23 and 24 East, to the northeast corner of Section 1, Township 18 South, Range 23 East, and the Marion County line; thence west along the Sumter-Marion County line, also being the township line between Townships 17 and 18 South, to the westerly right-of-way line of Interstate Highway 75; thence northerly along the westerly right-of-way line of Interstate Highway 75 to the Alachua-Marion County line, said line also being the township line between Townships 11 and 12 South; thence *easterly* ~~west~~ along the Alachua-Marion County line to the *southeast* ~~northwest~~ corner of Section *1* ~~3~~, Township 12 South, Range *22* ~~19~~ East~~, and the Levy County line~~; thence *northward* ~~westerly~~ along the *Putnam-Alachua* ~~Levy-Alachua~~ County line, also being ~~the township line between Townships 11 and 12 South, to the southeast corner of Section 36, Township 11 South, Range 18 East; thence north along~~ the range line between Ranges *22* ~~18~~ and *23* ~~19~~ East, ~~to the northwest corner of Section 19, Township 9 South, Range 19 East; thence east along the section line~~ to the southeast corner of Section 13, Township 9 South, Range *22* ~~19~~ East; thence *northerly and westerly* ~~north~~ along the *Alachua-Putnam County line to the south* ~~range~~ line ~~between Ranges 19 and 20 East to the northwest corner~~ of Section *12* ~~6~~, Township 9 South, Range *22* ~~20~~ East; thence easterly along the *south* ~~township~~ line ~~between Townships 8 and 9 South to the southeast corner of Section 36, Township 8 South, Range 20 East; thence north along the range line between Ranges 20 and 21 East to the northwest corner of Section 18, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 15, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of Section 23, Township 8 South, Range 21 East; thence east along the section line to the northeast corner of Section 26, Township 8 South, Range 21 East; thence south along the section line to the southwest corner of the north ½ of Section 25, Township 8 South, Range 21 East; thence east to the northeast corner of the south ½ of Section 25, Township 8 South, Range 21 East; thence south along the range line between Ranges 21 and 22 East to the southwest corner of Section 30, Township 8 South, Range 22 East; thence east along the section line to the northeast corner of Section 32, Township 8 South, Range 22 East; thence south along the section line to the southwest corner~~ of Section *12* ~~16~~, Township 9 South, Range 22 East, *also being the Bradford-Putnam County line*; ~~thence eastward along the section line to the southeast corner of the west ⅛ of Section 18, Township 9 South, Range 23 East; thence northward to the northeast corner of the west ⅛ of Section 18, Township 9 South, Range 23 East;~~ thence west to the southwest corner of Section 7, Township 9 South, Range 23 East; thence northward along the Bradford-Clay County line to the northeast corner of Section 36, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of the east ½ of Section 25, Township 8 South, Range 22 East; thence north to the northeast corner of the west ½ of Section 24, Township 8 South, Range 22 East; thence west along the section line to the southwest corner of Section 13, Township 8 South, Range 22 East; thence north along the section line to the northwest corner of Section 25, Township 7 South, Range 22 East; thence east along the section line to the Bradford-Clay County line; thence north along the Bradford-Clay County line to the intersection of the south boundary of Baker County; thence west along the Baker-Bradford County line to the intersection of the east boundary of Union County; thence west along the Baker-Union County line to the southwest corner of Section 18, Township 4 South, Range 20 East; thence north along the range line between Ranges 19 and 20 East to the northeast corner of Section 1, Township 3 South, Range 19 East; thence west along the township line between Townships 2 and 3 South to the Baker-Columbia County line; thence north along the Baker-Columbia County line to the north boundary line of the State of Florida; thence easterly along the Florida-Georgia line to the Atlantic Ocean; thence southerly along the Atlantic Ocean, including the waters of said ocean within the jurisdiction of the State of Florida to the point of beginning.

Section 2. Effective July 1, 1990, subsection (1) of section 373.073, Florida Statutes, is amended to read:

373.073 Governing board.—

(1)(a) The governing board of each water management district shall be composed of nine members who shall reside within the district, *except that the Southwest Florida Water Management District shall be composed of eleven members who shall reside within the district*. The term of office of members of the board shall be 4 years. Members of the governing boards continued under this chapter shall be appointed from the district at large as vacancies occur on the governing boards. Such vacancies shall be filled according to the residency requirements of paragraph (b).

(b) Notwithstanding the provisions of any other general or special law to the contrary, vacancies in the governing boards of the water management districts shall be filled according to the following residency requirements, representing areas designated by the U. S. Water Resources Council in U. S. Geological Survey, River Basin and Hydrological Unit Map of Florida—1975, Map Series No. 72:

1. Northwest Florida Water Management District:

a. One member shall reside in the area generally designated as the "Perdido River Basin-Perdido Bay Coastal Area-Lower Conecuh River-Escambia River Basin" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies west of Pensacola Bay and Escambia Bay.

b. One member shall reside in the area generally designated as the "Blackwater River Basin-Yellow River Basin-Choctawhatchee Bay Coastal Area" hydrologic units and that portion of the "Escambia Bay Coastal Area" hydrologic unit which lies east of Pensacola Bay and Escambia Bay.

c. One member shall reside in the area generally designated as the "Choctawhatchee River Basin-St. Andrews Bay Coastal Area" hydrologic units.

d. One member shall reside in the area generally designated as the "Lower Chattahoochee-Apalachicola River-Chipola River Basin-Coastal Area between Ochlockonee River Apalachicola Rivers-Apalachicola Bay coastal area and offshore islands" hydrologic units.

e. One member shall reside in the area generally designated as the "Ochlockonee River Basin-St. Marks and Wakulla Rivers and coastal area between Aucilla and Ochlockonee River Basin" hydrologic units.

f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

2. Suwannee River Water Management District:

a. One member shall reside in the area generally designated as the "Aucilla River Basin" hydrologic unit.

b. One member shall reside in the area generally designated as the "Coastal Area between Suwannee and Aucilla Rivers" hydrologic unit.

c. One member shall reside in the area generally designated as the "Withlacoochee River Basin-Alapaha River Basin-Suwannee River Basin above the Withlacoochee River" hydrologic units.

d. One member shall reside in the area generally designated as the "Suwannee River Basin below the Withlacoochee River excluding the Santa Fe River Basin" hydrologic unit.

e. One member shall reside in the area generally designated as the "Santa Fe Basin-Waccasassa River and coastal area between Withlacoochee and Suwannee River" hydrologic units.

f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

3. St. Johns River Water Management District:

a. One member shall reside in the area generally designated as the "St. Mary River Basin-Coastal area between St. Marys and St. Johns Rivers" hydrologic units.

b. One member shall reside in the area generally designated as the "St. Johns River Basin below Oklawaha River-Coastal area between the St. Johns River and Ponce de Leon Inlet" hydrologic units.

c. One member shall reside in the area generally designated as the "Oklawaha River Basin" hydrologic unit.

d. One member shall reside in the area generally designated as the "St. Johns River Basin above the Oklawaha River" hydrologic unit.

e. One member shall reside in the area generally designated as the "Coastal area between Ponce de Leon Inlet and Sebastian Inlet-Coastal area Sebastian Inlet to St. Lucie River" hydrologic units.

f. Four members shall be appointed at large, except that no county shall have more than two members on the governing board.

4. South Florida Water Management District:

a. Two members shall reside in Dade County.

b. One member shall reside in Broward County.

c. One member shall reside in Palm Beach County.

d. One member shall reside in Collier County, Lee County, Hendry County, or Charlotte County.

e. One member shall reside in Glades County, Okeechobee County, Highlands County, Polk County, Orange County, or Osceola County.

f. Two members, appointed at large, shall reside in an area consisting of St. Lucie, Martin, Palm Beach, Broward, Dade, and Monroe Counties.

g. One member, appointed at large, shall reside in an area consisting of Collier, Lee, Charlotte, Hendry, Glades, Osceola, Okeechobee, Polk, Highlands, and Orange Counties.

h. No county shall have more than three members on the governing board.

5. Southwest Florida Water Management District:

a. *Two* ~~One~~ members shall reside in *Hillsborough County* ~~the river basin generally designated as the Withlacoochee River~~.

b. One member shall reside in the area *consisting* ~~generally comprised~~ of ~~the~~ Hillsborough *and Pinellas counties* ~~, Alafia, and Little Manatee River basins~~.

c. *Two* ~~One~~ members shall reside in *Pinellas County* ~~the river basin generally designated as the Peace River~~.

d. One member shall reside in *Sarasota County* ~~the area generally comprised of the Manatee and Myakka River basins~~.

e. One member shall reside in *Polk County* ~~the watershed basins lying north of the Anclote River basin and west of the Oklawaha River basin, excluding the Withlacoochee River~~.

f. One member shall reside in *Pasco County* ~~the watershed basins lying south of the northern limits of the Anclote River basin and west of the Hillsborough River basin, including all of Pinellas County~~.

g. *One* ~~Three~~ members shall be appointed at large *from Levy, Marion, Citrus, Sumter, Hernando, and Lake Counties.*

h. One member shall be appointed at large from Manatee, Hardee, DeSoto, Charlotte, and Highlands Counties.

i. One member shall be appointed at large from Levy, Marion, Citrus, Sumter, Hernando, Lake, Manatee, Hardee, DeSoto, Charlotte and Highlands Counties.

No county *described in g., h., or i.* shall have more than *one* ~~two~~ members on the governing board~~, and Pinellas County and Hillsborough County shall each have two members~~.

Section 3. Notwithstanding the conditions of their original appointments, the terms of all members of the governing board of the Southwest Florida Water Management District shall expire on June 30, 1990. The Governor, in accordance with s. 373.073, Florida Statutes, as amended, shall, by July 1, 1990, appoint eleven members to the governing board of the Southwest Florida Water Management District. Three of said eleven new members shall have 4-year terms; three shall have 3-year terms; three shall have 2-year terms; and two shall have 1-year terms. The members at their first official meeting shall draw lots to determine which of said members will have the various length terms. Thereafter, the terms of the board members shall be 4 years and shall be staggered. This section shall take effect on January 1, 1990.

Section 4. Section 373.083, Florida Statutes, is amended to read:

373.083 General powers and duties of the governing board.—

(1) In addition to the other powers and duties allowed it by law, the governing board is authorized to:

(a)~~(1)~~ Contract with public agencies, private corporations, or other persons; sue and be sued; and appoint and remove agents and employees, including specialists and consultants.

(b)~~(2)~~ Issue orders to implement or enforce any of the provisions of this chapter or regulations thereunder.

(c)~~(3)~~ Make surveys and investigations of the water supply and resources of the district and cooperate with other governmental agencies in similar activities.

(2) The governing board is also authorized to delegate to a county or municipality, by rule or agreement, the power and duty to administer any of the statutes, rules, or regulations relating to stormwater permitting or surface water management which the district is authorized or required to administer, including those delegated by a state agency to the district, if the governing board determines that such a delegation is necessary or desirable. Such a delegation shall be made only if the governing board determines that the county's or municipality's program for administering the delegated statute, rule, or regulation:

1. Provides by ordinance, regulation, or local law for requirements compatible with or stricter or more extensive than those imposed by the statute or the rules and regulations adopted pursuant thereto;

2. Provides for the enforcement of such requirements by appropriate administrative and judicial processes; and

3. Provides for administrative organization, staff, and financial and other resources necessary to effectively and efficiently enforce such requirements.

Section 5. Paragraph (b) of subsection (2) of section 373.4595, Florida Statutes, is amended to read:

373.4595 *Everglades-Lake Okeechobee system* ~~Lake Okeechobee~~ improvement and management.—

(2) DIVERSIONS; LAKE OKEECHOBEE TECHNICAL ADVISORY COUNCIL.—

(b)1. There is hereby created a Lake Okeechobee Technical Advisory Council. Council members shall be experts in the fields of botany, wildlife biology, aquatic biology, water quality chemistry, or hydrology and shall consist of:

a. Three members appointed by the Governor;

b. Three members appointed by the Speaker of the House of Representatives;

c. Three members appointed by the President of the Senate;

d. One member from the Institute of Food and Agricultural Sciences, University of Florida, appointed by the President of the University of Florida; and

e. One member from the College of Natural Sciences, University of South Florida, appointed by the President of the University of South Florida.

2. Any member who resigns from the council ~~Members~~ shall be *replaced by the authority who appointed the member. In addition to the members appointed pursuant to subparagraph 1., a member of the governing board of the South Florida Water Management District shall serve as an ex officio nonvoting member of the Lake Okeechobee Technical Advisory Council and shall act as a liaison between the district and the council.* ~~appointed not later than July 15, 1987.~~

3.~~2.~~ The purpose of the council shall be to investigate the adverse effects of past diversions of water and potential effects of future diversions on indigenous wildlife and vegetation and to report to the Legislature *and the South Florida Water Management District*, no later than March 1, *1989* ~~1988~~, with findings and recommendations proposing permanent solutions to eliminate such adverse effects.

4.~~3.~~ The South Florida Water Management District shall provide staff and assistance to the council. The Department of Environmental Regulation, the Game and Fresh Water Fish Commission, and the district shall cooperate with the council.

5.~~4.~~ The council shall meet not less than once every *4* 2 months at the call of the chairman, or at the call of four other members of the council. The council shall elect from its members a chairman and vice chairman and such other officers as the council deems necessary. The council may establish other procedures for the conduct of its business.

6.~~5.~~ The members of the council are not entitled to compensation but are eligible for per diem and travel expenses pursuant to s. 112.061.

Section 6. *The South Florida Water Management District is authorized to acquire by the exercise of the power of eminent domain, unencumbered fee simple title to the following lands:*

(1) The lands within Water Conservation Area 1 in Palm Beach County, Florida, bounded as follows: on the East by the Easterly right-of-way line of Levee 40 as shown on Drawing No. L-40-1; on the South by the Southerly right-of-way line of Levee 39 as shown on Drawing No. L-39-1; on the West by the Westerly right-of-way line of Levee 7 as shown on Drawing No. L-7-1; on the North by the Southerly right-of-way line of Levee 7 Extension as shown on Drawing No. L-7 Ext-1.

(2) The lands within Water Conservation Area 2 in Palm Beach and Broward Counties, bounded as follows: on the East by the Easterly right-of-way line of Levees 35A and 36 as shown on Drawing No. L-35A-2 and L-36-2; on the South by the Southerly right-of-way line of Levee 35 as shown on Drawing No. L-35-3; on the Southwest by the Northeasterly right-of-way line of U.S. 27; on the Northwest by the Northwesterly right-of-way line of Levee 6 as shown on Drawing No. L-6-1; on the Northeast by the Southwesterly right-of-way line of Levee 39 as shown on Drawing No. L-39-1.

(3) The lands within Water Conservation Area 3 in Broward and Dade Counties, bounded as follows: on the East by the Easterly right-of-way line of Levees 30, 33 and 37 as shown on Drawing No. L-30-1 and L-33-1 and by the Westerly right-of-way line of U.S. 27; on the South by the Southerly right-of-way line of Levee 29 as shown on Drawing No. L-29-1, 2 and 3; on the West by the Westerly right-of-way line of Levee 28 as shown on Drawing No. L-28-1; on the North by the Northerly right-of-way line of Levees 4 and 5 as shown on Drawing No. L-4-12 and L-5-1.

The drawings referred to in the above descriptions are filed in the offices of the South Florida Water Management District.

Section 7. *The Legislature hereby makes a finding of public necessity for the acquisition of the lands in Water Conservation Areas 1, 2, and 3.*

Section 8. Subsection (3) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(3) Each member of the various basin boards shall serve for a period of 3 years or until *a* ~~his~~ successor is appointed, except that the board membership of each new basin shall be divided into three groups as equally as possible, with members in such groups to be appointed for 1, 2, and 3 years, respectively. Each basin board shall choose a vice chairman and a secretary to serve for a period of 1 year. The term of office of a basin board member shall be construed to commence on *March 2* ~~July 1~~ preceding the date of ~~his~~ appointment and to terminate *March 1* ~~June 30~~ of the year of the end of *a* ~~his~~ term.

Section 9. Paragraph (a) of subsection (1) of section 373.073, Florida Statutes, is amended to read:

373.073 Governing board.—

(1)(a) The governing board of each water management district shall be composed of nine members who shall reside within the district. The term of office of members of the board shall be 4 years *and shall be construed to commence on March 2 preceding the date of appointment and to terminate March 1 of the year of the end of a term.* Members of the governing boards continued under this chapter shall be appointed from the district at large as vacancies occur on the governing boards. Such vacancies shall be filled according to the residency requirements of paragraph (b).

Section 10. The terms of office of members of basin boards and governing boards of water management districts holding office on the effective date of this act shall expire on March 1 of the year of the end of the term, notwithstanding the conditions of original appointment.

Section 11. Subsection (8) of section 373.0693, Florida Statutes, is amended to read:

373.0693 Basins; basin boards.—

(8)(a) At 11:59 p.m. on *June 30, 1988* ~~December 31, 1976~~, the area ~~being~~ transferred from the Southwest Florida Water Management District to the St. Johns River Water Management District by change of boundaries pursuant to chapter 76-243, Laws of Florida, shall *cease to* be ~~formed into~~ a subdistrict or basin of the St. Johns River Water Management District *known.* ~~Such basin shall be designated~~ as the Oklawaha River Basin. *and said Oklawaha River Basin shall cease to exist. However, any recognition of an Oklawaha River Basin or an Oklawaha River hydrologic basin for regulatory purposes shall be unaffected. The area formerly known as the Oklawaha River Basin shall continue to be part of the St. Johns River Water Management District. There shall be established by the governing board of the St. Johns River Water Management District the Oklawaha River Basin Advisory Council to receive public input and advise the St. Johns River Water Management District's Governing Board on water management issues affecting the Oklawaha River Basin. The Oklawaha River Basin Advisory Council shall be appointed by action of the St. Johns River Waste Management District's governing board and include one representative from each county which is wholly or partly included in the Oklawaha River Basin. The St. Johns River Water Management District's governing board member currently serving pursuant to Section 373.073(1)(b)3.c., Florida Statutes, shall serve as chairman of the Oklawaha River Basin Advisory Council. Members of the Oklawaha River Basin Advisory Council shall receive no compensation for their services but are entitled to be reimbursed for per diem and travel expenses as provided in s. 112.061, Florida Statutes.* ~~The members of the governing board of the Oklawaha River Basin of the Southwest Florida Water Management District shall become the members of the governing board of the newly formed basin. The governing board of the St. Johns River Water Management District may change the boundaries, but may not abolish the basin.~~

(b)~~1.~~ *Also,* the entire area of the St. Johns River Water Management District, less those areas *formerly in the Oklawaha Basin, shall cease to* be ~~formed into~~ a subdistrict or basin of the St. Johns River Water Management District *known.* ~~Such area shall be designated~~ as the Greater St. Johns River Basin. *and said Greater St. Johns River Basin shall cease to exist. The area formerly known as the Greater St. Johns River Basin shall continue to be part of the St. Johns River Water Management District.* ~~The Greater St. Johns River Basin shall have all the powers, duties, functions, and responsibilities provided and authorized for subdistricts or basins of water management districts.~~

~~2. The governing board of the St. Johns River Water Management District shall also serve as the governing board of the Greater St. Johns River Basin.~~

(c) As of 11:59 p.m. on June 30, 1988, assets and liabilities of the former Oklawaha River and Greater St. Johns River Basins shall be assets and liabilities of the St. Johns River Water Management District. Any contracts, plans, orders, or agreements of such basins shall continue to be in effect, but may be modified or repealed by the St. Johns River Water Management District in accordance with law. For all purposes for accessing and levying the millage rate authorized pursuant to s. 373.503, F.S., subsequent to December 31, 1987, including for the purpose of certifying the millage rate for FY 1988-89, pursuant to chapter 200, F.S., said millage rate shall be levied retroactive to January 1, 1989.

Section 12. Section 373.302, Florida Statutes, is created to read:

373.302 Legislative findings.—The Legislature recognizes that the practice of constructing, repairing, and abandoning water wells, if conducted by incompetent contractors, is potentially threatening to the health of the public and to the environment. The Legislature finds that a threat to the public and the environment exists if water resources become contaminated as a result of wells drilled by incompetent or dishonest contractors, and that to prevent contamination it is necessary to regulate the construction, repair, and abandonment of wells, and the persons and businesses responsible therefor.

Section 13. Subsection (6) of section 373.303, Florida Statutes, is amended to read:

373.303 Definitions.—As used in this part, the term:

(6) "Water well contractor" means *a person who is responsible for the construction, repair, or abandonment of a water well and who is licensed under this part to engage* ~~any person, firm, or corporation engaged~~ in the business of *construction, repair, or abandonment of* ~~constructing~~ water wells.

Section 14. Subsection (2) of section 373.308, Florida Statutes, is amended to read:

373.308 Implementation of programs for regulating water wells.—

(2) The department shall authorize the governing board of a water management district to exercise any power authorized to be exercised by the department under ss. 373.309, 373.313, 373.316, 373.319, 373.323, ~~373.326,~~ 373.329, and 373.333 and shall encourage the district to fully exercise such powers as soon as practicable.

Section 15. Section 373.323, Florida Statutes, is amended to read:

373.323 *Licensure of* water well *contractors; application, qualifications, and examinations;* ~~contractor licenses; driller and drilling~~ equipment *identification* ~~registration.—~~

(1) ~~WATER WELL CONTRACTOR LICENSES.—~~

~~(a)~~ Every person who wishes to engage in business as a water well contractor shall obtain from the water management district a license to conduct such business.

(2) Each person desiring to be licensed as a water well contractor shall apply to take the licensure examination. Application shall be made to the water management district in which the applicant resides or in which his principal place of business is located. A resident of another state shall apply to the water management district in which most of the business of the applicant will take place. Application shall be made on forms provided by the water management district.

(3) An applicant who meets the following requirements shall be entitled to take the licensure examination to practice water well contracting:

(a) Is at least 18 years of age.

(b) Has at least 2 years' experience in constructing, repairing, or abandoning wells.

(c) Has completed the application form and remitted a nonrefundable application fee.

(4)~~(b) The department may adopt and from time to time amend rules and regulations governing applications for water well contractor licenses. The water management district shall license as a water well contractor any person properly making application therefor who is an adult for all legal purposes, has knowledge of rules and regulations adopted under this part, and has had not less than 2 years' experience in the work for which he is applying for a license.~~ The department shall prepare an examination which *shall test an applicant's knowledge of rules and regulations adopted under this part; ability to construct, repair, and abandon a well; and ability to supervise, direct, manage, and control the contracting activities of a water well contracting business* ~~each such applicant must pass in order to qualify for such license~~. *The department shall provide each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the examination.*

(5) The water management district shall issue a water well contracting license to any applicant who receives a passing grade on the examination, has paid the initial application fee, and has complied with the requirements of this section. A passing grade on the examination shall be as established by the department by rule. A license issued by any water management district shall be valid in every water management district in the state.

(6)~~(c)~~ *An employee of* a political subdivision *or of a governmental entity* engaged in *water* well drilling shall be licensed *pursuant to* ~~under~~ this part but shall be exempt from paying ~~the license~~ fees *required pursuant to this part* ~~for the drilling done by regular employees of, and with equipment owned by, it~~.

(7) When a water management district has probable cause to believe that any person not licensed as a water well contractor has violated any provision of this part or any statute that relates to the construction, repair, or abandonment of water wells, or any rule adopted pursuant thereto, the water management district may issue and deliver to such person a notice to cease and desist from such violation. In addition, the water management district may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed construction, repair, or abandonment of a water well by employing an unlicensed person. For the purpose of enforcing a cease and desist order, a water management district may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provision of such order.

(8) The department shall adopt rules which specifically provide for uniformity among all water management districts for the application process and qualifications for licensure, providing each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.

~~(d) Licenses issued pursuant to this section are not transferable and shall expire on July 1 of each year. A license may be renewed without examination for an ensuing year by making application not later than 30 days after the expiration date and paying the applicable fee. Such application shall have the effect of extending the validity of the current license until a new license is received or the applicant is notified by the department that it has refused to renew his license. After July 31 of each year, a license will be renewed only upon application and payment of the applicable fee plus a penalty of $50.~~

~~(e) Whenever the department or water management district determines that the holder of any license issued pursuant to this section has violated any provision of this part or any rule or regulation adopted pursuant thereto, the department or water management district is authorized to suspend or revoke any such license. Any order issued pursuant to this subsection shall become effective 30 days after service thereof unless a written petition requesting hearing under the procedure provided in chapter 120 is filed sooner.~~

~~(f) No application for a license issued pursuant to this section may be made within 1 year after revocation thereof.~~

~~(g) No later than October 1, 1984, the department shall delegate to the water management districts the powers and duties relating to processing and issuing water well contractor licenses. A license issued by any water management district shall be valid anywhere in the state.~~

~~(2) DRILLER AND DRILLING EQUIPMENT REGISTRATION.—~~

~~(a) Every person who operates drilling equipment for the purpose of constructing wells shall register with each water management district in which construction activity takes place. The governing board shall, as minimum conditions of such registration, require:~~

~~1. A written recommendation from a licensed water well contractor verifying the status of the driller c.; an employee of the contractor.~~

~~2. Demonstration of sufficient experience and practical knowledge needed to operate drilling equipment of the type to be used in actual well construction.~~

~~3. A written examination considered appropriate by the board and designed to verify the driller's knowledge of commonly accepted drilling practices and applicable rules of the district and the department.~~

~~(b) It is the responsibility of each licensed water well contractor to annually notify the governing board of the district in which he resides or in which his principal place of business is located of all registered drillers in his employ. In addition, each licensed contractor shall notify the board in a timely manner if a registered driller ceases to be an employee.~~

(9)~~(c)~~ Each ~~licensed water well contractor shall register with the governing board each~~ piece of drilling equipment *owned, leased, or operated by a water well contractor shall have* ~~he owns, leases, or operates. Upon registration of the equipment,~~ the water well contractor's license number ~~shall be~~ prominently displayed thereon.

Section 16. Section 373.324, Florida Statutes, is created to read:

373.324 License renewal.—

(1) A water well contractor shall submit an application for renewal of a license to the water management district which issued the license.

(2) The water management district shall renew a license upon receipt of the renewal application and renewal fee.

(3) The department shall adopt rules establishing a procedure for the biennial renewal of licenses, which shall be adopted by each water management district.

(4) A license which is not renewed at the end of the biennium prescribed by the department shall automatically revert to inactive status. Such license may be reactivated only if the licensee meets the qualifications for reactivation in s. 373.325.

(5) At least 60 days prior to the automatic reversion of a license to inactive status, the water management district shall mail a notice of such reversion to the last known address of the licensee.

Section 17. Section 373.325, Florida Statutes, is created to read:

373.325 Inactive status.—A license which has become inactive pursuant to s. 373.324 may be renewed or reactivated upon application to the water management district, as follows:

(1) A license which has been inactive for 1 year or less after the end of the biennium prescribed by the department may be renewed pursuant to s. 373.324 upon application to the water management district and upon payment of the renewal and penalty fees as provided in s. 373.329. Such renewed license shall expire 2 years after the date the license automatically reverted to inactive status.

(2) A license which has been inactive for more than 1 year may be reactivated upon application to the water management district for licensure pursuant to the requirements of s. 373.323.

Section 18. Section 373.326, Florida Statutes, is amended to read:

373.326 Exemptions.—

(1) When *a water management district* ~~the department~~ finds that compliance with all requirements of this part would result in undue hardship, an exemption from any one or more such requirements may be granted by the *water management district* ~~department~~ to the extent necessary to ameliorate such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this part.

(2) Nothing in this part shall prevent a person who has not obtained a license pursuant to s. 373.323 from constructing a well that is 2 inches or under in diameter, on his own or leased property, intended for use only in a single family house which is his residence, or intended for use only for farming purposes on his farm, and when the waters to be produced are not intended for use by the public or any residence other than his own~~.~~, *provided that* such *person* ~~persons~~ ~~shall~~ *complies* ~~comply~~ with all *local and state* rules and regulations *relating* ~~as~~ *to the* construction of *water* wells ~~adopted under this part~~.

Section 19. Section 373.329, Florida Statutes, is amended to read:

373.329 Fees *for licensure.—The department, by rule, shall establish fees to be paid for application for licensure, application for license renewal, and the penalty fee for renewal of a license which has been inactive for 1 year or less. The fees shall be based on the actual costs incurred by the water management districts in carrying out the responsibilities related to licensure of water well contractors as derived from estimates provided by the water management districts of the revenue required to implement this part, but shall not exceed the following amounts:*

(1) Application for initial licensure, $150.

(2) Biennial license renewal, $50.

(3) Penalty for renewal of a license which has been inactive for 1 year or less, $75.

All fees and other moneys collected by a water management district pursuant to this part shall be deposited in the general operating fund of the water management district. ~~The following fees are required:~~

~~(1) A fee of $100 shall accompany each new application for a license required under s. 373.323.~~

~~(2) A fee of $25 shall accompany each application for a renewal of license under s. 373.323.~~

Section 20. Section 373.333, Florida Statutes, is amended to read:

373.333 *Disciplinary guidelines; adoption and* enforcement*; license suspension or revocation.—*

(1) The department shall adopt, by rule, disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the water management districts, providing each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the disciplinary guideline rules as they are drafted. The disciplinary guidelines shall be adopted by each water management district. The guideline rules shall be consistently applied by the water management districts and shall:

(a) Specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses.

(b) Distinguish minor violations from those which endanger public health, safety, and welfare or contaminate the water resources.

(c) Inform the public of likely penalties which may be imposed for proscribed conduct.

A specific finding of mitigating or aggravating circumstances shall allow a water management district to impose a penalty other than that provided in the guidelines. Disciplinary action may be taken by any water management district, regardless of where the contractor's license was issued.

(2)~~(1)~~ Whenever the water management district has reasonable grounds for believing that there has been a violation of this part or any rule or regulation adopted pursuant hereto, it shall give written notice to the person alleged to be in violation. Such notice shall identify the provision of this part or regulation issued hereunder alleged to be violated and the facts alleged to constitute such violation.

(3)~~(2)~~ Such notice shall be served in the manner required by law for the service of process upon a person in a civil action or by registered United States mail to the last known address of the person. *The water management district shall send copies of such notice only to persons who have specifically requested such notice or to entities with which the water management district has formally agreed to provide such notice.* Notice alleging a violation of a rule setting minimum standards for the location, construction, repair, or abandonment of wells shall be accompanied by an order of the water management district requiring remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this part and regulations issued hereunder. Such order shall become final unless a request for hearing as provided in chapter 120 is made within 30 days from the date of service of such order. *Upon compliance, notice shall be served by the water management district in a timely manner upon each person and entity who received notice of a violation, stating that compliance with the order has been achieved.*

(4) The following acts constitute grounds for which disciplinary actions specified in subsection (5) may be taken by a water management district:

(a) Attempting to obtain, obtaining, or renewing a license under this part by bribery or fraudulent misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of fraud or deceit or of gross negligence, incompetency, or misconduct in the performance of work, or of a crime in any jurisdiction which directly relates to the practice of water well contracting or the ability to practice water well contracting. A plea of nolo contendere shall create a presumption of guilt to the underlying criminal charges, and the water management district shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding his plea.

(c) Allowing any other person to use the license.

(d) Violating or refusing to comply with any provision of this part or a rule adopted by the department or water management district, or any order of the water management district previously entered in a disciplinary hearing.

(e) Constructing, repairing, or abandoning a water well without first obtaining all applicable permits.

(f) Having had administrative or disciplinary action relating to water well construction, repair, or abandonment taken by any municipality or county or by any state agency, which action shall be reviewed by the water management district before the water management district takes any disciplinary action of its own.

(g) Practicing with a revoked, suspended, or inactive license.

(5) When the water management district finds a person guilty of any of the grounds set forth in subsection (4), it may enter an order imposing one or more of the following disciplinary actions:

(a) Denial of an application for licensure or for renewal of a license.

(b) Revocation or suspension of a license.

(c) Imposition of an administrative fine not to exceed $1,000 for each count or separate offense.

(d) Placement of the water well contractor on probation for a period of time subject to such conditions as the water management district may specify.

(e) Restriction of the licensee's authorized scope of practice.

(6) When disciplinary action is taken against a contractor which results in suspension or revocation of the contractor's license, a water management district shall notify each water management district of such action.

(7) The water management district shall reissue the license of a contractor whose license has been suspended or revoked upon determination by the water management district that the disciplined person has complied with all of the terms and conditions set forth in the final order.

Section 21. Section 373.335, Florida Statutes, is created to read:

373.335 Clearinghouse.—The department, in conjunction with the water management districts, shall establish a statewide clearinghouse which will allow each water management district to access information regarding water well contractor licensees and their license numbers, any violation by any such licensee, and any disciplinary action taken by a water management district.

Section 22. Section 373.336, Florida Statutes, is amended to read:

373.336 *Unlawful acts;* penalties.—

(1) It is unlawful for any person to:

(a) Practice water well contracting without an active license issued pursuant to this part.

(b) Construct, repair, or abandon a water well, or operate drilling equipment for such purpose, unless employed by or under the supervision of a licensed water well contractor or exempt under s. 373.326.

(c) Give false or forged evidence to obtain a license.

(d) Present as his own the license of another.

(e) Use or attempt to use a license to practice water well contracting which license has been suspended, revoked, or placed on inactive status.

(f) Engage in willful or repeated violation of this part or of any department rule or regulation or water management district or state agency rule or regulation relating to water wells which endanger the public health, safety, and welfare.

(2) It is unlawful for a business entity to engage in water well contracting or to perform any activity for which a license as a water well contractor is required unless a licensed water well contractor is responsible for supervising such activity of the business entity.

(3) Any person who violates any provision of this part or regulation or order issued hereunder shall, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in *s.* ~~ss.~~ 775.082, *s.* ~~and~~ 775.083, *or s. 775.084.* Continuing violation after *an order or conviction* ~~notice thereof~~ shall constitute a separate violation for each day so continued.

Section 23. Section 373.337, Florida Statutes, is created to read:

373.337 Rules.—The department shall, by July 1, 1989, adopt rules to implement the provisions of this part, providing each water management district, and representatives of the water well contracting industry, with meaningful opportunity to participate in the development of the rules as they are drafted. The rules shall be adopted by each water management district.

Section 24. Subsection (1) of section 373.342, Florida Statutes, is amended to read:

373.342 Permits.—

(1) The governing board of any water *management* ~~regulatory~~ district which, pursuant to the authority ~~of s. 373.339 or pursuant to authority~~ delegated to it by the department under s. 373.308 or s. 373.309(2), regulates water wells may in its discretion authorize its executive director to issue permits for the construction, repair, or modification of any water well.

Section 25. Section 373.339, Florida Statutes, is hereby repealed.

Section 26. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise specifically provided herein, sections 373.323, 373.326, 373.329, 373.333, 373.336, and 373.342, Florida Statutes, shall not stand repealed on October 1, 1988, and shall continue in full force and effect as amended herein.

Section 27. Sections 373.303, 373.323, 373.324, 373.325, 373.326, 373.329, 373.333, 373.335, 373.336, and 373.337, Florida Statutes, are repealed on October 1, 1998, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 28. Notwithstanding the provisions of chapter 82-46, Laws of Florida, sections 373.0693, 373.0695, 373.073, 373.076, 373.079, 373.083, 373.084, 373.085, 373.086, 373.087, 373.089, 373.093, 373.096, 373.099, and 373.103, Florida Statutes, shall not stand repealed on October 1, 1988, as scheduled by said act, but said sections are hereby revived, readopted, and to the extent herein set forth, amended.

Section 29. Section 2 of chapter 85-211, Laws of Florida, relating to the scheduled repeal on October 1, 1990, of the .225 millage assessment within the St. Johns River Water Management District, is hereby repealed.

Section 30. Sections 373.413, 373,414, and 373,416, Florida Statutes, are repealed October 1, 1989, and shall be reviewed prior to that date by the 1989 Regular Session Legislature, which shall consider the following factors in its review:

(1) Would the absence of regulation significantly harm or endanger the public health, safety, or welfare?

(2) Is there a reasonable relationship between the exercise of the police power of the state and the protection of the public health, safety, or welfare?

(3) Is there a less restrictive method of regulation available which would adequately protect the public?

(4) Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

(5) Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

(6) Are any facets of the regulatory process designed for the purpose of, and have as their primary effect, the benefit of the regulated entity?

Section 31. (1) The regulatory programs of the water management districts authorized under part IV of chapter 373, Florida Statutes, shall be reviewed by the Legislature prior to October 1, 1989. In conducting the review, the Legislature may consider the report by the Environmental Efficiency Study Commission.

(2) In conducting the review, the Legislature may also consider the provisions set forth in section 11.61(6), Florida Statutes.

(3) The water management districts are directed to cooperate and participate in this legislative review and oversight of the above-stated regulatory programs.

Section 32. This act shall take effect upon becoming a law.

Senator Kirkpatrick moved the following amendments to Amendment 9 which were adopted:

Amendment 9A—On page 22, line 15, strike *"1989"* and insert: *1988*

Amendment 9B—On page 38, between lines 8 and 9, insert:

Section 33. Funds shall be available to complete the Holey Land Project to restore Everglades wetlands and enhance the water quality. The project has been funded by the Legislature in recent years and is nearly complete.

Senator Myers moved the following amendment to Amendment 9 which was adopted:

Amendment 9C—On page 15, line 26, strike *"county or municipality"* and insert: *local government*

Amendment 9 as amended was adopted.

Senator Kirkpatrick moved the following amendment:

Amendment 10—In title, on page 4, line 8, after the semicolon (;) insert: providing for the availability of funds to complete the Holey Land Project;

Senator Kirkpatrick moved the following amendment to Amendment 10 which was adopted:

Amendment 10A—In title, on page 1, line 2, through page 2, line 3, strike all of said lines and insert: An act relating to water resources; amending s. 373.069, F.S., changing the boundaries of the Suwannee River Water Management District and the St. Johns River Water Management District; amending s. 373.073, F.S., relating to appointment of members of the governing board of the Southwest Florida Water Management District; amending s. 373.083, authorizing the governing boards to delegate certain permitting authorities to counties and municipalities and to establish criteria for such delegations; amending s. 373.4595, F.S.; revising membership of the Lake Okeechobee Technical Advisory Council; providing for replacement of members upon resignation; revising report requirements; authorizing the district to acquire certain lands by eminent domain and declaring public necessity for such acquisition; amending ss. 373.0693 and 373.073, F.S.; providing dates for commencement of terms of office of members of district governing boards and basin boards; amending s. 373.0693, F.S., abolishing the Oklawaha River Basin and the Greater St. Johns River Basin in the St. Johns River Water Management District; transferring assets and liabilities to the district; clarifying the date for millage rate certification; reviving and readopting specified provisions of chapter 373, F.S., relating to the governing boards and basin boards of water management districts; providing for future repeal and review of said provisions; providing for future repeal and review of water management district regulatory programs and consideration of the report of the Environmental Efficiency Study Commission; creating the Oklawaha River Basin Advisory Council; repealing s. 2 of chapter 85-211, Laws of Florida, relating to the scheduled repeal of a millage assessment within the St. Johns River Water Management District; creating s. 373.302, F.S.; providing legislative findings; amending s. 373.303, F.S.; revising the definition of "water well contractor"; amending s. 373.308, F.S., to delete a cross-reference; amending s. 373.323, F.S.; providing for application for licensure, examination of applicants, preparation of examination, and issuance of license with respect to water well contractors; providing for action to be taken by a water management district when unlicensed activity occurs; providing for adoption of rules; deleting provisions relating to renewal of a license, suspension, or revocation of a license, delegation of authority, and registration of drillers and drilling equipment; requiring display of contractor's license number on drilling equipment; creating s. 373.324, F.S.; providing for license renewal, adoption of rules, reversion to inactive status, and notice thereof; creating s. 373.325, F.S.; providing for renewal or reactivation of inactive license; amending s. 373.326, F.S.; providing an exemption from licensing requirements under certain circumstances; amending s. 373.329, F.S.; providing licensure fee caps as established by rule; increasing maximum fees for application for licensure and penalty fees for license renewal; amending s. 373.333, F.S.; providing for disciplinary guidelines by adoption of rules; providing grounds for disciplinary action; providing disciplinary actions, including license suspension or revocation; providing for notice; providing for reissuance of a suspended or revoked license; creating s. 373.335, F.S.; creating a statewide clearinghouse allowing water management districts to access certain information; amending s. 373.336, F.S.; providing unlawful acts and penalties; creating s. 373.337, F.S.; providing rulemaking authority of the Department of Environmental Regulation and adoption of rules by the water management districts; amending s. 373.342, F.S., to make technical changes; repealing s. 373.339, F.S., relating to preservation of existing regulations; saving ss. 373.323, 373.326, 373.329, 373.333, 373.336, and 373.342, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

Amendment 10 as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 522 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	Gordon	Kiser	Ros-Lehtinen
Brown	Grant	Langley	Scott
Childers, D.	Grizzle	Lehtinen	Thomas
Childers, W. D.	Hair	Malchon	Thurman
Crenshaw	Hill	Margolis	Weinstein
Deratany	Hollingsworth	McPherson	Weinstock
Dudley	Jenne	Meek	Woodson
Frank	Johnson	Myers	
Girardeau	Kirkpatrick	Plummer	

Nays—2

Jennings	Stuart

Vote after roll call:

Yea to Nay—D. Childers, Jenne, Ros-Lehtinen

SB 266—A bill to be entitled An act relating to termination of pregnancies; amending s. 390.001, F.S.; providing that a minor may have a termination-of-pregnancy procedure performed on her without parental consent if a court determines that she is sufficiently mature to give an informed consent to the procedure; prescribing procedures for such proceedings and for appeal therefrom; providing for confidentiality of such proceedings; providing an effective date.

—was read the second time by title.

Two amendments were adopted to SB 266 to conform the bill to HB 1668.

Pending further consideration of SB 266 as amended, on motions by Senator Woodson, by two-thirds vote—

HB 1668—A bill to be entitled An act relating to abortion clinics; amending s. 390.012, F.S.; amending the rulemaking responsibilities of the Department of Health and Rehabilitative Services with respect to such clinics and to the disposal of fetal remains; providing penalties for the improper disposal of fetal remains; revising language with respect to penalties; repealing s. 390.026, F.S.; deleting the requirement for internal risk management programs in the clinics; amending s. 395.041, F.S., pertaining to internal risk management programs in hospitals; deleting obsolete cross-references and references to abortion clinics; saving ss.

390.011(2), 390.012-390.019, and 390.021, F.S., from Sunset repeal; providing for future review and repeal; amending s. 390.001, F.S.; providing that a minor may have a termination-of-pregnancy procedure performed without parental consent if the court determines that she is sufficiently mature to give an informed consent to the procedure; prescribing procedure for such proceedings and for appeal therefrom; providing for confidentiality of such proceedings; providing an effective date.

—a companion measure, was substituted for SB 266 and by two-thirds vote read the second time by title.

Senator Woodson moved that the rules be waived and HB 1668 be read a third time by title. The motion was adopted. The vote was:

Yeas—24

Barron	Crenshaw	Hollingsworth	Myers
Beard	Dudley	Jennings	Plummer
Brown	Grant	Johnson	Ros-Lehtinen
Childers, D.	Grizzle	Kiser	Scott
Childers, W. D.	Hair	Langley	Thomas
Crawford	Hill	Lehtinen	Woodson

Nays—11

Frank	Jenne	Meek	Weinstein
Girardeau	Malchon	Stuart	Weinstock
Gordon	Margolis	Thurman	

HB 1668 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—24

Beard	Grant	Johnson	Ros-Lehtinen
Brown	Grizzle	Kiser	Scott
Childers, D.	Hair	Langley	Stuart
Childers, W. D.	Hill	Lehtinen	Thomas
Crenshaw	Hollingsworth	Myers	Thurman
Dudley	Jennings	Plummer	Woodson

Nays—8

Frank	Gordon	Margolis	Weinstein
Girardeau	Malchon	Meek	Weinstock

Vote after roll call:

Yea—Barron

The Senate resumed consideration of—

HB 1409—A bill to be entitled An act relating to the state lottery; amending s. 24.105, F.S.; prohibiting disclosure and authorizing disclosure of certain information relating to the lottery under specified circumstances; amending s. 24.108, F.S.; revising duties of the Division of Security of the Department of the Lottery; amending s. 24.111, F.S.; revising provisions which require certain vendors to post bond or deposit securities; authorizing filing of an irrevocable letter of credit; amending s. 24.112, F.S.; authorizing use of secretary's facsimile signature on contracts with retailers; revising provisions regarding access to lottery retailers for disabled persons; amending s. 24.116, F.S.; revising provisions which prohibit certain persons associated with vendors from purchasing lottery tickets; removing a prohibition against retailers, employees thereof, and their relatives purchasing lottery tickets on the retailer's premises; providing limitations on imposition of criminal sanctions for violations of s. 24.116, F.S., committed prior to the effective date of the act; amending s. 24.120, F.S.; authorizing funds in the Administrative Trust Fund to be invested by the Treasurer in annuities issued by insurance companies under certain conditions; amending s. 18.10, F.S. to conform; providing an effective date.

—as amended.

Ruling on Point of Order

Senator Langley reported that the Committee found the point of order by Senator Scott well taken.

The Presiding Officer ruled the point well taken.

On motions by Senator Crenshaw, the Senate reconsidered the vote by which Amendments 1 and 4 were adopted. By permission, Amendments 1 and 4 were withdrawn.

Senator Crenshaw moved the following amendments which were adopted:

Amendment 5—On page 6, line 1, through page 8, line 7, strike all of said lines and insert:

Section 7. Effective July 1, 1989, subsection (2) of section 24.120, Florida Statutes, is amended to read:

24.120 Financial matters; Administrative Trust Fund; inter-agency cooperation.—

(2) Moneys in the Administrative Trust Fund which the department anticipates will be available for the payment of prizes on a deferred basis may be invested by the State Treasurer in:

(a) Direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of prizes and may be in book-entry form.

(b) Annuities issued by insurance companies authorized to do business in Florida, provided that each such company meets all of the following criteria;

1. Policyholder surplus of not less than $200 million;

2. Policyholder surplus of not less than 15 percent of liabilities or, in the alternative, policyholder surplus of not less than $1 billion;

3. An "A§" rating as of the latest rating period by A. M. Best and Company as long as this rating is determined by using substantially the same methodology as used on May 1, 1988; and

4. Not more than $20 million in premiums for outstanding obligations may be invested by the State Treasurer in any one insurance company.

Section 8. Effective July 1, 1989, subsection (7) is added to section 18.10, Florida Statutes, to read:

18.10 Deposits and investments of state money.—

(7) Notwithstanding any other provision of this section, the State Treasurer may make such investments of Department of Lottery funds as authorized by s. 24.120. These investments may be in varying maturities and may be in book-entry form. Investments made pursuant to this subsection may be under repurchase agreement.

Section 9. Section 3 of chapter 88-8, Laws of Florida, is amended to read:

Section 3. Effective October 1, 1988, subsection (13) is added to section 24.112, Florida Statutes, to read:

24.112 Retailers of lottery tickets.—

(13) Each retailer shall provide accessibility for disabled persons on habitable grade levels. This subsection does not apply to a retail location which has an entrance door threshold more than 12 inches above ground level. *As used herein and for purposes of this subsection only, the term "accessibility for disabled persons on habitable grade levels" means that retailers shall provide ramps, platforms, aisles and pathway widths, turnaround areas, and parking spaces to the extent these are required for the retailer's premises by the particular jurisdiction where the retailer is located. Accessibility shall be required to only one point of sale of lottery tickets for each lottery retailer location. The requirements of this subsection shall be deemed to have been met if, in lieu of the foregoing, disabled persons can purchase tickets from the retail location by means of a drive-up window, provided the hours of access at the drive-up window are not less than those provided at any other entrance at that lottery retailer location. Inspections for compliance with this subsection shall be performed by those enforcement authorities responsible for enforcement pursuant to s. 553.80 in accordance with procedures established by those authorities. Those enforcement authorities shall provide to the Department of the Lottery a certification of noncompliance for any lottery retailer not meeting such requirements.*

Section 10. This act shall take effect upon becoming a law.

Amendment 6—In title, on page 1, strike all of lines 15-31 and insert: retailers; amending s. 24.116, F.S.; revising provisions which prohibit certain persons associated with vendors from purchasing lottery

tickets; removing a prohibition against retailers, employees thereof, and their relatives purchasing lottery tickets on the retailer's premises; providing limitations on imposition of criminal sanctions for violations of s. 24.116, F.S., committed prior to the effective date of the act; amending s. 24.120, F.S.; authorizing funds in the Administrative Trust Fund to be invested by the Treasurer in annuities issued by insurance companies under certain conditions; amending s. 18.10, F.S., relating to deposits and investment of state money, to conform; amending s. 3, ch. 88-8, Laws of Florida; revising provisions regarding access to lottery retailers for disabled persons; providing an effective date.

On motion by Senator Crenshaw, by two-thirds vote HB 1409 as amended was read the third time by title, passed and 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	Thomas
Crenshaw	Hill	Malchon	Thurman
Deratany	Hollingsworth	McPherson	Weinstein
Dudley	Jenne	Meek	Woodson
Frank	Jennings	Myers	
Girardeau	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Crawford

On motions by Senator Langley, by two-thirds vote CS for HB 790 was withdrawn from the Committees on Economic, Community and Consumer Affairs; and Appropriations.

On motion by Senator Langley—

CS for HB 790—A bill to be entitled An act relating to chiropractic; amending s. 460.406, F.S., providing additional requirements for licensure by examination; amending s. 460.4065, F.S., conforming requirements for licensure by endorsement; amending s. 460.4104, F.S., increasing the fee for peer review; providing effective dates.

—a companion measure, was substituted for CS for SB 844 and read the second time by title. On motion by Senator Langley, by two-thirds vote CS for HB 790 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Crawford, Kirkpatrick

Consideration of **CS for CS for SB 1107** was deferred.

HB 1717—A bill to be entitled An act relating to professional sports franchises; providing for the duties of the Sports Advisory Council; providing for the duties of the Department of Commerce in carrying out the provisions of this act; providing for applications; providing for review; providing for legislative action; providing a state funding program; creating a Professional Sports/Economic Trust Fund; providing for uses of the fund; providing appropriations; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Kiser and adopted:

Amendment 1—On page 1, strike all of lines 17 and 18 and insert: tourism and recreation, improves the prosperity and welfare of the state and its citizens, and such public purposes implement the governmental purposes under the State Constitution of providing for the health, safety and welfare of the people, and

Amendment 2—On page 1, line 27, after "and" insert: the Legislature recognizes such benefits to the state, and

Amendment 3—On page 2, line 6, after "appropriate" insert: public

Amendment 4—On page 4, line 1, after "*with*" insert: *the use of the professional sports franchise facility and*

The Committee on Appropriations recommended the following amendment which was moved by Senator Meek and failed:

Amendment 5—On page 4, strike all of lines 12-17 and insert: *professional sports franchise facility is located*

The Committee on Appropriations recommended the following amendment which was moved by Senator Kiser and adopted:

Amendment 6—On page 4, line 29, strike "*500,000*" and insert: *400,000*

The Committee on Appropriations recommended the following amendment which was moved by Senator Kiser and failed:

Amendment 7—On page 5, lines 20-31, and on page 6, lines 1-30, strike all of Section 3. and renumber subsequent sections.

The Committee on Appropriations recommended the following amendment which was moved by Senator Grizzle:

Amendment 8—On page 7, lines 18-30, and on page 8, lines 1 and 2, strike all of Section 5. and renumber subsequent sections.

Senator Grizzle moved the following substitute amendment which was adopted:

Amendment 9—On page 5, between lines 19 and 20, insert:

Section 3. In any county in which a professional sports franchise is to be located pursuant to this act, the county may impose a tourist development tax pursuant to s. 125.0104, Florida Statutes, to pay the debt service on any bonds which the applicant unit of local government issues to finance the construction, reconstruction, or renovation of a professional sports franchise facility. If the applicant unit of local government is not the county, the applicant unit of local government and the county shall enter into an interlocal agreement for the imposition of the tax on a less-than-countywide basis in the manner prescribed in s. 125.0104(3), Florida Statutes.

Section 4. Paragraph (l) is added to subsection (3) of section 125.0104, Florida Statutes, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(l) In addition to any other tax which is imposed pursuant to this section, a county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) in order to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility.

(Renumber subsequent sections.)

The Committee on Appropriations recommended the following amendment which was moved by Senator Kiser and adopted:

Amendment 10—On page 8, between lines 18 and 19, insert:

Section 7. *Any applicant who receives funding pursuant to the provisions of this act shall include a provision in any contract with a sports franchise facility agreeing that at least 15 percent of funds and facilities with respect to food and beverage and related concessions shall be awarded to minority business enterprises as defined in s. 288.703, Florida Statutes, on the same terms and conditions as the general food and beverage concessionaire.*

(Renumber subsequent sections.)

Senator Kiser moved the following amendments which were adopted:

Amendment 11—On page 6, strike all of lines 7-28 and insert: *sports facility is located. The amount of general revenue equal to the approved Professional Sports Facility Sales Tax Revenues shall be transferred to such unit of local government in substantially equal monthly installments and may be pledged for a period not to exceed 30 years and used to pay debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued by such unit of local government or by such other unit of local government as provided by interlocal agreement for the purposes for which funds distributed under this act to a unit of local government may be used. No governmental entity shall receive more than $2 million in any state fiscal year pursuant to this section. In the event that any professional sports franchise facility receiving funding under this section generates a net after-tax profit during any fiscal year after payment of debt services on any bonds issued to finance a professional sports franchise facility and payment of any other obligations for which the revenues of the facility are pledged or contractually obligated for the operation, maintenance, and financing of the professional sports franchise facility, such net after-tax profit in an amount up to the amount transferred to the unit of local government pursuant to this act, including funds appropriated pursuant to sections 5 and 6 of this act, shall be returned by*

Amendment 12—On page 8, line 1, before "*pursuant*" insert: *from the General Revenue Fund*

Senator Gordon moved the following amendment which failed:

Amendment 13—On page 8, between lines 2 and 3, insert:

Section 6. *Any professional sports facility constructed with funds from the Professional Sports/Economic Trust Fund shall be used to provide shelter for the homeless, free of charge, when the facility is not being used for a specific sporting event. The homeless shall be allowed to use facilities such as locker rooms, bathrooms, and kitchens within the professional sports facility. Organizations which serve the homeless shall be given access to such a facility for the purpose of providing food, bedding, or other services relating to the homeless.*

(Renumber subsequent sections.)

Senator Grizzle moved the following amendment which was adopted:

Amendment 14—In title, on page 1, line 8, following the second semicolon (;) insert: providing for imposition of a tourist development tax to fund professional sports franchise facility bonds; amending s. 125.0104, F.S.; authorizing counties to impose such taxes;

Senator Kiser moved that the rules be waived and HB 1717 as amended be read the third time by title. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—25

Mr. President	Girardeau	Kiser	Stuart
Barron	Grant	Lehtinen	Thomas
Brown	Grizzle	Malchon	Thurman
Crawford	Hill	Meek	Weinstein
Crenshaw	Jenne	Myers	
Dudley	Johnson	Ros-Lehtinen	
Frank	Kirkpatrick	Scott	

Nays—14

Beard	Gordon	Margolis	Weinstock
Childers, D.	Hair	McPherson	Woodson
Childers, W. D.	Hollingsworth	Peterson	
Deratany	Langley	Plummer	

Vote after roll call:

Senator Thomas changed his vote from yea to not voting.

Motion

On motion by Senator Barron, the rules were waived and the Senate reverted to Introduction for the purpose of introducing the following joint resolution out of order:

INTRODUCTION

SJR 1432—A joint resolution extending the 1988 regular legislative session under the authority of Article III, Section 3(d) of the State Constitution.

On motions by Senator Barron, by unanimous consent SJR 1432 was taken up and by two-thirds vote read the second time by title and by two-thirds vote read the third time in full as follows:

SJR 1432—A joint resolution extending the 1988 regular legislative session under the authority of Article III, Section 3(d) of the State Constitution.

WHEREAS, the sixty days of the 1988 regular session of the Florida Legislature will expire on Friday, June 3, 1988, and the necessary tasks of the session have not been completed, NOW, THEREFORE,

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

That the 1988 regular session of the Florida Legislature is extended until 11:59 p.m., Tuesday, June 7, 1988, under the authority of Article III, Section 3(d) of the State Constitution.

—and passed by the required Constitutional three-fifths vote and was certified to the House. The vote on passage was:

Yeas—39

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

Nays—None

Reconsideration

On motion by Senator Woodson, the Senate reconsidered the vote by which—

CS for SB 1100—A bill to be entitled An act relating to taxes on special fuels; creating s. 212.637, F.S.; exempting from the tax on special fuels sales of special fuel for specified agricultural, aquacultural, or commercial fishing purposes; amending s. 212.67, F.S.; deleting provision for refund of special fuel taxes paid on such sales; providing an effective date.

—as amended passed this day.

Pending further consideration of CS for SB 1100 as amended, on motion by Senator Woodson, by two-thirds vote CS for HB 1254 was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Woodson, by two-thirds vote—

CS for HB 1254—A bill to be entitled An act relating to taxes on special fuels; amending s. 206.9825, F.S., relating to the excise tax on aviation fuels; providing that certain air carriers shall pay a tax at a specified rate on the retail price of such fuel; providing for the application of the special apportionment provisions of s. 212.0598, F.S.; providing that such carriers are not entitled to certain refunds; providing for refunds; providing for repeal; creating s. 212.637, F.S.; exempting from the tax on special fuels sales of special fuel for specified agricultural, aquacultural, or commercial fishing purposes; amending s. 212.67, F.S.; deleting provision for refund of special fuel taxes paid on such sales; providing an effective date.

—a companion measure, was substituted for CS for SB 1100 and by two-thirds vote read the second time by title. On motion by Senator Woodson, by two-thirds vote CS for HB 1254 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Childers, D.	Deratany	Grant
Barron	Childers, W. D.	Dudley	Grizzle
Beard	Crawford	Frank	Hair
Brown	Crenshaw	Girardeau	Hill

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

Nays—None

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Scott, by two-thirds vote SB 1053 was withdrawn from the Committee on Appropriations.

On motion by Senator Kiser, by two-thirds vote HB 1504 was withdrawn from the Committee on Governmental Operations.

On motions by Senator Jenne, by two-thirds vote CS for HB's 1216, 1188, 552, 882 and 883 was withdrawn from the Committees on Commerce, Transportation and Appropriations.

SPECIAL ORDER, continued

On motion by Senator Jenne—

CS for HB's 1216, 1188, 552, 882 and 883—A bill to be entitled An act relating to motor vehicle liability insurance; creating the "Motor Vehicle Insurance Reform Act of 1988"; amending s. 324.072, providing increased financial responsibility requirements for persons convicted of violations relating to driving under the influence; amending s. 316.066, F.S.; requiring law enforcement officers to file accident reports in certain circumstances; providing that a written report includes a report generated through information technology resources; amending s. 316.646, F.S.; prescribing conditions for suspension of a person's driver's license and registration; providing for reinstatement; amending s. 320.02, F.S.; providing for audit of affidavits to determine if any are false; amending s. 324.021, F.S.; increasing the amount of property damage insurance which must be maintained; providing an alternative; clarifying applicability of insurance requirements to owner/lessors; creating s. 324.022, F.S.; providing for financial responsibility for bodily injury and property damage; amending s. 324.051, F.S.; revising language with respect to suspension of a driver's license for failure to maintain required security; amending ss. 324.061, 324.071, and 324.191, F.S.; correcting cross references in conformance to the act; revising language with respect to reinstatement; amending ss. 324.121 and 324.131, F.S.; deleting the requirement of mandating security for 3 years under certain circumstances; amending s. 324.201, F.S.; providing for the seizure of motor vehicle license plates under certain circumstances; providing that certain information available to the Department of Highway Safety and Motor Vehicles shall also be available to local law enforcement agencies; amending s. 324.221, F.S.; providing additional penalties for certain violations; amending s. 324.151, F.S.; revising language relating to a deductible for property damage coverage; repealing s. 324.251, F.S.; deleting the short title of the "Financial Responsibility Law of 1955"; amending s. 626.9541, F.S.; redefining the acts which constitute the unlawful imposition of additional premiums; amending s. 627.0651, F.S.; revising requirements for filing of rates; providing for return of premiums with respect to certain rates which are excessive, inadequate or unfairly discriminatory; providing for public hearings; amending s. 627.727, F.S.; requiring insurers to offer certain uninsured motorist coverage; creating s. 627.7275, F.S.; requiring motor vehicle insurance policies to contain certain liability coverage; creating s. 627.7295, F.S.; providing for motor vehicle insurance contracts; amending s. 627.732, F.S.; redefining the term "motor vehicle"; amending s. 627.733, F.S.; providing for reinstatement of a driver's license or registration which has been suspended for failure to maintain required security; providing for an exemption from certain required security requirements with respect to certain owners or operators of motorcycles; amending s. 627.736, F.S.; prohibiting insurers from requiring certain purchases of liability insurance; providing for the location of mental or physical examinations of injured persons; requiring insurers to report renewals, nonrenewals, and cancellations of policies providing personal injury protection; amending s. 627.739, F.S.; reducing maximum allowable deductibles for personal injury protection; amending s. 627.841, F.S.; changing the delinquent fee for premium finance agreements; amending s. 817.234, F.S.; prohibiting certain solicitations by attorneys; amending s. 624.155, F.S.; providing certain immunity to insurers for releasing certain information to law enforcement agencies; amending s. 627.736, F.S.; revising language with respect to charges for treatment of injured persons under personal injury protection benefits; creating the Study Commission on Affordability and Availability of Motor Vehicle Insurance; providing for membership, expenses, powers, and duties; providing for a report; providing for the dissolution of the commission; requiring proof of personal injury protection insurance coverage under certain circumstances; providing applicability; providing effective dates.

—a companion measure, was substituted for CS for SB 1107 and read the second time by title.

Senators Vogt, Hair, Jennings, Stuart and Jenne offered the following amendment which was moved by Senator Vogt:

Amendment 1—Strike everything after the enacting clause and insert:

Section 1. Short title.—This act may be cited as the "Motor Vehicle Insurance Reform Act of 1988."

Section 2. Paragraph (a) of subsection (3) of section 316.066, Florida Statutes, is amended, and a new subsection (5) is added to said section, to read:

316.066 Written reports of accidents.—

(3)(a) Every law enforcement officer who in the regular course of duty investigates a motor vehicle accident:

1. Which accident resulted in death or personal injury shall, within 24 hours after completing the investigation, forward a written report of the accident to the department.

2. Which accident involved a violation of s. 316.027(2), s. 316.061(1), or s. 316.193 shall, within 24 hours after completing the investigation, forward a written report of the accident to the department.

3. In which accident a vehicle was rendered inoperative to a degree which required a wrecker to remove it from traffic *shall* ~~may~~, within 24 hours after completing the investigation, forward a written report of the accident to the department ~~when such action is appropriate, in the officer's discretion~~.

However, in every case *which does not meet the circumstances described in subparagraph 1., subparagraph 2., or subparagraph 3.* ~~in which a written report is not required~~, the law enforcement officer shall, *within 24 hours after completing the investigation, forward to the department and* provide each party involved in the accident a short-form report as prescribed by the department, which report must include, but is not limited to: the date, time, and location of the accident; a description of the vehicles involved; the names and addresses of the parties involved; the names and addresses of witnesses; the name, badge number, and law enforcement agency of the officer investigating the accident; and the names of the insurance companies for the respective parties involved in the accident. *Each party to the accident shall, within 24 hours after the accident, provide the law enforcement officer with proof of insurance to be included in the accident report. Any party who fails to provide the required information within 24 hours is guilty of an infraction for a nonmoving violation, punishable as provided in s. 316.655.*

(5) For purposes of this section, a written report includes a report generated through the use of information technology resources, as defined in s. 282.303.

Section 3. Effective October 1, 1989, subsection (3) of section 316.646, Florida Statutes, is amended to read:

316.646 Security required; proof of security and display thereof; dismissal of cases.—

(3) Any person who violates this section is guilty of a nonmoving traffic infraction subject to the penalty provided in s. 318.18(2) and shall be required to furnish proof of security as provided in this section. If any person charged with a violation of this section fails to furnish proof, *at or before the scheduled court appearance date, that* ~~of~~ security *was in effect at the time of the violation* ~~at or before the scheduled court appearance date~~, the court shall immediately suspend the registration and driver's license of such person. *Such license and registration may only be reinstated as provided in s. 627.733.* A person who finds it impossible or impractical to obtain proof of security shall be required to submit an affidavit detailing the reasons for such impossibility or impracticality. Such reasons may include, but are not limited to, the fact that the vehicle

has since been sold, stolen, or destroyed, that the owner or registrant of the vehicle is not required by section 627.733 to maintain personal injury protection insurance, or that the vehicle is owned by another person.

Section 4. Effective October 1, 1989, paragraphs (a) and (b) of subsection (5) of section 320.02, Florida Statutes, are amended to read:

320.02 Registration required; application for registration; forms.—

(5)(a) Proof that personal injury protection benefits have been purchased when required under s. 627.733, *that property damage liability coverage has been purchased as required under s. 324.022,* and ~~proof~~ that combined bodily liability insurance and property damage liability insurance have been purchased when required under s. 627.7415 shall be provided in the manner prescribed by law by the applicant at the time of application for registration of any motor vehicle owned as defined in s. 627.732. The issuing agent shall refuse to issue registration if such proof of purchase is not provided. Insurers shall furnish uniform proof-of-purchase cards in a form prescribed by the department. The card shall contain a statement notifying the applicant of the penalty specified in s. 316.646(4). The card or insurance policy, insurance policy binder, or certificate of insurance or a photocopy of any of these; an affidavit containing the name of the insured's insurance company, the insured's policy number, and the make and year of the vehicle insured; or such other proof as may be prescribed by the department shall constitute sufficient proof of purchase. If an affidavit is provided as proof, it shall be in substantially the following form:

Under penalty of perjury, I . . . (Name of insured) . . . do hereby certify that I have . . . (Personal Injury Protection, ~~or~~ *Property Damage Liability, and, when required, Bodily Injury* Liability) . . . Insurance currently in effect with . . . (Name of insurance company) . . . under . . . (policy number) . . . covering . . . (make and year of vehicle) . . .. (Signature of Insured) . . .

Such affidavit shall include the following warning:

WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS SUBJECT TO PROSECUTION.

When an application is made through a licensed motor vehicle dealer as required in s. 319.23, the original or a photostatic copy of such card, insurance policy, insurance policy binder, or certificate of insurance or the original affidavit from the insured shall be forwarded by the dealer to the tax collector of the county or the Department of Highway Safety and Motor Vehicles for processing. By executing the aforesaid affidavit, no licensed motor vehicle dealer will be liable in damages for any inadequacy, insufficiency, or falsification of any statement contained therein. A card shall also indicate the existence of any bodily injury liability insurance voluntarily purchased.

(b) When an operator who owns a motor vehicle is subject to the financial responsibility requirements of chapter 324, *including s. 324.022,* such operator shall provide proof of compliance with such financial responsibility requirements at the time of registration of any such motor vehicle by one of the methods constituting sufficient proof of purchase under paragraph (a). The issuing agent shall refuse to register a motor vehicle if such proof of purchase is not provided *or if one of the other methods of proving financial responsibility as set forth in s. 324.031 is not met.*

Section 5. Subsection (10) is added to section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(10) The department shall audit affidavits utilized as proof of insurance under subsection (5) to verify that the affidavits are not false. The department shall take action as appropriate with respect to false affidavits.

Section 6. Effective October 1, 1989, paragraph (c) of subsection (7) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(7) PROOF OF FINANCIAL RESPONSIBILITY.—That proof of ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle:

(c) In the amount of *$10,000* ~~$5,000~~ because of injury to, or destruction of, property of others in any one accident; and

Section 7. Paragraph (b) of subsection (9) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(b) Owner/lessor.—Notwithstanding any other provision of the Florida Statutes or existing case law, the lessor, under an agreement to lease a motor vehicle for 1 year or longer which requires the lessee to obtain insurance acceptable to the lessor which contains limits not less than $100,000/$300,000 bodily injury liability and $50,000 property damage liability~~; further, this subsection shall be applicable so long as the insurance required under such lease agreement remains in effect~~, shall not be deemed the owner of said motor vehicle for the purpose of determining financial responsibility for the operation of said motor vehicle or for the acts of the operator in connection therewith*; further, this paragraph shall be applicable so long as the insurance required under such lease agreement remains in effect.*

Section 8. Effective October 1, 1989, section 324.022, Florida Statutes, is created to read:

324.022 Financial responsibility for property damage.—Every owner or operator of a motor vehicle, which motor vehicle is subject to the requirements of ss. 627.730-627.7405 and required to be registered in this state, shall, by one of the methods established in s. 324.031 or by having a policy that complies with s. 627.7275, establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of $10,000 because of damage to, or destruction of, property of others in any one accident. No insurer shall have any duty to defend uncovered claims irrespective of their joinder with covered claims.

Section 9. Paragraph (a) of subsection (1) of section 324.151, Florida Statutes, is amended to read:

324.151 Motor vehicle liability policies; required provisions.—

(1) A motor vehicle liability policy to be proof of financial responsibility under s. 324.031(1), shall be issued to owners or operators under the following provisions:

(a) An owner's liability insurance policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby granted and shall insure the owner named therein and any other person as operator using such motor vehicle or motor vehicles with the express or implied permission of such owner, against loss from the liability imposed by law for damage arising out of the ownership, maintenance, or use of such motor vehicle or motor vehicles, within the United States or the Dominion of Canada, subject to limits, exclusive of interest and costs with respect to each such motor vehicle as is provided for under s. 324.021(7). *Insurers may make available, with respect to property damage liability coverage, a deductible amount not to exceed $500. In the event of a property damage loss covered by a policy containing a property damage deductible provision, the insurer shall pay to the third-party claimant the amount of any property damage liability settlement or judgment, subject to policy limits, as if no deductible existed.* ~~Each policy shall contain an optional provision for a deductible relating to property damage coverage in an amount not to exceed $500; provided, however, that such deductible provision in a policy shall not be required when the owner named in the policy specifically rejects the provision.~~

Section 10. Effective October 1, 1989, subsections (3) and (4) are added to section 324.201, Florida Statutes, to read:

324.201 Return of license or registration to department.—

(3) If a law enforcement officer determines that a person operating a motor vehicle is also the owner or registrant of the motor vehicle, and is operating the motor vehicle with a driver's license or vehicle registration which has been under suspension pursuant to a violation of this chapter for a period of at least 60 days, the police officer shall immediately seize the license plate of the motor vehicle.

(4) All information obtained by the department regarding compliance with the provisions of this chapter shall be made available to all law enforcement agencies for the purpose of enforcing this chapter. Law enforcement agencies may utilize that information to seize the license plate of any motor vehicle which has a suspended registration as a result of noncompliance by the operator or owner of the motor vehicle under the provisions of this chapter.

Section 11. Section 324.221, Florida Statutes, is amended to read:

324.221 Penalties.—

(1) Any person who *makes* ~~shall make~~ any misstatement in or *commits* ~~commit~~ any forgery upon notice required to be filed hereunder or who *makes* ~~shall make~~ any false affidavit in connection with the transfer or proposed transfer of the registration of a motor vehicle *is* ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who *violates* ~~shall violate s. 324.201 or~~ any other provision of this chapter for which no penalty is otherwise provided *is*~~, shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Effective October 1, 1989, subsection (3) is added to section 324.221, Florida Statutes, to read:

324.221 Penalties.—

(3) Any person who operates a motor vehicle with an attached license plate which is not registered under the name of the owner of the vehicle and whose driver's license or vehicle registration is currently under suspension pursuant to a violation of this chapter is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 13. Paragraph (o) of subsection (1) of section 626.9541, Florida Statutes, is amended to read:

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

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

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

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

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

3.*a.* Imposing or requesting an additional premium for *a policy of motor vehicle* ~~automobile~~ liability, *personal injury protection, medical payment, or collision* insurance, *or any combination thereof,* or refusing to renew the policy, solely because the insured was involved in *a motor vehicle* ~~an automobile~~ accident, unless:

(I) When there have been no other accidents during the preceding 3 years, the applicant's or insured's insurer has incurred a loss under the insured's policy, other than with respect to uninsured motorist coverage, arising out of the accident *and the insurer's file contains information from which the insurer in good faith determines that the insured was substantially at fault in the accident; or*

(II) When there has been at least one other accident during the preceding 3 years, the applicant's or insured's insurer has incurred a loss under the insured's policy, other than with respect to uninsured motorist coverage, arising out of the accident, or ~~unless~~ the insurer's file contains *information from which the insurer in good faith determines that the insured was substantially at fault in the accident* ~~sufficient proof of fault, or other criteria~~, to justify the additional charge or refusal to renew.

b. An insurer which imposes and collects such a surcharge *or which refuses to renew such policy* shall, in conjunction with the notice of premium due *or notice of nonrenewal,* notify the named insured that he is entitled to reimbursement of such amount *or renewal of the policy* under the conditions listed below and will subsequently reimburse him *or renew the policy,* if the named insured demonstrates that the operator involved in the accident was:

(I)~~a.~~ Lawfully parked;~~.~~

(II)~~b.~~ Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;~~.~~

(III)~~c.~~ Struck in the rear by another vehicle headed in the same direction and was not convicted of a moving traffic violation in connection with the accident;~~.~~

(IV)~~d.~~ Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident;~~.~~

(V)~~e.~~ Not convicted of a moving traffic violation in connection with the accident, but the operator of the other automobile involved in such accident was convicted of a moving traffic violation;~~.~~

(VI)~~f.~~ Finally adjudicated not to be liable by a court of competent jurisdiction;~~.~~

(VII)~~g.~~ In receipt of a traffic citation which was dismissed or nolle prossed*; or*~~.~~

(VIII) Not at fault, as evidenced by a written statement from the insured establishing facts demonstrating lack of fault, which are not rebutted by information in the insurer's file from which the insurer in good faith determines that the insured was substantially at fault.

c. This subparagraph does not prohibit nonrenewal of a policy under which the insurer has paid three or more losses during the most recent 3-year period.

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

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

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

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

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

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issu-

ing, a similar or identical contract or coverage to the same insured at a higher premium rate or continuing an existing contract or coverage at an increased premium.

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

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

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

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

Section 14. Subsection (1) of section 627.4132, Florida Statutes, is amended to read:

627.4132 Stacking of coverages prohibited.—If an insured or named insured is protected by any type of motor vehicle insurance policy for liability, personal injury protection, or other coverage, the policy shall provide that the insured or named insured is protected only to the extent of the coverage he has on the vehicle involved in the accident. However, if none of the insured's or named insured's vehicles is involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with applicable coverage. Coverage on any other vehicles shall not be added to or stacked upon that coverage. This section does not apply:

(1) To uninsured motorist coverage *which is separately governed by s. 627.727.*

Section 15. Effective October 1, 1989, section 627.727, Florida Statutes, is amended to read:

627.727 Motor vehicle insurance; uninsured and underinsured vehicle coverage; insolvent insurer protection.—

(1) No motor vehicle liability insurance policy shall be delivered or issued for delivery in this state with respect to any specifically insured or identified motor vehicle registered or principally garaged in this state unless uninsured motor vehicle coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover *compensatory* damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom. However, the coverage required under this section is not applicable when, or to the extent that, any insured named in the policy rejects the coverage in writing. When a motor vehicle is leased for a period of 1 year or longer and the lessor of such vehicle, by the terms of the lease contract, provides liability coverage on the leased vehicle, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist coverage or to select lower limits than the bodily injury liability limits, regardless of whether the lessor is qualified as a self-insurer pursuant to s. 324.171. Unless *a* ~~the~~ named insured, or lessee having the privilege of rejecting uninsured motorist coverage, requests such coverage or requests higher uninsured motorist limits in writing, the coverage or such higher uninsured motorist limits need not be provided in or supplemental to any other policy which renews, extends, changes, supersedes, or replaces an existing policy with the same bodily injury liability limits when *a* ~~the~~ named insured or lessee had rejected the coverage. When *a* ~~the~~ named insured or lessee has initially selected limits of uninsured motorist coverage lower than his bodily injury liability limits, higher limits of uninsured motorist coverage need not be provided in or supplemental to any other policy which renews, extends, changes, supersedes, or replaces an existing policy with the same bodily injury liability limits unless *a* ~~the~~ named insured requests higher uninsured motorist coverage in writing. The rejection or selection of lower limits shall be made on a form approved by the *department* ~~Insurance Commissioner~~. The form shall fully advise the applicant of the nature of the coverage and shall state that the coverage is equal to bodily injury liability limits unless lower limits are requested or the coverage is rejected. The heading of the form shall be in 12-point bold type and shall state: "You are electing not to purchase certain valuable coverage which protects you and your family or you are purchasing uninsured motorist limits less than your bodily injury liability limits when you sign this form. Please read carefully." If this form is signed by a named insured, it will be conclusively presumed that there was an informed, knowing rejection of coverage or election of lower limits. The insurer shall notify the named insured at least annually of his options as to the coverage required by this section. Such notice shall be part of, and attached to, the notice of premium, shall provide for a means to allow the insured to request such coverage, and shall be given in a manner approved by the department. Receipt of this notice does not constitute an affirmative waiver of the insured's right to uninsured motorist coverage where the insured has not signed a selection or rejection form. The coverage described under this section shall be over and above, but shall not duplicate, the benefits available to an insured under any workers' compensation law, personal injury protection benefits, disability benefits law, or similar law; under any automobile medical expense coverage; ~~under any motor vehicle liability insurance coverage;~~ or from the owner or operator of the uninsured motor vehicle or any other person or organization jointly or severally liable together with such owner or operator for the accident~~; and such coverage shall cover the difference, if any, between the sum of such benefits and the damages sustained, up to the maximum amount of such coverage provided under this section. The amount of coverage available under this section shall not be reduced by a setoff against any coverage, including liability insurance~~. *The maximum liability of the uninsured motorist coverage shall be the lowest of:*

(a) The difference between the limit of uninsured motorist coverage and the amount paid in compensatory damages to the insured by or for any person who may be legally liable for the bodily injury, sickness, or disease, or death resulting therefrom;

(b) The amount of compensatory damages; or

(c) The limits of liability of the uninsured motorist coverage.

Such coverage shall not inure directly or indirectly to the benefit of any workers' compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or similar law.

(2) The limits of uninsured motorist coverage shall be not less than the limits of bodily injury liability insurance purchased by *a* ~~the~~ named insured, or such lower limit complying with the rating plan of the company as may be selected by the named insured. The limits set forth in this subsection, and the provisions of subsection (1) which require uninsured motorist coverage to be provided in every motor vehicle policy delivered or issued for delivery in this state, do not apply to any policy which does not provide primary liability insurance that includes coverage for liabilities arising from the maintenance, operation, or use of a specifically insured motor vehicle. However, an insurer issuing such a policy shall make available as a part of the application for such policy, and at the written request of an insured, limits up to the bodily injury liability limits contained in such policy.

(3) For the purpose of this coverage, the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle when the liability insurer thereof:

(a) Is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; or

(b) Has provided limits of bodily injury liability for its insured which are less than the limits applicable to the injured person provided under uninsured motorist's coverage applicable to the injured person.

(4) An insurer's insolvency protection shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect when the liability insurer of the tortfeasor becomes insolvent within 4 years after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(5) Any person having a claim against an insolvent insurer as defined in s. 631.54(6) under the provisions of this section shall present such claim for payment to the Florida Insurance Guaranty Association only. In the event of a payment to any person in settlement of a claim arising

under the provisions of this section, the association is not subrogated or entitled to any recovery against the claimant's insurer. The association, however, has the rights of recovery as set forth in chapter 631 in the proceeds recoverable from the assets of the insolvent insurer.

(6) If an injured person or, in the case of death, the personal representative agrees to settle a claim with a liability insurer and its insured for the limits of liability, and such settlement would not fully satisfy the claim for personal injuries or wrongful death so as to create an underinsured motorist claim against the underinsured motorist insurer, then such settlement agreement shall be submitted in writing to the underinsured motorist insurer, which shall have a period of 30 days from receipt thereof in which to agree to arbitrate the underinsured motorist claim and approve the settlement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release. If the underinsured motorist insurer does not agree within 30 days to arbitrate the underinsured motorist claim and approve the proposed settlement agreement, waive its subrogation rights against the liability insurer and its insured, and authorize the execution of a full release, the injured person or, in the case of death, the personal representative may file suit joining the liability insurer's insured and the underinsured motorist insurer to resolve their respective liabilities for any damages to be awarded; however, in such action, the liability insurer's coverage must first be exhausted before any award may be entered against the underinsured motorist insurer, and any such award against the underinsured motorist insurer shall be ~~excess and~~ subject to the provisions of subsection (1). Any award in such action against the liability insurer's insured is binding and conclusive as to the injured person and underinsured motorist insurer's liability for damages up to its coverage limits.

(7) The legal liability of an uninsured motorist coverage insurer does not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is described in one or more of paragraphs (a) through (d) of s. 627.737(2).

(8) The provisions of s. 627.428 do not apply to any action brought pursuant to this section against the uninsured motorist insurer unless there is a dispute over whether the policy provides coverage for an uninsured motorist proven to be liable for the accident.

(9) Insurers may offer policies of uninsured motorist coverage containing policy provisions, in language approved by the department, establishing that if the insured accepts this offer:

(a) The coverage provided as to two or more motor vehicles shall not be added together to determine the limit of insurance coverage available to an injured person for any one accident, except as provided in paragraph (c).

(b) If at the time of the accident the injured person is occupying a motor vehicle, the uninsured motorist coverage available to him is the coverage available as to that motor vehicle.

(c) If the injured person is occupying a motor vehicle which is not owned by him or by a family member residing with him, he is entitled to the highest limits of uninsured motorist coverage afforded for any one vehicle as to which he is a named insured or insured family member. Such coverage shall be excess over the coverage on the vehicle he is occupying.

(d) The uninsured motorist coverage provided by the policy does not apply to the named insured or family members residing in his household who are injured while occupying any vehicle owned by such insureds for which uninsured motorist coverage was not purchased.

(e) If, at the time of the accident the injured person is not occupying a motor vehicle, he is entitled to select any one limit of uninsured motorist coverage for any one vehicle afforded by a policy under which he is insured as a named insured or as an insured resident of the named insured's household.

In connection with the offer authorized by this subsection, insurers shall inform the named insured, applicant, or lessee, on a form approved by the department, of the limitations imposed under this subsection and that such coverage is an alternative to coverage without such limitations. If this form is signed by a named insured, applicant, or lessee, it shall be conclusively presumed that there was an informed, knowing acceptance of such limitations. When the named insured, applicant, or lessee has initially accepted such limitations, such acceptance shall apply to any policy which renews, extends, changes, supersedes, or replaces an existing policy unless the named insured requests deletion of such limitations and pays the appropriate premium for such coverage. Any insurer who provides coverage which includes the limitations provided in this subsection shall file revised premium rates with the department for such uninsured motorist coverage to take effect prior to initially providing such coverage. The revised rates shall reflect the anticipated reduction in loss costs attributable to such limitations but shall in any event reflect a reduction in the uninsured motorist coverage premium of at least 20 percent for policies with such limitations. Such filing shall not increase the rates for coverage which does not contain the limitations authorized by this subsection, and such rates shall remain in effect until the insurer demonstrates the need for a change in uninsured motorist rates pursuant to s. 627.0651.

Section 16. Effective October 1, 1989, section 627.7275, Florida Statutes, is created to read:

627.7275 Motor vehicle property damage liability.—No motor vehicle insurance policy providing personal injury protection as set forth in s. 627.736 shall be delivered or issued for delivery in this state with respect to any specifically insured or identified motor vehicle registered or principally garaged in this state unless the policy also provides coverage for property damage liability in the amount of at least $10,000 because of damage to, or destruction of, property of others in any one accident arising out of the use of the motor vehicle. The policy, as to coverage of property damage liability, shall meet the applicable requirements of s. 324.151, subject to the usual policy exclusions such as have been approved in policy forms by the department.

Section 17. Effective October 1, 1989, section 627.7295, Florida Statutes, is created to read:

627.7295 Motor vehicle insurance contracts.—Notwithstanding the provisions of s. 627.728, except when issued to achieve common expiration dates or to complete the unexpired portion of a previous policy period, for a policyholder with more than one motor vehicle, no insurance policy providing personal injury protection and liability coverage, as set forth in s. 627.7275, shall be issued for a term of less than 6 months and as to those specific coverages, no such policy shall be cancelable during the first third of the policy term immediately following the date of issuance or renewal, except upon total destruction of the motor vehicle such that the motor vehicle is no longer operable on the roads of this state or upon transfer of ownership and except that for any policy that is not a renewal policy and that has been in effect for less than 60 days, the insurer may cancel such a policy for reasons other than nonpayment of premium.

Section 18. Subsection (5) of section 627.733, Florida Statutes, is amended, and subsection (6) is added to said section, to read:

627.733 Required security.—

(5) The Department of Highway Safety and Motor Vehicles shall suspend, *after due notice and an opportunity to be heard,* the registration and operator's license of any owner or registrant of a motor vehicle with respect to which security is required under this section *and s. 324.022*:

(a) *Upon its records showing that* ~~If~~ the owner or registrant *of* ~~operates~~ such motor vehicle *did not have* ~~or permits it to be operated in this state without having~~ in full force and effect *when required* security complying with the terms of this section; or

(b) Upon notification by the insurer to the Department of Highway Safety and Motor Vehicles, in a form approved by the department, of cancellation or termination of the required security ~~for reasons of nonpayment of premium or for underwriting reasons~~.

(6) Any operator or owner whose driver's license or registration has been suspended pursuant to this section or s. 316.646 may effect its reinstatement upon compliance with the requirements of this section and upon payment to the Department of Highway Safety and Motor Vehicles of a nonrefundable reinstatement fee of $150 for the first reinstatement after the effective date of this subsection. Such reinstatement fee shall be $250 for the second reinstatement and $500 for each subsequent reinstatement during the 3 years following the first reinstatement. If the person does not have a second reinstatement within 3 years after his initial reinstatement, the reinstatement fee shall be $150 for the first reinstatement after that 3 year period. In the event that a person's license and registration are suspended pursuant to this section or s. 316.646, only one reinstatement fee shall be paid to reinstate the license and the registration. All fees shall be collected by the Department of

Highway Safety and Motor Vehicles at the time of reinstatement. The Department of Highway Safety and Motor Vehicles shall issue proper receipts for such fees and shall promptly deposit those fees in said department's Accident Reports Trust Fund. One-third of the fee collected under this subsection shall be distributed from the Accident Reports Trust Fund to the local government entity or state agency which employed the law enforcement officer who seizes a license plate pursuant to s. 324.201. Such funds may be used by the local government entity or state agency for any authorized purpose.

Section 19. Paragraph (b) of subsection (4) and subsection (5) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law or Medicaid as provided under 42 U.S.C. s. 1396 et seq. shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. Any credits taken as a result of Medicaid benefits received shall be subject to the provisions of s. 409.266(3)(a).

(b) Personal injury protection insurance benefits *paid pursuant to this section* shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his guardian has countersigned the invoice, ~~or~~ bill *or claim form approved by the Department of Insurance* upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance.

Section 20. Paragraph (a) of subsection (7) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the *municipality* ~~city~~ of residence of the insured *or in the municipality where the insured is receiving treatment. If the examination is to be conducted within the municipality of residence of the insured and if* there is no qualified physician to conduct the examination within *such municipality* ~~the city of residence of the insured~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report, by a physician licensed under the same licensing chapter as the treating physician whose treating authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 21. Effective October 1, 1989, subsection (10) is added to section 627.736, Florida Statutes, to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(10)(a) Each insurer which has issued a policy providing personal injury protection benefits shall report the renewal, cancellation, or nonrenewal thereof to the Department of Highway Safety and Motor Vehicles within 45 days from the effective date of the renewal, cancellation, or nonrenewal. Upon the issuance of a policy providing personal injury protection benefits to a named insured not previously insured by the insurer thereof during that calendar year, the insurer shall report the issuance of the new policy to the Department of Highway Safety and Motor Vehicles within 30 days. The report shall be in such form and format and contain such information as may be required by the Department of Highway Safety and Motor Vehicles which shall include a format compatible with the data processing capabilities of said department, and the Department of Highway Safety and Motor Vehicles is authorized to adopt rules necessary with respect thereto. Failure by an insurer to file proper reports with the Department of Highway Safety and Motor Vehicles as required by this subsection or rules adopted with respect to the requirements of this subsection constitutes a violation of the Florida Insurance Code. Reports received by the Department of Highway Safety and Motor Vehicles shall not constitute a public record for the purposes of s. 119.07, are exempt from the requirements of that section, and shall be retained as confidential records to be used for enforcement and regulatory purposes only, including the generation by the department of data regarding compliance by owners of motor vehicles with financial responsibility coverage requirements.

(b) Every insurer with respect to each insurance policy providing personal injury protection benefits shall notify the named insured or in the case of a commercial fleet policy, the first named insured in writing that any cancellation or nonrenewal of the policy will be reported by the insurer to the Department of Highway Safety and Motor Vehicles. The notice shall also inform the named insured that failure to maintain personal injury protection and property damage liability insurance on a motor vehicle when required by law may result in the loss of registration and driving privileges in this state and the notice shall inform the named insured of the amount of the reinstatement fees required by s. 627.733(6). This notice is for informational purposes only, and no civil liability shall attach to an insurer due to failure to provide this notice.

(c) Within 30 days after the effective date of this subsection, each insurer shall report each existing policy providing personal injury protection benefits to the Department of Highway Safety and Motor Vehicles.

Section 22. Effective October 1, 1989, subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(1) REQUIRED BENEFITS.—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to the provisions of subsection (2) and paragraph (4)(d), to a limit of $10,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—Eighty percent of all reasonable expenses for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and

nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) Disability benefits.—Sixty percent of any loss of gross income and loss of earning capacity per individual from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) Funeral, burial, or cremation benefits.—Funeral, burial, or cremation expenses in an amount not to exceed $1,750 per individual. The insurer may pay such benefits to the executor or administrator of the deceased, to any of the deceased's relatives by blood or legal adoption or connection by marriage, to any person appearing to the insurer to be equitably entitled thereto, or to any person who has incurred expenses for the burial of the deceased.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and no such insurer shall require the purchase of any other motor vehicle coverage *other than the purchase of property damage liability coverage as required by s. 627.7275* as a condition for providing such required benefits. *Insurers may not require that property damage liability insurance in an amount greater than $10,000 be purchased in conjunction with personal injury protection.* Such insurers shall make ~~such~~ benefits *and required property damage liability insurance coverage* available through normal marketing channels. Any insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice shall be deemed to have violated part X of chapter 626, and such violation shall constitute an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance; and any such insurer committing such violation shall be subject to the penalties afforded in such part, as well as those which may be afforded elsewhere in the insurance code.

Section 23. Subsection (2) of section 627.739, Florida Statutes, is amended to read:

627.739 Personal injury protection; optional limitations; deductibles.—

(2) Insurers shall offer to each applicant and to each policyholder, upon the renewal of an existing policy, deductibles, in amounts of $250, $500, *and* $1,000~~, and $2,000~~, such amount to be deducted from the benefits otherwise due each person subject to the deduction. However, this subsection shall not be applied to reduce the amount of any benefits received in accordance with s. 627.736(1)(c).

Section 24. Subsection (1) of section 627.841, Florida Statutes, is amended to read:

627.841 Delinquency, collection, cancellation, and check return charges; attorney's fees.--

(1) A premium finance agreement may provide for the payment by the insured of a delinquency and collection charge on each installment in default for a period of not less than 5 days in an amount not to exceed $10 *or 5 percent of the delinquent installment, whichever is greater; provided that if the premium finance agreement is primarily for personal, family or household purposes, the delinquency and collection charge shall not exceed $10.*~~, but~~ Only one such delinquency and collection charge may be collected on any such installment regardless of the period during which it remains in default. ~~; and, if the default results in the cancellation of any insurance contract listed in the agreement, the agreement may provide for the payment by the insured of a cancellation charge equal to the difference between any delinquency and election charge imposed in respect to the installment in default and $10.~~

Section 25. Subsection (9) of section 817.234, Florida Statutes, is amended to read:

817.234 False and fraudulent insurance claims.—

(9) It is unlawful for any attorney to solicit any business relating to the representation of persons injured in a motor vehicle accident for the purpose of filing a motor vehicle tort claim or a claim for personal injury protection benefits required by s. 627.736. *The solicitation by advertising of any business by an attorney relating to the representation of a person injured in a specific motor vehicle accident is prohibited by this section.* Any attorney who violates the provisions 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. Whenever any circuit or special grievance committee acting under the jurisdiction of the Supreme Court finds probable cause to believe that an attorney is guilty of a violation of this section, such committee shall forward to the appropriate state attorney a copy of the finding of probable cause and the report being filed in the matter. This section shall not be interpreted to prohibit advertising by attorneys *which does not entail a solicitation as described in this subsection and* which is permitted by the *rules regulating The Florida Bar* ~~Code of Professional Responsibility~~ as promulgated by the Florida Supreme Court.

Section 26. (1) There is hereby created the Motor Vehicle Insurance Task Force. The task force shall consist of seven members. One member shall be the Insurance Commissioner or his designee, one member shall be the Executive Director of the Department of Highway Safety and Motor Vehicles or his designee, one member shall be the General Manager of the Florida Motor Vehicle Joint Underwriting Association or his designee, two members shall be Florida residents appointed by the President of the Senate, and two members shall be Florida residents appointed by the Speaker of the House of Representatives.

(2) The task force shall:

(a) Examine the affordability and availability of motor vehicle insurance to determine methods to lower motor vehicle insurance rates.

(b) Examine and evaluate the effect of the potential cost impact of compulsory motor vehicle property damage liability insurance on the cost of motor vehicle collision coverage and the potential cost impact of compulsory motor vehicle bodily injury liability insurance on the cost of motor vehicle uninsured motorists coverage.

(c) Examine and evaluate the methods of effective enforcement of the financial responsibility laws.

(d) Submit recommendations to the President of the Senate and the Speaker of the House of Representatives, on or before April 1, 1989.

(3) Members of the task force shall receive per diem and traveling expenses pursuant to s. 112.061, Florida Statutes, while engaged in task force duties.

(4) Effective April 1, 1989, the task force shall be dissolved.

Section 27. There is hereby appropriated from the Accident Reports Trust Fund to the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles for Fiscal Year 1988-1989 the sum of $768,267, and 29 additional positions are authorized, to carry out the provisions of this act.

Section 28. (1) An additional 3 positions are authorized for the Division of Insurance Rating of the Department of Insurance, and there is hereby appropriated from the Insurance Commissioner's Regulatory Trust Fund to the Division of Insurance Rating of the Department of Insurance for fiscal year 1988-1989 to carry out the provisions of this act:

(a) The sum of $51,214 for salaries and benefits.

(b) The sum of $6,188 for expenses.

(c) The sum of $9,605 for operating capital outlay.

(d) The sum of $7,000 for data processing.

(2) The Department of Insurance shall develop procedures and sampling techniques and shall develop forms to be filled out and filed by all or a selected group of insurers transacting motor vehicle insurance in this state, as determined by the department, for the purpose of developing and providing information necessary for the department to report to the Speaker of the House of Representatives and the President of the Senate by March 1, 1989, its findings with respect to the potential cost impact of compulsory motor vehicle property damage liability insurance on the cost of motor vehicle collision coverage and the potential cost impact of compulsory motor vehicle bodily injury liability insurance on the cost of motor vehicle uninsured motorist coverage. The insurers shall file the reports by January 1, 1989. The department is authorized to contract for contractual services necessary with respect to this study and for that purpose and the purpose of developing the report required by this section,

for the 1988-1989 fiscal year, the sum of $100,000 is appropriated from the Insurance Commissioner's Regulatory Trust Fund. The development of necessary forms, procedures, and sampling techniques by the department shall be exempt from the provisions of chapter 120, Florida Statutes, the Administrative Procedures Act. In developing the forms, procedures, and sampling techniques, the department may consult with affected insurers.

Section 29. The changes made by this act shall apply to motor vehicle insurance policies issued or renewed on or after the effective dates of the respective provisions of this act governing motor vehicle insurance policies.

Section 30. (1) The Department of Highway Safety and Motor Vehicles shall conduct a public education program to inform the public of the revised motor vehicle insurance requirements and the consequences of failing to comply with them.

(2) The sum of $50,000 is hereby appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the purpose of conducting the program required by subsection (1).

Section 31. Except as otherwise provided in this act, and except for this section, section 18, and sections making appropriations, which shall take effect July 1, 1988, or upon becoming a law, whichever occurs later, this act shall take effect October 1, 1988.

Senators Jenne and Stuart offered the following amendment to Amendment 1 which was moved by Senator Jenne and adopted:

Amendment 1A—On page 9, line 1, strike "60" and insert: *30*

Senators Jenne, Stuart, Vogt, Hair and Jennings offered the following amendments to Amendment 1 which were moved by Senator Jenne and adopted:

Amendment 1B—On page 28, line 6, strike "October" and insert: April

Amendment 1C—On page 31, line 27, through page 32, line 7, strike all of said lines and renumber subsequent sections.

Amendment 1 as amended was adopted.

Senators Vogt, Hair and Jennings offered the following amendment which was moved by Senator Vogt:

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to motor vehicle liability insurance; creating the "Motor Vehicle Insurance Reform Act of 1988"; amending s. 316.066, F.S.; requiring law enforcement officers to file accident reports in certain circumstances; providing that a written report includes a report generated through information technology resources; amending s. 316.646, F.S.; prescribing conditions for suspension of a person's driver's license and registration; amending s. 320.02, F.S.; providing for proof and affidavit of required insurance when registering a motor vehicle; providing for audit of affidavits to determine if any are false; amending s. 324.021, F.S.; increasing the amount of property damage insurance which must be maintained; clarifying applicability of insurance requirements to owner/lessors; creating s. 324.022, F.S.; providing for financial responsibility for property damage; amending s. 324.151, F.S.; revising provisions relating to a deductible for property damage coverage; amending s. 324.201, F.S.; providing for the seizure of motor vehicle license plates under certain circumstances; providing that certain information available to the Department of Highway Safety and Motor Vehicles shall also be available to local law enforcement agencies; amending s. 324.221, F.S.; providing a criminal penalty for operating a vehicle with a license plate not registered under the name of the owner of the vehicle and whose driver's license or registration is under suspension; amending s. 626.9541, F.S.; redefining the acts which constitute the unlawful imposition of additional premiums; amending s. 627.4132, F.S.; clarifying when stacking of coverages does not apply to uninsured motorist coverage; amending s. 627.727, F.S.; prescribing criteria for determination of maximum coverage for uninsured motorist coverage; creating s. 627.7275, F.S.; requiring motor vehicle insurance policies to contain certain property damage coverage; creating s. 627.7295, F.S.; providing for motor vehicle insurance contracts; amending s. 627.733, F.S.; providing for reinstatement of a driver's license or registration which has been suspended for failure to maintain required security; providing for distribution of funds to certain local government entities and state agencies; amending s. 627.736, F.S.; revising language with respect to charges for treatment of injured persons under personal injury protection benefits; prohibiting insurers from requiring certain purchases of property damage liability insurance; providing for the location of mental or physical examinations of injured persons; authorizing issuance of short-term policies to attain common expiration dates; requiring insurers to report renewals, nonrenewals, and cancellations of policies providing personal injury protection; amending s. 627.739, F.S.; reducing maximum allowable deductibles for personal injury protection; amending s. 627.841, F.S.; changing the delinquent fee for premium finance agreements; amending s. 817.234, F.S.; prohibiting certain solicitations by attorneys; creating the Motor Vehicle Insurance Task Force; providing for membership, expenses, powers and duties; providing for the dissolution of the task force; providing appropriations; requiring the Department of Highway Safety and Motor Vehicles to conduct an education program to inform the public about the revised insurance requirements and providing an appropriation therefor; providing applicability; providing an effective date.

Senators Jenne, Stuart, Jennings, Vogt and Hair offered the following amendment which was moved by Senator Jenne and adopted:

Amendment 2A—On page 3, strike all of lines 13-15 and insert: providing personal injury protection;

Amendment 2 as amended was adopted.

On motion by Senator Jenne, by two-thirds vote CS for HB's 1216, 1188, 552, 882 and 883 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Frank	Kirkpatrick	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
Crenshaw	Jenne	Meek	Weinstock
Deratany	Jennings	Myers	Woodson
Dudley	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Hollingsworth

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

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 concurred in Senate Substitute Amendment 4; has amended Senate Substitute Amendment 2; concurred in same as amended and passed HB 1653, as amended, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 1653—A bill to be entitled An act relating to crime prevention; creating Part I of the act, relating to Standards for Sentencing Criminals; amending s. 960.001, F.S.; requiring the institution of confinement to notify the sheriff of the county where the crime occurred of an offender's escape; requiring the sheriff to notify certain persons of the escape; amending s. 893.13, F.S.; authorizing courts to impose assessments, in addition to fines and other penalties authorized by law, against offenders who violate the criminal provisions of chapter 893, F.S., and providing standards therefor; creating s. 893.16, F.S.; providing that such additional assessments shall be remitted by the clerks of court for use in specified drug abuse programs; creating s. 893.165, F.S.; authorizing the establishment of county drug abuse trust funds to provide assistance grants to designated drug abuse treatment or education programs; providing for administration of such funds by the boards of county commissioners; providing for the remittance and disbursement of additional assessments for drug abuse program purposes; amending s. 921.187, F.S.; authorizing the imposition of such assessments in the disposition of such criminal cases; amending ss. 142.01 and 142.03, F.S.; providing an exception for such assessments from county fine and forfeiture funds; amending s. 921.0015, F.S.; 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.; removing the Supreme Court from the guidelines modification process; changing the reporting date; authorizing the Legislature to revise the guidelines; defining when a departure sentence is justified; amending s. 775.021, F.S.; providing legislative intent as to rules of construction for determining criminal penalties; amending s. 903.133, F.S.; adding violations of s. 794.011(2) and (3), F.S., relating to sexual battery of minors, to the list of offenses for which bail on appeal is prohibited; amending s. 941.10, F.S.; providing for presumed validity of issue of Governor's warrant of arrest under s. 941.07, F.S., and providing that the person arrested for an extraditable crime thereunder is not eligible for bail except under specified circumstances; providing legislative findings and intent as to career criminals; providing for enhanced prosecution of and penalties for career criminals; providing criteria and standards; providing for investigative cooperation among criminal justice agencies; providing for establishment of career criminal prosecution units in state attorneys' offices; providing guidelines for prosecution; providing for career criminal apprehension programs to be implemented by law enforcement agencies; amending s. 775.084, F.S.; deleting provisions relating to habitual misdemeanants and providing for the sentencing of habitual violent felony offenders; providing for extended terms of imprisonment; providing definitions, procedures, and standards; amending s. 921.141, F.S.; providing an additional aggravating circumstance for purposes of imposition of the death penalty; creating Part II of the act, relating to Delinquency Prevention; creating s. 959.31, F.S., the Delinquency Prevention Act of 1988, to authorize delinquency prevention plans and programs thereunder; providing intent and definitions; requiring the establishment of delinquency prevention councils and providing duties thereof; authorizing the Department of Health and Rehabilitative Services to award delinquency prevention program grants and providing application procedures therefor and conditions with respect thereto; amending s. 39.032, F.S.; changing detention procedures to authorize nonsecure detention in certain situations; changing the provisions for detention at a detention hearing; providing arraignment requirements; creating s. 39.0321, F.S.; providing for the prohibited use of detention; creating Part III of the act, relating to Drug Abuse Prevention; amending s. 893.13, F.S.; providing for mandatory sentences with respect to certain drug-related prohibited acts; amending s. 893.135, F.S.; decreasing the amount of cocaine required for the offense of trafficking; creating s. 893.137, F.S.; providing a minimum mandatory sentence for a second or subsequent drug-related felony offense; amending s. 212.0505, F.S.; increasing the tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis, or controlled substances; providing a surcharge; revising conditions under which the settlement of tax, penalty, or interest is authorized; providing for the waiver of bond requirements and enforcement and recording costs; creating trust funds for deposit of revenues from said tax; amending chapter 87-243, Laws of Florida; adding nonalcohol substance abuse to the subjects to be studied by the Crime Prevention and Law Enforcement Study Commission; amending s. 893.03, F.S.; adding two substances to a list of Schedule I controlled substances of a hallucinogenic nature; creating Part IV of the act, relating to Organized Crime Prevention; amending s. 934.02, F.S.; providing definitions relating to interception of wire, oral, and electronic communications; designating ss. 934.03-934.10, F.S., as part I of chapter 934, F.S.; amending s. 934.03, F.S.; providing when interception and disclosure of such communications is allowed or prohibited and providing civil remedies and criminal penalties; amending s. 934.04, F.S.; providing when manufacture, distribution, or possession of such communications is allowed or prohibited and providing criminal penalties; amending s. 934.05, F.S.; providing for seizure and forfeiture of intercepting devices; amending s. 934.07, F.S.; providing for authorization of interception of communications; amending s. 934.08, F.S.; providing for authorization for disclosure and use of intercepted communications; amending s. 934.09, F.S.; providing procedure for interception of communications; amending s. 934.10, F.S.; providing civil remedies; creating part II of chapter 934, F.S.; creating s. 934.21, F.S.; providing when access to stored communications is allowed or prohibited and providing criminal penalties; creating s. 934.22, F.S.; providing when disclosure of contents of communications is allowed or prohibited; creating s. 934.23, F.S.; providing requirements for governmental access to communications; creating s. 934.24, F.S.; providing for backup preservation of communications and for customer notification and customer challenges, including procedure therefor; providing definitions; providing immunity under certain circumstances; amending s. 934.25, F.S.; authorizing delayed notification in specified instances and providing criteria; providing definitions; creating s. 934.26, F.S.; providing for reimbursement of costs of interception; creating s. 934.27, F.S.; providing for civil actions and remedies; providing a defense to civil or criminal action; creating s. 934.28, F.S.; providing for exclusivity of remedies and sanctions; creating part III of chapter 934, F.S.; creating s. 934.31, F.S.; providing a general prohibition on pen register and trap and trace device use and providing an exception thereto; providing penalties; creating s. 934.32, F.S.; providing for application for an order for such device; creating s. 934.33, F.S.; providing for issuance of such an order; creating s. 934.34, F.S.; requiring assistance in installation and use of such device and providing for compensation; providing immunity from civil or criminal liability; providing a defense; creating s. 92.60, F.S.; providing for admission into evidence of foreign records of regularly conducted business activity, or a copy thereof, and for foreign certification, as an exception to the hearsay rule in criminal proceedings; providing definitions; providing procedure; amending s. 896.102, F.S., relating to currency transaction reports; providing that information received by the Department of Revenue shall be subject to disclosure pursuant to subpoena; amending s. 213.053, F.S., to conform; amending s. 895.06, F.S., relating to the Florida Racketeer Influenced and Corrupt Organization Act; providing applicability of the privilege against self-incrimination in a criminal prosecution to a person who complies with a court order directing that he comply with a subpoena; amending s. 895.09, F.S.; providing that certain funds obtained under RICO forfeiture proceedings shall be deposited in the Drug Abuse Trust Fund of the Department of Health and Rehabilitative Services to fund specified drug abuse treatment services; prohibiting the use of a telephone to transmit certain obscene communications intrastate; prohibiting a person to allow the use of a telephone or a telephone facility under his control for such purpose and specifying criminal penalties for violations; limiting the provisions to intrastate telephone communications; creating Part V of the act, relating to Property Crime Prevention; amending s. 163.503, F.S.; increasing the percentage of land area used for residential and commercial purposes in a safe neighborhood improvement district; excluding land used for public facilities from land use calculations; adding a definition of "Enterprise Zone"; amending s. 163.504, F.S.; allowing participation in safe neighborhoods programs without planning funds; amending s. 163.506, F.S.; clarifying use of taxes and special assessments; providing an alternative to designating the local governing body as the board of directors; amending s. 163.508, F.S.; providing eligibility for existing property owners' associations; allowing assessment against all properties; amending s. 163.511, F.S.; clarifying use of taxes and special assessments; amending s. 163.514, F.S.; including power to make and collect general assessments; amending s. 163.5151, F.S.; providing for collection of assessments; amending s. 163.521, F.S.; adding clarifying language; creating s. 163.523, F.S.; providing for involvement of community organizations; amending ss. 810.08 and 810.09, F.S., relating to trespass in a structure or conveyance and trespass on property other than a structure or conveyance, respectively, to provide that any such trespasser may be taken into custody and detained; providing immunity from liability; amending s. 810.011, F.S., relating to burglary and trespass; modifying the definition of the term "posted land"; amending s. 810.115, F.S.; expanding provisions relating to willfully and maliciously breaking or injuring fences for which a penalty is provided; providing for compensation to the owner; creating s. 877.19, F.S.; prohibiting certain defacement of property by aerosol spray paint cans and broad-tipped markers; providing penalties; amending s. 806.13, F.S., relating to criminal mischief; providing that perpetrators shall, in addition to any criminal penalty, pay the damage caused thereby; providing penalties; amending s. 715.041, F.S.; providing for information required to be kept by pawnbrokers to be on a form approved by the Department of Law Enforcement; amending s. 715.042, F.S.; providing for a fine; amending s. 538.011, F.S.; providing for information required to be kept by precious metals dealers to be on a form approved by the Department of Law Enforcement; amending s. 538.018, F.S; providing for a fine; amending s. 68.065, F.S.; removing the maximum limit for triple damages with respect to certain actions to collect worthless checks, drafts, or orders of payment; amending s. 832.05, F.S.; providing, with respect to worthless checks, drafts or debit card orders, that a payee does not have reason to believe a payor does not have sufficient funds to insure payment of a check solely because the payor has previously issued a worthless check to the payee; amending s. 790.001, F.S.; modifying the definition of "destructive device"; amending s. 790.161, F.S., relating to felony offenses involving destructive devices, to add projecting such a device as a felony, to add activities constituting the attempted offense, providing exceptions for lawful uses; amending s. 790.162, F.S., relating to threatening to use a destructive device, to add threatening to project such a device as an offense; amending s. 806.111, F.S.; modifying the defintion of "fire bomb"; providing penalties; creating Part VI of the act, relating to Prevention of Crimes against Law Enforcement Officers; creating s. 925.055, F.S.; requiring state and local law enforcement agencies which receive certain funds to adopt accountability policies; providing required criteria;

amending ss. 843.01, 843.02, and 784.07, F.S.; providing a uniform definition of "law enforcement officer" for purposes of certain crimes against law enforcement officers; amending s. 776.05, F.S., relating to justifiable use of force; providing when deadly force may be used; amending s. 784.07, F.S.; providing enhanced penalties for aggravated assault or battery against certain officers and providing a life felony penalty for attempted murder of a law enforcement officer under certain circumstances; creating s. 775.0825, F.S.; providing mandatory minimum imprisonment for attempted murder of a law enforcement officer; amending s. 784.07, F.S., relating to assault and battery; providing for reclassification of penalties if the victim of the assault or battery is a parking enforcement specialist performing his duties as such; amending s. 843.08, F.S.; increasing the penalty for falsely personating a law enforcement officer and enhancing such penalty if false personation as a police officer occurs during the commission of a felony; amending s. 790.001, F.S.; providing a definition; amending s. 790.052, F.S.; providing for the carrying of concealed firearms by off-duty law enforcement officers and correctional officers; amending s. 790.06, F.S.; excepting machine guns from provisions authorizing licenses to carry concealed weapons or concealed firearms and providing an additional condition to such licensure; providing for suspension of license or of application therefor under certain circumstances; providing an exemption from licensing requirements for certain officers; providing for a fingerprint check; prohibiting the carrying of a concealed weapon or firearm into specified parts of an airport and providing an exemption from such prohibition; providing a penalty; amending s. 790.33, F.S.; authorizing adoption of county cooling-off-period ordinances of up to 3 days by majority vote of the county commission; creating Part VII of the act, relating to Protection of Victims of Crime; creating the "Victims' Rights Act of 1988"; amending s. 775.089, F.S.; revising the standards under which a court may limit restitution to a victim of a crime; requiring a court to order certain types of restitution when a victim has suffered bodily injury; requiring a court to consider additional factors in determining the amount of restitution; providing for the issuance of an income deduction order with an order for restitution; providing for enforcement; amending s. 914.21, F.S.; providing a definition; amending s. 914.22, F.S.; prohibiting tampering with a witness, victim, or informant in an official investigation; providing penalties; amending s. 921.001, F.S.; requiring the Sentencing Commission to consider additional factors in developing statewide sentencing guidelines; specifying facts which a court may consider in imposing a sentence that is outside such guidelines; amending s. 921.187, F.S.; providing conforming language; creating s. 943.172, F.S.; requiring the Criminal Justice Standards and Training Commission of the Department of Law Enforcement to establish standards and require a specified amount of instruction for law enforcement officers in victims assistance and rights; amending s. 944.512, F.S.; revising the specified distribution of the proceeds of the sale by a convicted felon of an account of his crime; providing for attachment of a lien on such proceeds; extending the lien to accounts of crimes by persons; amending s. 944.605, F.S.; revising notification requirements of an inmate's anticipated release from incarceration or a person's anticipated release from parole; amending s. 947.06, F.S.; authorizing victims of crime to make certain statements before the Parole and Probation Commission; requiring the commission to adopt rules governing such statements; amending s. 948.03, F.S.; providing conforming language; amending s. 945.091, F.S.; providing that the Department of Corrections may require restitution be made from an inmate's employment proceeds; amending s. 960.001, F.S.; providing implementing language conforming to the provisions of a proposed constitutional amendment; deleting provisions requiring that certain notification be given to a witness of a crime; requiring that notification of certain judicial proceedings be given to a victim and a relative of certain victims; authorizing the state attorney to consult a victim or a victim's guardian or family regarding the sentencing of a person accused of the crime; providing that a victim be notified of certain additional rights; providing for a victim's rights information card or brochure; requiring the Governor to advise state agencies of certain statutory changes; deleting provisions requiring that an explanation be provided to the Governor if certain objectives are not achieved by an agency; requiring the Executive Office of the Governor to review guidelines for the fair treatment of victims adopted by specified agencies; providing for injunctive relief; providing that victims and witnesses are not required to attend certain discovery depositions; creating s. 960.002, F.S.; authorizing the creation of a direct-support organization, with the approval of the Governor, to provide assistance to victims of crime; providing requirements for the operation, financial records, and accounts of such organization; providing for the appointment of a guardian ad litem or other advocate to represent a minor who is involved in criminal proceedings as either a victim or a witness; prescribing powers and duties of the guardian ad litem or other advocate; providing such person immunity from certain liability; providing for issuance of a search warrant upon probable cause that a child is being abused or neglected; authorizing the officer executing such warrant to take the child into protective custody under certain circumstances; amending s. 316.193, F.S.; increasing the amount of surcharges on fines imposed for driving under the influence and providing for such increase to be deposited into the Administrative Trust Fund of the Department of Law Enforcement for funding of the statewide criminal analysis laboratory system; creating s. 943.361, F.S.; providing for disbursement and appropriation of funds assessed in conjunction with driving under the influence fines for purposes of the statewide criminal analysis laboratory system; providing penalties; providing definitions; prohibiting adults from allowing open house parties at any residence if alcoholic beverages or drugs are possessed or consumed by any minor; providing an exception; providing a penalty; 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 penalties; providing unlawful acts with respect to such devices; providing an exemption; providing for certification of such devices by the Department of Health and Rehabilitative Services; providing rulemaking authority; amending s. 322.271, F.S., to authorize the Department of Highway Safety and Motor Vehicles to order ignition interlock devices as a condition of reinstatement of driving privilege for certain individuals; amending s. 847.011, F.S.; prohibiting persons who own or operate a motor vehicle from affixing to such vehicle any sticker, decal, emblem or other device containing certain obscene descriptions, photographs or depictions; providing a penalty; providing effective dates and contingent effective dates.

House Amendment 1 to Senate Amendment 2I—Remove unengrossed Senate Amendment 2I

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

HB 1653 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

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

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 248 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 248—A bill to be entitled An act relating to school finance; amending s. 236.081, F.S.; revising the manner and method of determining the basic annual allocation from the Florida Education Finance Program to each school district for operation; amending s. 229.565, F.S.; authorizing adjustments in district full-time equivalent student counts based on statistical estimates under certain conditions; providing an effective date.

Amendment 1—On page 13, line 5, insert:

(j) Profoundly handicapped supplement.—Annually, an amount established in the appropriations act shall be added to the basic amount for current operation of qualified districts as a profoundly handicapped program supplement which shall be computed as follows: If any district's preceding year's profoundly handicapped expenditure per full-time equivalent student membership as reported in the Annual District Cost Report is above a percent figure annually established by the Legislature in the General Appropriations Act of the revenue per full-time equivalent student membership generated through the Florida Education Finance Program for profoundly handicapped, the district shall

receive an amount calculated by multiplying the district's profoundly handicapped full-time equivalent student membership count by the difference between the district's profoundly handicapped program expenditure per student and the percent set annually by the Legislature of the district's profoundly handicapped program revenues per full-time equivalent student membership. If the total amount to fully fund the entitlement exceeds the amount appropriated, each eligible district's allocation shall be prorated.

Amendment 2—On page 15, line 9, after the period insert: *However, summer inservice institute participants may elect to receive college credit for components completed, provided the credit-earning components are identified in the summer institute plan submitted to the Department of Education by the district. Those individuals who choose to receive college credit shall pay the regular tuition and registration fees assessed by the credit-granting institutions and shall be entitled to all participant benefits provided in the district plan.*

Amendment 3—On page 22, line 8, through page 23, line 30, strike all of said lines and insert: ~~The Department of Education is authorized to increase the base student allocation to the school districts if available funds exceed allocated amounts.~~

(c) The amount thus obtained shall represent the net annual state allocation to each district; however, notwithstanding any of the provisions herein, each district shall be guaranteed a minimum level of funding in the amount and manner prescribed *in the General Appropriations Act.* ~~below:~~

~~1. The department shall determine the value per full-time equivalent student for the prior fiscal year for each district as follows: Divide the total number of full-time equivalent students included in the prior year's Education Finance Program into the sum of:~~

~~a. The prior year's state allocation for current operation, as provided in paragraphs (a) and (b), less student transportation, as provided in s. 236.083(7); and~~

~~b. The calculated yield of the actual nonvoted millage levied by the district during the prior fiscal year on 95 percent of the prior calendar year's nonexempt assessed valuation of the district for school purposes.~~

~~2. The amount determined in subparagraph 1. shall be multiplied by the number of full-time equivalent students included in the final estimated computation of the current Education Finance Program.~~

~~3. The amount determined in subparagraph 2. shall be the minimum level of funding for each district for the current fiscal year. Such amount shall include the following:~~

~~a. The state allocation for current operation, as provided in paragraph (a), exclusive of all categorical programs; and~~

~~b. The calculated yield of the maximum nonvoted millage as prescribed in s. 236.25(1) during the current fiscal year on 95 percent of the current calendar year's nonexempt assessed valuation of the district for school purposes.~~

~~4. In any district in which the amount determined in subparagraph 2. does not equal or exceed the sum of the sources specified in subparagraph 3., the state share of this total shall be increased in an amount sufficient to assure that each district receives the amount determined in subparagraph 2.~~

Amendment 4—On page 26, line 28, insert:

Section 2. Section 236.135, Florida Statutes, is created to read:

236.135 Equipment purchasing or leasing.—All moneys appropriated in the General Appropriations Act to the Department of Education are conditional upon each district school board, each community college board of trustees, or the Board of Regents securing prior approval from the Commissioner of Education before purchasing or leasing any electronic data processing equipment or software costing in excess of $25,000 in any 12-month period. In granting approval, the commissioner must ensure that the software or equipment is compatible with the Florida Information Resources Network and that the costs of educational computing are reduced by making the best use of existing hardware and software. The commissioner shall give priority to improving information systems, with specific emphasis on common data definitions and data handling procedures which will provide analyses and reports utilizing data from school districts, community colleges, or state universities. Such development shall be carried out through a centrally coordinated and supervised effort.

Section 3. Section 236.145, Florida Statutes, is created to read:

236.145 Residential nonpublic school contract reimbursement.—

(1) Annually, the Commissioner of Education shall obtain the cost of all residential nonpublic school contracts and calculate the cost to be reimbursed. The commissioner shall calculate by district and by student the total cost of the contracts and deduct the amount of the weighted full-time equivalent students generated plus the amount of federal handicapped entitlement funds per student and any amount paid by the Department of Health and Rehabilitative Services, or other federal, state, or local agency. Sixty percent of the difference between the actual cost of contract and the funds deducted shall be eligible for reimbursement.

(2) The commissioner shall request from the Legislature annually the amount of funds needed to reimburse the districts as calculated in subsection (1). If the Legislature does not appropriate the full amount requested, the amount appropriated shall be prorated among all eligible students.

(Renumber subsequent section.)

Amendment 5—On page 1, in the title, line 6, after the semicolon insert: providing for calculation of a profoundly handicapped supplement; providing for college credit for summer inservice institute participants; revising the method for determining the guaranteed minimum state allocation to each district; creating s. 236.135, F.S.; providing that appropriations to the Department of Education for certain purchases of electronic data processing equipment or software by school districts, community colleges, and the Board of Regents are subject to approval by the Commissioner of Education; creating s. 236.145, F.S.; providing for reimbursement to school districts for costs of residential nonpublic school contracts and providing conditions, eligibility, and funding with respect thereto;

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

SB 248 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

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

Nays—None

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 3, CS for SB 99, SB 267, CS for SB 567, CS for SB 594, SB 589, CS for SB 1076, SB 1139, CS for SB 1174, CS for SB 1176, Senate Bills 1274, 1338, 1426, 1431; and has adopted SCR 928.

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 to House Amendments 1 and 2 and passed as amended SB 173.

John B. Phelps, Clerk

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendment 1 and passed SB 1115, as amended.

John B. Phelps, Clerk

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendment 1 and passed SB 1422, as amended.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered engrossed and then 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 House Bills 79, 648, 809, 1226, 1248, 1249, 1411, 1449, 1525, CS for HB 421, CS for HB 844.

John B. Phelps, Clerk

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments to HJR 1610 and passed as amended by the required Constitutional three-fifths vote of the membership of the House.

John B. Phelps, Clerk

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has passed by the Constitutional three-fifths vote of the Membership of the House SJR 1432.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered enrolled.

The Honorable John W. Vogt, President

I am directed to inform the Senate that the House of Representatives has accepted the Conference Committee Report as an entirety and passed CS for CS for SB 1192 as amended by the Conference Committee Report.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

ENROLLING REPORTS

CS for SB 594 has been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 3, 1988.

SJR 1432 has been enrolled, signed by the required Constitutional Officers and filed with the Secretary of State on June 3, 1988.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 2 was corrected and approved.

VOTES RECORDED

Senator Crawford was recorded as voting yea on the following: Senate Bills 26, 32, 56, 101, 114, 115, 116, 117, 118, 119, 121, 144, 148, 149, 163, 165, 171, 229, 230, 243, 252, 253, CS for SB 249 and CS for SB 254 on April 12; CS for SB 54 on April 19; Senate Bills 488, 774 and CS for CS for SB 292 on May 10; SB 1064 on May 11; HB 1700 on May 19; Senate Bills 68, 105, 180, 336, 424, 490, 1422 and CS for SB 773 on May 26; Senate Bills 116, 160, 281, 524, 673, 704, 778, 827, 922, 994, 1075, 1203, 1298, 1381, 1409, 1419, 1420, 1421, 1423, 1426, 1427, CS for SB 11, CS for SB 16, CS for SB 54, CS for SB 73, CS for SB 213, CS for SB 359, CS for SB 419, CS for SB 451, CS for SB 530, CS for SB 585, CS for SB 594, CS for SB 931, CS for SB 1171, CS for CS for SB 118, CS for CS for SB 446, House Bills 26, 171, 174, 177, 178, 179, 180, 181, 247, 274, 702, 780, 957, CS for HB 72, CS for HB 1015, CS for HB 1125, CS for HB 1288, CS for HB 1673 and HJR 1610 on May 30; SB 765, CS for CS for SB's 42 and 49, CS for HB 559 on May 31; HB 446 and CS for HB 74 on June 2.

RECESS

On motion by Senator Barron, the Senate recessed at 10:34 p.m. to reconvene at 1:00 p.m., Monday, June 6.

ADDITIONAL SENATE PAGES

June 3

Rosalind Renee Bush, Tallahassee; Robert T. Causseaux, Tallahassee; John Evans Dailey, Tallahassee; Sarah Scott Dailey, Tallahassee; Angela D. Jackson, Tallahassee; Christine Marie Lojan, Tallahassee; Douglas McDaniel, Tallahassee; Christa Ray, Midway; Bill Starks, Homestead; Meredith Trammell, Marianna