Journal of the Senate

Number 20 **Thursday, May 31, 1990**

CALL TO ORDER

The Senate was called to order by the President at 9:30 a.m. A quorum present—38:

Mr. President	Deratany	Johnson	Scott
Bankhead	Diaz-Balart	Kiser	Souto
Beard	Dudley	Langley	Thomas
Brown	Forman	Malchon	Thurman
Bruner	Gardner	Margolis	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	

Excused: Periodically, conferees on Finance and Taxation

PRAYER

The following prayer was offered by Dr. Jack A. Snell, Pastor, Hendricks Avenue Baptist Church, Jacksonville:

O Lord, our God, if ever we needed your wisdom and your guidance, it is now—as the Legislature rushes toward its completion. Time is short, nerves are frayed, stress is high, attitudes are jaded. Grant to the members of this body a sacred moment of quiet before they take up the duties of the day. Turn their thoughts to you and open their hearts to your spirit, that they may have wisdom in their decisions, understanding in their thinking, love in their attitudes, and mercy in their judgments.

Father, enable these Senators to know that, by themselves, they are not sufficient for this day and for problems that are greater than the measure of their best wisdom. Imbue them with wisdom from on high. Give them the courage to change their minds when that is needed. Let them be tolerant of the thoughts of others. Open their ears to your voice and make them a little more deaf to the whispers of special interest groups that would distract them from their duty. In their choices let them ask, "Will it work?" only after they have asked, "Is it right?"

Bestow, we pray, your grace upon the presiding officers, the members and the support personnel of this body so that when this day is concluded they may have accomplished something worthwhile for the good of the citizens of this state and all humankind. For the sake of the world, for the sake of peace, for the sake of America, for their conscience sake, for God's sake, help us all to do the right thing this day. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, May 31, 1990: SB 2828, SB 1730, CS for SB 2938, CS for SB 1636, CS for SB 260, SB 360, CS for SB 938, CS for SB 1906, CS for SB 968, CS for SB 760, SB 1152, CS for SB 2670, CS for SB 2566, CS for SB 2764, CS for SB 2982, CS for HB 3621, CS for CS for SB 230, SB 1982, CS for SB 1968, CS for SB 2424, CS for SB 362, CS for SB 2744, SB 2572, SB 400, SB 784, SB 384, SB 2016, SB 1500, CS for CS for SB 1458, CS for CS for SB 1150, CS for SB 352, SB 2836, CS for SB 836, CS for SB 3060, CS for HB 691, CS for SB 1566, CS for SB 2350, CS for SB 2688, CS for SB 2586, CS for HB 2493, CS for SB 1544, CS for HB 3293, CS for SB 1744, CS for SB 2262, CS for CS for SB 178, HB 2397, CS for HB 2059, CS for HB 51, CS for SB 1644, SCR 478, SJR 246, CS for SB 416, CS for HB 647, CS for HB 475, CS for HB 1189, CS for CS for CS for SB 2076

Respectfully submitted,
James A. Scott, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Consent Calendar for Thursday, May 31, 1990: CS for SB's 854, 2078 and 2792, SB 400, CS for SB 1302, CS for SB 1806, CS for SB 1460, CS for SB 2568, CS for SB 1142, CS for SB 1708, CS for SB's 2872 and 464, SB 1890, CS for SB 2070, CS for SB 800, SB 2768, CS for SB 2642, CS for SB 914, CS for CS for SB 2528, SB 2976, SB 84, CS for SB 1670, SB 1428, SB 1356, CS for SB 2648, SB 2388, CS for SB 2450, CS for SB 1010, CS for SB 2608, CS for SB 2852, CS for SB's 548 and 1070, CS for SB 2052

Respectfully submitted,
James A. Scott, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, May 31, 1990: SB 1836, CS for SB 3124, SB 3160, CS for SB 3162, SB 3212, SB 3214, HB 2691, HB 3221, HB 3239, HB 3273, HB 3277, HB 3279, HB 3287, HB 3321, HB 3331, HB 3339, HB 3351, HB 3355, HB 3389, HB 3391, HB 3395, HB 3401, HB 3403, HB 3407, HB 3411, HB 3415, HB 3417, CS for HB 3419, HB 3423, HB 3443, HB 3491, HB 3507, HB 3555, HB 3559, HB 3561, HB 3591, HB 3667, HB 3707, CS for HB's 3303 and 3305, HB 3557, SB 3202, SB 3216, HB 3485, HB 3231, HB 3283, HB 3193

Respectfully submitted,
James A. Scott, Chairman

The Committee on Rules and Calendar submits the following Claims Calendar for Thursday, May 31, 1990: CS for HB 19, CS for SB 70, HB 121, CS for HB 145, HB 177, HB 191, HB 363, CS for SB 394, CS for HB 427, CS for SB 484, HB 2621, SB 3072

Respectfully submitted,
James A. Scott, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: CS for SB 590, CS for SB 1388, CS for SB 1942, CS for SB 2036, CS for SB 2706

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

The Committee on Finance, Taxation and Claims recommends the following pass: CS for HB 19 with 4 amendments, HB 121, CS for HB 145, HB 177, HB 191, HB 363, CS for HB 427 with 1 amendment, HB 2621, CS for SB 2104, SB 3072

The Committee on Rules and Calendar recommends the following pass: CS for HB 647 with 2 amendments, SB 224, SJR 246, SJR 1040 with 2 amendments

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

The Committee on Finance, Taxation and Claims recommends committee substitutes for the following: SB 70, SB 394, SB 484, SB 2440

The Committee on Rules and Calendar recommends a committee substitute for the following: SCR 478

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

EXECUTIVE BUSINESS

The Honorable Bob Crawford May 15, 1990
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Executive Business for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment	*For Term Ending*
Board of Accountancy	
Appointee: Davis, Beryl H.	12/26/93
Secretary of Administration	
Appointee: Shutes, Aletta L.	Pleasure of Governor
Affordable Housing Study Commission	
Appointee: Bowers, Richard L.	Pleasure of Governor
Florida Black Business Investment Board	
Appointee: Craney, Jo Ann S.	09/30/91
Florida Citrus Commission	
Appointee: English, Hugh M.	05/31/91
State Board of Community Colleges	
Appointee: Swartzwelder, Richard T. II	09/30/90
Board of Trustees of Manatee Community College	
Appointee: Mays, Donald C.	05/31/93
Construction Industry Licensing Board	
Appointees: Priede, Nelson J.	09/30/93
Rhodes, Nancy C.	09/30/93
Board of Dentistry	
Appointee: Ross, Charles L., Jr.	02/07/94
Education Standards Commission	
Appointees: Cazares, Gabriel	09/30/90
Henley, Carlton	09/30/92
Mann, Marcia	09/30/90
Florida Elections Commission	
Appointees: Pevsner, N. Henry	12/10/93
Rhodes, Donald William	12/05/93
Electrical Contractors' Licensing Board	
Appointee: Gillman, Edward	12/17/90
Board of Funeral Directors and Embalmers	
Appointee: Fuller, Leander D.	08/01/90
Board of Physical Therapy Practice	
Appointees: Davis, Sandra B.	10/01/93
Kuhns, Rolf M.	10/01/93
Rocchio, Carolyn A.	10/01/91
Stoff, Mark D.	10/01/92
West, James L.	10/01/91
Historic St. Augustine Preservation Board of Trustees	
Appointees: Drew, Mitchell N.	08/31/91
Lee, W. Sperry	08/04/93
Rose, William N.	08/13/93
Board of Regents	
Appointee: Hantman, Perla	01/01/96
Apalachee Regional Planning Council, Region 2	
Appointee: Chandler, Herbert W.	10/01/92
East Central Florida Regional Planning Council, Region 6	
Appointee: Godwin, Larry	10/01/92
Central Florida Regional Planning Council, Region 7	
Appointee: Fisher, Thomas M.	10/01/91
Tampa Bay Regional Planning Council, Region 8	
Appointees: Hutchinson, Lance R.	10/01/92
Swindal, Stephen W.	10/01/92
Treasure Coast Regional Planning Council, Region 10	
Appointee: Foley, Kevin J.	10/01/92
Florida Commission on Veterans' Affairs	
Appointee: Reese, Frank	11/16/92
Alafia River Basin Board of the Southwest Florida Water Management District	
Appointee: Yates, E. Clayton	03/01/91
Pinellas-Anclote River Basin Board of the Southwest Florida Water Management District	
Appointee: Kemp, Carol A.	03/01/93

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee, by a separate vote as to each appointee, respectfully advises and recommends:

(1) That the executive appointments of the above-named appointees, to the office and for the term indicated, be *confirmed* by the Senate.

(2) That Senate action on said appointments be taken prior to the adjournment of the 1990 Regular Session.

(3) That there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,

Mary R. Grizzle, Chairman — *Fred R. Dudley*
Curtis Peterson, Vice Chairman — *Arnett E. Girardeau*
Malcolm E. Beard

On motion by Senator Grizzle, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—28

Mr. President	Crenshaw	Grant	Peterson
Bankhead	Davis	Grizzle	Souto
Beard	Diaz-Balart	Jennings	Stuart
Brown	Dudley	Johnson	Thomas
Bruner	Gardner	McPherson	Thurman
Casas	Girardeau	Meek	Weinstein
Childers, W. D.	Gordon	Myers	Weinstock

Nays—None

The Honorable Bob Crawford May 22, 1990
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Executive Business for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment	*For Term Ending*
Board of Accountancy	
Appointee: Jones, Whipple Van Ness, Jr.	12/26/93
Affordable Housing Study Commission	
Appointee: McClanahan, A. A.	Pleasure of Governor
Board of Architecture and Interior Design	
Appointees: Awsumb, John K.	12/17/93
Falkanger, Jeffrey	12/17/93
Greater Orlando Aviation Authority	
Appointee: Fuqua, Jeffry B.	04/16/94
Florida Black Business Investment Board	
Appointee: Collins, Tony	09/30/92
Board of Building Codes and Standards	
Appointees: Bosak, Frank M.	02/07/93

Office and Appointment		*For Term Ending*
	Petro, Danniel J.	01/30/91
Florida Citrus Commission		
Appointees:	Barwick, Irvin	05/31/93
	English, Hugh M.	05/31/93
	Smith, E. R., Jr.	05/31/93
	Smoak, Edward L.	05/31/91
	Youngblood, Billy C.	05/31/93
Board of Trustees of Edison Community College		
Appointees:	Adams, James R.	05/31/94
	Lynch, Robert C.	05/31/94
Board of Trustees of Indian River Community College		
Appointees:	Crago, Harriett K.	05/31/94
	Knapp, Karen M.	05/31/94
Board of Trustees of North Florida Junior College		
Appointee:	Pritchett, Elesta C.	05/31/94
Board of Trustees of Okaloosa-Walton Community College		
Appointee:	Owens, Eddie Mae	05/31/93
Board of Trustees of Palm Beach Community College		
Appointee:	Sansbury, John C.	05/31/94
Board of Trustees of Pasco-Hernando Community College		
Appointees:	Armstrong, E. D. III	05/31/94
	Ash, Henry A.	05/31/94
	Browning, Mark E.	05/31/94
Board of Trustees of Pensacola Junior College		
Appointees:	Crews, Joseph A.	05/31/94
	Rittenhouse, Charles N.	05/31/94
Board of Trustees of St. Johns River Community College		
Appointee:	Taylor, Suzanne McCormick	05/31/94
Board of Trustees of St. Petersburg Junior College		
Appointee:	Lang, Joseph H.	05/31/94
Board of Trustees of Santa Fe Community College		
Appointees:	Dinkins, W. Arnold	05/31/94
	Reddish, Drew F.	05/31/94
Construction Industry Licensing Board		
Appointee:	Rittenhouse, Diane	09/30/93
Board of Cosmetology		
Appointee:	Newsome, Ann	01/01/94
Electrical Contractors' Licensing Board		
Appointees:	Nicks, David G.	12/17/93
	Traylor, Jack H.	12/17/93
Board of Professional Engineers		
Appointee:	England, James E.	12/20/93
Board of Hearing Aid Specialists		
Appointee:	Hoffmeyer, C. B., Jr.	07/30/90
Florida Commission on Human Relations		
Appointee:	Lewis, Stella M.	09/30/93
State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools		
Appointees:	Dimbath, Merle F., Sr.	07/01/91
	Rehberg, Jeanne H.	07/01/92
Board of Professional Land Surveyors		
Appointee:	Sliger, Gus A.	05/17/94
Board of Landscape Architecture		
Appointees:	Pitts, Wayne H.	03/04/94
	Walsh, Bernard L.	03/04/94
Marine Fisheries Commission		
Appointee:	Burks, Barney B., Jr.	08/01/90
Gulf States Marine Fisheries Commission		
Appointee:	Tanzler, Hans G. III	01/05/92
Board of Massage		
Appointees:	Halcomb, Barbara L.	01/01/94
	Henderson, Mark C.	01/01/94
	Kousaleos, George P.	01/01/94
Board of Opticianry		
Appointees:	Gyorkos, Richard R.	12/26/90
	Hullman, Geoffrey	12/26/93
Board of Pilot Commissioners		
Appointee:	Maddox, Gary	06/30/93
Postsecondary Education Planning Commission		
Appointee:	Talley, James M.	02/04/94
Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.		
Appointees:	Arnold, Harry	09/30/93
	Davis, Nancy Jean	09/30/92
	Handy, F. Phillip	09/30/92
	Hayes, Roy	09/30/91
	Howell, Robert S.	09/30/93
	Hucker, Patrick C., Sr.	09/30/90
	Olcott, Charles S.	09/30/93
	Reeves, James J.	09/30/93
	Staggers, Sterling G.	09/30/93
	Whyte, James L.	09/30/92
Public Employees Relations Commission		
Appointee:	Munroe, Sally Gail	01/01/93
North Central Florida Regional Planning Council, Region 3		
Appointee:	Howard, William W.	10/01/92
Northeast Florida Regional Planning Council, Region 4		
Appointees:	Odum, W. Guy, Jr.	10/01/92
	Soforenko, M. O.	10/01/92
East Central Florida Regional Planning Council, Region 6		
Appointee:	Gougelman, Paul R. III	10/01/92
Southwest Florida Regional Planning Council, Region 9		
Appointees:	Hahn, Richard F.	10/01/92
	Oates, Edward J., Jr.	10/01/92
Treasure Coast Regional Planning Council, Region 10		
Appointee:	Gonzalez, Ed	10/01/92
State Retirement Commission		
Appointee:	Holloway, McGlade L.	12/31/93
Board of Trustees of the John and Mable Ringling Museum of Art		
Appointee:	Duda, Emily June	11/05/93
Florida Seed Capital Board		
Appointees:	Fox, Richard Q.	03/01/94
	Monteleone, Raymond	03/01/94
Jacksonville Transportation Authority		
Appointee:	Brodsky, Ernest N.	05/31/94
Big Cypress Basin Board of the South Florida Water Management District		
Appointees:	Hermanson, George H.	03/01/93
	Rautio, Joyceanna "JA"	03/01/93
Coastal Rivers Basin Board of the Southwest Florida Water Management District		
Appointee:	Buckner, Robert A.	03/01/93
Hillsborough River Basin Board of the Southwest Florida Water Management District		
Appointees:	Mayer, George A. III	03/01/91
	Sherwood, Clark T.	03/01/93
Manasota Basin Board of the Southwest Florida Water Management District		
Appointees:	Bryant, Calvin	03/01/93
	Rathke, Edwin T.	03/01/93
Peace River Basin Board of the Southwest Florida Water Management District		
Appointees:	Durrance, Larry W.	03/01/93

Office and Appointment	*For Term Ending*
Stringfellow, Keightley G.	03/01/92
Withlacoochee River Basin Board of the Southwest Florida Water Management District	
Appointee: Rowe, Jack D.	03/01/93

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee, by a separate vote as to each appointee, respectfully advises and recommends:

(1) That the executive appointments of the above-named appointees, to the office and for the term indicated, be *confirmed* by the Senate.

(2) That Senate action on said appointments be taken prior to the adjournment of the 1990 Regular Session.

(3) That there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,

Mary R. Grizzle, Chairman
Curtis Peterson, Vice Chairman
Malcolm E. Beard
Fred R. Dudley
Arnett E. Girardeau

On motion by Senator Grizzle, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—36

Mr. President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kiser	Souto
Beard	Dudley	Malchon	Stuart
Brown	Forman	Margolis	Thomas
Bruner	Gardner	McPherson	Thurman
Casas	Girardeau	Meek	Walker
Childers, D.	Grant	Myers	Weinstein
Childers, W. D.	Grizzle	Peterson	Weinstock
Crenshaw	Jennings	Plummer	Woodson-Howard

Nays—None

The Honorable Bob Crawford May 30, 1990
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Executive Business for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment	*For Term Ending*
Greater Orlando Aviation Authority	
Appointee: Handy, Gail S.	04/16/94
Board of Trustees of Broward Community College	
Appointees: Cross, Joyce B.	05/31/94
Miller, Dorsey C.	05/31/94
Tampa Port Authority	
Appointee: Almeida, Diana Toledo	11/16/93

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee, by a separate vote as to each appointee, respectfully advises and recommends:

(1) That the executive appointments of the above-named appointees, to the office and for the term indicated, be *confirmed* by the Senate.

(2) That Senate action on said appointments be taken prior to the adjournment of the 1990 Regular Session.

(3) That there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,

Mary R. Grizzle, Chairman
Curtis Peterson, Vice Chairman
Malcolm E. Beard
Fred R. Dudley
Arnett E. Girardeau

On motion by Senator Grizzle, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee. The vote was:

Yeas—35

Mr. President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Stuart
Brown	Gardner	Malchon	Thurman
Bruner	Girardeau	Margolis	Walker
Casas	Gordon	McPherson	Weinstein
Childers, D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	

Nays—None

Vote after roll call:

Yea—W. D. Childers

The Honorable Bob Crawford May 22, 1990
President, The Florida Senate

Dear Mr. President:

The following executive appointments were referred to the Senate Committee on Executive Business for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment	*For Term Ending*
Florida Black Business Investment Board	
Appointee: Beal, Rene D.	09/30/93
Florida Elections Commission	
Appointee: Thompson, Anthony C.	12/10/89
Board of Nursing	
Appointee: Banjanin, Lynn Penelope	08/01/93
Historic Broward County Preservation Board of Trustees	
Appointee: Williams, John L.	11/01/89
Jacksonville Transportation Authority	
Appointee: Tanzler, Hans G. III	05/31/91
Manasota Basin Board of the Southwest Florida Water Management District	
Appointee: Bryant, Calvin	03/01/90

The Senate Committee on Executive Business has failed to consider these appointments because the committee finds that Rene D. Beal as a member of the Florida Black Business Investment Board, Lynn Penelope Banjanin as a member of the Board of Nursing, and Hans G. Tanzler III as a member of the Jacksonville Transportation Authority, resigned. The terms of Anthony C. Thompson as a member of the Florida Elections Commission, John L. Williams as a member of the Historic Broward County Preservation Board of Trustees, and Calvin Bryant as a member

of the Manasota Basin Board of the Southwest Florida Water Management District have expired. Therefore, the committee respectfully advises and recommends:

(1) That the Senate fail to consider the appointments during the 1990 Regular Session.

(2) That the failure to consider the appointments be noted in the pages of the Journal of the Senate in accordance with s. 114.05(1)(e), Florida Statutes.

Respectfully submitted,

Mary R. Grizzle, Chairman
Curtis Peterson, Vice Chairman
Malcolm E. Beard
Fred R. Dudley
Arnett E. Girardeau

On motion by Senator Grizzle, the report was adopted and the Senate failed to consider the appointments identified in the foregoing report of the committee to the offices and for the terms indicated, in accordance with the recommendations of the committee.

INTRODUCTION AND REFERENCE OF BILLS

First Reading

SR 3218 was introduced out of order and adopted May 30.

SR 3220 was introduced out of order and adopted May 30.

By Senator Kirkpatrick—

SB 3222—A bill to be entitled An act relating to Alachua County; creating the Alachua County Boundary Adjustment Act; providing purpose; preempting other laws; providing definitions; providing for designation of reserve areas after notice and hearing; requiring the county and municipalities to adopt statements of services provided to residents of reserve areas, plans for further services, and land use identification; providing a procedure for eliminating overlapping reserve area designations; requiring the county to adopt final reserve area designations for municipalities; requiring certain statements with respect to reserve areas; authorizing municipalities to petition the Department of Community Affairs for changes in final reserve area designations; providing that designations of reserve areas and accompanying statements become part of county and municipal comprehensive plans; specifying matters not affected by designation of reserve areas; providing criteria for designation of reserve areas; providing procedures for amending reserve area designations; requiring periodic review; authorizing municipal annexation of territory within reserve areas; providing procedures for annexation; providing circumstances for referendum; authorizing annexation only if the area to be annexed is of a specified character; providing procedures for voluntary annexation; providing for appeals of annexations or contractions; providing circumstances for automatic annexation of certain enclaves; specifying prerequisites for annexation; providing contraction procedures; providing criteria for contraction; specifying applicability of general law provisions relating to apportionment of debts and taxes, effects of annexations or contractions, and recording; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Senator Langley—

SB 3224—A bill to be entitled An act relating to Lake County; requiring the Lake County Board of County Commissioners to hold a straw ballot referendum on the issue of whether commissioners should be elected at large within the county; providing an effective date.

—was referred to the Committee on Rules and Calendar.

SR 3226 was introduced out of order and adopted this day.

SR 3228 was introduced out of order and adopted this day.

SR 3230 was introduced out of order and adopted this day.

SR 3232 was introduced out of order and adopted this day.

FIRST READING OF COMMITTEE SUBSTITUTES

By the Committee on Finance, Taxation and Claims; and Senator Walker—

CS for SB 70—A bill to be entitled An act for the relief of A. H. Kinsey, inventor of the Kinsey Sampler; providing an appropriation to compensate him for the Florida Citrus Commission's refusal to compensate him fairly for his work in inventing and developing samplers used in the citrus industry; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Bankhead—

CS for SB 394—A bill to be entitled An act for the relief of Sharon L. Firesheets; providing an appropriation to compensate her for severe personal injuries sustained as a result of the negligence of the Department of Transportation; providing an effective date.

By the Committee on Rules and Calendar; and Senator Dudley—

CS for SCR 478—A concurrent resolution ratifying the proposed amendment to the Constitution of the United States relating to compensation of Senators and Representatives.

By the Committee on Finance, Taxation and Claims; and Senator Crenshaw—

CS for SB 484—A bill to be entitled An act for the relief of Lori Bishop; providing an appropriation to compensate her for injuries she sustained from an accident caused in part by the negligence of the Department of Transportation; providing an effective date.

By the Committee on Finance, Taxation and Claims; and Senator Deratany—

CS for SB 2440—A bill to be entitled An act relating to local governments; requiring voter approval if more than a specified amount of bonds are required to finance the lease-purchase of property by a local government; providing that certain construction contracts requiring the issuing of bonds be awarded by competitive bid; providing an effective date.

Motions

On motions by Senator Scott, by two-thirds vote HB 3317 was added to the local bill calendar; CS for HB 1269 and CS for CS for SB 3006 were added to the special order calendar; and SB 2098 was added to the consent calendar this day.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Thomas, by two-thirds vote SB 3106, together with the Governor's objections thereto, was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Scott, by two-thirds vote CS for HB 3303 was withdrawn from the Committees on Governmental Operations and Transportation; HB 3557 was withdrawn from the Committee on Transportation; Senate Bills 3202, 3216 and HB 3485 were withdrawn from the Committee on Natural Resources and Conservation; and HB 3193 was withdrawn from the Committee on Community Affairs.

On motions by Senator Deratany, by two-thirds vote CS for HB 1189, CS for SB 2924 and SB 1752 were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Margolis, by two-thirds vote CS for SB 2478, CS for SB 2820, CS for SB 2996, CS for SB 1748, CS for SB 2706, CS for SB 2036, CS for SB 590 and CS for SB 2922 were withdrawn from the Committee on Appropriations.

On motions by Senator Margolis, by two-thirds vote CS for SB 2826 was also referred to the Committee on Appropriations.

On motions by Senator Weinstein, by two-thirds vote CS for HB 3293 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations; CS for HB 51 was withdrawn from the Committees on Community Affairs, Transportation and Appropriations; CS for HB 2059 was withdrawn from the Committees on Governmental Operations and Appropriations; HB 2397 was withdrawn from the Committees on Health and Rehabilitative Services; and Judiciary-Criminal.

On motions by Senator Weinstein, by two-thirds vote SB 3204 and HB 3261 were withdrawn from the Committee on Natural Resources and Conservation and by two-thirds vote placed on the local bill calendar.

On motions by Senator Weinstein, by two-thirds vote HB 3879 was withdrawn from the Committee on Rules and Calendar and by two-thirds vote placed on the local bill calendar.

On motions by Senator Langley, by two-thirds vote SB 3224 was withdrawn from the Committee on Rules and Calendar and by two-thirds vote placed on the local bill calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

First Reading

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed HB 151, CS for CS for HB 3037, HB 3259, HB 3299, CS for HB 3385, HB 3495, HB 3649, HB 3879, HB 3881, has passed as amended HB 3783, HB 3859 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative B. L. Johnson—

HB 151—A bill to be entitled An act relating to Santa Rosa County; amending chapter 82-377, Laws of Florida, relating to the Midway Fire Protection and Rescue Service District; changing the name of the district to the Midway Fire Protection District; revising certain definitions; revising the statement of purposes for which the district is formed; providing that a commissioner shall hold office until his successor is elected and qualified; providing for filling vacancies in office of commissioners by appointment by the board until vacancy is filled by election; deleting requirement that a commissioner become a member of the board of directors of the Midway Volunteer Fire Department of Santa Rosa County, Inc.; amending provisions relating to tax rolls and assessments; deleting provision relating to Midway Volunteer Fire Department's rights and privileges and requirement that chapter 82-377, Laws of Florida, be construed as a method for procurement of funds for the Midway Volunteer Fire Department; restating provisions concerning the authority of the board of commissioners; authorizing board to appoint a fire marshal; authorizing board to acquire property for the district after appropriate investigation and input from Santa Rosa County planning department, board of county commissioners, and Midway Volunteer Fire Department of Santa Rosa County, Inc., and others; authorizing board to enter into contracts to carry out purposes of district; authorizing board to make alternate arrangements for providing fire protection and rescue services if the Midway Volunteer Fire Department of Santa Rosa County, Inc., is dissolved or unable to provide them; providing immunity from claims equal to that of other agencies and subdivisions of the state; providing for the defense of claims and payment of judgment for district officers and employees acting within scope of their duties and without bad faith, malice, or willful disregard of rights; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Finance and Taxation; and Environmental Regulation; and Representative Saunders and others—

CS for CS for HB 3037—A bill to be entitled An act relating to water management districts; creating s. 373.4594, F.S.; directing the South Florida Water Management District to design and implement certain projects relating to the Everglades Surface Water Improvement and Management Plan process; providing authority for the acquisition of lands; providing for funding; authorizing exchange of certain lands; amending s. 253.01, F.S.; providing for deposit and use of proceeds from sale of state-owned lands located in the Everglades Agricultural Area; amending s. 253.111, F.S., relating to the opportunity of a county to acquire certain state lands; providing an exception; providing legislative intent with respect to applicability of other provisions of law; providing an effective date.

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

By Representative Glickman and others—

HB 3259—A bill to be entitled An act relating to Hillsborough County; amending chapter 83-423, Laws of Florida, as amended, relating to the Hillsborough County Public Transportation Commission; empowering the commission to require safety equipment for the protection of taxicab drivers and permitting drivers under contract to a certificateholder and operating privately-owned vehicles to install safety equipment; defining "safety equipment"; providing for application and repeal; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Frishe—

HB 3299—A bill to be entitled An act relating to Pinellas County; amending chapter 75-491, Laws of Florida, as amended, relating to the Pinellas Park Water Management District; providing for staggering the term of office of all members of the authority board; providing for a change in the method of removal from office of members of the authority; designating the district an independent special district; 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 Community Affairs and Representative Arnall—

CS for HB 3385—A bill to be entitled An act relating to the Municipal Service District of Ponte Vedra Beach, St. Johns County; amending s. 1, chapter 82-375, Laws of Florida; redefining the boundaries of the district; amending s. 2, chapter 82-375, Laws of Florida; establishing the district as an independent special district; requiring all district trustee positions to be filled at the 1990 general election; limiting the number of consecutive terms which a trustee may serve; revising the qualification period for trustee candidates and requiring candidates to qualify with the St. Johns County Supervisor of Elections; providing for removal of trustees from office and for appointment of replacement trustees to fill vacancies in office; providing for places at which meetings of trustees may be held; requiring notice of board of trustees' meetings; providing for keeping records of meetings and for public access to such records; specifying the number of trustees who must vote in order for an action to be taken; prescribing powers of the district with respect to provision of fire and police protection, utilities, and recreation facilities and receiving state grants and loans; providing for issuance of bonds and notes by the district; repealing provisions relating to dissolution of the district and amendment of its charter; providing for taxes of the district; deleting authority of the St. Johns County Commission over audits of the district; requiring the district to comply with financial disclosure and reporting requirements; providing that the district budget is not subject to approval by the board of county commissioners; providing for ratification of actions taken under authority of chapter 82-375, Laws of Florida; repealing s. 3, chapter 82-375, Laws of Florida, relating to the appointment of original district trustees, and s. 5, chapter 82-375, Laws of Florida, relating to ratification of actions taken before enactment of chapter 82-375, Laws of Florida; providing for qualification for the district trustees' election at the 1990 general election; requiring the Board of County Commissioners of St. Johns County to enter into an interlocal agreement to remit certain moneys to the district; providing severability; providing for district trustees to serve until their successors are elected and qualify; providing for conditional repeal of chapter 82-375, Laws of Florida, and abolition of the district; providing for a referendum; providing effective dates.

Proof of publication of the required notice was attached.

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

By Representative Lawson—

HB 3495—A bill to be entitled An act relating to Liberty County; repealing s. 2(2) of chapter 70-782, Laws of Florida, relating to the allocation of racetrack funds to the district school board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Harden—

HB 3649—A bill to be entitled An act relating to Okaloosa County; amending s. 1, ch. 81-442, Laws of Florida; expanding jurisdiction of the Personnel Standards and Review Board of the Sheriff's Department to include employees of the department at the rank of captain or below; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Martin and Flagg—

HB 3879—A bill to be entitled An act relating to the City of Gainesville and Alachua County; creating the Consolidated Government of Gainesville and Alachua County and providing the charter therefor; providing general and urban service districts; providing for the continuance of separate municipalities; providing legislative and executive branches and providing for the organization, powers, duties, and functions thereof; providing procedures with respect to budget and financial matters, including bonded indebtedness; providing election procedures; establishing a charter revision commission; providing for amendment to the charter by voter initiation and referendum; providing for personnel matters and pension plans; providing for the transition of present governmental functions to the consolidated government; providing for a special election to ratify the charter; amending chapter 85-376, Laws of Florida; conforming provisions relating to the governing board of the Alachua County Library District; providing effective dates.

—was referred to the Committee on Rules and Calendar.

By Representatives Thomas and Lombard—

HB 3881—A bill to be entitled An act relating to the North Port Water Control District; providing for the dissolution of the water control district; providing for the transfer of the property, assets, rights, responsibilities, and obligations thereof to the North Port Road and Drainage District; providing that the road and drainage district is to replace the water control district as a party to contracts of the water control district; specifying conditions precedent for the dissolution of the water control district; specifying a date for the transfer of the powers and responsibilities of the water control district, subject to the satisfaction of the conditions precedent; providing an effective date.

Proof of publication of the required notice was attached.

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

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

HB 3783—A bill to be entitled An act relating to the criminal justice system; creating s. 775.0847, F.S.; providing felony drug abuser and habitual felony drug offender definitions, criteria, procedures, and penalties, including placement of felony drug abusers in drug punishment programs, and providing for extended term sentences for habitual felony drug offenders; amending s. 893.13, F.S.; itemizing controlled substances violations; providing felony drug abuser and habitual felony drug offender penalties and, with the exception of selling controlled substances near a school, deleting references to habitual felony offender penalties; amending s. 893.15, F.S., relating to rehabilitation, to conform; creating s. 775.0844, F.S.; providing penalties for habitual violent felony offenders; providing definitions and criteria; delineating violent felonies; providing procedure; providing for extended term sentences; amending s. 775.0842, F.S., relating to career criminal prosecutions, to conform, and reenacting s. 775.0843(5), F.S., relating to policy for career criminal cases, to incorporate said amendment in a reference thereto; amending ss. 775.0875, 782.04, 782.07, 784.021, 784.045, 787.01, 790.161, 790.1615, 790.19, 794.011, 794.041, 800.04, 806.01, 806.031, 806.111, 810.02, 812.13, 827.03, 827.071, and 843.01, F.S., relating to unlawful taking or use of a law enforcement officer's firearm, murder, manslaughter, aggravated assault, aggravated battery, kidnapping, unlawful use of a destructive device, unlawful discharge of a destructive device or bomb, unlawful shooting or throwing of a deadly missile, sexual battery, sexual activity with a child by a person in familial or custodial authority, lewdness in the presence of a child, arson, arson resulting in bodily harm, unlawful use of a fire bomb, burglary, robbery, aggravated child abuse, inducing or promoting sexual performance by a child, and resisting an officer with violence; delineating offenses as violent felonies for purposes of habitual violent felony offender penalties and deleting reference to nonviolent habitual felony offender penalties; amending s. 316.545, F.S., relating to motor fuel tax enforcement, to conform; amending s. 893.135, F.S.; providing for habitual violent felony offender sentencing for trafficking violations; amending ss. 921.001, 921.18, 944.277, 944.291, 944.598, 947.135, 947.1405, and 947.146, F.S., relating to the Sentencing Commission, indeterminate sentences for noncapital felonies, provisional credits, prisoners released by reason of gain-time or provisional credits, emergency release of prisoners, mutual participation programs, conditional release programs, and the Control Release Authority; revising provisions relating to the sentencing, incarceration, and release of habitual offenders, to provide for substantially enhanced terms of imprisonment for habitual felony drug offenders and habitual violent felony offenders; deleting such provision with respect to nonviolent felony offenses committed after the effective date of the act; repealing s. 775.084, F.S., relating to habitual felony offenders and habitual violent felony offenders; directing that references to s. 775.084, F.S., appearing in sections of the Florida Statutes not amended in the act be deleted; providing effective dates.

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

By Representative Saunders—

HB 3859—A bill to be entitled An act relating to Monroe County; creating the Solid Waste and Resource Recovery Authority of Monroe County, to construct, issue permits, acquire, own, maintain, and operate a waste collection, resource recovery, and disposal system in said county for the collection or disposal or both of solid waste, septage, and other waste matter; providing for the governing body of the authority and for terms of its members; providing for officers, meetings, and method of removing members; prescribing the powers of the authority; providing for the granting of franchises; providing for an executive director; authorizing the authority to enter into interlocal agreements with the county and municipalities; authorizing the authority to adopt rules pursuant to public hearing; providing that such rules may be more strict than rules imposed by the Department of Environmental Regulation; authorizing the authority to establish, fix, and collect fees, rentals, or other charges for the services and facilities of said waste collection, resource recovery, and disposal system, and to issue bonds to finance the cost of the construction, acquisition, expansion, or improvement of said waste collection, resource recovery, and disposal system, and purposes related thereto; requiring that such bonds be issued pursuant to a referendum; providing that the bonds shall be revenue bonds payable solely from the fees, rentals, or other charges derived from said waste collection, resource recovery, and disposal system, or from funds other than ad valorem taxes; providing for budget and approval of budget; providing that the authority may supply or furnish the services and facilities of said waste collection, resource recovery, and disposal system outside the service area pursuant to contract authorized by the Board of Trustees; providing for the exercise of eminent domain by the authority; providing for a receiver of said waste collection, resource recovery, and disposal system on default of the authority in the payment on such bonds or of covenants with the holders of such bonds; providing for covenants of the state with respect to the rights of the holders of said bonds; providing for the issuance of refunding bonds; authorizing the authority to covenant with holders of such bonds to include the amounts necessary for debt service and reserves on said bonds in each year in the budget of such authority for such year; authorizing the authority to require the use of the facilities of said waste collection, resource recovery, and disposal system; authorizing the authority to make other valid and legally binding covenants with the holders of said bonds relative to said waste collection, resource recovery, and disposal system; specifying the rights, security, and remedies of the holders of said bonds; providing that the authority has sole and exclusive authority within the county to collect and dispose of solid waste, and other waste matter; authorizing the authority to prohibit or control incineration and disposal of solid waste and other waste matter; authorizing the authority to prohibit or issue permits, control, and require the disposal of all solid waste, septage, and other waste in a disposal facility as specified by the authority; authorizing the authority to enter into contracts for the collection or disposal or both of solid waste and other waste matter; authorizing the authority to use property rights held by the state and political subdivisions thereof; authorizing the authority to accept grants and loans; authorizing the authority to lease the waste collection, resource recovery, and disposal system, or part thereof, and to lease facilities; authorizing the authority to divide the county into districts for the purposes of solid waste collection or disposal or both; exempting the fees, rentals, or other charges for the services and facilities of such system from

regulation, supervision, and control of state agencies; authorizing the authority to delegate authority to administer such waste collection, resource recovery, and disposal system or part thereof; authorizing the authority to make rules and regulations for the use, control, management, and operation of the waste collection, resource recovery, and disposal system; exempting the exercise of rights and powers conferred by the act from the Florida Antitrust Act of 1980; authorizing the authority to grant permits or licenses for collection or disposal, or both, of solid waste, septage, and other waste matter; providing severability; authorizing the authority to issue a specified amount of special assessment anticipation notes to provide for interim operation of solid waste facilities; repealing ch. 89-434, Laws of Florida, relating to the Solid Waste and Resource Recovery Authority of Monroe County; providing for a referendum; providing an effective date.

(Substituted for SB 3212 on the local bill calendar this day.)

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives requests the return of CS for SB 510.

John B. Phelps, Clerk

CS for SB 510—A bill to be entitled An act relating to dentistry; amending s. 466.004, F.S.; providing for a one-time assessment of dentists and dental hygienists; amending s. 466.006, F.S.; deleting an obsolete exemption for certain applicants from the foreign dental college graduate examination requirements; amending s. 466.028, F.S.; revising language with respect to grounds for disciplinary action; providing an additional ground for which disciplinary action may be taken by the Board of Dentistry against a licensee; reenacting s. 466.011, F.S., relating to licensure, to incorporate the amendment to s. 466.028, F.S., in a reference thereto; providing an effective date.

On motion by Senator Malchon, CS for SB 510 was returned to the House as requested.

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB's 112 and 100, with amendments, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB's 112 and 100—A bill to be entitled An act relating to offenses involving alcohol or drugs; providing a short title; authorizing a court to order, as a condition of probation, certain persons convicted of driving under the influence to participate in the Youthful Drunk Driver Visitation Program; requiring a court to determine whether the program is appropriate for a probationer; allowing a court to require supervised probationers to visit certain prescribed facilities to view appropriate victims of vehicle accidents involving drinking drivers; prescribing appropriate supervisory personnel for such visitations; requiring a comprehensive counseling session before visitations; providing for a waiver of visitation if it is determined to be inappropriate; providing for a discretionary postvisitation conference; providing immunity from civil liability; creating s. 322.056, F.S.; providing mandatory withholding, revocation, or suspension of the driving privilege of a person under 21 years of age who is found guilty of or delinquent for certain offenses; amending ss. 562.11, 562.111, F.S.; providing that penalties imposed under s. 322.056, F.S., are in addition to penalties imposed for the specified violations of the Beverage Law; providing an effective date.

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

Section 1. *Youthful Drunk Driver Visitation Program.—*

(1) SHORT TITLE.— This section may be cited as the "Youthful Drunk Driver Visitation Program Act."

(2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR PARTICIPATION.—

(a) If a person is convicted of a violation of s. 316.193, Florida Statutes, the court may order, as a term and condition of probation in addition to any other term or condition required or authorized by law, that the probationer participate in the Youthful Drunk Driver Visitation Program.

(b) The court shall give preference for participation in the program to probationers who are less than 18 years of age at the time of the offense if the facilities which participate in the program within the jurisdiction cannot accommodate all probationers who are eligible and who consent to participate in the program.

(3) INVESTIGATION AND CONSULTATION BY COURT.—The court shall investigate and consult with the probationer, his counsel, if any, and any proposed supervisor of a visitation under the program. The court may consult with any other person whom the court finds may be of value, including, but not limited to, the probationer's parents or other family members, in order to ascertain that the probationer is suitable for the program, that the visitation will be educational and meaningful to the probationer, and that there are no physical, emotional, or mental reasons to believe the program is not appropriate for the probationer or would cause any injury to the probationer.

(4) VISITATION REQUIREMENT.—

(a) To the extent that personnel and facilities are made available to the court, the court may include a requirement for supervised visitation by the probationer to all, or any, of the following:

1. A trauma center, as defined in s. 395.031, Florida Statutes, or a hospital as defined in s. 395.002, Florida Statutes, which regularly receives victims of vehicle accidents, between the hours of 10 p.m. and 2 a.m. on a Friday or Saturday night, in order to observe appropriate victims of vehicle accidents involving drinking drivers, under the supervision of any of the following:

a. A registered nurse trained in providing emergency trauma care or prehospital advanced life support.

b. An emergency room physician.

c. An emergency medical technician.

2. A treatment resource, as defined in s. 396.032 or s. 397.021, Florida Statutes, which cares for advanced alcoholics or drug abusers, to observe persons in the terminal stages of alcoholism or drug abuse, under the supervision of appropriately licensed medical personnel. Prior to any visitation of such terminally ill or disabled persons, the persons or their legal representatives must give their express consent to participate in the visitation program.

3. If approved by the county coroner, the county coroner's office or the county morgue to observe appropriate victims of vehicle accidents involving drinking drivers, under the supervision of the coroner or a deputy coroner.

(b) As used in this section, the term "appropriate victims" means victims or their legal representatives, including the next of kin, who have expressly given their consent to participate in the visitation program and victims whose condition is determined by the visitation supervisor to demonstrate the results of accidents involving drinking drivers without being excessively gruesome or traumatic to the probationer.

(c) If persons trained in counseling or substance abuse are made available to the court, the court may coordinate the visitation program or the visitations at any of the appropriate facilities through those persons.

(d) Any visitation shall include, before any observation of victims or disabled persons by the probationer, a comprehensive counseling session with the visitation supervisor at which the supervisor shall explain and discuss the experiences which may be encountered during the visitation in order to ascertain whether the visitation is appropriate for the probationer.

(e) If at any time, either before or during a visitation, the supervisor of the probationer determines that the visitation may be or is traumatic or otherwise inappropriate for the probationer, or the supervisor is uncertain whether the visitation may be traumatic or inappropriate, the visitation shall be terminated without prejudice to the probationer.

(5) POSTVISITATION CONFERENCE.—

(a) Following completion of any of the required visitations, the program may include a personal conference among the sentencing judge, his designated representative, or the person responsible for coordinating the program for the judicial district and the probationer, the probationer's counsel, and, if available, the probationer's parents in order to discuss the experiences of the visitation and how those experiences may affect the probationer's future conduct.

(b) If a personal conference is not practicable because of the probationer's absence from the jurisdiction, conflicting time schedules, or other reasons, the program shall require a written report or letter by the probationer to the court discussing the experiences and their effect on the probationer.

(6) IMMUNITY FROM CIVIL LIABILITY.—The county, a court, any facility visited pursuant to the program, an agent, employee, or independent contractor of the court, county, or facility visited pursuant to the program, or any person supervising a probationer during the visitation, is not liable for any civil damages resulting from injury to the probationer, or civil damages caused by the probationer, during, or from any activities relating to, the visitation, except for willful or grossly negligent acts intended to, or reasonably expected to, result in injury or damage. A probationer is eligible for workers' compensation as prescribed by law if he performs community service at a facility as an additional term or condition of probation.

Section 2. Section 322.056, Florida Statutes, is created to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver's license, for persons under age 18 found guilty of certain alcohol or drug offenses.—

(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

(a) The person is eligible by reason of age for a driver's license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his driver's license or driving privilege for a period of:

1. Not less than 3 months and not more than 6 months for the first violation.

2. One year, for a subsequent violation.

(b) The person's driver's license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period of:

1. Not less than 3 months and not more than 6 months for the first violation.

2. One year, for a subsequent violation.

(c) The person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of his driver's license or driving privilege for a period of:

1. Not less than 3 months and not more than 6 months after the date on which he would otherwise have become eligible, for the first violation.

2. One year after the date on which he would otherwise have become eligible, for a subsequent violation.

(2) A penalty imposed under subsection (1) shall be in addition to any other penalty imposed by law.

Section 3. Subsection (2) of section 562.11, Florida Statutes, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—

(2) It is unlawful for any person to misrepresent or misstate his age or the age of any other person for the purpose of inducing any licensee or his agents or employees to sell, give, serve, or deliver any alcoholic beverages to a person under 21 years of age.

(a) Anyone convicted of violating the provisions *of this subsection* ~~hereof~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person under the age of 17 years who violates such provisions shall be within the jurisdiction of the judge of the circuit court and shall be dealt with as a juvenile delinquent according to law.

(c) In addition to any other penalty imposed for a violation of this subsection, if a person uses a driver's license or identification card issued by the Department of Highway Safety and Motor Vehicles in violation of this subsection, the court ~~may~~:

1. *May* order the person to participate in public service or a community work project for a period not to exceed 40 hours; and

2. *Shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend or revoke, the person's driver's license or driving privilege, as provided in s. 322.056.* ~~Suspend the person's driver's license or driving privilege for a period not to exceed 1 year.~~

Section 4. Section 562.111, Florida Statutes, is amended to read:

562.111 Possession of alcoholic beverages by persons under age 21 prohibited.—

(1) It is unlawful for any person under the age of 21 years, except a person employed under the provisions of s. 562.13 acting in the scope of his employment, to have in his possession alcoholic beverages, except that nothing ~~herein~~ contained *in this subsection* shall preclude the employment of any person 18 years of age or older in the sale, preparation, or service of alcoholic beverages in licensed premises in any establishment licensed by the Division of Alcoholic Beverages and Tobacco or the Division of Hotels and Restaurants. Notwithstanding the provisions of s. 562.45, any person under the age of 21 who is convicted of a violation of this *subsection* ~~section~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; however, any person under the age of 21 who has been convicted of a violation of this *subsection* ~~section~~ and who is thereafter convicted of a further violation of this *subsection* ~~section~~ is, upon conviction of the further offense, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*, s. 775.083~~, or s. 775.084~~.

(2) In addition to any other penalty imposed for a violation of subsection (1), the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend or revoke, the violator's driver's license or driving privilege, as provided in s. 322.056.

Section 5. Subsections (2) and (4) of section 39.10, Florida Statutes, are amended to read:

39.10 Adjudication.—

(2) If the court finds that the child named in the petition has committed a delinquent act, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of a delinquent act and placing the child in a community control program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose a curfew, require restitution or public service, revoke or suspend the driver's license of the child, require school attendance, or require that the child work faithfully at suitable employment insofar as may be possible. *If the delinquent act is a second or subsequent violation of s. 562.11(2), s. 562.111, or chapter 893, the court shall enter an order revoking the child's driving privilege for a period of 1 year and the court shall require the child to surrender to it all driver's, operator's, or chauffeur's licenses held by the child; the court shall forward said licenses and a record of the finding of the commission of a delinquent act to the Department of Highway Safety and Motor Vehicles.* If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(4) Except for use in a subsequent proceeding under this chapter, an adjudication by a court that a child has committed a delinquent act shall not be deemed a conviction; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication; nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or to disqualify or prejudice the child in any civil service application or appointment. However, *a finding of the commission of a delinquent act in violation of s 562 11(2), s. 562.111, or chapter 893, as described in subsection (2), even though adjudication was withheld, or* an adjudication by the court that a juvenile has committed a delinquent act, including a violation of chapter 316 or chapter 322, shall constitute a "conviction" as that term is used in chapter 322.

Section 6. Subsection (8) is added to section 322.05, Florida Statutes, and, effective April 1, 1991, is renumbered as subsection (9), to read:

322.05 Persons not to be licensed.—The department shall not issue any license:

(8) To any person who is ineligible under s. 322.056.

Section 7. Subsection (6) of section 322.27, Florida Statutes, is amended to read:

322.27 Authority of department to suspend or revoke license.—

(6) *(a)* The department shall revoke the driving privilege of any person who is convicted of a felony for the possession of a controlled substance if, at the time of such possession, the person was driving or in actual physical control of a motor vehicle. A person whose driving privilege has been revoked pursuant to this subsection shall not be eligible to receive a limited business or employment purpose license during the term of such revocation.

(b) Upon the conviction of a person 18 years of age or older for any violation of chapter 893 that is classified as a felony, the court shall direct the department to suspend the driving privilege of the person for a period not less than 6 months and not more than 2 years. If the person is not eligible for a driving privilege, or if the person's driving privilege is currently under suspension or revocation, the court shall direct the department to extend the person's period of ineligibility, suspension, or revocation for a period not less than 6 months and not more than 2 years. This paragraph does not apply to any offense for which the department has revoked a driving privilege under paragraph (a).

Section 8. This act shall take effect October 1, 1990, and shall apply to offenses committed on or after that date.

House Amendment 2—On page 1, strike entire title and insert: A bill to be entitled An act relating to offenses involving alcohol or drugs; providing a short title; authorizing a court to order, as a condition of probation, certain persons convicted of driving under the influence to participate in the Youthful Drunk Driver Visitation Program; requiring a court to determine whether the program is appropriate for a probationer; allowing a court to require supervised probationers to visit certain prescribed facilities to view appropriate victims of vehicle accidents involving drinking drivers; prescribing appropriate supervisory personnel for such visitations; requiring a comprehensive counseling session before visitations; providing for a waiver of visitation if it is determined to be inappropriate; providing for a discretionary post-visitation conference; providing immunity from civil liability; creating s. 322.056, F.S.; providing mandatory withholding, revocation, or suspension of the driving privilege of a person under 18 years of age who is found guilty of or delinquent for certain offenses; amending ss. 562.11, 562.111, F.S.; providing that penalties imposed under s. 322.056, F.S., are in addition to penalties imposed for the specified violations of the Beverage Law; amending s. 39.10, F.S.; providing for revocation of a child's driving privilege for certain offenses; amending s. 322.05, F.S., relating to persons not to be issued licenses, to conform; amending s. 322.27, F.S.; requiring the Department of Highway Safety and Motor Vehicles to suspend for a specified period the driving privilege of a person convicted of any felony violation of ch. 893, F.S., relating to controlled substances; providing an effective date.

Senators Gardner and Langley offered the following amendment which was moved by Senator Gardner and adopted:

Senate Amendment 1 to House Amendment 1—On page 1, line 10, strike everything after the enacting clause and insert:

Section 1. Youthful Drunk Driver Visitation Program.—

(1) SHORT TITLE.—This section may be cited as the "Youthful Drunk Driver Visitation Program Act."

(2) COURT-ORDERED PARTICIPATION IN PROGRAM; PREFERENCE FOR PARTICIPATION.—

(a) If a person is convicted of a violation of s. 316.193, Florida Statutes, the court may order, as a term and condition of probation in addition to any other term or condition required or authorized by law, that the probationer participate in the Youthful Drunk Driver Visitation Program.

(b) The court shall give preference for participation in the program to probationers who are less than 18 years of age at the time of the offense if the facilities which participate in the program within the jurisdiction cannot accommodate all probationers who are eligible and who consent to participate in the program.

(3) INVESTIGATION AND CONSULTATION BY COURT.—The court shall investigate and consult with the probationer, his counsel, if any, and any proposed supervisor of a visitation under the program. The court may consult with any other person whom the court finds may be of value, including, but not limited to, the probationer's parents or other family members, in order to ascertain that the probationer is suitable for the program, that the visitation will be educational and meaningful to the probationer, and that there are no physical, emotional, or mental reasons to believe the program is not appropriate for the probationer or would cause any injury to the probationer.

(4) VISITATION REQUIREMENT.—

(a) To the extent that personnel and facilities are made available to the court, the court may include a requirement for supervised visitation by the probationer to all, or any, of the following:

1. A trauma center, as defined in s. 395.031, Florida Statutes, or a hospital as defined in s. 395.002, Florida Statutes, which regularly receives victims of vehicle accidents, between the hours of 10 p.m. and 2 a.m. on a Friday or Saturday night, in order to observe appropriate victims of vehicle accidents involving drinking drivers, under the supervision of any of the following:

a. A registered nurse trained in providing emergency trauma care or prehospital advanced life support.

b. An emergency room physician.

c. An emergency medical technician.

2. A treatment resource, as defined in s. 396.032 or s. 397.021, Florida Statutes, which cares for advanced alcoholics or drug abusers, to observe persons in the terminal stages of alcoholism or drug abuse, under the supervision of appropriately licensed medical personnel. Prior to any visitation of such terminally ill or disabled persons, the persons or their legal representatives must give their express consent to participate in the visitation program.

3. If approved by the county coroner, the county coroner's office or the county morgue to observe appropriate victims of vehicle accidents involving drinking drivers, under the supervision of the coroner or a deputy coroner.

(b) As used in this section, the term "appropriate victims" means victims or their legal representatives, including the next of kin, who have expressly given their consent to participate in the visitation program and victims whose condition is determined by the visitation supervisor to demonstrate the results of accidents involving drinking drivers without being excessively gruesome or traumatic to the probationer.

(c) If persons trained in counseling or substance abuse are made available to the court, the court may coordinate the visitation program or the visitations at any of the appropriate facilities through those persons.

(d) Any visitation shall include, before any observation of victims or disabled persons by the probationer, a comprehensive counseling session with the visitation supervisor at which the supervisor shall explain and discuss the experiences which may be encountered during the visitation in order to ascertain whether the visitation is appropriate for the probationer.

(e) If at any time, either before or during a visitation, the supervisor of the probationer determines that the visitation may be or is traumatic or otherwise inappropriate for the probationer, or the supervisor is uncertain whether the visitation may be traumatic or inappropriate, the visitation shall be terminated without prejudice to the probationer.

(5) POSTVISITATION CONFERENCE.—

(a) Following completion of any of the required visitations, the program may include a personal conference among the sentencing judge, his designated representative, or the person responsible for coordinating the program for the judicial district and the probationer, the probationer's counsel, and, if available, the probationer's parents in order to discuss the experiences of the visitation and how those experiences may affect the probationer's future conduct.

(b) If a personal conference is not practicable because of the probationer's absence from the jurisdiction, conflicting time schedules, or other reasons, the program shall require a written report or letter by the probationer to the court discussing the experiences and their effect on the probationer.

(6) IMMUNITY FROM CIVIL LIABILITY.—The county, a court, any facility visited pursuant to the program, an agent, employee, or independent contractor of the court, county, or facility visited pursuant to the program, or any person supervising a probationer during the visitation, is not liable for any civil damages resulting from injury to the probationer, or civil damages caused by the probationer, during, or from any activities relating to, the visitation, except for willful or grossly negligent acts intended to, or reasonably expected to, result in injury or damage. A probationer is eligible for workers' compensation as prescribed by law if he performs community service at a facility as an additional term or condition of probation.

Section 2. Section 322.056, Florida Statutes, is created to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver's license, for persons under age 18 found guilty of certain alcohol or drug offenses.—

(1) Notwithstanding the provisions of s. 322.055, if a person under 18 years of age is found guilty of or delinquent for a violation of s. 562.11(2), s. 562.111, or chapter 893, and:

(a) The person is eligible by reason of age for a driver's license or driving privilege, the court shall direct the department to revoke or to withhold issuance of his driver's license or driving privilege for a period of:

1. Not less than 3 months and not more than 6 months for the first violation.

2. One year, for a subsequent violation.

(b) The person's driver's license or driving privilege is under suspension or revocation for any reason, the court shall direct the department to extend the period of suspension or revocation by an additional period of:

1. Not less than 3 months and not more than 6 months for the first violation.

2. One year, for a subsequent violation.

(c) The person is ineligible by reason of age for a driver's license or driving privilege, the court shall direct the department to withhold issuance of his driver's license or driving privilege for a period of:

1. Not less than 3 months and not more than 6 months after the date on which he would otherwise have become eligible, for the first violation.

2. One year after the date on which he would otherwise have become eligible, for a subsequent violation.

(2) A penalty imposed under subsection (1) shall be in addition to any other penalty imposed by law.

Section 3. Subsection (2) of section 562.11, Florida Statutes, is amended to read:

562.11 Selling, giving, or serving alcoholic beverages to person under age 21; misrepresenting or misstating age or age of another to induce licensee to serve alcoholic beverages to person under 21; penalties.—

(2) It is unlawful for any person to misrepresent or misstate his age or the age of any other person for the purpose of inducing any licensee or his agents or employees to sell, give, serve, or deliver any alcoholic beverages to a person under 21 years of age.

(a) Anyone convicted of violating the provisions *of this subsection* ~~hereof~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person under the age of 17 years who violates such provisions shall be within the jurisdiction of the judge of the circuit court and shall be dealt with as a juvenile delinquent according to law.

(c) In addition to any other penalty imposed for a violation of this subsection, if a person uses a driver's license or identification card issued by the Department of Highway Safety and Motor Vehicles in violation of this subsection, the court ~~may~~:

1. *May* order the person to participate in public service or a community work project for a period not to exceed 40 hours; and

2. *Shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend or revoke, the person's driver's license or driving privilege, as provided in s. 322.056.* ~~Suspend the person's driver's license or driving privilege for a period not to exceed 1 year.~~

Section 4. Section 562.111, Florida Statutes, is amended to read:

562.111 Possession of alcoholic beverages by persons under age 21 prohibited.—

(1) It is unlawful for any person under the age of 21 years, except a person employed under the provisions of s. 562.13 acting in the scope of his employment, to have in his possession alcoholic beverages, except that nothing ~~herein~~ contained *in this subsection* shall preclude the employment of any person 18 years of age or older in the sale, preparation, or service of alcoholic beverages in licensed premises in any establishment licensed by the Division of Alcoholic Beverages and Tobacco or the Division of Hotels and Restaurants. Notwithstanding the provisions of s. 562.45, any person under the age of 21 who is convicted of a violation of this *subsection* ~~section~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083; however, any person under the age of 21 who has been convicted of a violation of this *subsection* ~~section~~ and who is thereafter convicted of a further violation of this *subsection* ~~section~~ is, upon conviction of the further offense, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083~~, or s. 775.084~~.

(2) In addition to any other penalty imposed for a violation of subsection (1), the court shall direct the Department of Highway Safety and Motor Vehicles to withhold issuance of, or suspend or revoke, the violator's driver's license or driving privilege, as provided in s. 322.056.

Section 5. Subsections (2) and (4) of section 39.10, Florida Statutes, are amended to read:

39.10 Adjudication.—

(2) If the court finds that the child named in the petition has committed a delinquent act, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of a delinquent act and placing the child in a community control program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose a curfew, require restitution or public service, revoke or suspend the driver's license of the child, require school attendance, or require that the child work faithfully at suitable employment insofar as may be possible. *If the delinquent act is a second or subsequent violation of s 562 11(2), s. 562.111, or chapter 893, the court shall enter an order revoking the child's driving privilege for a period of 1 year and the court shall require the child to surrender to it all driver's, operator's, or chauffeur's licenses held by the child; the court shall forward said licenses and a record of the finding of the commission of a delinquent act to the Department of Highway Safety and Motor Vehicles.* If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(4) Except for use in a subsequent proceeding under this chapter, an adjudication by a court that a child has committed a delinquent act shall not be deemed a conviction; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication; nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or to disqualify or prejudice the child in any civil service application or appointment. However, *a finding of the commission of a delinquent act in violation of s. 562.11(2), s. 562.111, or chapter 893, as described in subsection (2), even though adjudication was withheld, or* an adjudication by the court that a juvenile has committed a delinquent act, including a violation of chapter 316 or chapter 322, shall constitute a "conviction" as that term is used in chapter 322.

Section 6. Subsection (8) is added to section 322.05, Florida Statutes, and, effective April 1, 1991, is renumbered as subsection (9), to read:

322.05 Persons not to be licensed.—The department shall not issue any license:

(8) To any person who is ineligible under s. 322.056.

Section 7. Section 322.055, Florida Statutes, is amended to read:

322.055 Revocation or suspension of, or delay of eligibility for, driver's license~~,~~ for *persons 18 years of age or older convicted* ~~found guilty~~ of certain drug offenses.—

(1) Notwithstanding the provisions of s. 322.28, *upon the conviction of a person 18 years of age or older for possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled substance, the court shall direct the department to* ~~the department, at the direction of the sentencing court, shall~~ revoke the driver's license or driving privilege of *the* ~~any~~ person ~~found guilty of or adjudicated delinquent for any violation of chapter 893 involving a substance listed in s. 893.03(1) or (2)~~. The period of such revocation shall be ~~a period of time of up to~~ 2 years *or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Health and Rehabilitative Services* ~~as determined by the sentencing court~~. *However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license.*

(2) If a person *18 years of age or older* is *convicted* ~~found guilty of or adjudicated delinquent~~for *the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled* ~~a violation of chapter 893 involving a~~ substance ~~listed in s. 893.03(1) or (2),~~ and such person is eligible by reason of age for a driver's license or privilege, the *court shall direct the* department *to withhold issuance of such person's* ~~, at the direction of the sentencing court, shall not issue such person a~~ driver's license or driving privilege for a period of ~~time of up to~~ 2 years *after*~~, as determined by the sentencing court, from~~ the date the person was *convicted or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Health and Rehabilitative Services* ~~found guilty or adjudicated delinquent~~. *However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license.*

(3) If a person *18 years of age or older* is *convicted* ~~found guilty of or adjudicated delinquent~~ for *the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled* ~~a violation of chapter 893 involving a~~ substance ~~listed in s. 893.03(1) or (2),~~ and such person's driver's license or driving privilege is already under suspension or revocation for any reason, *the court shall direct* the department~~, at the direction of the sentencing court,~~ *to* ~~shall~~ extend the period of such suspension or revocation by an additional period of ~~time of up to~~ 2 years *or until the person is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Health and Rehabilitative Services*~~, as determined by the sentencing court~~. *However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license.*

(4) If a person *18 years of age or older* is *convicted* ~~found guilty of or adjudicated delinquent~~ for *the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled* ~~a violation of chapter 893 involving a~~ substance ~~listed in s. 893.03(1) or (2),~~ and such person is ineligible by reason of age for a driver's license or driving privilege, *the court shall direct* the department *to withhold issuance of such person's*~~, at the direction of the sentencing court, shall not issue such person a~~ driver's license or driving privilege for a period of ~~time of up to~~ 2 years *after*~~, as determined by the sentencing court, from~~ the date that he would otherwise have become eligible *or until he becomes eligible by reason of age for a driver's license and is evaluated for and, if deemed necessary by the evaluating agency, completes a drug treatment and rehabilitation program approved or regulated by the Department of Health and Rehabilitative Services. However, the court may, in its sound discretion, direct the department to issue a license for driving privileges restricted to business or employment purposes only, as defined by s. 322.271, if the person is otherwise qualified for such a license.*

(5) Each clerk of court shall promptly report to the department each *conviction* ~~finding of guilt of or adjudication of delinquency~~ for *the possession or sale of, trafficking in, or conspiracy to possess, sell, or traffic in a controlled* ~~a violation of chapter 893 involving a~~ substance ~~listed in s. 893.03(1) or (2)~~.

Section 8. This act shall take effect October 1, 1990, and shall apply to offenses committed on or after that date.

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

CS for SB's 112 and 100 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Diaz-Balart	Johnson	Plummer
Bankhead	Dudley	Kiser	Scott
Beard	Forman	Langley	Souto
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

Vote after roll call:

Yea—W. D. Childers, Deratany

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 920 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 920—A bill to be entitled An act relating to mental health; amending s. 394.459, F.S.; continuing the exemption from the public records requirements of ch. 119, F.S., for the clinical records of mental health patients; providing for future legislative review of this exemption pursuant to the Open Government Sunset Review Act; providing an effective date.

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

Section 1. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (6) of section 381.0612, Florida Statutes, is reenacted and amended to read:

381.0612 State Center for Health Statistics.—

(6) CONFIDENTIALITY.—

(a) The center shall protect the confidentiality of, and regulate the disclosure of, data and records maintained by the center when such records and data contain information of a sensitive personal nature concerning individuals, the release of which information would be defamatory or cause unwarranted damage to the good name or reputation of such individuals. *Such records and data are confidential and exempt from the provisions of s. 119.07(1).* Therefore, the center shall ensure that such data which is disclosed will not identify a person by name, address, number, symbol, or any other identifying information. The records of the center which contain the name, address, number, symbol, or other identifier of a person shall *be confidential and shall* not be subject to disclosure under *s. 119.07(1)* ~~chapter 119~~ unless otherwise provided by law.

(b) The center may permit authorized representatives of recognized organizations to have access to the records of the center in order to compile statistics for approved purposes and to make abstracts from official records, under the conditions regarding use and disposition of the statistics and abstracts deemed proper by the center.

(c) A violation of this subsection or rules adopted by the department under this subsection is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Any employee of the department who is found guilty of violating this subsection or the rules adopted by the department under this subsection is subject to immediate dismissal.

(d) This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (4) of section 381.231, Florida Statutes, is reenacted and amended to read:

381.231 Report of diseases of public health significance to department.—

(4) Information submitted in reports required by this section is confidential, *exempt from the provisions of s. 119.07(1),* and shall be made public only when necessary to public health. No report so submitted shall be considered a violation of the confidential relationship between practitioner and patient. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Nothing in this section shall affect the provisions of s. 384.25.

Section 3. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (6) of section 382.008, Florida Statutes, is reenacted and amended to read:

382.008 Death and fetal death registration.—

(6) The cause-of-death section of all death and fetal death records and the *parentage* ~~paternity~~, marital status, and medical information *included in* ~~of~~ all fetal death records of this state are confidential and *exempt from the provisions of s. 119.07(1),* ~~not open to public inspection~~ except for health research purposes as approved by the department; nor may copies of the same be issued except as provided in s. 382.025(4). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 4. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (1) and (2) of section 382.014, Florida Statutes, are reenacted and amended to read:

382.014 Birth certificates; contents; form; disclosure.—

(1) The original certificate of birth shall contain all of the information required by the department for legal, social, and health research purposes. However, all information concerning *parentage* ~~paternity~~, marital status, and medical details shall be confidential and *exempt from the provisions of s. 119.07(1)* ~~shall not be open to inspection~~, except for health research purposes as approved by the department, nor shall copies of the same be issued except as provided in s. 382.025(2). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* In the case of an adoptive child, if of legal age, access to the original certificate of birth shall be governed by s. 63.162.

(2) A birth certificate shall be registered for every child of undetermined parentage and shall show all known or approximate facts relating to the birth. To assist in later identification, information concerning the place and circumstances under which the said child was found shall be registered on the portion of the original birth certificate relating to marital status and medical details. In the event said child is identified to the satisfaction of the department at any subsequent time, a new birth certificate shall be prepared which will bear the same number as the original certificate, and the original certificate shall thereupon be sealed and filed, *shall be confidential and exempt from the provisions of s. 119.07(1),* and shall not be opened to inspection by, nor shall certified copies of the same be issued to, any person other than the registrant, if of legal age, except upon the order of any court of competent jurisdiction. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* In the case of an adoptive child, access to the original certificate of birth shall be governed by s. 63.162.

Section 5. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (5) of section 382.015, Florida Statutes, is reenacted and amended to read:

382.015 New or amended certificates of birth; duty of clerks of court and department.—The clerk of the court in which any proceeding for determination of paternity, adoption, or annulment of an adoption shall be registered within 30 days after the final disposition thereof forward to the department a report of said proceedings upon a form to be furnished by the department, which form shall contain sufficient information to identify the original birth certificate of the child and to enable an amendatory or new birth certificate to be prepared.

(5) SUBSTITUTION OF NEW CERTIFICATE OF BIRTH FOR ORIGINAL.—When a new certificate of birth is prepared, the department shall substitute the new certificate of birth for the one on file in the Office of Vital Statistics. Thereafter, when a certified copy of the certificate of birth of such person or portion thereof is issued, it shall be a copy of the new certificate of birth or portion thereof, except when an order of a court of competent jurisdiction shall require the issuance of a copy of the original certificate of birth, and in the case of an adoption, change in paternity, or court-ordered substitution, the department shall place the original certificate of birth and all papers pertaining thereto under seal, not to be broken or opened except by order of a court of competent jurisdiction. *The original birth certificate is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* In the case of an adoptive child, access to the original certificate of birth shall be governed by s. 63.162.

Section 6. Section 382.022, Florida Statutes, is amended to read:

382.022 County court judges and clerks of the circuit courts to transmit marriage application fees monthly.—On or before the 5th day of each month, each of the several county court judges and clerks of the circuit courts of the state shall transmit to the department, for deposit in the trust fund provided in s. 382.025*(9)*~~(12)~~, the fees collected by him under the provisions of s. 741.02 during the preceding calendar months.

Section 7. Subsection (1) of section 382.023, Florida Statutes, is amended to read:

382.023 Clerks of circuit courts to furnish department with record of dissolutions of marriage granted; charges.—

(1) On or before the 10th day of each month, the several clerks of the circuit courts of the state shall transmit to the department, for deposit in the trust fund provided in s. 382.025*(9)*~~(12)~~, the fees provided for in subsection (2) which were collected during the preceding month as part of the cost of maintaining the dissolution-of-marriage record system, together with a record, on forms prescribed and furnished by the department, of each and every judgment of dissolution of marriage granted by said courts during the preceding calendar month, giving names of parties and such other data as required by such forms.

Section 8. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 382.025, Florida Statutes, is reenacted and amended to read:

382.025 Certified copies of vital records, birth records, and other records; copies as evidence; searches of records; fees; disposition of fees.—

(1) All birth records of this state shall be ~~considered~~ confidential *and are exempt from the provisions of s. 119.07(1)* ~~documents and shall be open to inspection only as hereinbefore or hereinafter provided for~~. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(2) Certified copies of the original birth certificate and computer certifications and birth cards in such form as the department may designate or any new or amendatory certificate, or affidavits thereof, *are confidential and exempt from the provisions of s. 119.07(1) and* shall be issued only as authorized by the department and only to the registrant, if of legal age; his or her parent or guardian or other legal representative; or any agency of the state or the United States for official purposes upon approval of the department or upon order of any court of competent jurisdiction. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(3) All such computer certificates of birth or birth cards, including those for persons born out of wedlock or of undetermined parentage or for persons for whom paternity has been determined or for adopted persons, shall be identical in form.

(4) The department shall authorize the issuance of a certified copy or computer certification of all or part of any marriage, dissolution of marriage, or death or fetal death certificate, excluding that portion which is confidential pursuant to s. 382.008(6) *and exempt from the provisions of s. 119.07(1),* to any person requesting it upon payment of the fee prescribed by this section. A copy or computer certification of the death certificate or fetal death certificate, including the confidential portions, shall be issued only to the registrant's immediate family or guardian, the representative of the family or guardian, or any agency of the state or United States for official purposes upon approval of the department or upon order of any court of competent jurisdiction. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(5) Any copy of any record or part thereof filed under the provisions of this act when properly certified by the department shall be prima facie evidence in all courts and cases of the facts therein stated.

(6) The department is entitled to fees as follows:

(a) Not less than $3 or more than $5 for the first calendar year of records searched for a vital record and not less than $1 or more than $2 for each additional calendar year of records searched, up to a maximum of $50. If the record is located, this fee entitles the applicant to one computer certification of the record or a photocopy or birth card if computer certification is not available. An additional fee of not less than $3 or more than $5 is required if a photocopy, short-form photocopy, or birth card is requested in place of or in addition to a computer certification.

(b) Not less than $10 or more than $20 for processing and filing a delayed certification of birth, death, or fetal death. This fee entitles the applicant to one certification of the record, if filed.

(c) Not less than $10 or more than $20 for processing and filing a change of name, a correction on a death record, or a correction on a birth record. This fee entitles the applicant to one certification of the corrected record.

(d) Not less than $10 or more than $20 for processing and filing a new birth certificate for reason of adoption or for reason of determination of paternity. This fee entitles the applicant to one certification of the new certificate.

(e) Not less than $2 or more than $4 for each certification of a vital record in excess of one certification for which a fee for search or a filing fee is paid, when ordered at the same time.

(f) Not less than $5 or more than $10 for processing and forwarding each exemplified copy of a vital record.

(g) Twenty-five dollars for a commemorative certificate of birth or marriage. Fees collected pursuant to this paragraph in excess of expenses shall be deposited by the department in the Maternal and Child Health Block Grant Trust Fund.

(h) Not less than $5 or more than $10 for each search of state census records.

(i) Not less than $5 or more than $10 for expedited processing of an initial certified copy or certified statement of a vital record.

(j) Not less than 5 cents or more than 10 cents for each vital record listed on computer tape or printout plus cost of preparation and handling or a fee consistent with a nationally negotiated or established schedule of charges.

(7) Until rules establishing fees under subsection (6) are promulgated by the department, the fees assessed pursuant to this subsection shall be the minimum fees cited. All fees are due and payable at the time that services are requested and are nonrefundable, except that, when a search is conducted and no vital record is found, any fees paid for additional copies shall be refunded.

(8) The department may issue records or data to federal, state, local, or other public or private agencies, as specified in this subsection. Issuance of such records or data is exempt from the provisions of s. 119.07(1). The copies of records or data issued pursuant to this subsection shall remain the property of the department. The department shall govern what use may be made of these records and data.

(a)~~(8)~~ The federal agency responsible for national vital statistics may be furnished such copies or data from the system of vital statistics as are required for national statistics, if the agency shares in the cost of collecting, processing, and transmitting such data and if the data is only used by the federal agency for statistical purposes or for other purposes specifically authorized by the department.

(b)~~(9)~~ Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon such terms or conditions as may be prescribed by the department, but such copies or data may not be used for purposes other than those for which they are requested unless specifically authorized by the department.

(c)~~(10)~~ The department may, by agreement, transmit copies of records and other reports to an office of vital statistics for a jurisdiction outside this state when such records or other reports relate to residents of that jurisdiction or persons born in that jurisdiction. The agreement must require that the copies be used for statistical and administrative purposes only, and the agreement must provide for the retention and disposition of such copies.

The exemptions provided in this subsection are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

~~(11) The copies of records or data issued pursuant to subsection (8), subsection (9), or subsection (10) shall remain the property of the department, and the use which may be made of these records and data shall be governed by the department.~~

(9)~~(12)~~ All fees prescribed herein shall be paid by the applicant. The department may waive any or all of the fees required in this section. The department shall keep a true and correct account of all fees required under this section and deposit such fees in a trust fund to be used by the department for the efficient administration of this chapter.

(10)~~(13)~~ No person shall prepare or issue any certificate which purports to be an original, or a copy of an original, certificate of birth, death, or fetal death, except as authorized in this act or rules adopted hereunder. *Except as provided in this section, preparing or issuing certificates is exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(11)~~(14)~~ A person may not reproduce or duplicate a certified copy of a certificate of birth, death, or fetal death issued by the department, a local registrar, or a deputy registrar, except as authorized in this act or rules adopted hereunder. *Except as provided in this section, reproducing or duplicating certificates is exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(12)~~(15)~~ The fee charged for each request for a certified birth certificate or birth record as issued by the department or by the local registrar shall be subject to a nonrefundable additional fee of $4, due and payable at the time the request is made. The state and local registrars shall collect the additional fee and deposit it in the appropriate department trust funds. On a quarterly basis, the department shall transfer $2 of each additional fee collected by the state and local registrars to the Crimes Against Children Criminal Profiling Trust Fund created in s. 943.041 and $1.50 to the Child Welfare Training Trust Fund created in s. 402.40. Fifty cents of the fee shall be available for appropriation to the department for administration of this chapter.

(13)~~(16)~~(a) In addition to the original birth certificate and any other birth record or copy thereof, the State Registrar shall issue upon request and upon payment of an additional fee of $25 a birth certificate representing that the birth of the person named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor. It shall have the same status as evidence as the original birth certificate. Funds derived from such fee in excess of departmental expenses shall be deposited by the department into the Maternal and Child Health Block Grant Trust Fund for use in the Regional Perinatal Intensive Care Centers (RPICC) Program to prevent child abuse and neglect.

(b) In addition to the original marriage license or copy thereof, the State Registrar shall issue upon request and upon payment of an additional fee of $25 a marriage license representing that the marriage of the persons named thereon is recorded in the office of the registrar. The certificate issued under this paragraph shall be in a form consistent with the need to protect the integrity of vital records but shall be suitable for display. It may bear the seal of the state printed thereon and may be signed by the Governor. It shall have the same status as evidence as the original marriage license. Funds derived from such fee in excess of departmental expenses shall be deposited by the department into the Maternal and Child Health Block Grant Trust Fund for use in funding the Improved Pregnancy Outcome Program.

Section 9. Subsection (5) of section 382.026, Florida Statutes, is amended to read:

382.026 Penalties.—

(5) All fines collected under subsections (1)-(4) shall be deposited in the trust fund provided for in s. 382.025*(9)*~~(12)~~.

Section 10. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (1) of section 382.027, Florida Statutes, is reenacted and amended to read:

382.027 Voluntary registry of adoption information.—Notwithstanding any other law to the contrary, the department shall maintain a registry with the last known names and addresses of an adoptee and his natural parents and adoptive parents and any other identifying information which the adoptee, natural parents, or adoptive parents desire to include in the registry. The registry shall be open with respect to all adoptions in the state, regardless of when they took place. The registry shall be available for those persons choosing to enter information therein, but no one shall be required to do so.

(1) Anyone seeking to enter, change, or use information in the registry, or any agent of such person, shall present verification of his identity and, if applicable, his authority. A person who enters information in the registry shall be required to indicate clearly the persons to whom he is consenting to release this information, which persons shall be limited to the adoptee and the natural mother, natural father, adoptive mother, adoptive father, natural siblings, and maternal and paternal natural grandparents of the adoptee. *Except as provided in this section, information in the registry is confidential and exempt from the provisions of s. 119.07(1).* Consent to the release of this information may be made in the case of a minor adoptee by his adoptive parents or by the court after a showing of good cause. At any time, any person may withdraw, limit, or otherwise restrict his consent to release information by notifying the department in writing. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 11. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (9) of section 394.459, Florida Statutes, is reenacted and amended to read:

394.459 Rights of patients.—

(9) CLINICAL RECORD; CONFIDENTIALITY.—A clinical record for each patient shall be maintained. The record shall include data pertaining to admission and such other information as may be required under rules of the department. *A clinical record is confidential and exempt from the provisions of s. 119.07(1).* Unless waived by express and informed consent by the patient or his guardian or, if the patient is deceased, by the patient's personal representative or by that family member who stands next in line of intestate succession, the ~~privileged and~~ confidential status of the clinical record shall not be lost by either authorized or unauthorized disclosure to any person, organization, or agency. ~~The clinical record shall not be a public record; and~~ No part of *the clinical record* ~~it~~ shall be released, except:

(a) The record may be released to such persons and agencies as designated by the patient or his guardian. A medical discharge summary of the clinical record of any patient committed to, or to be returned to, the Department of Corrections from the Department of Health and Rehabilitative Services shall be released to the Department of Corrections without charge upon its request. The Department of Corrections shall treat such information as confidential and shall not release such information except as provided in this section.

(b) The record shall be released to persons authorized by order of court, excluding matters privileged by other provisions of law. *In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains.*

(c) The record or any part thereof may be disclosed to a qualified researcher, a staff member of the facility, or an employee of the department when the administrator of the facility or secretary of the department deems it necessary for treatment of the patient, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

(d) Information from the clinical records may be used for statistical and research purposes if the information is abstracted in such a way as to protect the identity of individuals.

(e) Whenever a patient has declared an intention to harm other persons, such declaration may be disclosed.

(f) Any law enforcement agency, treatment facility, or other governmental agency that receives information pursuant to this subsection shall maintain such information as *confidential and exempt from the provisions of s. 119.07(1)* ~~a nonpublic record~~ as ~~otherwise~~ provided herein.

(g) Any agency or private mental health practitioner who acts in good faith in releasing information pursuant to this subsection is not subject to civil or criminal liability for such release.

(h) Nothing in this subsection is intended to prohibit the parent of a mentally ill person who is hospitalized in, or is being treated by, a mental health facility or program from requesting and receiving information limited to that person's treatment plan and current physical and mental condition. Release of such information shall be in accordance with the code of ethics of the profession involved.

The exemptions contained in this subsection are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 12. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 396.112, Florida Statutes, is reenacted and amended to read:

396.112 Records of alcoholics and intoxicated persons.—

~~(1)~~ The ~~registration and other~~ records of *a* ~~emergency services and of other~~ treatment *resource pertaining to the identity, diagnosis, prognosis, or treatment of any person are* ~~resources, whether inpatient, intermediate or outpatient, utilized under this chapter shall remain~~ confidential *and are exempt from the provisions of s. 119.07(1),* ~~and information which has been entered in the records shall be considered privileged information.~~ *Such records shall not be disclosed without the written consent of the person to whom they pertain, but appropriate disclosure may be made without such consent:*

(1) To medical personnel in a medical emergency.

(2) To treatment personnel of the facility in which the person is a patient only if such personnel need to know the information to facilitate the person's treatment.

(3) By the secretary or his designees for purposes of research into the causes and treatment of alcoholism, upon application by a qualified researcher or research agency when the need for the records and the significance of the research for which they are to be used has been demonstrated to his satisfaction and the researcher has agreed in writing that patients' names and other identifying information will not be disclosed.

(4) Upon court order for purposes unrelated to treatment after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains. Such disclosure, however, shall be subject to any privilege provided by law.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

~~(2) No part of the treatment records shall be disclosed without the consent of the person to whom it pertains, but appropriate disclosure may be made without such consent to treatment personnel for use in connection with his treatment and to counsel representing the person in any proceeding held pursuant to s. 396.102. Disclosure may also be made without consent upon court order for purposes unrelated to treatment after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains.~~

~~(3) Notwithstanding the provisions of subsections (1) and (2), the secretary or his designees may open patients' records for purposes of significant research into the causes and treatment of alcoholism. The secretary shall not open such records, however, unless application is made by a researcher or research agency of professional repute, and unless the need for the records and the significance of the research for which they are to be used has been demonstrated to his satisfaction. Records shall not be opened under this subsection unless adequate assurances are given that patients' names and other identifying information will not be disclosed by the applicant.~~

Section 13. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 397.053, Florida Statutes, is reenacted and amended to read:

397.053 Records of drug abusers.—

~~(1)~~ The ~~registration and other~~ records of a treatment *resource pertaining to the identity, diagnosis, prognosis, or treatment of any person are* ~~resources, whether inpatient, intermediate, or outpatient, shall remain~~ confidential *and are exempt from the provisions of s. 119.07(1),* ~~and information which has been entered in the records shall be considered confidential information.~~ *Such records shall not be disclosed without the written consent of the person to whom they pertain, but appropriate disclosure may be made without such consent:*

(1) To medical personnel in a medical emergency.

(2) To treatment personnel of the facility in which the person is a patient only if such personnel need to know the information to facilitate the person's treatment.

(3) By the secretary of the department or his designee for purposes of research into the causes and treatment of drug abuse, upon application by a qualified researcher or research agency if the need for the records and the significance of the research for which they are to be used has been demonstrated to his satisfaction and the researcher has agreed in writing that patients' names and other identifying information will not be disclosed.

(4) Upon court order for purposes unrelated to treatment after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains. Such disclosure, however, shall be subject to any privilege provided by law.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

~~(2) No part of the treatment records shall be disclosed without the consent of the person to whom it pertains, but appropriate disclosure may be made without consent to treatment personnel for use in connection with the treatment of such person and to counsel representing the person in any proceeding held pursuant to s. 397.052. Disclosure may also be made without consent upon court order for purposes unrelated to treatment after application showing good cause therefor. In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains.~~

~~(3) Notwithstanding the provisions of this section, the secretary of the department or his designee may open patients' records for purposes of significant research into the causes and treatment of drug abuse. The secretary shall not open such records, however, unless application is made by a researcher or research agency of professional repute, and unless the need for the records and the significance of the research for which they are to be used has been demonstrated to his satisfaction. Records shall not be open under this subsection unless adequate assurances are given that patients' names and other identifying information will not be disclosed by the applicant.~~

Section 14. *Section 397.096, Florida Statutes, is hereby repealed.*

Section 15. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (1) of section 400.022, Florida Statutes, is reenacted and amended to read:

400.022 Residents' rights.—

(1) All licensees of nursing home facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the following:

(h) The right to have privacy in treatment and in caring for personal needs; to close room doors and to have facility personnel knock before entering the room, except in the case of an emergency or unless medically contraindicated; ~~to have confidentiality in the treatment of personal and medical records;~~ and to security in storing and using personal possessions. Privacy of the resident's body shall be maintained during, but not limited to, toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance. *Residents' personal and medical records shall be confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 16. *Subsection (3) of section 400.191, Florida Statutes, is hereby repealed.*

Section 17. Paragraph (b) of subsection (1) and paragraph (a) of subsection (2) of section 400.317, Florida Statutes, are amended to read:

400.317 Procedures for resolving a complaint.—

(1) Any complaint, including any problem identified by an ombudsman council as a result of an investigation, deemed valid and requiring remedial action by the district ombudsman council shall be identified and brought to the attention of the nursing home or long-term care facility administrator in writing. Upon receipt of such document, the administrator, in concurrence with the district ombudsman council chairman, shall establish target dates for taking appropriate remedial action. If, by the target date, the remedial action is not completed or forthcoming, the district ombudsman council may:

(b) *In accordance with s. 400.321, publicize* ~~make public~~ the complaint, the recommendations of the council, and the response of the nursing home or long-term care facility~~; however, in no case may the names of individuals involved in the complaint be disclosed~~.

(2) Upon referral from the district ombudsman council, the state ombudsman council shall assume the responsibility for the disposition of the complaint. If a nursing home or long-term care facility fails to take action on a complaint found valid by the state ombudsman council, the state council may:

(a) *In accordance with s. 400.321, publicize* ~~make public~~ the complaint, the recommendations of the council, and the response of the nursing home or long-term care facility~~; however, in no case may the names of the individuals involved in the complaint be disclosed~~.

Section 18. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 400.321, Florida Statutes, is reenacted and amended to read:

400.321 Confidentiality.—

(1) *The following are confidential and exempt from the provisions of s. 119.07(1):*

(a) Patient records held by an ombudsman council.

(b) The names or identities of the complainants or residents involved in a complaint, including any problem identified by an ombudsman council as a result of an investigation, unless the complainants and residents or their legal representatives provide their written consent to have their names released, or unless a court of competent jurisdiction orders that the names or identities of complainants or residents be public record.

(c) Any other information about a complaint, including any problem identified by an ombudsman council as a result of an investigation, unless an ombudsman council determines that the information does not meet any of the criteria specified in s. 119.14(4)(b).

These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14. ~~All matters before the state or a district ombudsman council concerning abuse or denial of rights of an individual client of a nursing home or long-term care facility shall be confidential and exempt from the provisions of chapter 119. All other matters before the council shall be open to the public and subject to chapter 119.~~

(2) That portion of an ombudsman council meeting in which an ombudsman council discusses information that is confidential and exempt from the provisions of s. 119.07(1) is closed to the public and exempt from the provisions of s. 286.011. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(3) All other matters before the council shall be open to the public and subject to chapter 119 and s. 286.011.

(4)~~(2)~~ Members of any state or district ombudsman council shall not be required to testify in any court with respect to matters held to be confidential under s. 400.414 except as may be necessary to enforce the provisions of this act.

Section 19. Subsection (4) of section 400.435, Florida Statutes, as created by chapter 88-145, Laws of Florida, is hereby repealed.

Section 20. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 400.494, Florida Statutes, is reenacted and amended to read:

400.494 Information *about patients* confidential.—Information *about patients* received by persons employed by, or providing services to, a home health agency or received by the licensing agency through reports or inspection shall be ~~deemed privileged and~~ confidential *and exempt from the provisions of s. 119.07(1)* ~~information~~ and shall not be disclosed to any person other than the patient without the written consent of that patient or *the patient's* ~~his~~ guardian. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 21. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 400.613, Florida Statutes, is reenacted and amended to read:

400.613 Patient record information confidential.—Information *about patients* received by persons employed by, or providing services to, a hospice or received by the licensing agency through reports or inspection shall be ~~deemed privileged and~~ confidential *and exempt from the provisions of s. 119.07(1)* ~~information~~ and shall not be disclosed to any person other than the patient or the family without the written consent of that patient, the patient's guardian, or the patient's family. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 22. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (7) of section 394.907, Florida Statutes, is reenacted and is amended to read:

394.907 Community mental health centers; quality assurance programs.—

(7) The department shall have access to all records necessary to determine agency compliance with the provisions of this section. *The records of quality assurance programs which relate solely to actions taken in carrying out the provisions of this section, and* ~~Such~~ records obtained by the department *to determine agency compliance with the provisions of this section, are confidential and exempt from* ~~shall not be subject to~~ the provisions of s. 119.07*(1)*. 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. *Meetings or portions of meetings of quality assurance program committees that relate solely to actions taken pursuant to this section are exempt from the provisions of s. 286.011. These exemptions are* ~~This exemption is~~ subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 23. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (6) of section 396.181, Florida Statutes, is reenacted and is amended to read:

396.181 Treatment and prevention resources; quality assurance programs.—

(6) The department shall have access to all records necessary to determine agency compliance with the provisions of this section. *The records of quality assurance programs which relate solely to actions taken in carrying out the provisions of this section, and* ~~Such~~ records obtained by the department *to determine agency compliance with the provisions of this section, are confidential and exempt from* ~~shall not be subject to~~ the provisions of s. 119.07*(1)*. 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. *Meetings or portions of meetings of quality assurance program committees that relate solely to actions taken pursuant to this section are exempt from the provisions of s. 286.011. These exemptions are* ~~This exemption is~~ subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 24. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (6) of section 397.0961, Florida Statutes, is reenacted and is amended to read:

397.0961 DATAP program; quality assurance program.—

(6) The department shall have access to all records necessary to determine agency compliance with the provisions of this section. *The records of quality assurance programs which relate solely to actions taken in carrying out the provisions of this section, and* ~~Such~~ records obtained by the department *to determine agency compliance with the provisions of this section, are confidential and exempt from* ~~shall not be subject to~~ the provisions of s. 119.07*(1)*. 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. *Meetings or portions of meetings of quality assurance program committees that relate solely to actions taken pursuant to this section are exempt from the provisions of s. 286.011. These exemptions are* ~~This exemption is~~ subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 25. Present subsection (6) of section 393.0655, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

393.0655 Screening of caretakers.—

(6) CONFIDENTIALITY OF PERSONNEL SCREENING INFORMATION.—The department, a day facility, or a residential facility may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this section for any purpose other than determining if that person meets the minimum standards for good moral character for caretakers. The criminal records, juvenile records, or abuse registry information obtained by the department, a day facility, or a residential facility for determining the moral character of caretakers are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7)~~(6)~~ EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A DAY FACILITY OR RESIDENTIAL FACILITY; HEARINGS PROVIDED.—

(a) The department shall deny, suspend, or revoke a license or pursue other remedies provided in s. 393.0673, s. 393.0675, or s. 393.0678 in addition to or in lieu of denial, suspension, or revocation for failure to comply with this section.

(b) When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the facility and the caretaker affected, stating the specific record which indicates noncompliance with the standards in this section.

(c) The procedures established for hearing under chapter 120 shall be available to the facility and the caretaker in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(d) Refusal on the part of a facility to dismiss a caretaker who has been found to be in noncompliance with standards of this section shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department.

Section 26. Subsection (5) of section 393.067, Florida Statutes, is amended to read:

393.067 Licensure of residential facilities and comprehensive transitional education programs.—

(5) The applicant shall submit evidence which establishes the good moral character of the manager or supervisor of the facility or program and the caretakers in the facility or program and its component centers or units. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any of the caretakers have failed the screening required by s. 393.0655.

(a)1. A licensed residential facility or comprehensive transitional education program which applies for renewal of its license shall submit to the department a list of caretakers who have worked on a continuous basis at the applicant facility or program since submitting fingerprints to the department, identifying those caretakers for whom a written assurance of compliance was provided by the department and identifying those caretakers who have recently begun working at the facility or program and are awaiting the results of the required fingerprint check along with the date of the submission of those fingerprints for processing. The depart-

ment shall by rule determine the frequency of requests to the Department of Law Enforcement to run state criminal records checks for such caretakers except for those caretakers awaiting the results of initial fingerprint checks for employment at the applicant facility or program. The department shall review the records of the caretakers at the applicant facility or program with respect to the crimes *specified* ~~contained~~ in s. 393.0655 and shall notify the facility or program of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply the missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

2. The applicant shall sign an affidavit under penalty of perjury stating that all new caretakers have been fingerprinted and that the facility's or program's remaining caretakers have worked at the applicant facility or program on a continuous basis since being initially screened at that facility or program or have a written assurance of compliance from the department.

(b) As a prerequisite for issuance of the initial license to a residential facility or comprehensive transitional education program:

1. The applicant shall submit to the department a complete set of fingerprints, taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints, for the manager, supervisor, or caretakers of the facility or program;

2. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation; and

3. The department shall review the record of the manager or supervisor with respect to the crimes *specified* ~~contained~~ in s. 393.0655(1) and shall notify the applicant of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the manager or supervisor, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply the missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

(c) The department or a residential facility or comprehensive transitional education program may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this subsection for any purpose other than determining if that person meets the minimum standards for good moral character for a manager or supervisor of, or caretaker in, such a facility or program. The criminal records, juvenile records, or abuse registry information obtained by the department or a residential facility or comprehensive transitional education program for determining the moral character of a manager, supervisor, or caretaker are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 27. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (1) and (2) of section 393.0674, Florida Statutes, are reenacted and amended to read:

393.0674 Penalties.—

(1) It *is* ~~shall be~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083~~, or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be a caretaker;

(b) Operate or attempt to operate a day facility or a residential facility with caretakers who are in noncompliance with the minimum standards for good moral character as contained in this chapter; or

(c) Use ~~records~~ information *from the criminal records or central abuse registry obtained under s. 393.0655, s. 393.066, or s 393.067* for *any purpose* ~~purposes~~ other than screening *that person* for employment as specified in *those sections* ~~ss. 393.0655, 393.066, and 393.067~~ or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified in those sections.

(2) It *is* ~~shall be~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use ~~juvenile records~~ information *from the juvenile records of a person obtained under s. 393.0655, s. 393.066, or s. 393.067* for any *purpose* ~~purposes~~ other than *screening for employment as* specified in *those sections* ~~ss. 393.0655, 393.066, and 393.067~~ or to release ~~such~~ information *from such records* to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than *screening for employment as* specified in those sections.

Section 28. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, paragraphs (k) and (l) of subsection (6) of section 394.457, Florida Statutes, are reenacted and amended, and a new paragraph (k) is added to said subsection, to read:

394.457 Operation and administration.—

(6) SCREENING OF MENTAL HEALTH PERSONNEL.—

(k) The department or a mental health program or facility may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this subsection for any purpose other than determining if that person meets the minimum standards for good moral character for mental health personnel. The criminal records, juvenile records, or abuse registry information obtained by the department or a mental health program or facility for determining the moral character of mental health personnel are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(l)~~(k)~~ It is a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083, ~~or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be a program director, staff member, or volunteer in a public or private mental health program or facility;

2. Operate or attempt to operate a public or private mental health program or facility with mental health personnel who are in noncompliance with the minimum standards for good moral character as contained in this section; or

3. Use ~~records~~ information *from the criminal records or central abuse registry obtained under this section* for *any purpose* ~~purposes~~ other than screening *that person* for employment as specified in this section or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified *in this section* ~~herein~~.

(m)~~(l)~~ It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use ~~juvenile records~~ information *from the juvenile records of a person obtained under this section* for any *purpose* ~~purposes~~ other than *screening for employment as* specified in this section or to release ~~such~~ information *from such records* to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than *screening for employment as* specified in this section.

Section 29. Subsection (3) of section 396.042, Florida Statutes, is amended to read:

396.042 Duties and functions of the department.—

(3) The department shall ensure that treatment resource personnel meet the minimum standards for good moral character as contained in s. 396.0425.

(a)1. Each treatment resource shall submit to the department a list of treatment resource personnel for whom a written assurance of compliance was provided by the department, identifying those treatment resource personnel who have worked on a continuous basis at the treatment resource since submitting fingerprints to the department, and identifying those treatment resource personnel who have recently begun working at the treatment resource and are awaiting the results of the required fingerprint check along with the date of the submission of those fingerprints for processing. The department shall by rule determine the frequency with which treatment resources shall submit such lists of treatment resource personnel and the frequency of requesting the Department

of Law Enforcement to run state criminal records checks for such treatment resource personnel, except for those treatment resource personnel awaiting the results of initial fingerprint checks for employment at the treatment resource. The department shall review the records of the treatment resource personnel at the treatment resource with respect to the crimes *specified* ~~contained~~ in s. 396.0425(1) and shall notify the treatment resource of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply the missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

2. The program director of each treatment resource shall sign an affidavit annually, under penalty of perjury, stating that all new treatment resource personnel have been fingerprinted and that the treatment resource's remaining treatment resource personnel either have worked at the treatment resource on a continuous basis since being initially screened at that treatment resource or have a written assurance of compliance from the department.

(b) As a prerequisite to operating a new treatment resource:

1. The owner or program director shall submit to the department a complete set of fingerprints, taken by an authorized law enforcement agency or an employee of the department who is trained to take fingerprints, for the program director of the treatment resource;

2. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and for federal processing by the Federal Bureau of Investigation; and

3. The department shall review the record of the program director with respect to the crimes *specified in s. 396.0425* ~~contained in this section~~ and shall notify the owner or program director of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the program director, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply the missing information within 30 days or show reasonable efforts to obtain such information shall result in automatic disqualification.

(c) The department may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this subsection for any purpose other than determining if that person meets the minimum standards for good moral character for treatment personnel or an owner or director of a treatment resource. The criminal records, juvenile records, or abuse registry information obtained by the department for determining the moral character of such personnel or of an owner or program director of a treatment resource are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(d)~~(c)~~ The treatment resource shall automatically terminate the employment of any of its treatment resource personnel found to be in noncompliance with the minimum standards for good moral character as contained in s. 396.0425.

Section 30. Present subsection (6) of section 396.0425, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

396.0425 Screening of treatment resource personnel.—

(6) CONFIDENTIALITY OF PERSONNEL SCREENING INFORMATION.—The department or a treatment resource may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this section for any purpose other than determining if that person meets the minimum standards for good moral character for treatment personnel or an owner or program director of a treatment resource. The criminal records, juvenile records, or abuse registry information obtained by the department or a treatment resource for determining the moral character of treatment personnel or of an owner or program director of a treatment resource are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7)~~(6)~~ EXCLUSION FROM BEING EMPLOYED BY A TREATMENT RESOURCE; HEARINGS PROVIDED.—

(a) When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify in writing the treatment resource and the treatment resource personnel affected, stating the specific record which indicates noncompliance with the standards in this section.

(b) The procedures established for a hearing under chapter 120 shall be available to the treatment resource and the treatment resource personnel affected in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(c) The treatment resource shall automatically terminate the employment of any of its treatment resource personnel found to be in noncompliance with the minimum standards for good moral character as contained in this section.

Section 31. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (1) and (2) of section 396.0427, Florida Statutes, are reenacted and amended to read:

396.0427 Penalties.—

(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*, s. 775.083, ~~or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be a program director, staff member, or volunteer in a treatment resource;

(b) Operate or attempt to operate a treatment resource with treatment resource personnel who are in noncompliance with the minimum standards for good moral character as contained in s. 396.0425; or

(c) Use ~~records~~ information *from the criminal records or central abuse registry obtained under s. 396.042 or s. 396.0425* for *any purpose* ~~purposes~~ other than screening *that person* for employment as specified in *those sections* ~~ss. 396.042 and 396.0425~~ or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified in *those sections* ~~ss. 396.042 and 396.0425~~.

(2) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use ~~juvenile records~~ information *from the juvenile records of a person obtained under s. 396.042 or s. 396.0425* for any *purpose* ~~purposes~~ other than *screening for employment as* specified in *those sections* ~~ss. 396.042 and 396.0425~~ or to release ~~such~~ information *from such records* to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than *screening for employment as* specified in those sections.

Section 32. Present subsection (6) of section 397.0715, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to said section to read:

397.0715 Screening of treatment resource personnel.—

(6) CONFIDENTIALITY OF PERSONNEL SCREENING INFORMATION.—The department or a treatment resource may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this section for any purpose other than determining if that person meets the minimum standards for good moral character for treatment personnel. The criminal records, juvenile records, or abuse registry information obtained by the department or a treatment resource for determining the moral character of treatment personnel are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7)~~(6)~~ EXCLUSION FROM BEING EMPLOYED BY A TREATMENT RESOURCE; HEARINGS PROVIDED.—

(a) When the department has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify in writing the treatment resource and the treatment resource personnel affected, stating the specific record which indicates noncompliance with the standards in this section.

(b) The procedures established for hearing under chapter 120 shall be available to the treatment resource and the treatment resource personnel affected, in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(c) The treatment resource shall automatically terminate the employment of any of its treatment resource personnel found to be in noncompliance with the minimum standards for good moral character as contained in this section.

Section 33. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (1) and (2) of section 397.0716, Florida Statutes, are reenacted and amended to read:

397.0716 Penalties.—

(1) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083, ~~or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be a program director, staff member, or volunteer in a treatment resource;

(b) Operate or attempt to operate a treatment resource with treatment resource personnel who are in noncompliance with the minimum standards for good moral character as contained in s. 397.0715; or

(c) Use ~~records~~ information *from the criminal records or central abuse registry obtained under s. 397.0715* for *any purpose* ~~purposes~~ other than screening *that person* for employment as specified in *that section* ~~s. 397.0715~~ or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified in that section.

(2) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use ~~juvenile records~~ information *from the juvenile records of any person obtained under s. 397.0715* for any *purpose* ~~purposes~~ other than *screening for employment as* specified in *that section* ~~s. 397.0715~~ or to release ~~such~~ information *from such records* to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than *screening for employment as* specified in that section.

Section 34. Subsection (2) of section 397.091, Florida Statutes, is amended to read:

397.091 Regular, probationary, and interim licenses to operate DATAP programs; issuance and renewal.—

(2) A regular license issued for operation of a DATAP program, unless sooner suspended or revoked, shall expire 12 months from the date of issue, unless the license has been renewed prior thereto for the next succeeding year. A license shall be renewed upon the filing of application for such renewal on forms prescribed by the department. A license may be issued if all the screening materials have been timely submitted; however, a license may not be issued or renewed if any of the treatment resource personnel have failed the screening required by s. 397.0715.

(a) Each treatment resource which applies for renewal of its license shall submit to the department a list of treatment resource personnel who have worked on a continuous basis at the treatment resource since submitting fingerprints to the department, identifying those treatment resource personnel for whom a written assurance of compliance was provided by the department and identifying those treatment resource personnel who have recently begun working at the treatment resource and are awaiting the results of the required fingerprint check along with the date of the submission of those fingerprints for processing. The department shall by rule determine the frequency with which treatment resources shall submit such lists of treatment resource personnel and the frequency of requesting the Department of Law Enforcement to run state criminal records checks for such treatment resource personnel, except for those treatment resource personnel awaiting the results of initial fingerprint checks for employment at the treatment resource. The department shall review the records of the treatment resource personnel at the treatment resource with respect to the crimes *specified* ~~contained~~ in s. 397.0715(1) and shall notify the treatment resource of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

(b) The department or a DATAP program may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this subsection for any purpose other than determining if that person meets the minimum standards for good moral character for treatment personnel. The criminal records, juvenile records, or abuse registry information obtained by the department or a DATAP program for determining the moral character of treatment personnel are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(c)~~(b)~~ The applicant for licensure renewal shall sign an affidavit under penalty of perjury stating that all new treatment resource personnel have been fingerprinted and that the treatment resource's remaining treatment resource personnel either have worked at the treatment resource on a continuous basis since being initially screened at that treatment resource or have a written assurance of compliance from the department.

Section 35. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (d) of subsection (2) of section 402.3025, Florida Statutes, is reenacted and amended to read:

402.3025 Public and nonpublic schools.—For the purposes of ss. 402.301-402.319, the following shall apply:

(2) NONPUBLIC SCHOOLS.—

(d)1. Programs for children who are at least 3 years of age, but under 5 years of age, which are not licensed under ss. 402.301-402.319 shall substantially comply with the minimum child care standards promulgated pursuant to ss. 402.305-402.3057.

2. The department or local licensing agency shall enforce compliance with such standards, where possible, to eliminate or minimize duplicative inspections or visits by staff enforcing the minimum child care standards and staff enforcing other standards under the jurisdiction of the department.

3. The department or local licensing agency may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

a. To protect the health, sanitation, safety, and well-being of all children under care.

b. To enforce its rules and regulations.

c. To use corrective action plans, whenever possible, to attain compliance prior to the use of more restrictive enforcement measures.

d. To make application for injunction to the proper circuit court, and the judge of that court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of ss. 402.301-402.319. Any violation of this section or of the standards applied under ss. 402.305-402.3057 which threatens harm to any child in the school's programs for children who are at least 3 years of age, but are under 5 years of age, or repeated violations of this section or the standards under ss. 402.305-402.3057, shall be grounds to seek an injunction to close a program in a school.

e. To impose an administrative fine, not to exceed $100, for each violation of the minimum child care standards promulgated pursuant to ss. 402.305-402.3057.

4. It *is* ~~shall be~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083, ~~or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

a. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any required written documentation for exclusion from licensure pursuant to this section a material fact used in making a determination as to such exclusion; or

b. Use ~~records~~ information *from the criminal records or central abuse registry obtained under s. 402.305 or s. 402.3055* for *any purpose* ~~purposes~~ other than screening *that person* for employment as specified in *those sections* ~~ss. 402.301-402.318~~ or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified in *those sections* ~~ss. 402.301-402.318~~.

5. It *is* ~~shall be~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use ~~juvenile records~~ information *from the juvenile records of any person obtained under s. 402.305 or s. 402.3055* for any *purpose* ~~purposes~~ other than *screening for employment as* specified in *those sections* ~~ss. 402.305 and 402.3055~~ or to release ~~such~~ information *from such records* to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than *screening for employment as* specified in *those sections* ~~ss. 402.305 and 402.3055~~.

Section 36. Present subsection (5) of section 402.3055, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to said section to read:

402.3055 Submission and processing of fingerprints; criminal checks.—

(5) CONFIDENTIALITY OF PERSONNEL SCREENING INFORMATION.—The department or a child care facility may not use the criminal records, juvenile records, or abuse registry information of a person obtained under this section for any purpose other than determining if that person meets the minimum standards for good moral character for child care personnel. The criminal records, juvenile records, or abuse registry information obtained by the department or a child care facility for determining the moral character of child care personnel are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(6)~~(5)~~ EXCLUSION FROM OWNING, OPERATING, OR BEING EMPLOYED BY A CHILD CARE FACILITY OR OTHER CHILD CARE PROGRAM; HEARINGS PROVIDED.—

(a) The department or local licensing agency shall deny, suspend, or revoke a license or pursue other remedies provided in s. 402.310, s. 402.312, or s. 402.319 in addition to or in lieu of denial, suspension, or revocation for failure to comply with this section. The disciplinary actions determination to be made by the department or the local licensing agency and the procedure for hearing for applicants and licensees shall be in accordance with s. 402.310.

(b) When the department or the local licensing agency has reasonable cause to believe that grounds for denial or termination of employment exist, it shall notify, in writing, the applicant, licensee, or other child care program and the child care personnel affected, stating the specific record which indicates noncompliance with the standards in s. 402.305(1).

(c) When the department is the agency initiating the statement regarding noncompliance, the procedures established for hearing under chapter 120 shall be available to the applicant, licensee, or other child care program and to the affected child care personnel, in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(d) When a local licensing agency is the agency initiating the statement regarding noncompliance of an employee with the standards contained in s. 402.305(1), the employee, applicant, licensee, or other child care program has 15 days from the time of written notification of the agency's finding to make a written request for a hearing. If a request for a hearing is not received in that time, the permanent employee, applicant, licensee, or other child care program is presumed to accept the finding.

(e) If a request for a hearing is made to the local licensing agency, a hearing shall be held within 30 days and shall be conducted by an individual designated by the county commission.

(f) An employee, applicant, licensee, or other child care program shall have the right to appeal a finding of the local licensing agency to a representative of the department. Any required hearing shall be held in the county in which the permanent employee is employed. The hearing shall be conducted in accordance with the provisions of chapter 120.

(g) Refusal on the part of an applicant or licensee to dismiss child care personnel who have been found to be in noncompliance with personnel standards of s. 402.305(1) shall result in automatic denial or revocation of the license in addition to any other remedies pursued by the department or local licensing agency.

Section 37. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (1) and (2) of section 402.319, Florida Statutes, are reenacted and amended to read:

402.319 Penalties.—

(1) It *is* ~~shall be~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*, s. 775.083, ~~or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

(a) Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment or licensure regulated under ss. 402.301-402.318 a material fact used in making a determination as to such person's qualifications to be an owner, operator, employee, or volunteer in a child care facility or other child care program.

(b) Operate or attempt to operate a child care facility without having procured a license as required by this act.

(c) Operate or attempt to operate a child care facility under a license that is suspended, revoked, or terminated.

(d) Represent, by act or omission, a child care facility to be duly licensed pursuant to this act without being so licensed.

(e) Operate or attempt to operate a family day care home without a license or without registering with the department, whichever is applicable.

(f) Use ~~records~~ information *from the criminal records or central abuse registry obtained under s. 402.305 or s. 402.3055,* for *any purpose* ~~purposes~~ other than screening *that person* for employment as specified in *those sections* ~~ss. 402.301-402.318~~ or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified in *those sections* ~~ss. 402.301-402.318~~.

(2) It *is* ~~shall be~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use ~~juvenile records~~ information *from the juvenile records of any person obtained under s. 402.305, s. 402.3055, or s. 402.313* for any *purpose* ~~purposes~~ other than *screening for employment as* specified in *those sections* ~~ss. 402.305 and 402.3055~~ or to release ~~such~~ information *from such records* to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than *screening for employment as* specified in *those sections* ~~ss. 402.305 and 402.3055~~.

Section 38. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (2) of section 400.497, Florida Statutes, is reenacted and amended to read:

400.497 Rules establishing minimum standards; screening of home health agency personnel.—

(2) The department shall establish minimum standards as to good moral character, based on screening, for home health agency personnel. Effective October 1, 1989, all such standards shall apply to nonlicensed home health agency personnel and licensed home health agency personnel whose licensing requirements do not include, at a minimum, records checks of the department's central abuse registry under chapter 415 and statewide criminal records correspondence checks through the Department of Law Enforcement.

(a) Such minimum standards for screening shall ensure that nonlicensed or applicable licensed home health agency personnel who, at any time, enter the home of a patient in the capacity of their employment have not been found guilty, regardless of adjudication, of any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A felony violation of chapter 893, relating to drug abuse prevention and control.

5. A violation of chapter 800, relating to lewdness and indecent exposure.

6. A violation of chapter 784, relating to assault, battery, and culpable negligence.

7. A violation of chapter 827, relating to child abuse.

8. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

(b) Standards for screening shall also ensure that the person:

1. Has not been judicially determined to have committed abuse or neglect against a child as defined in s. 39.01(2) and (37);

2. Does not have a confirmed report of abuse, neglect, or exploitation as defined in s. 415.102(5) or abuse or neglect as defined in s. 415.503(6) which has been uncontested or upheld under the procedures of s. 415.103 or s. 415.504; and

3. Has not committed an act which constitutes domestic violence as defined in s. 741.30.

(c)1. For the following, the department may grant to any person an exemption from disqualification from employment under this section:

a. A felony, other than a specified felony, prohibited under any of the foregoing chapters cited in paragraph (a) committed more than 3 years previously. For the purposes of this sub-subparagraph, "specified felony" means any felony in the chapters enumerated in subparagraphs (a)1., 4., 5., 7., and 8.;

b. Misdemeanors prohibited or referenced under any of the foregoing Florida Statutes cited in this subsection;

c. Offenses which were a felony when committed but are now a misdemeanor;

d. Judicial determinations of abuse or neglect under chapter 39;

e. Confirmed reports of abuse, neglect, or exploitation under chapter 415 which have been uncontested or have been upheld under the procedures provided in s. 415.103 or s. 415.504; or

f. Commissions of domestic violence.

2. In order to grant an exemption to a person, the department must have clear and convincing evidence to support a reasonable belief that the person is of good character so as to justify an exemption. The person shall bear the burden of setting forth sufficient evidence of rehabilitation, including, but not limited to, the circumstances surrounding the incident, the time period that has elapsed since the incident, the nature of the harm occasioned to the victim, and the history of the person since the incident or such other circumstances that shall by the aforementioned standards indicate that the person will not present a danger to the safety or well-being of patients. The decision of the department regarding an exemption may be contested through a hearing under chapter 120.

(d) The disqualification from employment provided in paragraph (a) shall not be removed from any person found guilty of, regardless of adjudication, any felony covered by paragraph (a) solely by reason of any pardon, executive clemency, or restoration of civil rights.

(e) The department shall ensure that nonlicensed and applicable licensed home health agency personnel meet the minimum standards for good moral character as contained in this section.

1. As a condition for relicensure pursuant to s. 400.477, each home health agency must submit to the department a list of nonlicensed and applicable licensed home health agency personnel for whom a written assurance of compliance was provided by the department. The list shall identify those personnel who were employed by the agency prior to October 1, 1989, those personnel who have worked continuously for the agency since being screened and approved, and those personnel who have recently begun working for the agency and are awaiting the results of the required screening and the date of the submission of those names for screening. The department shall by rule determine the frequency with which home health agencies must submit such lists of personnel and the frequency of requests to the Department of Law Enforcement to run statewide criminal records correspondence checks for such nonlicensed and applicable licensed home health agency personnel except for those personnel awaiting the results of initial screening for employment by the agency. The department shall review the records of the agency personnel with respect to the crimes contained in this section and shall notify the agency of its findings. When disposition information is missing on a criminal record, it shall be the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

2. The administrator of each home health agency must sign an affidavit annually, under penalty of perjury, stating that all new nonlicensed and applicable licensed agency personnel hired on or after October 1, 1989, have been screened and that the agency's remaining personnel have worked for the agency continuously since before October 1, 1989.

(f) As a prerequisite to operating a new home health agency:

1. The administrator must submit to the department his name and any other information necessary to conduct a complete screening according to this section;

2. The department shall submit the information to the Department of Law Enforcement for state processing; and

3. The department shall review the record of the administrator with respect to the crimes contained in this section and shall notify the owner of its findings. If disposition information is missing on a criminal record, it is the responsibility of the administrator, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

(g) The home health agency must automatically terminate the employment of any of its nonlicensed or applicable licensed personnel who are found to be in noncompliance with the minimum standards for good moral character as contained in this section.

(h) On or after October 1, 1989, nonlicensed and applicable licensed home health agency personnel must, within 5 working days after starting to work at a home health agency, submit to the agency for submission, within 48 hours, to the department a complete set of information necessary to conduct a screening according to the provisions of this section. In addition, new nonlicensed or applicable licensed personnel must sign an affidavit stating whether he meets the minimum standards for good moral character as contained in this section. The department shall submit the information to the Department of Law Enforcement for state processing. The department shall review the record of the person being screened with respect to the crimes contained in this section and shall notify the agency of its findings. If disposition information is missing on a criminal record, it is the responsibility of the person being screened, upon request of the department, to obtain and supply within 30 days the missing disposition information to the department. Failure to supply missing information within 30 days or to show reasonable efforts to obtain such information shall result in automatic disqualification.

1. Under the penalty of perjury, such nonlicensed and applicable licensed home health agency personnel shall attest to compliance with the minimum standards for good moral character as contained in this section.

2. Nonlicensed and applicable licensed home health agency personnel hired on or after October 1, 1989, shall be placed on probationary status pending a determination of compliance with minimum standards for good moral character.

3. The department, upon request of an agency, shall provide written assurance of compliance with this section for new personnel who have been screened for the agency at which they previously worked. However, if the person has been unemployed for more than 6 months, screening shall be required.

(i) The costs of processing the statewide correspondence criminal records checks shall be borne by the home health agency or the personnel being screened, at the discretion of the agency administrator.

(j) If the department has reasonable cause to believe that grounds for denial or termination of employment exist, it must notify, in writing, the agency personnel affected, stating the specific record which indicates noncompliance with the standards in this section. The procedures established for hearing under chapter 120 shall be available to the agency and the agency personnel affected in order to present evidence relating either to the accuracy of the basis of exclusion or to the denial of an exemption from disqualification.

(k) The department or home health agencies may not use the criminal records, juvenile records, or abuse registry information of a person for any purpose other than determining if that person meets minimum standards of good moral character for home health agency personnel and administrators. The criminal records, juvenile records, or abuse reg-

istry information obtained by the department or a home health agency for such purpose are exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(l)~~(k)~~ It is a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083, ~~or s. 775.084,~~ for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for voluntary or paid employment a material fact used in making a determination as to such person's qualifications to be an administrator or employee of a home health agency;

2. Operate or attempt to operate a home health agency with personnel who are in noncompliance with the minimum standards for good moral character as contained in this section; or

3. Use ~~records~~ information *from the criminal records or central abuse registry obtained under this section* for any purpose ~~purposes~~ other than screening *that person* for employment as specified in this section or release such information to *any* other *person* ~~persons~~ for *any purpose* ~~purposes~~ other than screening for employment as specified in this section.

4. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of a person obtained under this section for any purpose other than screening for employment as specified in this section or to release information from such records to any other person for any purpose other than screening for employment as specified in this section.

Section 39. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (4) of section 393.13, Florida Statutes, is reenacted and amended to read:

393.13 Personal treatment of persons who are developmentally disabled.—

(4) CLIENT RIGHTS.—~~Notwithstanding s. 393.063(5),~~ For purposes of this subsection, *the term* "client" *as defined in s. 393 063(5) shall also include* ~~means~~ any person served in a facility licensed pursuant to s. 393.067.

(a) Clients shall have an unrestricted right to communication:

1. Each client shall be allowed to receive, send, and mail sealed, unopened correspondence. No client's incoming or outgoing correspondence shall be opened, delayed, held, or censored by the facility unless there is reason to believe that it contains items or substances which may be harmful to the client or others, in which case the chief administrator of the facility may direct reasonable examination of such mail and regulate the disposition of such items or substances.

2. Clients in residential facilities shall be afforded reasonable opportunities for telephone communication, to make and receive confidential calls, unless there is reason to believe that the content of the telephone communication may be harmful to the client or others, in which case the chief administrator of the facility may direct reasonable observation and monitoring to the telephone communication.

3. Clients shall have an unrestricted right to visitation subject to reasonable rules of the facility. However, nothing in this provision shall be construed to permit infringement upon other clients' rights to privacy.

(b) Each client has the right to the possession and use of his own clothing and personal effects, except in those specific instances where the use of some of these items as reinforcers is essential for training the client as determined by the client's habilitation team. The chief administrator of the facility may take temporary custody of such effects when it is essential to do so for medical or safety reasons. Custody of such personal effects shall be promptly recorded in the client's record, and a receipt for such effects shall be immediately given to the client, if competent, or his parent or legal guardian.

1. All money belonging to a client held by the department shall be held in compliance with s. 402.17(2).

2. All interest on money received and held for the personal use and benefit of a client shall be the property of that client and shall not accrue to the general welfare of all clients or be used to defray the cost of residential care. Interest so accrued shall be used or conserved for the personal use or benefit of the individual client as provided in s. 402.17(2).

3. Upon the discharge or death of a client, a final accounting shall be made of all personal effects and money belonging to the client held by the department. All such personal effects and money, including interest, shall be promptly turned over to the client or his heirs.

(c) Each client shall receive prompt and appropriate medical treatment and care for physical and mental ailments and for the prevention of any illness or disability. Medical treatment shall be consistent with the accepted standards of medical practice in the community.

1. Medication shall be administered only at the written order of a physician. Medication shall not be used as punishment, for the convenience of staff, as a substitute for a habilitation plan or behavior modification programming, or in unnecessary or excessive quantities.

2. Daily notation of medication received by each client in a residential facility shall be kept in the client's record.

3. Periodically, but no less frequently than every 6 months, the drug regimen of each client in a residential facility shall be reviewed by the attending physician or other appropriate monitoring body, consistent with appropriate standards of medical practice. All prescriptions shall have a termination date.

4. When pharmacy services are provided at any residential facility, such services shall be directed or supervised by a professionally competent pharmacist licensed according to the provisions of chapter 465.

5. Pharmacy services shall be delivered in accordance with the provisions of chapter 465.

6. Prior to instituting a plan of experimental medical treatment or carrying out any necessary surgical procedure, express and informed consent shall be obtained from the client, if competent, or his parent or legal guardian. Information upon which the client shall make necessary treatment and surgery decisions shall include, but not be limited to:

a. The nature and consequences of such procedures.

b. The risks, benefits, and purposes of such procedures.

c. Alternate procedures available.

7. When the parent or legal guardian of the client is unknown or unlocatable and the physician is unwilling to perform surgery based solely on the client's consent, a court of competent jurisdiction shall hold a hearing to determine the appropriateness of the surgical procedure. The client shall be physically present, unless the client's medical condition precludes such presence, represented by counsel, and provided the right and opportunity to be confronted with, and to cross-examine, all witnesses alleging the appropriateness of such procedure. In such proceedings, the burden of proof by clear and convincing evidence shall be on the party alleging the appropriateness of such procedures. The express and informed consent of a person described in subparagraph 6. may be withdrawn at any time, with or without cause, prior to treatment or surgery.

8. The absence of express and informed consent notwithstanding, a licensed and qualified physician may render emergency medical care or treatment to any client who has been injured or who is suffering from an acute illness, disease, or condition if, within a reasonable degree of medical certainty, delay in initiation of emergency medical care or treatment would endanger the health of the client.

(d) Each client shall have access to individual storage space for his private use.

(e) Each client shall be provided with appropriate physical exercise as prescribed in the client's individual habilitation plan. Indoor and outdoor facilities and equipment for such physical exercise shall be provided.

(f) Each client shall receive humane discipline.

(g) No client shall be subjected to a treatment program to eliminate bizarre or unusual behaviors without first being examined by a physician who in his best judgment determines that such behaviors are not organically caused.

1. Treatment programs involving the use of noxious or painful stimuli shall be prohibited.

2. All alleged violations of this paragraph shall be reported immediately to the chief administrative officer of the facility or the district administrator, the department head, and the district human rights advocacy committee. A thorough investigation of each incident shall be conducted and a written report of the finding and results of such investigation shall be submitted to the chief administrative officer of the facility or the district administrator and to the department head within 24 hours of the occurrence or discovery of the incident.

3. The department shall promulgate by rule a system for the oversight of behavioral programs. Such system shall establish guidelines and procedures governing the design, approval, implementation, and monitoring of all behavioral programs involving clients. The system shall ensure statewide and local review by committees of professionals certified as behavior analysts pursuant to s. 393.17. No behavioral program shall be implemented unless reviewed according to the rules established by the department pursuant to this section. Pursuant to the provisions of s. 20.19(10)(g), nothing stated in this section shall prohibit the review of programs by the district human rights advocacy committee.

(h) Each client engaged in work programs which require compliance with federal wage and hour laws shall be provided with minimum wage protection and fair compensation for labor in accordance with the federal wage-per-hour regulations.

(i) Clients shall have the right to be free from unnecessary physical, chemical, or mechanical restraint. Restraints shall be employed only in emergencies or to protect the client from imminent injury to himself or others. Restraints shall not be employed as punishment, for the convenience of staff, or as a substitute for a habilitative plan. Restraints shall impose the least possible restrictions consistent with their purpose and shall be removed when the emergency ends. Restraints shall not cause physical injury to the client and shall be designed to allow the greatest possible comfort.

1. Mechanical supports used in normative situations to achieve proper body position and balance shall not be considered restraints, but shall be prescriptively designed and applied under the supervision of a qualified professional with concern for principles of good body alignment, circulation, and allowance for change of position.

2. Totally enclosed cribs and barred enclosures shall be considered restraints.

3. Daily reports on the employment of physical, chemical, or mechanical restraints by those specialists authorized in the use of such restraints shall be made to the appropriate chief administrator of the facility, and a monthly summary of such reports shall be relayed to the district administrator and the district human rights advocacy committee. The reports shall summarize all such cases of restraints, the type used, the duration of usage, and the reasons therefor. Districts shall submit districtwide quarterly reports of these summaries to the state Developmental Services Program Office.

4. The department shall post a copy of the rules promulgated under this section in each living unit of residential facilities. A copy of the rules promulgated under this section shall be given to all staff members of licensed facilities and made a part of all preservice and inservice training programs.

(j)1. Each client shall have a central record. The record shall include data pertaining to admission and such other information as may be required under rules of the department.

2. Unless waived by the client, if competent, or his parent or legal guardian if the client is incompetent, the client's central record shall be confidential *and exempt from the provisions of s. 119.07(1).* ~~The client's central record shall not be a public record~~, and no part of it shall be released except:

a. The record may be released to physicians, attorneys, and government agencies having need of the record to aid the client, as designated by the client, if competent, or his parent or legal guardian, if the client is incompetent.

b. The record shall be produced in response to a subpoena or released to persons authorized by order of court, excluding matters privileged by other provisions of law.

c. The record or any part thereof may be disclosed to a qualified researcher, a staff member of the facility, or an employee of the department when the administrator of the facility or the secretary of the department deems it necessary for the treatment of the client, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

d. Information from the records may be used for statistical and research purposes if the information is abstracted in such a way to protect the identity of individuals.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

3. All central records for each client in residential facilities shall be kept on uniform forms distributed by the department. The central record shall accurately summarize each client's history and present condition.

4. The client, if competent, or his parent or legal guardian if the client is incompetent, shall be supplied with a copy of the client's central record upon request.

Section 40. Paragraph (a) of subsection (1) of section 90.503, Florida Statutes, is amended to read:

90.503 Psychotherapist-patient privilege.—

(1) For purposes of this section:

(a) A "psychotherapist" is:

1. A person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, who is engaged in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction; or

2. A person licensed or certified as a psychologist under the laws of any state or nation, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction.

3. Treatment personnel of facilities licensed by the state pursuant to chapters 394, 396, and 397 who are engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction.

Section 41. This act shall take effect October 1, 1990.

House Amendment 2—On page 1, strike the title and insert: An act relating to confidentiality of records related to health and rehabilitative services; amending ss. 396.112 and 397.053, F.S., which provide exemptions from public records requirements for records relating to persons treated for alcohol or drug abuse; specifying the records that are confidential and conditions under which they may be disclosed; saving such exemptions from repeal; providing for future review and repeal; repealing s. 397.096, F.S., which provides that information received by persons employed by or volunteering services to a drug abuse treatment and education prevention program or by the licensing agency is privileged and confidential; amending ss. 394.907, 396.181, and 397.0961, F.S., which provide exemptions from public records requirements for certain records of community mental health centers, alcoholism prevention and treatment programs, and drug abuse treatment and education prevention programs; saving such exemptions from repeal; providing exemptions from public records and public meetings requirements for certain quality assurance programs; providing for future review and repeal; amending s. 400.497, F.S.; prohibiting the Department of Health and Rehabilitative Services and home health agencies from using criminal records, juvenile records, or abuse registry information of home health agency personnel and administrators for purposes other than determining if such personnel or administrators meet minimum standards for good moral character; exempting such records obtained by the department or a home health agency from public disclosure requirements; providing penalty for use of juvenile records; providing for future review and repeal; deleting an obsolete cross-reference; amending ss. 393.0655, 393.067, 394.457, 396.042, 396.0425, 397.0715, 397.091, and 402.3055 to clarify the exemptions from public records requirements for criminal records, juvenile records, or abuse registry information obtained for employment screening purposes in certain caretaking facilities; providing for future review and repeal; amending ss. 393.0674, 394.457, 396.0427, 397.0716, 400.497, 402.3025, and 402.319, F.S., which provide exemptions from public records requirements for criminal records checks, juvenile records, and abuse registry information compiled for required employment screening in certain caretaking facilities supervised by the Department of Health and Rehabili-

tative Services; providing for penalties for use of such records for other than employment screening purposes; saving such exemptions from repeal; providing for future review and repeal; amending s. 393.13, F.S., which provides exemptions from public records requirements for central records of developmentally disabled persons; saving the exemption from repeal; providing for future review and repeal; amending ss. 381.0612, 381.231, 382.008, 382.014, 382.015, 382.025, and 382.027, F.S., which provide exemptions from public records requirements for the following: certain records of the State Center for Health Statistics; information in reports of diseases of public health significance; certain information in death and fetal death records, birth records and certificates, and copies and computer certifications thereof; records or data issued to certain federal, state, local, or other public or private agencies; and information in the voluntary registry of adoption information; saving such exemptions from repeal; providing for future review and repeal; amending ss. 382.022, 382.023, and 382.026, F.S.; correcting references; amending s. 400.022, F.S., which provides an exemption from public records requirements for personal and medical records of nursing home residents; saving such exemption from repeal; providing for future review and repeal; repealing s. 400.191(3), F.S., which provides for confidentiality of records of a nursing home deemed confidential by state or federal law or regulation; amending s. 400.317, F.S.; specifying authority of state and district nursing home and long-term care facility ombudsman councils to publicize certain information; amending s. 400.321, F.S., which provides an exemption from public records requirements for certain matters before such councils; saving such exemption from repeal; specifying the records and information to be held confidential by such councils; providing an exemption from public meetings requirements for council meetings in which confidential information is discussed; providing for future review and repeal; repealing s. 400.435(4), F.S., which provides for confidentiality of records of an adult congregate living facility deemed confidential by state or federal law or regulation; amending ss. 400.494 and 400.613, F.S., which provide exemptions from public records requirements for patient information received by home health agencies and hospices; clarifying language; saving such exemptions from repeal; providing for future review and repeal; amending s. 394.459, F.S., which provides an exemption from public records requirements for clinical mental records; saving such exemption from repeal; providing for future review and repeal; specifying guidelines for a court to consider in determining whether such records should be released; amending s. 90.503, F.S.; providing an evidentiary privilege for patients of facilities licensed by the state; providing an effective date.

Senator Weinstock moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1—On page 17, line 12, and on page 19, line 12, after "treatment" insert: *or to qualified personnel for the purpose of conducting management or financial audits, program evaluation, or maintenance of adequate records, provided that reports produced as a result of such audit or evaluation do not disclose patient identities in any manner*

Senate Amendment 2 to House Amendment 1—On page 65, strike all of lines 6-10 and insert:

3. Treatment personnel of facilities licensed by the state pursuant to chapter 394, chapter 395, chapter 396, or chapter 397, facilities designated by the Department of Health and Rehabilitative Services pursuant to chapter 394 as treatment facilities, or facilities defined as community mental health centers pursuant to s. 394.907(1), who are engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction.

Senate Amendment 1 to House Amendment 2—In title, on page 4, strike line 11 and insert: the state, designated as a treatment facility or defined as a community mental health center; providing an effective date.

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

SB 920 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Mr. President	Davis	Jennings	Peterson
Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Deratany

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 2400 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2400—A bill to be entitled An act relating to land surveying; amending s. 472.003, F.S., relating to exemptions from provisions regulating land surveying; modifying an exemption for certain contractors; saving s. 472.003(3), F.S., from repeal; continuing the exemption for certain persons who perform construction layout from established controls; providing an effective date.

House Amendment 1—On page 2, line 1, insert:

Section 3. *No entity, public or private, shall conduct a survey on private property without providing notice of intent to conduct the survey to the property owner which notice shall include the approximate date of the survey and a telephone number which the property owner may call to receive information regarding the survey.*

(Renumber subsequent sections.)

House Amendment 2—On page 1, line 8, after semicolon (;) insert: requiring notice to property owner by surveying entity;

On motions by Senator Jennings, 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 Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 1462 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1462—A bill to be entitled An act relating to the State Job Training Coordinating Council; amending s. 446.20, F.S.; continuing such coordinating council until October 1, 2000; providing for review of the coordinating council by the Legislature prior to that date pursuant to the Sundown Act; providing an effective date.

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

Section 1. Subsection (2) of section 446.20, Florida Statutes, is amended to read:

446.20 Administration of responsibilities under the federal Job Training Partnership Act.—

(2) The State Job Training Coordinating Council~~, which~~ is hereby created, as provided by Pub. L. No. 97-300., *Among other duties, the State council shall review plans of all State agencies providing employment training, and related services, and provide comments and recommendations to the Governor, the State Legislature, and state agencies on the relevancy and effectiveness of employment and training and related service delivery systems of all state agencies providing employment, training, and related services. The council* shall have ~~the~~ responsibilities as assigned by the Governor pursuant to the Job Training Partnership Act. Such responsibilities shall include reviewing the duties and responsibilities of the Department of Labor and Employment Security

pursuant to this section. ~~The State Job Training Coordinating Council is repealed October 1, 1990, and shall be reviewed by the Legislature pursuant to the Sundown Act.~~ *Membership on the council shall be as follows:*

(a) Thirty percent of the members shall be representatives of business and industry, including business members of private industry councils.

(b) Thirty percent of the members shall be representatives of the Legislature, state agencies and organizations, and local government.

(c) Thirty percent of the members shall be representatives of organized labor and community-based organizations.

(d) Ten percent of the members shall be representatives of the general public.

Members shall be appointed for 4-year staggered terms. To ensure the participation and representation of women and minorities in the policy decision process, the State Job Training Coordinating Council shall adhere to provisions of s. 110.112, relating to affirmative action as administered by the Department of Labor and Employment Security.

Section 2. *Legislative intent and findings.—*

(1) It is the intent of the Legislature that:

(a) All Floridians shall have the opportunity to contribute to and benefit from the state's economy. In order for many of the state's residents, particularly the economically disadvantaged, to contribute to and benefit from the state's economy, responsive and effective job training and vocational education programs are essential.

(b) With approximately $1 billion of federal and state funds now being expended annually for job training, job services, and job preparation in Florida, long-term goals and strategic planning can better identify how Florida's future economy might be enhanced and the creation of new jobs and the upgrading of existing jobs might be carried out.

(c) Effective job training, retraining, and vocational education programs are vital to state economic development policies and continued economic prosperity and shall, therefore, be a subject of major concern for state government.

(2) Realizing that effective and responsive job training and vocational education programs are essential for the state's economically disadvantaged to contribute to and benefit from the state's economy, and acknowledging the importance of job training and vocational education to the state's continued economic prosperity, the Legislature finds that:

(a) In order to meet the job training needs of Florida's citizens, the state requires a statewide employment policy that links the different programs and activities of the state's employment system in a logical and coordinated manner.

(b) A well planned and effective job training and vocational education system shall:

1. Involve both the public and private sectors. Publicly funded job training and vocational education programs shall provide participants with the skills and knowledge required by Florida's businesses. To ensure that the skills and knowledge provided are relevant to the labor needs of Florida's businesses, publicly funded job training and vocational education programs shall involve both the public and the private sectors.

2. Involve local level policy planning and operation in concert with state policy guidance, oversight, standard setting, and financial and technical support. In general, job training and vocational education programs shall be planned and operated at the local level where local labor and local business needs are best understood.

Section 3. *Report.—The State Job Training Coordinating Council, supported by the Department of Labor and Employment Security, shall submit under the direction and guidance of the Governor a report to the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the Senate and the House of Representatives for the purpose of developing a statewide policy concerning job training, job services, and job preparation. The report shall:*

(1) Evaluate the existing job training, retraining, and vocational education systems operating in the state. This evaluation shall include:

(a) Identification of all current job training and vocational education programs according to the state administration agency.

(b) Identification of the state and local delivery system used for each identified program.

(c) Identification of the population or target groups served by each program.

(d) Identification of any group whose needs are neglected by present programs.

(e) Identification of the funding level of each program.

(f) Identification of private funds from local sources.

(g) Evaluation of the current coordination of existing programs.

(h) Identification of areas of program duplication and areas where lack of coordination hinders effective program performance.

(2) Identify projected skill requirements for the year 2000 and trends, favorable and unfavorable, affecting these requirements, and evaluate the current and future job training and vocational education needs of the state's labor force in relation to existing and future state labor markets.

(3) Develop a statewide job training and vocational education policy for the next 5 years that will meet the present and future job training and retraining needs of Florida's citizens. Such policy shall include:

(a) A statement of policy goals and priorities for the state's job training and vocational education system.

(b) A model for a coordinated statewide job training delivery system that will integrate existing and future job training and vocational education programs in such a way as to avoid duplication while addressing all program area needs. The model shall outline existing and potential needs and sources of funding for the state's job training and vocational education system, and the potential for the leveraging of those funds among state agencies, local governmental entities, and job training and vocational education service providers.

(c) Specific proposals and recommendations on the state's job training and vocational education system that respond to the study's evaluation of the state and local labor markets.

(4) Provide specific recommendations to implement the proposed statewide job training and vocational education policy.

The State Job Training Coordinating Council shall report its findings to 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, 1991.

Section 4. *Notwithstanding the provisions of the Sundown Act or of any other provision of law which provides for review and repeal in accordance with s. 11.611, Florida Statutes, the State Job Training Coordinating Council shall not stand repealed on October 1, 1990, and shall continue in full force and effect as amended herein.*

Section 5. *Subsection (2) of section 446.20, Florida Statutes, is repealed on October 1, 2000, and shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.*

Section 6. *The Executive Office of the Governor may authorize the establishment of a nonprofit support corporation to support the purchase of soft body armor, firearms, and other equipment needed by law enforcement personnel. The nonprofit support corporation shall be assigned to the Executive Office of the Governor for administrative support as needed and shall be governed by a board of directors who are residents of the state. Board members shall include members of state and local law enforcement agencies, corporations, businesses, other organizations, and individuals who have an interest in the protection and enhancement of Florida's law enforcement personnel. The base membership of the board shall consist of members selected by the Governor from a list of recommendations submitted by the Florida Department of Law Enforcement. Additional members of the board may be selected by unanimous consent of the board's base members.*

(1) The nonprofit support corporation may organize and operate programs and activities, raise funds, request and receive grants, gifts, and bequests of money; acquire and receive, hold, invest, and administer

in its own name, securities, funds, objects or value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of law enforcement. Such corporation shall be a Florida corporation not for profit incorporated under the provisions of chapter 617, Florida Statutes, and approved by the Department of State.

(2) Such nonprofit support shall provide for an annual audit of its financial records and accounts by an independent certified public accountant. The corporation shall submit its annual audit report to the Florida Department of Law Enforcement for review. The identity of donors to the nonprofit support corporation who desire to remain anonymous may not be disclosed in the auditor's report. Such information is exempt from the requirements of section 119.07 (1), Florida Statutes. This exemption is subject to the "Open Government Sunset Review Act" in accordance with section 119.14, Florida Statutes.

Section 7. This act shall take effect upon becoming a law.

House Amendment 2—On page 1, lines 2-8, strike all of said lines and insert: An act relating to job training and law enforcement personnel support; amending s. 446.20, F.S.; providing purpose and membership of the State Job Training Coordinating Council; providing legislative intent and findings relating to job training and vocational education programs; requiring a report by the council; saving the council from Sundown repeal; providing for future review and repeal; authorizing the establishment of a nonprofit support corporation for law enforcement personnel; providing for annual audit; providing for confidential and exempt information in accordance with s. 119.07(1); providing for future review and repeal; providing an effective date.

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

Senate Amendment 1 to House Amendment 1—On page 1, lines 13-31, and pages 2 through 7, strike all of said lines and insert:

Section 1. Subsection (2) of section 446.20, Florida Statutes, is amended to read:

446.20 Administration of responsibilities under the federal Job Training Partnership Act.—

(2) The State Job Training Coordinating Council, which is hereby created, as provided by Pub. L. No. 97-300, shall have the responsibilities as assigned by the Governor, *who shall appoint members for 4-year staggered terms,* pursuant to the Job Training Partnership Act. Such responsibilities shall include reviewing the duties and responsibilities of the Department of Labor and Employment Security pursuant to this section. The State Job Training Coordinating Council is *abolished* ~~repealed~~ October 1, *2000* ~~1990~~, and shall be reviewed by the Legislature *prior to that date* pursuant to the Sundown Act.

Section 2. This act shall take effect October 1, 1990.

Senate Amendment 1 to House Amendment 2—In title, on page 1, strike all of lines 14-25 and insert: A bill to be entitled An act relating to the State Job Training Coordinating Council; amending s. 446.20, F.S.; providing for terms of membership; continuing such coordinating council until October 1, 2000; providing for review of the coordinating council by the Legislature prior to that date pursuant to the Sundown Act; providing an effective date.

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

SB 1462 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34

Bankhead	Forman	Malchon	Stuart
Beard	Gardner	Margolis	Thomas
Brown	Girardeau	McPherson	Thurman
Casas	Gordon	Meek	Walker
Childers, D.	Grizzle	Myers	Weinstein
Childers, W. D.	Jennings	Peterson	Weinstock
Crenshaw	Johnson	Plummer	Woodson-Howard
Diaz-Balart	Kirkpatrick	Scott	
Dudley	Kiser	Souto	

Nays—None

Vote after roll call:

Yea—Deratany

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 306, SB 860, SB 1168, CS for SB 1278, CS for SB 2524, SB 2828, and SB 3136.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment to House Amendment 1 to CS for SB 272 and passed as amended.

John B. Phelps, Clerk

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments to SB 920 and passed as further amended.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered engrossed and then enrolled.

SPECIAL ORDER

SB 2828—A bill to be entitled An act relating to building designations; designating the conference center currently under construction at the Polk County Agricultural Center as the "W. H. Stuart, Sr., Conference Center"; directing the Department of General Services to erect markers; providing an effective date.

—was read the second time by title.

The Committee on Governmental Operations recommended the following amendments which were moved by Senator Peterson and adopted:

Amendment 1—On page 1, line 25, strike "General" and insert: Agriculture and Consumer

Amendment 2—In title, on page 1, line 7, strike "General" and insert: Agriculture and Consumer

On motion by Senator Peterson, by two-thirds vote SB 2828 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Diaz-Balart	Johnson	Plummer
Bankhead	Dudley	Kiser	Scott
Beard	Forman	Langley	Souto
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Deratany

Consideration of **SB 1730** was deferred.

On motions by Senator Weinstein, by two-thirds vote CS for HB 317 was withdrawn from the Committees on Economic, Professional and Utility Regulation; and Judiciary-Civil.

On motion by Senator Weinstein—

CS for HB 317—A bill to be entitled An act relating to telecommunications; amending s. 501.059, F.S.; providing definitions; expanding the scope of restrictions on consumer telephone calls to include other telephonic sales calls; including mobile telephones and telephonic paging

devices within such restrictions; deleting provisions relating to "no sales solicitation calls" telephone directory listings; providing for maintenance of a "no sales solicitation calls" list by the Division of Consumer Services of the Department of Agriculture and Consumer Services; providing for fees; prohibiting unsolicited telephonic sales calls to telephones included in such listing; providing circumstances under which a contract made pursuant to a telephonic sales call is invalid; restricting charges to consumer credit card accounts pursuant to such calls; providing exceptions; restricting use of automated systems for selection or dialing of telephone numbers; authorizing actions by the Department of Legal Affairs against violators; providing for award of attorney's fees and costs; requiring notice to telecommunications consumers; repealing ss. 365.165 and 365.1655, Florida Statutes, relating to automated telephone solicitation and to the Florida Telephone Solicitation Act; providing an effective date.

—a companion measure, was substituted for CS for SB 2938 and read the second time by title.

Senator Gardner moved the following amendment which failed:

Amendment 1—On page 3, line 22, after "Florida" strike *"or from other states or nations"*

On motion by Senator Weinstein, by two-thirds vote CS for HB 317 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Diaz-Balart	Kirkpatrick	Stuart
Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Langley	Thurman
Brown	Gardner	Malchon	Walker
Bruner	Girardeau	Margolis	Weinstein
Casas	Gordon	McPherson	Weinstock
Childers, D.	Grant	Meek	Woodson-Howard
Childers, W. D.	Grizzle	Myers	
Crenshaw	Jennings	Plummer	
Davis	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Deratany

CS for SB 1636—A bill to be entitled An act relating to pari-mutuel wagering; amending ss. 550.162, 551.09, F.S.; reviving and readopting provisions which authorize permitholders to withhold an additional 2 percent from exotic wager pools; providing that moneys withheld for capital improvements and reduction of capital improvement debt may be used for advertising and promotion; providing for retroactivity; providing an effective date.

—was read the second time by title.

Senator Gordon moved the following amendment:

Amendment 1—On page 3, strike line 8 and insert:

Section 4. Subsection (4) is added to section 551.031, Florida Statutes, to read:

551.031 Fixing dates for operation of frontons.—

(4) Any jai alai player who holds a valid occupational license issued by the Division of Pari-mutuel Wagering pursuant to s. 550.10(1)(c), or any organization that represents such person, and who is affected either directly or indirectly by a proposed action or decision of the division or of the Florida Pari-mutuel Commission, shall have legal standing to challenge the action or decision pursuant to chapter 120.

Section 5. This act, except section 4 of this act, which shall take effect upon becoming a law, shall take effect June 30, 1990,

On motion by Senator Margolis, further consideration of **CS for SB 1636** with pending **Amendment 1** was deferred.

Senator Stuart presiding

On motions by Senator Weinstein, by two-thirds vote CS for HB 107 was withdrawn from the Committees on Commerce and Judiciary-Civil.

On motion by Senator Weinstein—

CS for HB 107—A bill to be entitled An act relating to personal property; creating ss. 680.1011-680.532, F.S.; prescribing the law governing transactions involving the leasing of personal property; providing a short title for the act; providing for application of the act; providing definitions of terms used therein; providing for application of other statutes to leases of personal property; providing for territorial application of the act to goods covered by a certificate of title; limiting the power of parties to consumer leases to choose applicable law and judicial forum; providing for waiver or renunciation of claim or right after default; providing for findings of unconscionability by the court; providing for effect of options to accelerate at will; providing for formation and construction of such a lease contract; prescribing a statute of frauds; providing for admissibility of parol or extrinsic evidence; providing for irrevocability of firm offers for specified periods; providing that seals are inoperative; providing for modification, rescission, and waiver of lease contracts; providing for offer and acceptance; providing for course of performance; providing a lessee under a finance lease as beneficiary of supply contract; providing for express and implied warranties; providing for third-party beneficiaries of warranties; providing for identification of goods to the contract; providing for insurance; providing for risk of loss; providing for effect and enforceability of such a lease contract; providing for effect of separation of ownership and possession of the goods; providing for alienability of party's interest under lease contract or of lessor's residual interest in the goods; providing for subsequent lease of goods by lessor; providing for sale or sublease of goods by the lessee; specifying priority of various types of lien; providing special rights of creditors; specifying parties' rights when goods become fixtures or accessions; providing for performance of the lease contract; providing for demand for adequate assurance of performance in cases of insecurity; providing for repudiation and for retraction of repudiation; providing for substituted performance and excused performance; providing for irrevocable promises in finance leases; providing for determination of default by either party; providing procedure; prescribing a statute of limitation for an action for default, including breach of warranty or indemnity; prescribing rights and remedies for default by either party; providing for damages; providing standing to sue third parties for injuries to the goods; providing for lessor recovery for loss of residual interest; amending s. 671.101, F.S.; revising the short title of the Uniform Commercial Code to include this act; amending s. 671.105, F.S.; providing for territorial application of the act and the parties' powers to choose applicable law; amending s. 671.201, F.S.; revising the definition of "security interest" under the Uniform Commercial Code to conform to this act; amending s. 679.113, F.S.; providing for the application of chapter 679, F.S., relating to secured transactions, to security interests arising under leases of personal property; transferring, renumbering, and amending ss. 680.101, 680.104, 680.108, 680.109, 680.11, and 680.111, F.S., relating to laws not repealed by the Uniform Commercial Code and transition provisions applicable with respect to changes enacted by ch. 79-398, Laws of Florida, to conform to the changes made by this act; repealing s. 680.103, F.S., to delete a general repealer that has had its operative effect; repealing s. 680.105, F.S., to delete a severability clause that is redundant with s. 671.108, F.S., and not needed; providing that this act does not apply to leases entered into before the effective date of this act, except by specific agreement; creating s. 319.271, F.S., providing for a terminal rent adjustment clause; providing for applicability; providing an effective date.

—a companion measure, was substituted for CS for SB 260 and read the second time by title. On motion by Senator Weinstein, by two-thirds vote CS for HB 107 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Bankhead	Gardner	Malchon	Thomas
Beard	Girardeau	Margolis	Thurman
Brown	Gordon	McPherson	Walker
Bruner	Grizzle	Meek	Weinstein
Casas	Jennings	Myers	Weinstock
Childers, D.	Johnson	Peterson	Woodson-Howard
Crenshaw	Kirkpatrick	Plummer	
Dudley	Kiser	Souto	
Forman	Langley	Stuart	

Nays—None

Vote after roll call:

Yea—Diaz-Balart, Deratany

On motions by Senator McPherson, by two-thirds vote CS for HB 269 was withdrawn from the Committees on Governmental Operations; Rules and Calendar; and Appropriations.

On motion by Senator McPherson—

CS for HB 269—A bill to be entitled An act relating to African American history; creating the Study Commission on African American History in Florida; providing for the appointment of the commission; providing for powers and duties; providing for a report; providing for the dissolution of the commission; providing an appropriation; providing an effective date.

—a companion measure, was substituted for SB 360 and read the second time by title. On motion by Senator McPherson, by two-thirds vote CS for HB 269 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Diaz-Balart	Kirkpatrick	Souto
Brown	Forman	Malchon	Stuart
Bruner	Gardner	Margolis	Thomas
Casas	Girardeau	McPherson	Thurman
Childers, D.	Gordon	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Plummer	Woodson-Howard
Deratany	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Dudley

Consideration of **CS for SB 938** was deferred.

On motions by Senator McPherson, by two-thirds vote CS for HB 3065 was withdrawn from the Committees on Natural Resources and Conservation; Community Affairs; and Appropriations.

On motion by Senator McPherson—

CS for HB 3065—A bill to be entitled An act relating to power plant and transmission line siting; amending s. 403.501, F.S.; revising a reference to the Florida Electrical Power Plant Siting Act; amending s. 403.502, F.S.; clarifying legislative intent; amending s. 403.503, F.S.; providing definitions; amending s. 403.504, F.S.; revising the powers and duties of the Department of Environmental Regulation with respect to the act; amending s. 403.506, F.S., relating to applicability and certification; creating s. 403.5064, F.S.; providing for distribution of application and schedules; amending s. 403.5065, F.S.; revising language with respect to the appointment of a hearing officer; creating s. 403.5066, F.S.; providing for determination of completeness; creating s. 403.5067, F.S.; providing for a determination of sufficiency; amending s. 403.507, F.S.; providing for preliminary statements of issues, reports, and studies; amending s. 403.508, F.S.; providing for notice in the case of delay to issue a recommended order; revising language generally with respect to proceedings, parties, and participants at a certification hearing; amending s. 403.509, F.S.; revising language with respect to the final disposition of an application for certification; amending s. 403.5095, F.S., relating to alteration of time limits; amending s. 403.510, F.S.; revising language with respect to superseded laws, regulations, and certification power; amending s. 403.511, F.S.; revising language with respect to the effect of certification; creating s. 403.5115, F.S.; providing for notice and costs of proceedings; amending ss. 403.512, 403.513, 403.514, F.S.; conforming terminology; amending s. 403.516, F.S.; revising language with respect to modification of certification; amending s. 403.517, F.S.; revising language with respect to supplemental applications for sites certified for ultimate site capacity; creating s. 403.518, F.S.; providing for fees and disposition thereof; amending s. 403.519, F.S.; revising language with respect to determination of need; amending s. 403.52, F.S.; revising a reference to the Transmission Line Siting Act; amending s. 403.521, F.S.; conforming terminology; amending s. 403.522, F.S.; providing definitions; amending s. 403.523, F.S.; revising language with respect to the powers and duties of the Department of Environmental Regulation with respect to the Transmission Line Siting Act; amending s. 403.524, F.S.; revising language with respect to applicability and certification; amending s. 403.525, F.S.; revising language with respect to the appointment of a hearing officer; creating s. 403.5251, F.S.; providing for distribution of applications and schedules; creating s. 403.5252, F.S.; providing for determination of completeness; creating s. 403.5253, F.S.; providing for determination of sufficiency; amending s. 403.526, F.S.; providing for preliminary statements of issues, reports, and studies; amending s. 403.527, F.S.; revising language with respect to certification hearing notice, proceedings, parties, and participants; creating s. 403.5271, F.S.; providing for alternate corridors; amending s. 403.5275, F.S.; deleting language with respect to additional fees from the provision relating to amendments to the application; amending s. 403.529, F.S.; revising language with respect to the final disposition of application; amending s. 403.531, F.S.; revising language with respect to the effect of certification; amending s. 403.5312, F.S.; correcting cross-references; amending s. 403.5315, F.S.; revising language with respect to modification of certification; amending s. 403.533, F.S.; conforming terminology; amending s. 403.536, F.S.; revising language with respect to superseded laws, regulations, and certification power; creating s. 403.5365, F.S.; providing for fees and disposition thereof; amending s. 403.537, F.S.; revising language with respect to determination of need; amending section 380.06, F.S., providing exemptions; amending ss. 258.397, 258.45, 288.503, 366.04, 366.05, 380.23, 403.061, 403.539, 403.7045, F.S.; correcting cross-references; providing an appropriation; providing for applicability; providing an effective date.

—a companion measure, was substituted for CS for SB 1906 and read the second time by title.

Senator McPherson moved the following amendments which were adopted:

Amendment 1—On page 57, line 21, strike "s. 403.5245(3)" and insert: s. 403.5251(3)

Amendment 2—On page 84, strike all of lines 1-7 and insert:

(e) Any addition of permanent seats or parking spaces completely constructed prior to July 1, 1989, for a sports facility located on property owned by a public body prior to July 1, 1973, is exempt from the provisions of this section if those additions did not expand existing permanent seating or parking capacity more than 15 percent annually in excess of the prior year's capacity.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 3—On page 87, between lines 15 and 16, insert:

Section 58. Subsection (6) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(6) A nonrefundable fee of *$1* ~~50 cents~~ shall be charged on every license registration sold, transferred, or replaced. Such fees shall be deposited in the Air Pollution Control Trust Fund established in the Department of Environmental Regulation and used only for purposes of air pollution control pursuant to chapter 403, except that, if any county has an approved local air pollution control program as provided in s. 403.182, *50 cents of the fee* ~~such fees~~ from *each* license *registration* ~~registrations~~ sold in the county shall be returned to such county for deposit into a local air pollution control program trust fund which shall be established by such county and used only for air pollution control programs relating to the control of emissions from mobile sources and toxic and odor emissions, air quality monitoring, and facility inspections pursuant to chapter 403 or any similar local ordinance. *Beginning in fiscal year 1992-93, any county that has a Department of Environmental Regulation approved local air pollution control program shall receive 75 cents of the fee from each license registration sold, transferred, or replaced in the county, unless the approved local air pollution control program trust fund has an unencumbered balance of more than 10 percent of the prior year's allocation from the fees authorized in this subsection, in which case the approved local air pollution control program shall receive 50 cents of the fees from each license registration sold, transferred, or replaced in the county. The Department of Environmental Regulation is authorized to adopt rules necessary to implement the provisions of this subsection.*

Section 59. The Department of Environmental Regulation shall charge an inspection and notification fee, not to exceed $50 for a residential dwelling, $300 for a small business as defined in section 288.703(1), Florida Statutes, or $1,000 for any other project, for any asbestos removal project. Public school districts and private schools are exempt from such fees. Any fee collected shall be deposited in the asbestos program account

in the Air Pollution Control Trust Fund to be used by the department to administer its asbestos removal program. The department may contract with a local government to conduct asbestos removal programs within the jurisdiction of that local government.

Section 60. Section 403.7227, Florida Statutes, is created to read:

403.7227 Hazardous Waste Information Grant Program.—

(1) It is the intent of the Legislature that a coordinated, grassroots effort be established at the local level concerning the need to inform citizens about the proper management of hazardous waste through citizen action groups. These citizen action groups shall be composed of members representing the business, professional, and environmental communities and elected local officials.

(2) The Department of Environmental Regulation shall develop a grant program to enable counties and municipalities to operate hazardous waste information programs at the local level.

(3) Hazardous waste information grants shall be limited to $25,000 each, and shall be made to those counties which are in compliance with s. 403.7225, as determined by the department.

(4) This section is repealed on October 1, 1992.

Section 61. There is hereby appropriated from the Water Quality Assurance Trust Fund to the Department of Environmental Regulation for fiscal year 1990-1991 the sum of $250,000 for the purpose of administering the Hazardous Waste Information Grant Program and establishing coordination between the department and citizen action groups as described in s. 403.7227, Florida Statutes.

Section 62. Section 403.7083, Florida Statutes, is created to read:

403.7083 Offsite biological waste incineration facilities; requirements.—

(1) All offsite biological waste incineration facilities with a capacity of 500 pounds per hour or greater for which a complete construction permit application was received by the Department of Environmental Regulation on or after June 1, 1989, and before August 31, 1989, shall comply with the following minimum requirements by July 1, 1991:

(a) Visible emissions shall not exceed 5 percent opacity, except that visible emissions not exceeding 20 percent opacity are allowed for up to 3 minutes in any 1-hour period.

(b) Particulate matter emissions shall not exceed 0.030 grains per dry standard cubic foot of flue gas, corrected to 7 percent oxygen.

(c) Hydrochloric acid (HCL) emissions shall not exceed 4 pounds per hour, or shall be reduced by 90 percent by weight on an hourly average basis.

(d) Carbon monoxide (CO) emissions shall not exceed 100 parts per million by volume, dry basis, corrected to 7 percent oxygen on an hourly average basis.

(e) Each incinerator shall be designed to provide for a residence time of at least 1 second in the secondary or last combustion chamber only, at no less than 1800° Fahrenheit for the combustion gases. The primary chamber and stack shall not be utilized in calculating this residence time.

(f) The facility shall contain pollution control devices and continuous monitoring equipment installed, operated, and maintained in accordance with the manufacturer's instructions, so as to achieve the above minimum standards. The monitors shall record the operating parameters for secondary or last combustion chamber exit temperature and for oxygen.

(g) The owner shall ensure that the incinerator is operated by an operator who has satisfactorily completed a training program offered by the equipment manufacturer's representatives or offered by another qualified organization.

(2) For purposes of this section "offsite biological waste incineration facility" means one or more incinerators which are operated or utilized for the disposal or treatment of biological waste generated off-site, are located on one or more contiguous or adjacent properties, and are owned or operated by the same person or by persons under common control.

(3) Nothing in this section shall be construed to limit the authority of the department to further regulate offsite biological waste incineration facilities.

(4) This section shall be repealed on July 1, 1992.

Section 63. Subsection (3) of section 403.716, Florida Statutes, is amended to read:

403.716 Training of operators of solid waste management facilities.—

(3) A person may not perform the duties of an operator of a *landfill* ~~solid waste management facility~~ after *July 1, 1991* ~~January 1, 1990~~, unless he has completed an operator training course approved by the department *or he has qualified as an interim operator in compliance with requirements established by the department by rule.* An owner of a *landfill* ~~solid waste management facility~~ may not employ any person to perform the duties of an operator unless such person has completed an approved *landfill* ~~solid waste management facility~~ operator training course *or has qualified as an interim operator in compliance with requirements established by the department by rule. The department may establish by rule operator training requirements for other solid waste management facilities and facility operators.*

Section 64. Subsection (1) of section 403.7222, is amended to read:

403.7222 Prohibition of hazardous waste landfills.—

(1) As used in this section, the term "hazardous waste landfill" means a disposal facility or part of a facility at which hazardous waste that has not undergone treatment is placed in or on land, including an injection well, and which is not a land treatment facility. However, *except as provided in subsection (2),* in no event may hazardous waste be disposed of through an injection well.

Section 65. Subsections (1), (2), (3), (4) and (5) of section 403.724, Florida Statutes, are amended to read:

403.724 Financial responsibility.—

(1) An owner or operator of a hazardous waste facility, as a prerequisite to the operation, *closure, post-closure, or corrective action at a* ~~of a~~ facility in the state, shall be ~~bonded or insured to~~ guarantee the financial responsibility of such owner or operator for any liability which may be incurred in the operation of the facility and to provide that, upon closure, abandonment, or interruption of operation of the facility, all appropriate measures are taken to prevent present and future damage to human health, safety, and welfare; the environment; and private and public property.

(2) Cash, *the establishment of a trust fund,* surety bonds, *a letter of credit,* or casualty insurance, *a financial test, a corporate guarantee,* or a combination thereof, may be used to satisfy the financial responsibility requirement. Any *method of financial responsibility used* ~~bond or insurance obtained~~ to satisfy this requirement shall be maintained in the amount *approved* ~~established~~ by the department and shall be maintained until the department determines that the waste is no longer a hazard and authorizes cancellation, modification, or liquidation of the *financial responsibility* ~~bond or insurance~~.

(3) The amount of financial responsibility required shall be *approved* ~~established~~ by the department upon each issuance, renewal, or modification of a hazardous waste facility permit. ~~The established financial responsibility requirements shall not be altered for the duration of the permit.~~ Such factors as inflation rates and changes in operation may be considered when *approving* ~~establishing~~ financial responsibility for the duration of the permit. ~~Once such a determination is made, it shall represent the maximum financial responsibility of the owner or operators of such a facility.~~ The Department of Insurance shall be available to assist the department in making this determination. In *approving or modifying* ~~establishing~~ the amount of financial responsibility, the department shall consider:

(a) The amount and type of hazardous waste involved;

(b) The probable damage to human health and the environment;

(c) The danger and probable damage to private and public property near the facility;

(d) The probable time that the hazardous waste and facility involved will endanger the public health, safety, and welfare or the environment; and

(e) The probable costs of properly closing the facility.

(4) The department may adopt rules which establish the procedures and guidelines it will use to *approve* ~~establish~~ or modify the amount of *financial responsibility* ~~the bond or insurance~~.

(5) Hazardous waste facilities in operation on October 1, 1980, shall, within 1 year after the effective date of rules regarding financial responsibility pursuant to this act, *establish financial responsibility* ~~be bonded or insured~~ or have the requirement waived.

Section 66. Paragraph (i) of subsection (8) of section 403.721, Florida Statutes, is amended to read:

403.721 Standards, requirements, and procedures for generators and transporters of hazardous waste and owners and operators of hazardous waste facilities.—

(6) The department, with respect to owners and operators of hazardous waste disposal, storage, or treatment facilities, and with respect to such facilities, shall adopt rules governing:

(i) Conditions on a permit which require cleanup of releases of hazardous waste *and hazardous constituents* from any solid waste management unit, regardless of when the waste was placed in the unit.

Section 67. Subsection (33) of 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:

(33) "Land disposal" means any placement of hazardous waste *in or on the land and includes, but is not limited to placement* in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt bed formation, salt dome formation, or underground mine or cave, *or placement in a concrete vault or bunker intended for disposal purposes.*

Section 68. Section 381.261, Florida Statutes, is amended to read:

381.261 Supervision; private and certain public water systems ~~and individual sewage disposal systems~~.—The Department of Health and Rehabilitative Services and its agents shall have general supervision and control over all private water systems, *and* public water systems not covered or included in the Florida Safe Drinking Water Act (ss. 403.850-403.864), ~~and individual sewage disposal systems~~ and over those aspects of the public water supply program for which it has the duties and responsibilities provided for in ss. 403.862-403.864. *The department shall:*

(1) Administer and enforce the provisions of this section and all rules and orders adopted or issued under this section.

(2) Require any person wishing to construct, modify, or operate a limited use community or limited use commercial public water system or a private water system to first make application to and obtain approval from the department on forms adopted by rule of the department.

(3) Review and act upon any application for the construction, modification, operation, or change of ownership of, and conduct surveillance, enforcement, and compliance investigations of, limited use community and limited use commercial public water systems, and private water systems.

(4) Require suppliers of water to collect samples of water, to submit such samples to a department-certified drinking water laboratory for contaminant analysis, and to keep sampling records as required by rule of the department.

Section 69. Section 381.2615, Florida Statutes, is created to read:

381.2615 Drinking water funds.—All fees and penalties received from suppliers of water pursuant to ss. 403.860(5) and 403.861(7) shall be deposited in the appropriate Public Health Unit Trust Fund to be used by the department to pay the costs of expenditures required pursuant to ss. 381.261 and 403.862(1)(c).

Section 70. Paragraph (a) of subsection (4) of section 403.854, Florida Statutes, is amended to read:

403.854 Variances, exemptions, and waivers.—

(4)(a) The department shall, except upon a showing of good cause, waive on a case-by-case basis any chlorination requirement applicable to noncommunity water systems ~~existing on July 18, 1980~~, upon an affirmative showing by the supplier of water that no hazard to health will result. This showing shall be based upon the following:

1. The completion of a satisfactory sanitary survey;

2. The history of the quality of water provided by the system and monthly monitoring tests for bacteriological contamination;

3. Evaluation of the well and the site on which it is located, including geology, depth of well, casing, grouting, and other relevant factors which have an impact on the quality of water supplied; and

4. The number of connections and size of the distribution system.

Section 71. Subsections (5) and (6) are added to section 403.860, Florida Statutes, to read:

403.860 Penalties and remedies.—

(5) In addition to any judicial or administrative remedy authorized by this part, the department or a county public health unit that has received approval by the department pursuant to s. 403.862(1)(c) may assess a noncompliance fee for failure of any supplier of water of a public water system to comply with department requirements for the reporting, in the manner and time provided by department rule, of test results for microbiological, inorganic or organic contaminants; or turbidity, radionucleides or secondary standards.

(a) For the first and second violations of the microbiological reporting requirements, and for the first violation of other reporting requirements, the fee shall not be assessed until the department has given the supplier at least 30 days to comply with the reporting requirement. The time shall not begin until the department has given the supplier written notice of the facts alleged to constitute the reporting violation, the specific provision of law, rule, or order alleged to have been violated by the owner or operator, the corrective action needed to bring the facility into compliance, and the potential penalties that may be imposed as a result of the supplier's failure to comply with the notice. For subsequent violations of the microbiological reporting requirements, the department does not have to provide 30-day written notice of the violations prior to assessing a noncompliance fee, provided, however, that if any additional reporting violations occur prior to the expiration of either 30-day notice issued by the department, the department must provide the supplier with a 30-day written notice to correct those violations as well. Upon expiration of 36 months, the department shall reinstate the 30-day notice requirements provided in this subsection prior to assessing a noncompliance fee.

(b) At the time of assessment of a noncompliance fee, the department shall give the supplier written notice setting forth the amount assessed, the specific provision of law, rule, or order alleged to be violated, the facts alleged to constitute the violation, the corrective action needed to bring the party into compliance, and the rights available under chapter 120 to challenge the assessment. The assessment shall be final and effective unless an administrative proceeding is requested within 20 days after receipt of the written notice, and shall be enforceable pursuant to s. 120.69.

(c) Before assessing a noncompliance fee, the department shall adopt rules to implement the provisions of this subsection. The rules shall establish specific procedures and assessment amounts for noncompliance fees authorized by paragraph (a). Noncompliance fees shall be set on a sliding scale based upon the type of violation, the degree of noncompliance, and the potential for harm. Such rules shall also authorize the application of adjustment factors subsequent to initial assessment to increase or decrease the total amount assessed, such as the good faith efforts or the lack of good faith efforts of the supplier to comply with the reporting requirements, the lack of or degree of willfulness or negligence on the part of the supplier, the economic benefits associated with the supplier's failure to comply with the reporting violation, the supplier's previous history of reporting violations, and the supplier's ability to pay the noncompliance fee.

(d) For microbiological reporting requirements, no noncompliance fee shall exceed $250, and total noncompliance fees assessed shall not exceed $1,000 per assessment for all reporting violations attributable to a specific facility during any one month.

(e) For violations of reporting requirements other than microbiological, the fee shall be no greater than $50 per day for each day of violation, and the total amount assessed shall not exceed $2,000.

(f) The department's assessment of a noncompliance fee shall be in lieu of any civil action which may be instituted by the department in a court of competent jurisdiction to impose and recover civil penalties for any violation that resulted in the fee assessment, unless the department initiates a civil action for nonpayment of a fee properly assessed pursuant to this subsection.

(g) No noncompliance fee may be assessed unless the department has, within 90 days of the reporting violation, provided the supplier written notice of the violation.

(6) Fees collected pursuant to this section shall be deposited in the Water Quality Assurance Trust Fund or the appropriate Public Health Unit Trust Fund, in accordance with s. 381.2615, to be used to carry out the provisions of this part. The department may use a portion of the fund to contract for services to help collect noncompliance fees assessed pursuant to this section.

Section 72. Paragraph (f) is added to subsection (3) of section 376.307, Florida Statutes, to read:

376.307 Water Quality Assurance Trust Fund.—

(3) The trust fund shall be funded as follows:

(f) Fees received from the examination and certification of water and wastewater treatment facility operators pursuant to s. 403.101(3) shall be deposited in the Water Quality Assurance Trust Fund and shall be used by the department to assist in the administration of its responsibilities pursuant to that subsection.

Section 73. Paragraphs (c) and (f) of subsection (1) of section 403.862, Florida Statutes, are amended and subsections (6) and (7) are added to said section, to read:

403.862 Department of Health and Rehabilitative Services; public water supply duties and responsibilities; coordinated budget requests with Department of Environmental Regulation.—

(1) Recognizing that supervision and control of *county public health* units of the Department of Health and Rehabilitative Services is retained by the secretary of that agency, and that public health aspects of the state public water supply program require joint participation in the program by the Department of Health and Rehabilitative Services and its units and the department, the Department of Health and Rehabilitative Services shall:

(c) Require those county *public* health *units* ~~departments~~ designated by the Department of Health and Rehabilitative Services and approved by the department as having qualified sanitary engineering staffs *and available legal resources*, in addition to the duties prescribed in paragraph (1)(b), to:

1. Review, evaluate, and approve or disapprove each application for the construction, modification, or expansion of a public water system to determine compliance with federal, state, and local requirements. A copy of the completed permit application and a report of the final action taken by the county *public* health *unit* ~~department~~ shall be forwarded to the appropriate department district office.

2. Review, evaluate, and approve or disapprove applications for the expansion of distribution systems. Written notification of action taken on such applications shall be forwarded to the appropriate department district or subdistrict office.

3. Maintain inventory, operational, and bacteriological records and carry out monitoring, surveillance, and sanitary surveys of public water systems to ensure compliance with federal, state, and local regulations.

4. Participate in educational and training programs relating to drinking water and public water systems.

5. Enforce the provisions of this part and rules adopted under this part.

(f) Have general supervision and control over all private water systems and all public water systems not *otherwise* covered or included in this *part* ~~act~~. *This shall include the authority to adopt and enforce rules to protect the health, safety, or welfare of persons being served by all private water systems and all public water systems not otherwise covered by this part.*

(6) After January 2, 1991, no county public health unit may be designated and approved unless it can carry out all functions of the drinking water program. Each year, the department, in conjunction with the Department of Health and Rehabilitative Services, shall review approved county public health units to determine continued qualification for approved status. To receive and maintain approved status, a county public health unit shall meet the following criteria and other reasonable and necessary requirements established by the Department of Environmental Regulation for its district offices:

(a) The staff shall be under the direction of a qualified individual who is a registered professional engineer in Florida pursuant to chapter 471.

(b) The county public health unit shall have sufficient legal resources to carry out the requirements of this part.

(7) Fees received from suppliers of water pursuant to ss. 403.860(5) and 403.861(7) in counties where county public health units have been approved by the department pursuant to s. 403.862(1)(c) shall be deposited in the appropriate Public Health Unit Trust Fund to be used for the purposes stated in s. 403.862(1)(c).

Section 73. There is hereby appropriated from the Water Quality Assurance Trust Fund to the Department of Environmental Regulation the sum of $1 million to establish 18 positions to assist in carrying out the responsibilities of the department pursuant to the Florida Safe Drinking Water Act. In subsequent years, these positions shall continue to be funded by the Water Quality Assurance Trust Fund.

Section 74. There is hereby appropriated from the Water Quality Assurance Trust Fund to the Department of Health and Rehabilitative Services the sum of $100,000 to establish 2 positions, and an additional $400,000, to assist in carrying out the responsibilities of the department pursuant to section 403.862(1)(c), Florida Statutes. The positions shall be used for providing legal resources and implementing an accounting and tracking system.

Section 75. There is hereby appropriated from the Water Quality Assurance Trust Fund to the Department of Environmental Regulation the sum of $75,000 to enter into a contract with a vocational school or community college to develop water and wastewater operator examinations and curriculum for water and wastewater operator training.

(Renumber subsequent section.)

Senator Scott presiding

Amendment 4—In title, on page 4, line 2, after "applicability;" insert: amending s. 320.03, F.S.; increasing the fee charged on license registrations and used for purposes of air pollution control; providing for the deposit of a portion of such fees in local air pollution control program trust funds; requiring the Department of Environmental Regulation to charge an inspection and notification fee for any asbestos removal project; providing exemptions; providing for the disposition of such fees; allowing the department to contract to have local governments conduct such projects; creating s. 403.7227, F.S.; providing for a Hazardous Waste Information Grant Program; providing an appropriation; providing requirements for certain offsite biological waste incineration facilities; providing for repeal; amending subsection (3) of s. 403.716, F.S.; clarifying landfill operator training procedures; amending ss. 403.721 and 403.7222, F.S., conforming state hazardous waste disposal program to federal requirements; amending s. 403.724, F.S.; providing for financial responsibility for hazardous waste facilities; amending s. 403.703, F.S.; clarifying a definition for land disposal; amending s. 381.261, F.S.; providing duties of the Department of Health and Rehabilitative Services relating to private and certain public water systems; providing fees; deleting responsibility for individual sewage disposal systems; creating s. 381.2615, F.S.; providing for deposit of certain fees and penalties; amending s. 403.854, F.S.; expanding a waiver; amending s. 403.860, F.S.; authorizing noncompliance fees relating to safe drinking water monitoring, reporting, and licensure requirements; providing procedures and limitations; amending s. 376.307, F.S.; providing for deposit and use of certain fee revenue; amending s. 403.862, F.S.; providing duties of the Department of Health and Rehabilitative Services and the county public health units under the Florida Safe Drinking Water Act; providing for review of certain county public health unit functions; providing appropriations;

Amendment 5—In title, on page 1, lines 2 and 3, strike "power plant siting and transmission line siting" and insert: environmental regulation

On motion by Senator McPherson, by two-thirds vote CS for HB 3065 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	
Deratany	Johnson	Plummer	

Nays—None

Motion

On motion by Senator W. D. Childers, the following remarks were published in the Journal:

Senator W. D. Childers: Mr. President, I would like to make a few remarks regarding a motion that Senator Thomas made earlier in the morning. All of you are very familiar with the subject that I am going to address. It is like an old friend, we have seen it many times. Senator Thomas this morning waived the rules and made a motion and withdrew the veto on Senate Bill 3106 from the Rules Committee. It took an extraordinary vote of this body to do that.

The measure is now before us in the Senate. Senators, I want to submit to you that in my 20 years in the Florida Senate this has been one of the most debated, hotly contested, issues that has ever been submitted to this Legislature and to our local delegation in Escambia and Santa Rosa Counties. No progress has been made. There have been rumors in the past of school boards getting together to give the children on the Island an educational opportunity to go to the school that is nearest them for safety reasons and all manner of reasons.

There have been agreements on the question of jurisdiction. There have been joint resolutions and local agreements entered into and then rescinded. We introduced the bill, we passed the bill in both Houses. We received the unanimous vote in this body on two separate occasions. The House passed it, not as easily, but they passed it.

Then the Governor, receiving a lot of input from West Florida, sent a team to Escambia and Santa Rosa Counties and that team came back after talking to residents, local officials, school boards, and county commissions. The Governor committed that he would use the influence of his office to see that the areas of concern between the two counties were taken care of and resolved. The Governor sitting with the State Board of Education is committed to resolve the issue regarding the school children. The Governor, with more access than anyone else to the Department of Community Affairs, is resolved to solving the problem of jurisdiction and environmental concerns. The Governor, and this is the first Governor, the only Governor in my 20 years in the Senate, that has gone to the extent that he has in trying to solve this problem. No other Governor ever even addressed it. So, I submit to you that that is progress. We now have made progress beyond any point that I had even imagined could happen.

Again, let me tell you that I have talked to the Governor, and he is firmly committed to help resolve all of these problems. If we override the Governor's veto here's where we are. Senator Thomas, I know that by the vote you got this morning, input I have had from members that that is indeed a possibility and you can do it. It would involve immediately a lengthy court battle in both federal and state courts, and we in Escambia County cannot afford that. I believe in Escambia County—they can't afford that—I know they can't. But I also believe that in Santa Rosa County they can't afford such legal battles as would ensue as result of the override of the Governor's veto on Senate Bill 3106.

We are now publicly asking the State Board of Education to get involved, the Department of Community Affairs to get involved, the Governor and the Cabinet to get involved, the Governor is already involved, and resolve this dispute, and resolve it as quickly as possible. The Governor has moved with dispatch, and I commend him for it.

But to override the veto, Senator Thomas, I think would be a very expensive process and would be tied up in court and I would like to see the problem solved.

It is difficult for me to ask you this Senator, but out of senatorial courtesy I request that you, Senator Thomas, give us the five months to see if it works, until November. The questions asked, do I think you have the votes to override? The answer is "yes". I would prefer to let the Governor use the influence of his office and solve these problems and the Governor even, in his veto message, stated that if indeed the problem is not solved, we might need to solve it with legislation. The bill might need to be legislation, might need to be revisited.

I don't have a solution to all of these many and myriad problems and they are legion. But I submit to you that it might be in our best interest, and in the best interest to the school children, the people that live on the island, and both counties, to avoid a long and protracted court battle. We will be back in November, and if something isn't done by November, and these problems are not resolved by November, Senator Thomas, I think that most all of our colleagues would join you in an override.

I know it is a hard decision you have to make, but out of senatorial courtesy, and on behalf of the taxpayers of Escambia County and Santa Rosa County I'm making this appeal. I believe the Governor meant it when he said, "We are going to solve the problem or we will come back to the bill."

Senator Dudley: Thank you Mr. President. Senator Thomas, I, too, would like to add my words of plea to those of Senator W. D. Childers. It's never pleasant to talk about, think about and discuss an override of a veto, and I'm not sure you have the votes. I'm convinced, as Senator W. D. Childers is at this point, that you may well have the votes to override—I don't know. I also agree as we've talked for many years on this issue, we have encouraged local governments to try to solve it. They have failed at this point. But I really believe now with the Governor's veto and with the message that he has sent that we will have every opportunity for them to get together one last time. Senator W. D. Childers I think you agree, between now and November when we will be back here in organizational session and this veto message will still be before this body for appropriate action at that time. So, Senator Thomas as a colleague, I too, on this side of the aisle would like to add my voice to that plea that has been expressed here this morning.

Senator Thomas: Senator W. D. Childers, Senator Dudley and friends. Senator W. D. Childers referred to this as an old family friend. There is another expression in the vernacular of North Florida, "like poor kinfolks that keep coming back." And this bill does continue to come back to us and I think I appreciate what you said Senator W. D. Childers and I heard what Senator Dudley said.

Let me be just absolutely candid. During the last 24 hours I have buttonholed a lot of you and last night, about midnight, there were eight of you that I wasn't sure about. There were two on my side of the aisle that weren't sure. I appreciate the response that all of you have given me on a tough issue. I can't identify the numbers in a full commitment, but I think I can report that this body tells me that in November, on organizational day, if corrective actions haven't been taken, more than two-thirds of this body will join me in an override. I am pragmatic enough to understand that November is about five months away, and this battle has been going on since the mid-fifties. With assurance that this body has given me for an override in November, I am well content. So let's see what progress the Governor provides us. If none is made I will be here at the organizational meeting to ask you to respond to the commitment you made.

Senator Beard: I just wanted to say that this dispute has been going on for a long time, but I think the action that Senator Thomas took and Senator Childers had taken will bring it to a head. I think it can be resolved in five months with the help of the Governor and all the effort that is going to be put forth. I appreciate it very much, because it has been a local dispute but we're all in to it now. Because of our respect for you and Senator Childers and our friendship and all the things that we have done together and worked together on issues that were tough, I'd appreciate it if you could see fit to delay this until November.

Senator W. D. Childers: Mr. President, one brief remark, additionally. I've just been handed a communication, Senator Thomas, that says that on June 5th, Escambia County Commission has agendaed reinstatement of the Escambia-Santa Rosa interlocal agreement on building permits, to reinstate it as it was from 1980 to 1987, for the issuance of a single building permit from Navarre Construction. So that means that the Commission is moving and we've already seen that the school boards are moving.

CS for SB 938—A bill to be entitled An act relating to state lands; amending s. 253.781, F.S.; revising provisions relating to retention of state-owned lands along the former Cross Florida Barge Canal route; extending the application of such provisions to include lands and interests formerly acquired by the state or federal government for the Cross Florida Barge Canal; creating the Cross Florida Greenbelt State Recreation and Conservation Area; revising provisions relating to transfer by the Department of Natural Resources of certain lands for inclusion in the Ocala National Forest; deleting provisions which direct the department to grant certain easements for flooding to the Federal Government; directing the Governor and Cabinet to acquire lands along the canal route; amending s. 253.7829, F.S.; revising provisions relating to development of a management plan by the department for lands acquired for the canal; providing duties of the canal authority; providing requirements of the plan; providing for delineating the boundaries of the Cross Florida Greenbelt State Recreation and Conservation Area; authorizing the department to delegate the operation and maintenance of water control structures to other agencies; providing for implementation of the management plan; deleting provisions relating to disposition of surplus lands; amending s. 253.783, F.S.; revising powers and duties of the department relating to canal lands; providing for disposition of surplus lands; revising provisions relating to refunds to counties; providing for the advisory committee established by the department to report to the canal authority; revising the membership of the advisory committee; requiring counties to bear the costs of participating in such advisory committee; deleting the department's authorization to enter into certain agreements with the Federal Government; amending ss. 374.001, 374.3001, F.S.; conforming cross-references; specifying a time for transfer of the canal authority to the department; repealing s. 374.002, F.S., which authorizes the canal authority to contract with the department for development of management plans; providing for the state to hold the United States harmless from claims arising from the operation of lands transferred to the state; amending s. 12, ch. 79-167, Laws of Florida; deleting the repeal under said section of ss. 374.011, 374.021, 374.031, 374.041, and 374.132, F.S., which relate to the creation, powers, and duties of the canal authority, and repealing said sections on a specified date; providing effective dates.

—was read the second time by title.

Two amendments were adopted to CS for SB 938 to conform the bill to CS for HB 2753.

Pending further consideration of CS for SB 938 as amended, on motion by Senator Stuart, by two-thirds vote CS for HB 2753 was withdrawn from the Committees on Natural Resources and Conservation; and Appropriations.

On motion by Senator Stuart—

CS for HB 2753—A bill to be entitled An act relating to state lands; amending s. 253.781, F.S.; revising provisions relating to retention of state-owned lands along the former Cross Florida Barge Canal route; extending the application of such provisions to include lands and interests formerly acquired by the state or federal government for the Cross Florida Barge Canal; creating the Cross Florida Greenbelt State Recreation and Conservation Area; revising provisions relating to transfer by the Department of Natural Resources of certain lands for inclusion in the Ocala National Forest; deleting provisions which direct the department to grant certain easements for flooding to the Federal Government; directing the Governor and Cabinet to acquire lands along the canal route; amending s. 253.7829, F.S.; revising provisions relating to development of a management plan by the department for lands acquired for the canal; providing duties of the canal authority; providing requirements of the plan; providing for delineating the boundaries of the Cross Florida Greenbelt State Recreation and Conservation Area; authorizing the department to delegate the operation and maintenance of water control structures to other agencies; providing for implementation of the management plan; deleting provisions relating to disposition of surplus lands; amending s. 253.783, F.S.; revising powers and duties of the department relating to canal lands; providing for disposition of surplus lands; revising provisions relating to refunds to counties; providing for the advisory committee established by the department to report to the canal authority; revising the membership of the advisory committee; requiring counties to bear the costs of participating in such advisory committee; deleting the department's authorization to enter into certain agreements with the Federal Government; amending ss. 374.001 and 374.3001, F.S.; conforming cross references; specifying a time for transfer of the canal authority to the department; repealing s. 374.002, F.S., which authorizes the canal authority to contract with the department for development of management plans; providing for the state to hold the United States harmless from claims arising from the operation of lands transferred to the state; amending s. 12, ch. 79-167, Laws of Florida; deleting the repeal under said section of ss. 374.011, 374.021, 374.031, 374.041, and 374.132, F.S., which relate to the creation, powers, and duties of the canal authority, and repealing said sections on a specified date; providing effective dates.

—a companion measure, was substituted for CS for SB 938 and read the second time by title. On motion by Senator Stuart, by two-thirds vote CS for HB 2753 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Deratany	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, W. D.	Gordon	Meek	Weinstein
Crenshaw	Grant	Myers	Weinstock
Davis	Grizzle	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—D. Childers

Consideration of **CS for SB 968** was deferred.

The President presiding

CS for SB 760—A bill to be entitled An act relating to the regulation of waterways; amending s. 327.22, F.S.; deleting the limitation on counties that may impose a vessel registration fee; amending s. 327.25, F.S.; specifying funds to be available for marine mammal research, protection, and recovery; amending s. 327.28, F.S.; specifying amount of funds collected from vessel registration that is to be transferred to the Save the Manatee Trust Fund; amending s. 327.40, F.S.; providing that the placement of certain markers on state submerged lands does not subject such lands to certain lease requirements; amending s. 370.12, F.S.; authorizing the Department of Natural Resources to adopt certain additional rules for the protection of manatees; deleting an exemption from speed restrictions for a specified portion of the Atlantic Intracoastal Waterway; requiring counties to post boat speed signs at the request of the department; authorizing the department to designate manatee sanctuaries; authorizing counties to regulate the operation of motorboats by ordinance; providing that such ordinance shall not take effect unless approved by the department; providing for the mediation of disputes between the department and local governments relating to the provisions of such an ordinance; requiring certain vessels to use floating or above-water fenders in manatee protection areas; creating s. 374.977, F.S.; providing responsibility for posting and maintaining regulatory markers; providing an appropriation and for additional positions; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendment which failed:

Amendment 1—On page 9, before line 1, insert:

(j) It is the intent of the Legislature through adoption of this paragraph to allow the Department of Natural Resources to ~~post and~~ regulate boat speeds only where manatee sightings are frequent and it can be generally assumed that they inhabit these areas on a regular or continuous basis. It is not the intent of the Legislature to permit the department *or local governments* to ~~post and~~ regulate boat speeds generally in the above-described inlets, bays, rivers, *and* creeks, thereby unduly interfering with the rights of fishermen, boaters, *boat motor testing organizations,* and water skiers using the areas for recreational and commercial purposes. Limited lanes or corridors providing for reasonable motorboat speeds may be identified and designated within these areas.

Senator Thurman moved the following amendments which were adopted:

Amendment 2—On page 11, between lines 15 and 16, insert:

Section 7. The Department of Natural Resources shall conduct a study to determine the underwater decibel level, if any, which will deter manatees from traveling in the path of powered vessels. The department may not expend more than $50,000 from the existing authorized appropriations from the Save the Manatee Trust Fund to conduct this study.

(Renumber subsequent sections.)

Amendment 3—In title, on page 2, line 3, after the semicolon (;) insert: requiring the Department of Natural Resources to conduct a study relating to manatees;

On motion by Senator McPherson, by two-thirds vote CS for SB 760 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Mr. President	Deratany	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Stuart
Brown	Forman	Malchon	Thomas
Casas	Gardner	Margolis	Thurman
Childers, D.	Girardeau	McPherson	Walker
Childers, W. D.	Gordon	Meek	Weinstein
Crenshaw	Grant	Myers	Weinstock
Davis	Grizzle	Peterson	Woodson-Howard

Nays—None

Communications

The following communications were printed at the direction of the President and Senator Thurman:

Dear Secretary Brown:

During the Senate's discussion of the amendments I offered to Committee Substitute for Senate Bill 760, I stated that the Save the Manatee Club, the Division of Marine Resources, Department of Natural Resources, and the Association of Counties were in support of them.

I am committed to the protection of this fragile species. I also appreciate their importance to the economy of my community in the form of the Crystal River Chamber of Commerce's annual Florida Manatee Festival. I was therefore stunned, and extremely distressed, by the inferences made to the contrary.

I submit the following statements to this body for consideration.

Karen L. Thurman, 4th District

Senator Thurman:

The Florida Association of Counties does not oppose the language in the manatee bill relating to motor boat testing organizations and local government ordinances.

Stephen Hogge, Legislative Coordinator,
Florida Association of Counties

Dear Senator Thurman:

This letter is to confirm the Department's position relative to your proposed amendment to Senate Bill 760 requiring that manatee protection speed zone ordinances make provision for boat/motor testing organizations. The Department does not object to this language.

We understand that boat/motor testing organizations are requesting special consideration under the Department's manatee protection laws and boat speed rules, and have worked with industry representatives to ensure that their needs are taken into account. Department manatee biologists have met with representatives of Outboard Motor Corporation and have determined acceptable areas where testing can occur, subject to any necessary local government or law enforcement approvals. Since testing will not be allowed in areas frequented by manatees, we believe they will not be harmed.

Thank you for your support of the manatee protection bill this session. We appreciate your special concern for this gentle animal and look forward to working with you in the future.

Pamela P. McVety, Director,
Division of Marine Resources,
Department of Natural Resources

Dear Senator Thurman:

This is to indicate that at the time you attempted to amend SB 760 to include language regarding motor boat testing areas and a reference to local governments, we had no objection to those amendments. However, now, due to the lateness of this point in the session, we must take the position that SB 760 should be passed into law by the House and sent to the Governor without further amendments.

Charles Lee, Senior Vice President,
Florida Audubon Society

Motion

Senator Gordon moved that HB 1645 be taken up instanter.

The President stated that before the motion was considered, the question previously raised on the bill and amendment had to be answered, and that after studying the written statement from the Rules Chairman on the subject he would rule that HB 1645 was not available to be considered.

Senator Gordon moved that the rules be waived and HB 1645 be placed on the special order calendar and considered at 2:30 p.m. this day. The motion failed.

SB 1152—A bill to be entitled An act relating to complaints against law enforcement and correctional officers; amending s. 112.533, F.S.; authorizing such officers to review certain material immediately prior to the beginning of an investigative interview; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Weinstein and failed:

Amendment 1—On page 1, lines 25, 30 and 31, strike "*or otherwise recorded*" and insert: *or, if not available, otherwise recorded*

Senator Weinstein moved the following amendment:

Amendment 2—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (2) of section 112.533, Florida Statutes, is amended to read:

112.533 Receipt and processing of complaints.—

(2) Notwithstanding s. 119.14:

(a) A complaint filed against a law enforcement officer, including a deputy sheriff, or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of such complaint shall be confidential until the conclusion of the internal investigation or at such time that the investigation ceases to be active without a finding relating to probable cause; except that, *immediately prior to the beginning of the investigative interview of the officer,* the officer who is the subject of the complaint *or the subject of a complaint of misconduct alleged by any witness during the course of the investigation shall either be presented with a written complaint containing the name of the complainant, the date, time, and place of occurrence of the alleged misconduct, and the complainant's description of the actions that constitute the alleged misconduct or the officer shall be entitled to review any otherwise recorded complaint or interview containing the above described information, in the absence of such written complaint. An agency may provide the officer with other information relative to the investigation in accordance with the terms of a collective bargaining agreement. At least 72 hours prior to the conclusion of the investigation, the officer who is the subject of the complaint may review all written or otherwise recorded statements made by or on behalf of the complainant and witnesses. The officer may provide a written or oral response to the investigation within 72 hours, excluding Saturdays, Sundays, and legal holidays, after review of such materials and prior to the conclusion of the investigation* ~~may review the complaint and all written statements made by the complainant and witnesses immediately prior to the beginning of the investigative interview~~. If a witness to a complaint is incarcerated in a correctional facility and may be under the supervision of, or have contact with, the officer under investigation, only the names and written *, or if unavailable, otherwise recorded* statements of the complainant and nonincarcerated witnesses may be reviewed by the officer under *the above terms and conditions* ~~investiga-~~

~~tion immediately prior to the beginning of the investigative interview~~. If the internal investigation is concluded with the finding that there is no probable cause to proceed with disciplinary action or file charges against the officer, a statement to that effect signed by the agency head or his designee and the responsible investigating official shall be attached to the complaint; and the complaint and all such information shall be open thereafter to inspection pursuant to chapter 119. If the internal investigation is concluded with the finding that there is probable cause to proceed with disciplinary action or file charges, the complaint and all such information shall be open thereafter to inspection pursuant to chapter 119. If the investigation ceases to be active without a finding relating to probable cause, the complaint and all such information shall be open to inspection thereafter pursuant to chapter 119.

This subsection is subject to the provisions of the Open Government Sunset Review Act in accordance with s. 119.14.

Section 2. This act shall take effect upon becoming a law.

Further consideration of **SB 1152** with pending **Amendment 2** was deferred.

CS for SB 2670—A bill to be entitled An act relating to insurance; amending s. 624.315, F.S.; deleting certain annual report requirements; amending s. 624.418, F.S.; exempting certain insurers from a provision authorizing suspension or revocation of certificate of authority; amending s. 624.424, F.S.; providing authority for requiring audited financial statements based on statutory requirements; providing authority for commercial self-insurance funds to become domestic mutual insurers; amending s. 624.502, F.S.; increasing the service of process fee for service on certain insurers and other persons; amending s. 625.151, F.S.; modifying provision for valuation of certain securities; creating s. 625.181, F.S.; providing for the financial determination of assets received as capital or surplus contributions by insurers; amending s. 625.325, F.S.; revising limitations on investments in subsidiaries; amending ss. 625.50, 625.52, F.S.; providing for acceptance by the Department of Insurance of certain agent deposits; amending s. 627.4133, F.S.; exempting mortgage guaranty insurance from certain notice requirements; amending s. 627.476, F.S.; requiring life insurers to grant reduced paid-up nonforfeiture benefits in specified circumstances; amending s. 627.6785, F.S.; providing that credit life and credit disability policies must not make debtors or lessors under specified ages ineligible; providing minimum duration of coverage; amending s. 627.7288, F.S.; expanding applicability of the exclusion of motor vehicle windshields from deductibles; amending s. 627.782, F.S.; requiring promulgation of risk premiums, rather than risk premium rates, for title insurance; amending s. 627.803, F.S.; requiring variable or indeterminate value contracts to contain certain notice; amending s. 627.915, F.S.; deleting certain insurer experience reporting requirements; amending s. 634.312, F.S.; requiring home warranty policies to be delivered to the insured within a specified time; providing that the application is part of the contract; reenacting ss. 624.11(2), 624.316(1)(b), 629.518, 632.638(3), and 635.091, F.S., relating to risk retention groups, examinations, limited reciprocal insurers, fraternal benefit societies, and mortgage guaranty insurance, to incorporate the amendments to ss. 624.418 and 627.915, F.S., in references thereto; providing for review and repeal; amending s. 316.066, F.S.; providing penalties for failing to file accident reports; amending s. 316.614, F.S.; providing that the failure to use a safety belt may not be considered in mitigation of damages, but may be considered as evidence of comparative negligence; amending s. 319.30, F.S.; exempting certain vehicles from prohibitions on dismantling, destruction, or change of identity of motor vehicle or mobile home; amending s. 320.02, F.S.; requiring specific information on proof-of-purchase cards; creating s. 322.0261, F.S.; requiring driver improvement courses in certain cases; amending s. 324.051, F.S.; eliminating exemptions to suspension of driver's license; amending s. 324.121, F.S.; providing exemptions to license suspension; amending s. 624.155, F.S.; clarifying legislative intent with respect to the issues of preemption of other remedies and with respect to the issue of the definition of damages; correcting a cross-reference; providing legislative intent with respect to civil remedies; reenacting s. 624.488(1), F.S., relating to commercial self-insurance funds, to incorporate the amendment to s. 624.155, F.S., in a reference thereto; creating s. 624.3151, F.S.; requiring publication of insurer complaint ratios; amending s. 626.9541, F.S.; increasing the time period for surcharges; providing that it is not an unfair insurance trade practice to refuse to insure a person in certain circumstances; amending s. 627.0651, F.S.; revising provisions for making and use of rates for motor vehicle insurance; redesignating s. 627.331(4), F.S., as s. 627.0651(13), F.S.; providing for a pilot project treating all of a county meeting specified criteria as one rating territory; creating s. 627.0653, F.S.; requiring discounts for specified items; amending s. 627.7262, F.S.; revising provisions relating to joinder and nonjoinder of insurers; amending s. 627.727, F.S.; revising provision for rejection of uninsured motorist coverage; amending s. 627.736, F.S.; providing for binding arbitration in personal injury protection claims; amending s. 627.745, F.S.; providing for mediation of personal injury claims; amending s. 768.79, F.S.; providing certain procedures for offers of judgment; creating s. 817.236, F.S.; providing criminal penalties for submission of fraudulent motor vehicle insurance applications; requiring insurers to report the rate impact of the act to the Department of Insurance; providing for review and repeal; providing for a feasibility study on insurance coverage availability at tax collectors offices; providing an effective date.

—was read the second time by title.

Senator Langley moved the following amendment:

Amendment 1—On page 23, lines 29-31; pages 24-56; and on page 57, lines 1-26, strike all of said lines and insert:

Section 22. Subsection (6) is added to section 45.061, Florida Statutes, to read:

45.061 Offers of settlement.—

(6) This section does not apply to causes of action that accrue after the effective date of this act.

Section 23. Subsection (6) is added to section 316.066, Florida Statutes, to read:

316.066 Written reports of accidents.—

(6) Any driver failing to file the written report required under subsection (1) or a supplemental written report when required by the department under subsection (2) shall be subject to the penalty provided in s. 318.18(2).

Section 24. Subsection (10) of section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(10) A violation of the provisions of this section shall not constitute negligence per se, nor shall such violation be used as prima facie evidence of negligence *or be considered in mitigation of damages, but such violation may be considered as evidence of comparative negligence,* in any civil action.

Section 25. Paragraph (b) of subsection (2) of section 319.30, Florida Statutes, is amended to read:

319.30 Dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.—

(2)

(b) The owner of any motor vehicle or mobile home which is considered to be salvage shall, within 72 hours after the motor vehicle or mobile home becomes salvage, forward the title to the motor vehicle or mobile home to the department for processing. However, an insurance company which pays money as compensation for total loss of a motor vehicle or mobile home shall obtain the certificate of title for the motor vehicle or mobile home and, within 72 hours after receiving such certificate of title, shall forward such title to the department for processing. The owner or insurance company, as the case may be, may not dispose of a vehicle or mobile home that is a total loss before it has obtained a salvage certificate of title from the department. When applying for a salvage certificate of title, the owner or insurance company must provide the department with an estimate of the costs of repairing the physical and mechanical damage suffered by the vehicle for which a salvage certificate of title is sought. If the estimated costs of repairing the physical and mechanical damage to the vehicle is equal to 80 percent or more of the current retail cost of the vehicle, as established in the Official Used Car Guide of the National Automobile Dealers Association, the department shall declare the vehicle unrebuildable and print notice on the salvage certificate of title that the vehicle is unrebuildable; and, thereafter, the department shall refuse issuance of any certificate of title for that vehicle. Nothing in this subsection shall be applicable when *a vehicle is worth less than $1,500 retail in undamaged condition in the Official Used Car Guide of the National Automobile Dealers Association or when* a stolen motor vehicle or mobile

home is recovered in substantially intact condition and is readily resalable without extensive repairs to or replacement of the frame or engine.

Section 26. Paragraph (a) of subsection (5) of section 320.02, Florida Statutes, is 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 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 *and shall include the name of the insured's insurance company, the coverage identification number, the make, year, and vehicle identification number of the vehicle insured.* 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, 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, *and vehicle identification number* 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.

Section 27. Section 322.0261, Florida Statutes, is created to read:

322.0261 Mandatory driver improvement course; certain accidents.—

(1) The department shall screen accident reports received under s. 324.051 or s. 316.066 to identify accidents involving the following:

(a) An accident involving death or a bodily injury requiring transport to a medical facility; or

(b) A second accident by the same operator within the previous 2-year period involving property damage in an apparent amount of at least $500.

(2) With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to an accident identified pursuant to subsection (1), the department shall require that the operator, in addition to other applicable penalties, attend a departmentally approved driver improvement course in order to maintain driving privileges.

(3) In determining whether to approve a driver improvement course for the purposes of this section, the department shall consider course content designed to promote safety, driver awareness, accident avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.

Section 28. Subsection (2) of section 324.051, Florida Statutes, is amended to read:

324.051 Reports of accidents; suspensions of licenses and registrations.—

(2)(a) Thirty days after receipt of notice of any accident described in paragraph (1)(a) involving a motor vehicle within this state, the department shall suspend, after due notice and opportunity to be heard, the license of each operator and all registrations of the owner of the vehicles operated by such operator whether or not involved in such accident and, in the case of a nonresident owner or operator, shall suspend such nonresident's operating privilege in this state, unless such operator or owner shall, prior to the expiration of such 30 days, be found by the department to be exempt from the operation of this chapter, based upon evidence satisfactory to the department that:

~~1. No injury was caused to the person or property of anyone other than such operator or owner.~~

1.~~2.~~ The motor vehicle was legally parked at the time of such accident.

2.~~3.~~ The motor vehicle was owned by the United States Government, this state, or any political subdivision of this state or any municipality therein.

~~4. Such operator or owner has been finally adjudicated not to be liable for damages by a civil court of competent jurisdiction.~~

3.~~5.~~ Such operator or owner has secured a duly acknowledged written agreement providing for release from liability by all parties injured as the result of said accident and has complied with one of the provisions of s. 324.031.

4.~~6.~~ Such operator or owner has deposited with the department security to conform with s. 324.061 when applicable and has complied with one of the provisions of s. 324.031.

5.~~7.~~ One year has elapsed since such owner or operator was suspended pursuant to subsection (3), the owner or operator has complied with one of the provisions of s. 324.031, and no bill of complaint of which the department has notice has been filed in a court of competent jurisdiction.

(b) This subsection shall not apply:

1. To such operator or owner if such operator or owner had in effect at the time of such accident or traffic conviction an automobile liability policy with respect to all of the registered motor vehicles owned by such operator or owner.

2. To such operator, if not the owner of such motor vehicle, if there was in effect at the time of such accident or traffic conviction an automobile liability policy or bond with respect to his operation of motor vehicles not owned by him.

3. To such operator or owner if the liability of such operator or owner for damages resulting from such accident is, in the judgment of the department, covered by any other form of liability insurance or bond.

4. To any person who has obtained from the department a certificate of self-insurance, in accordance with s. 324.171, or to any person operating a motor vehicle for such self-insurer.

~~5. Such owner or operator was not charged with a moving traffic violation which caused or contributed to the cause of a motor vehicle accident, or such owner or operator was subsequently not found guilty of said moving traffic violation.~~

No such policy or bond shall be effective under this subsection unless it contains limits of not less than those specified in s. 324.021(7).

Section 29. Section 324.121, Florida Statutes, is amended to read:

324.121 Suspension of license and registration.—

(1) The department, upon the receipt of a certified copy of a judgment, as provided in s. 324.111, shall forthwith suspend the license and registration and any nonresident's operating privilege of any person against whom such judgment was rendered, except as hereinafter otherwise provided in this section, and in s. 324.141.

(2)*(a)* If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor be allowed

license and registration or nonresident's operating privilege, the same may be allowed by the department, in its discretion, for 6 months from the date of such consent and thereafter until such consent is revoked in writing notwithstanding default in the payment of such judgment, or any installments thereof prescribed in s. 324.141, provided the judgment debtor furnished proof of financial responsibility as provided in s. 324.031, such proof to be maintained for 3 years.

(b) If the department determines that an insurer was obligated to pay the judgment but failed to do so through no fault of the judgment debtor, the judgment debtor's license and registration and any nonresident's operating privilege shall not be suspended.

Section 30. Section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

(1) Any person may bring a civil action against an insurer when such person is damaged:

(a) By a violation of any of the following provisions by the insurer:

1. Section 626.9541(1)(i), (o), or (x);

2. Section 626.9551;

3. Section 626.9705;

4. Section 626.9706;

5. Section 626.9707; or

6. Section *627.7283* ~~627.7282~~.

(b) By the commission of any of the following acts by the insurer:

1. Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for his interests;

2. Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or

3. Except as to liability coverages, failing to promptly settle claims, when the obligation to settle a claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

Notwithstanding the provisions of the above to the contrary, a person pursuing a remedy under this section need not prove that such act was committed or performed with such frequency as to indicate a general business practice.

(2)(a) As a condition precedent to bringing an action under this section, the department and the insurer must have been given 60 days' written notice of the violation. If the department returns a notice for lack of specificity, the 60-day time period shall not begin until a proper notice is filed.

(b) The notice shall be on a form provided by the department and shall state with specificity the following information, and such other information as the department may require:

1. The statutory provision, including the specific language of the statute, which the insurer allegedly violated.

2. The facts and circumstances giving rise to the violation.

3. The name of any individual involved in the violation.

4. Reference to specific policy language that is relevant to the violation, if any. If the person bringing the civil action is a third party claimant, he shall not be required to reference the specific policy language if the insurer has not provided a copy of the policy to the third party claimant pursuant to written request.

5. A statement that the notice is given in order to perfect the right to pursue the civil remedy authorized by this section.

(c) Within 20 days of receipt of the notice, the department may return any notice that does not provide the specific information required by this section, and the department shall indicate the specific deficiencies contained in the notice. A determination by the department to return a notice for lack of specificity shall be exempt from the requirements of chapter 120.

(d) No action shall lie if, within 60 days after filing notice, the damages are paid or the circumstances giving rise to the violation are corrected.

(e) The insurer that is the recipient of a notice filed pursuant to this section shall report to the department on the disposition of the alleged violation.

(f) The applicable statute of limitations for an action under this section shall be tolled for a period of 65 days by the mailing of the notice required by this subsection or the mailing of a subsequent notice required by this subsection.

(3) Upon adverse adjudication at trial or upon appeal, the insurer shall be liable for damages, together with court costs and reasonable attorney's fees incurred by the plaintiff.

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

(a) Willful, wanton, and malicious;

(b) In reckless disregard for the rights of any insured; or

(c) In reckless disregard for the rights of a beneficiary under a life insurance contract.

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

(5) This section shall not be construed to authorize a class action suit against an insurer or a civil action against the department, its employees, or the Insurance Commissioner, or to create a cause of action when a health insurer refuses to pay a claim for reimbursement on the ground that the charge for a service was unreasonably high or that the service provided was not medically necessary.

(6) In the absence of expressed language to the contrary, this section shall not be construed to authorize a civil action or create a cause of action against an insurer or its employees who, in good faith, release information about an insured or an insurance policy to a law enforcement agency in furtherance of an investigation of a criminal or fraudulent act relating to a motor vehicle theft or a motor vehicle insurance claim.

(7) The civil remedy specified in this section does not preempt any other remedy or cause of action provided for pursuant to any other statute or pursuant to the common law of this state. Any person may obtain a judgment under either the common law remedy of bad faith or this statutory remedy but shall not be entitled to a judgment under both remedies. This section shall not be construed to create a common law cause of action. The damages recoverable pursuant to this section shall include those damages which are a reasonably foreseeable result of a specified violation of this section by the insurer and may include an award or judgment in an amount that exceeds the policy limits.

Section 31. Subsection (1) of section 624.488, Florida Statutes, is reenacted to read:

624.488 Applicability of related laws.—In addition to other provisions of the code cited in ss. 624.460-624.488:

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

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

Section 32. Section 624.3151, Florida Statutes, is created to read:

624.3151 Insurer complaint ratios.—With respect to each authorized insurer, the department shall publish in its annual report the ratio of written complaints involving an insurer to the total number of motor vehicles insured in this state, which complaints involve violations specified in s. 626.9541, received from Florida motor vehicle insurance policyholders which were found by the department to be valid. The department shall adopt rules to determine the validity of complaints. The department shall publish these complaint ratios beginning with its 1991 annual report.

Section 33. Paragraphs (o) and (x) of subsection (1) of section 626.9541, Florida Statutes, are 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 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 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 the insurer's file contains information from which the insurer in good faith determines that the insured was substantially at fault in the accident, 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) Lawfully parked;

(II) Reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;

(III) 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) Hit by a "hit-and-run" driver, if the accident was reported to the proper authorities within 24 hours after discovering the accident;

(V) 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) Finally adjudicated not to be liable by a court of competent jurisdiction;

(VII) 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 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, *or a third or subsequent infraction committed within a 36-month period.*

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

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

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

7. No insurer may cancel or otherwise terminate any insurance contract or coverage, or require execution of a consent to rate endorsement, during the stated policy term for the purpose of offering to issue, or issuing, a similar or identical contract or coverage to the same insured *with the same exposure* at a higher premium rate or continuing an existing contract or coverage *with the same exposure* 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 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 comprehensive or uninsured motorist coverage solely because the insured was involved in a motor vehicle 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.

(x) Refusal to insure.—In addition to other provisions of this code, the refusal to insure, or continue to insure, any individual or risk solely because of:

1. Race, color, creed, marital status, sex, or national origin;

2. The residence, age, or lawful occupation of the individual or the location of the risk, unless there is a reasonable relationship between the residence, age, or lawful occupation of the individual or the location of the risk and the coverage issued or to be issued;

3. The insured's or applicant's failure to agree to place collateral business with any insurer, *unless the coverage applied for would provide liability coverage which is excess over that provided in policies maintained on property or motor vehicles*;

4. The insured's or applicant's failure to purchase noninsurance services or commodities, including automobile services as defined in s. 624.124; or

5. The fact that the insured or applicant had been previously refused

insurance coverage by any insurer, when such refusal to insure or continue to insure for this reason occurs with such frequency as to indicate a general business practice.

Section 34. Subsections (1), (8), (10), and (11) of section 627.0651, Florida Statutes, are amended and subsections (12) and (13) are added to said section to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(1) Insurers shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on motor vehicle insurance written in this state. A copy of rates, rating schedules, and rating manuals, and changes therein, shall be filed with the department *under one of the following procedures:*

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

(b) If the filing is not made in accordance with the provisions of paragraph (a), such filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the department to return to policyholders portions of rates found to be excessive, as provided in subsection (11). ~~as soon as practicable following their effective date, but no later than 30 days after that date.~~

(8) Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against. *Use of a single United States Postal Service zip code as a rating territory shall be deemed unfairly discriminatory.*

(10) The department may, at any time, review a rate or rate change, the pertinent records of the insurer, and market conditions; and, if the department finds on a preliminary basis that the rate or rate change may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. *However, the department may not disapprove as excessive any rate for which it has given final approval or which has been deemed approved for a period of 1 year after the effective date of the filing unless the department finds that a material misrepresentation or material error was made by the insurer or was contained in the filing.* Upon being so notified, the insurer or rating organization shall, within 60 days, file with the department all information which, in the belief of the insurer or organization, proves the reasonableness, adequacy, and fairness of the rate or rate change. In such instances and in any administrative proceeding relating to the legality of the rate, the insurer or rating organization shall carry the burden of proof by a preponderance of the evidence to show that the rate is not excessive, inadequate, or unfairly discriminatory. After the department notifies an insurer that a rate may be excessive, inadequate, or unfairly discriminatory, unless the department withdraws the notification, the insurer shall not increase the rate until the earlier of 120 days after the date the notification was provided or 180 days after the date of the implementation of the rate. The department may, subject to chapter 120, disapprove without the 60-day notification any rate increase filed by an insurer within the prohibited time period or during the time that the legality of the increased rate is being contested.

(11) In the event the department finds that a rate or rate change is excessive, inadequate, or unfairly discriminatory, the department shall *issue an order of disapproval specifying that a new rate or rate schedule which responds to the findings of the department be filed by the insurer. The department shall further order for any "use and file" filing made in accordance with paragraph (1)(b), that premiums charged each policyholder constituting the portion of the rate above that which was actuarially justified be returned to such policyholder in the form of a credit or refund. If the department finds that an insurer's rate or rate change is inadequate, the new rate or rate schedule filed with the department in response to such a finding shall be applicable only to new or renewal business of the insurer written on or after the effective date of the responsive filing.* ~~order that a new rate or rate schedule be thereafter filed by the insurer and shall further provide information as to the manner in which noncompliance may be corrected. Supporting information responsive to the findings of the department shall be submitted with the filing.~~

(12) Any portion of a judgment entered as a result of a statutory or common law bad faith action and any portion of a judgment entered which awards punitive damages against an insurer shall not be included in the insurer's rate base, and shall not be used to justify a rate or rate change. Any portion of a settlement entered as a result of a statutory or common law bad faith action identified as such and any portion of a settlement wherein an insurer agrees to pay specific punitive damages shall not be used to justify a rate or rate change. The portion of the taxable costs and attorney's fees which is identified as being related to the bad faith and punitive damages in these judgments and settlements shall not be included in the insurer's rate base and shall not be utilized to justify a rate or rate change.

(13)(a) Underwriting rules not contained in rating manuals shall be filed for private passenger automobile insurance and homeowners' insurance.

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

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

Section 35. Subsection (4) of section 627.331, Florida Statutes (1987), as amended by section 22 of chapters 89-360, Laws of Florida, and section 1 of chapter 89-528, Laws of Florida, is hereby repealed.

Section 36. The Department of Insurance is authorized to develop a pilot program for a south Florida county with a 1988 estimated population between 1 million and 1.5 million to require all insurers to designate that county as a single rating territory for personal injury protection benefits for all policies issued on or after October 1, 1990. The department shall determine the effect that the program has on that county's insurance rates, and shall make a recommendation to the Legislature by January 31, 1992, regarding the potential effect of the implementation of the program on a statewide basis. If the Legislature does not implement the program on a statewide basis, insurers may, for all policies issued on or after October 1, 1992, divide that county into multiple rating territories.

Section 37. Section 627.0653, Florida Statutes, is created to read:

627.0653 Insurance discounts for specified motor vehicle equipment.—

(1) Any rates, rating schedules, or rating manuals for the liability, personal injury protection, and collision coverages of a motor vehicle insurance policy filed with the department shall provide a premium discount if the insured vehicle is equipped with antilock brakes.

(2) Each insurer writing motor vehicle comprehensive coverage in this state shall include in its rating manual discount provisions for comprehensive coverage which specifically relate to an antitheft device or vehicle recovery system utilized in the insured vehicle which are factory installed or approved by the department.

(3) Any rates, rating schedules, or rating manuals for personal injury protection coverage and medical payments coverage, if offered, of a motor vehicle insurance policy filed with the department shall provide a premium discount if the insured vehicle is equipped with one or more air bags.

(4) The removal of a discount or credit does not constitute the imposition of, or request for, additional premium or a surcharge if the basis for the discount or credit no longer exists or is substantially eliminated.

Section 38. Section 627.7262, Florida Statutes, is amended to read:

627.7262 Nonjoinder of insurers.—

(1) It shall be a condition precedent to the accrual or maintenance of a cause of action against a liability insurer by a person not an insured under the terms of the liability insurance contract that such person shall first obtain a *settlement or verdict* ~~judgment~~ against a person who is an insured under the terms of such policy for a cause of action which is covered by such policy.

(2) *Notwithstanding subsection (1), any insurer who pays any taxable costs or attorney's fees which would be recoverable by the insured but for the fact that such costs or fees were paid by the insurer shall be considered a party for the purpose of recovering such fees or costs.* No person who is not an insured under the terms of a liability insurance policy shall have any interest in such policy, either as a third-party beneficiary or otherwise, prior to first obtaining a *settlement or verdict* ~~judgment~~ against a person who is an insured under the terms of such policy for a cause of action which is covered by such policy.

(3) Insurers are affirmatively granted the substantive right to insert in liability insurance policies contractual provisions that preclude persons who are not designated as insureds in such policies from *joining a liability insurer as a party defendant with its insured prior to the rendition of a verdict* ~~bringing suit against such insurers prior to first obtaining a judgment against one who is an insured under such policy for a cause of action which is covered by such policy~~. The contractual provisions authorized in this subsection shall be fully enforceable.

(4) At the time a judgment is entered or a settlement is reached during the pendency of litigation, a liability insurer may be joined as a party defendant for the purposes of entering final judgment or enforcing the settlement by the motion of any party, unless the insurer denied coverage under the provisions of s. 627.426(2) or defended under a reservation of rights pursuant to s. 627.426(2). A copy of the motion to join the insurer shall be served on the insurer by certified mail. If a judgment is reversed or remanded on appeal, the insurer's presence shall not be disclosed to the jury in a subsequent trial.

Section 39. Subsection (1) of 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 which provides bodily injury liability coverage 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 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, *an* ~~any~~ insured named in the policy *makes a written rejection of* ~~rejects~~ the coverage *on behalf of all insureds under the policy* ~~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 *an* ~~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 *an* ~~the named~~ insured or lessee had rejected the coverage. When *an* ~~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 *an* ~~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 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 *on behalf of all insureds*. 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.

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.

Section 40. Subsection (5) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(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, 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, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13. *Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits, except for those medical services or supplies provided by facilities licensed under chapter 395, arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs.*

Section 41. Section 627.744, Florida Statutes, is created to read:

627.744 Required preinsurance inspection of private passenger motor vehicles.—

(1) No private passenger motor vehicle insurance policy providing physical damage coverage, including collision or comprehensive coverage, may be issued in this state unless the insurer has inspected the motor vehicle in accordance with this section.

(2) This section does not apply to the following:

(a) A new policy for a policyholder who has been insured for 3 years or longer, without interruption, under a private passenger motor vehicle policy which provides physical damage coverage, issued by the same insurer.

(b) A motor vehicle purchased from a licensed automobile dealership, if the insurer is provided with:

1. A bill of sale or buyer's order which contains a full description of the motor vehicle, including all options and accessories; or

2. A copy of the title which establishes transfer of ownership from the dealer to the customer and a copy of the window sticker or the dealer invoice showing the itemized options and equipment and the total retail price of the vehicle.

For the purposes of this paragraph, the physical damage coverage on such motor vehicle shall not be suspended during the term of the policy due to the applicant's failure to provide the required documents. However, payment of a claim shall be conditioned upon the receipt by the insurer of such documents, and no physical damage loss occurring after the effective date of the coverage shall be payable until the documents are provided to the insurer.

(c) A temporary substitute motor vehicle.

(d) A motor vehicle which is leased for less than 6 months, if the insurer receives the lease or rental agreement containing a description of the leased motor vehicle, including its condition. Payment of a physical damage claim shall be conditioned upon receipt of the lease or rental agreement.

(e) Vehicles 10 years old or older, as determined by reference to the model year.

(f) Any renewal policy.

(g) A motor vehicle policy issued in a county with a 1988 estimated population of less than 500,000.

(h) Such other exemptions as the department may, by rule, allow, based upon a determination that the likelihood of a fraudulent physical damage claim is remote or that the inspection would cause a serious hardship to the insurer or the applicant.

Nothing in this subsection shall be deemed to prohibit an insurer from requiring a preinsurance inspection of any motor vehicle as a condition of issuance of physical damage coverage.

(3) The inspection required by this section shall be provided by the insurer or by a person or organization authorized by the insurer at no cost to the applicant. The inspection shall be recorded on a form prescribed by the department, and the form or a copy shall be retained by the insurer with its policy records for the insured; and a copy of such form shall be made available to the insured upon request. The inspection shall include at least the following:

(a) Taking a physical imprint of the vehicle identification number of the vehicle or otherwise recording the vehicle identification number in a manner prescribed by the department.

(b) Recording the presence of such accessories as are required by the department to be recorded.

(c) Recording the locations of and a description of existing damage to the vehicle.

(4) An insurer may defer an inspection for 7 calendar days following the effective date of coverage for a new policy, but not for a renewal policy, and for additional or replacement vehicles to an existing policy, if an inspection at the time of the request for coverage would create a serious inconvenience for the applicant. Failure to obtain the inspection within such time period shall result in suspension of the insurance coverage immediately following the time period, which consequences shall be disclosed to the applicant on a form prescribed by the department. Such suspension shall continue until the inspection is effected.

(5) The department may, by rule, establish such procedures and notice requirements as may be necessary to implement this section.

Section 42. Section 627.745, Florida Statutes, is created to read:

627.745 Mediation of claims.—

(1)(a) In any claim filed with an insurer for personal injury in an amount of $10,000 or less or a claim for property damage in any amount arising out of the ownership, operation, use, or maintenance of a motor vehicle, either party may demand mediation of the claim prior to the institution of litigation.

(b) A request for mediation shall be filed with the Department of Insurance on a form approved by the department. The request for mediation shall state the reason for the request for mediation and the issues in dispute which are to be mediated. The filing of a request for mediation shall toll the applicable time requirements for filing suit for a period of sixty days following the conclusion of the mediation process or the time prescribed in s. 95.11, whichever is later.

(c) With regard to first party claims, the terms and conditions for mediation of a claim shall be specified in detail in the policy contract.

(d) The mediation shall be conducted as an informal process and formal rules of evidence and procedure need not be observed. Any party participating in a mediation must have the authority to make a binding decision. All parties must mediate in good faith. The department shall randomly select mediators. Each party shall be permitted to once reject the mediator selected, either originally or after the opposing side has exercised its option to reject a mediator. Costs of mediation shall be borne equally by both parties unless the mediator determines that one party has not mediated in good faith.

(e) Only one mediation may be requested for each claim, unless all parties agree to further mediation.

(2) Upon receipt of a request for mediation, the department shall refer to a mediator, the mediator shall notify the applicant and all interested parties, as identified by the applicant, and any other parties the mediator believes may have an interest in the mediation, of the date, time and place of the mediation conference. The conference may be held by telephone, if feasible. The mediation conference shall be held within 45 days of the request for mediation.

(3)(a) The Department of Insurance shall appoint mediators to conduct mediations pursuant to this section.

(b) To qualify for appointment as a mediator, a person shall meet the following qualifications:

1. Possess a masters or doctorate degree in psychology, counseling, business, or economics, or be a member of the Florida Bar or demonstrate that the applicant for appointment has been actively engaged as a qualified mediator for at least four years prior to July 1, 1990.

2. Have completed a minimum of a 40 hour training program approved by the department. The training program shall include and address:

a. Mediation theory;

b. Mediation process and techniques;

c. Standards of conduct for mediators;

d. Conflict management and intervention skills;

e. Insurance nomenclature; and

f. Successful completion of an examination.

The requirement of successful completion of a training program shall not take effect until 180 days after the effective date of this act.

(4) The Department of Insurance shall promulgate rules of procedure for claims mediation taking into consideration a system which:

(a) Is fair;

(b) Promotes settlement;

(c) Avoids delay;

(d) Is nonadversarial;

(e) Utilizes a framework for modern mediating technique; and

(f) Controls costs and expenses of mediation.

(5) Disclosures and information divulged in the mediation process shall not be admissible in any subsequent action or proceeding relating to the claim or cause of active giving rise thereto. A person demanding mediation under this section shall not be entitled to demand or request mediation after a suit is filed relating to the same facts already mediated.

Section 43. Section 768.79, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 768.79, F.S., for present text.)

768.79 Offer of judgment and demand for judgment.—

(1) In any civil action for damages filed in the courts of this state, if a defendant files an offer of judgment which is not accepted by the plaintiff within 30 days, the defendant shall be entitled to recover reasonable costs and attorney's fees incurred by him or on his behalf pursuant to a policy of liability insurance or other contract from the date of filing of the offer if the judgment is one of no liability or the judgment obtained by the plaintiff is at least 25 percent less than such offer, and the court shall set off such costs and attorney's fees against the award. Where such costs and attorney's fees total more than the judgment, the court shall enter judgment for the defendant against the plaintiff for the amount of the costs and fees, less the amount of the plaintiff's award. If a plaintiff files a demand for judgment which is not accepted by the defendant within 30 days and the plaintiff recovers a judgment in an amount at least 25 percent greater than the offer, he shall be entitled to recover reasonable costs and attorney's fees incurred from the date of the filing of the demand. If rejected, neither an offer nor demand is admissible in subsequent litigation, except for pursuing the penalties of this section.

(2) The making of an offer of settlement which is not accepted does not preclude the making of a subsequent offer. An offer must:

(a) Be in writing and state that it is being made pursuant to this section.

(b) Name the party making it and the party to whom it is being made.

(c) State with particularity the amount offered to settle a claim for punitive damages, if any.

(d) State its total amount.

The offer shall be construed as including all damages which may be awarded in a final judgment.

(3) The offer shall be served upon the party to whom it is made, but it shall not be filed unless it is accepted or unless filing is necessary to enforce the provisions of this section.

(4) An offer shall be accepted by filing a written acceptance with the court within 30 days after service. Upon filing of both the offer and acceptance, the court has full jurisdiction to enforce the settlement agreement.

(5) An offer may be withdrawn in writing which is served before the date a written acceptance is filed. Once withdrawn, an offer is void.

(6) Upon motion made by the offeror within 30 days after the entry of judgment or after voluntary or involuntary dismissal, the court shall determine the following:

(a) If a defendant serves an offer which is not accepted by the plaintiff, and if the judgment obtained by the plaintiff is at least 25 percent less than the amount of the offer, the defendant shall be awarded reasonable costs, including investigative expenses, and attorney's fees, calculated in accordance with the guidelines promulgated by the Supreme Court, incurred from the date the offer was served, and the court shall set off such costs in attorney's fees against the award. When such costs and attorney's fees total more than the amount of the judgment, the court shall enter judgment for the defendant against the plaintiff for the amount of the costs and fees, less the amount of the award to the plaintiff.

(b) If a plaintiff serves an offer which is not accepted by the defendant, and if the judgment obtained by the plaintiff is at least 25 percent more than the amount of the offer, the plaintiff shall be awarded reasonable costs, including investigative expenses, and attorney's fees, calculated in accordance with the guidelines promulgated by the Supreme Court, incurred from the date the offer was served.

For purposes of the determination required by paragraph (a) , the term "judgment obtained" means the amount of the net judgment entered, plus any post-offer collateral source payments received or due as of the date of the judgment, plus any post-offer settlement amounts by which the verdict was reduced. For purposes of the determination required by paragraph (b), the term "judgment obtained" means the amount of the net judgment entered, plus any post-offer settlement amounts by which the verdict was reduced.

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

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

1. The then apparent merit or lack of merit in the claim.

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

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

4. Whether the person making the offer had unreasonably refused to furnish information necessary to evaluate the reasonableness of such offer.

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

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

(8) Evidence of an offer is admissible only in proceedings to enforce an accepted offer or to determine the imposition of sanctions under this section.

Section 44. Section 817.236, Florida Statutes, is created to read:

817.236 False and fraudulent motor vehicle insurance application.—Any person who, with intent to injure, defraud, or deceive any motor vehicle insurer, including any statutorily created underwriting association or pool of motor vehicle insurers, presents or causes to be presented any written application, or written statement in support thereof, for motor vehicle insurance knowing that the application or statement contains any false, incomplete, or misleading information concerning any fact or matter material to the application commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 45. On October 1, 1992, each insurer writing motor vehicle insurance in this state shall, in addition to submissions required under section 627.0651(2), Florida Statutes, report the rate impact of this act to the extent ascertainable to the Department of Insurance.

(Renumber subsequent sections.)

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

Amendment 1A—On page 35, line 1, insert:

Section 43. Subsections (18) and (19) are added to Section 634.041, Florida Statutes, to read:

634.401 Definitions.—As used in this part, the term:

(18) "Manufacturer" means any entity or affiliate thereof which:

(a) Derives a majority of its revenues from products manufactured, built, assembled, constructed, or produced under a product name wholly controlled by the applicant or an affiliate thereof;

(b) Issues service warranties only for consumer products manufactured, built, assembled, constructed, or produced under a product name wholly controlled by the applicant or an affiliate thereof;

(c) Is listed and traded on a recognized stock exchange, is listed in NASDAQ (National Association of Security Dealers Automated Quotation system) and publicly traded in the over-the-counter securities markets, is required to file either of Forms 10K, 10Q, or 20G with the United States Securities and Exchange Commission, or whose American Depository Receipts are listed on a recognized stock exchange and publicly traded;

(d) Maintains outstanding debt obligations, if any, rated in the top four rating categories by a recognized rating service;

(e) Has and maintains at all times, a minimum net worth of not less than $10,000,000 as evidenced by certified financial statements prepared by an independent certified public accountant in accordance with generally accepted accounting principles; and

(f) Is authorized to do business in this state.

(19) "Affiliate" means any entity which controls, is controlled by, or is under common control with, the manufacturer directly or indirectly through majority ownership of voting securities.

Section 44. Subsection (6) is added to Section 634.404, Florida Statutes, to read:

634.404 Qualifications for license.—The department may not issue or renew a license to any service warranty association unless the association:

(6) In lieu of the provisions of subsections (1) through (5) of this section and s. 634.407, a manufacturer or affiliate as defined in this part is eligible for licensure as a service warranty association under the provisions of this part and shall complete an application evidencing its qualifications as set forth in this section. The application for license as a service warranty association from a manufacturer or affiliate shall be made to, and filed with, the department on printed forms as promulgated by the department to be specifically and exclusively applicable to qualifying manufacturers.

(a) The department may require that the applicant show:

1. The state of the applicant's incorporation;

2. The location of the applicant's home office; and

3. The names and business addresses of the applicant's board of directors and managing executive officer.

(b) The department shall require that the application, when filed, be accompanied by;

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

2. Evidence that the applicant has complied with all applicable statutory requirements regarding registering to do business in this state; and

3. A license fee in the amount of $500.

(c) Upon submission of the application for license, the department shall examine the application to determine its compliance with applicable sections of this part. Applicants shall be advised of any inadequate responses or missing information.

(d) Information as required in this section shall be updated as to changes thereto no less than two times annually, once at the time of the submission of the service warranty association's submission of its annual report, and the second time, no later than September 30 of each year.

Section 45. Section 634.4085, Florida Statutes, is amended to read:

634.4085 Acquisition.—*Except for manufacturers as defined in this part,* every service warranty association shall be subject to the provisions of s. 628.4615.

Section 46. Subsection (4) of Section 634.415, Florida Statutes, is amended to read:

634.415 Tax on premiums; annual statement; reports; quarterly statements.—

(4) In addition to an annual statement, the department may require of licensees, under oath and in the form prescribed by it, quarterly statements or special reports which it deems necessary to the proper supervision of licensees under this part. *For manufacturers as defined in s. 634.401, the department shall require only the annual audited financial statements of the warranty operations and corporate reports as filed by the manufacturer with the Securities and Exchange Commission, provided that the Department may require additional reporting by manufacturers upon a showing by the Department that annual reporting is insufficient to protect the interest of purchasers of service warranty agreements in this state or fails to provide sufficient proof of the financial status required by this part.*

Section 47. Section 634.430, Florida Statutes, is amended to read:

634.430 Dissolution or liquidation.—*(1) Except as provided in subsection (2), the* dissolution or liquidation of an association subject to the provisions of this part shall be under the supervision of the department, which shall have all powers with respect thereto granted to it under the laws of the state with respect to the dissolution and liquidation of property and casualty companies pursuant to chapter 631. *An involuntary dissolution or liquidation of a manufacturer licensed under this part shall subject the warranty operations of the manufacturer in this state to the provisions of chapter 631.*

(2) The department shall be notified of the commencement of voluntary dissolution proceedings of a manufacturer licensed under this part. As to the warranty operations of a manufacturer in this state, the department shall supervise the voluntary dissolution and shall require protection of the interests of the department and consumers who have been issued service warranties by the manufacturer by the continuation of deposits or bonds as required by this part until that time as all warranties issued by the manufacturer are no longer in effect or all outstanding warranties have been assigned to another association approved by the department. The notification as provided herein shall be made by the manufacturer within 30 days of the commencement of any legal action for dissolution.

(Renumber subsequent sections.)

Senator Stuart moved the following amendment to Amendment 1 which failed:

Amendment 1B—On page 2, line 26, strike "80" and insert: *90* ~~80~~

Amendment 1 as amended was adopted.

Senator Langley moved the following amendment:

Amendment 2—In title, on page 2, lines 24-31; on page 3, lines 1-31; and on page 4, lines 1-15, strike all of said lines and insert: repeal; amending s. 45.061, F.S.; providing that said section does not apply to causes of action that accrue after a specified date; amending s. 316.066, F.S.; providing penalties for failing to file accident reports; amending s. 316.614, F.S.; providing that the failure to use a safety belt may not be considered in mitigation of damages, but may be considered as evidence of comparative negligence; amending s. 319.30, F.S.; exempting certain vehicles from prohibitions on dismantling, destruction, or change of identity of motor vehicle or mobile home; amending s. 320.02, F.S.; requiring specific information on proof-of-purchase cards; creating s. 322.0261, F.S.; requiring driver improvement courses in certain cases; amending s. 324.051, F.S.; eliminating exemptions to suspension of driver's license; amending s. 324.121, F.S.; providing exemptions to license suspension; amending s. 624.155, F.S.; clarifying legislative intent with respect to the issues of preemption of other remedies and with respect to the issue of the definition of damages; correcting a cross-reference; providing legislative intent with respect to civil remedies; reenacting s. 624.488(1), F.S., relating to commercial self-insurance funds, to incorporate the amendment to s. 624.155, F.S., in a reference thereto; creating s. 624.3151, F.S.; requiring publication of insurer complaint ratios; amending s. 626.9541, F.S.; increasing the time period for surcharges; providing that it is not an unfair insurance trade practice to refuse to insure a person in certain circumstances; amending s. 627.0651, F.S.; revising provisions for making and use of rates for motor vehicle insurance; providing for rating information; repealing s. 627.331(4), F.S., relating to rating information; providing for a pilot project treating all of a county meeting specified criteria as one rating territory; creating s. 627.0653, F.S.; requiring discounts for specified items; amending s. 627.7262, F.S.; revising provisions relating to joinder and nonjoinder of insurers; amending s. 627.727, F.S.; revising provision for rejection of uninsured motorist coverage; amending s. 627.736, F.S.; providing for binding arbitration in personal injury protection claims; creating s. 627.744, F.S.; prohibiting private passenger motor vehicle insurance policies providing physical damage coverage from being issued or renewed unless the insurer has inspected the vehicle; providing exceptions; specifying requirements for such inspections; providing for suspension of coverage in the event that an inspection is not effected timely; providing the Department of Insurance with rulemaking authority; creating s. 627.745, F.S.; providing for mediation of personal injury claims; amending s. 768.79, F.S.; providing certain procedures for offers of judgment; creating s. 817.236, F.S.; providing criminal penalties for submission of fraudulent motor vehicle insurance applications; requiring insurers to

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

Amendment 2A—In title, on page 3, line 11, after the semicolon (;)

insert: amending s. 634.401, F.S., providing definitions applicable to service warranty associations; amending s. 634.404, F.S., providing alternative service warranty application requirements for certain manufacturers; amending s. 634.4085, F.S., exempting certain manufacturer's from the allied lines insurer acquisition statute; amending s. 634.415, F.S., providing alternative statement or report requirements for certain service warranty association manufacturers; amending s. 634.430, F.S., providing for dissolution of certain service warranty association manufacturers;

Amendment 2 as amended was adopted.

On motion by Senator Langley, by two-thirds vote CS for SB 2670 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Deratany	Kiser	Souto
Bankhead	Diaz-Balart	Langley	Stuart
Beard	Dudley	Malchon	Thomas
Brown	Forman	Margolis	Thurman
Bruner	Girardeau	McPherson	Walker
Casas	Gordon	Meek	Weinstein
Childers, D.	Grant	Myers	Weinstock
Childers, W. D.	Grizzle	Peterson	Woodson-Howard
Crenshaw	Johnson	Plummer	
Davis	Kirkpatrick	Scott	

Nays—None

Motion

On motion by Senator Scott, the rules were waived and time of recess was extended until 12:30 p.m.

The Senate resumed consideration of—

SB 1730—A bill to be entitled An act relating to filing fees; amending s. 28.241, F.S.; increasing surcharges for deposit into the Court Education Trust Fund; providing an effective date.

—which was considered May 30. Pending **Amendment 3** was withdrawn.

On motion by Senator Weinstein, the Senate reconsidered the vote by which **Amendments 1** and **2** as amended were adopted. **Amendments 1** and **2** were withdrawn.

Senator Weinstein moved the following amendments which were adopted:

Amendment 4—On page 1, line 22, strike "$6" and insert: *$8* ~~$6~~

Amendment 5—On page 1, line 23, strike "$5" and insert: *$7* ~~$5~~

Amendment 6—On page 2, between lines 14 and 15, insert:

Section 2. Subsection (5) of section 34.041, Florida Statutes, is amended to read:

34.041 Service charges and costs.—

(5) In addition to the filing fees provided in subsection (1), in all civil cases, the sum of *$7.00* ~~$5.00~~ per case shall be paid by the plaintiff when filing his action for the purpose of funding the court costs. Such funds shall be remitted to the general revenue fund.

(Renumber subsequent sections.)

Amendment 7—On page 2, between lines 14 and 15, insert:

Section 2. Funds are appropriated in the amount of $498,602 to establish the salary rate for justices and judges as follows: the salary rate for Supreme Court Justices shall be set at $100,443, Judges of the District Courts of Appeal at $95,421, Judges of the Circuit Courts, $90,399, and County Court Judges, $80,354, effective January 1, 1991. Additionally, $614,634 is appropriated to implement the State Courts System Pay Plan issues, effective January 1, 1991.

(Renumber subsequent sections.)

Amendment 8—In title, on page 1, strike line 3 and insert: 28.241, F.S.; increasing certain surcharges for deposit into the General Revenue Fund; increasing surcharges for deposit into the Court Education Trust Fund; amending s. 34.041, F.S.; increasing surcharges to fund county court costs; appropriating funds to increase the salary rate of justices and judges and to implement the State Courts System Pay Plan; providing effective dates.

On motion by Senator Davis, by two-thirds vote SB 1730 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33

Mr. President	Dudley	Langley	Thomas
Beard	Forman	Malchon	Thurman
Brown	Girardeau	Margolis	Walker
Bruner	Gordon	McPherson	Weinstein
Casas	Grant	Meek	Weinstock
Childers, D.	Grizzle	Myers	Woodson-Howard
Crenshaw	Johnson	Peterson	
Davis	Kirkpatrick	Souto	
Diaz-Balart	Kiser	Stuart	

Nays—None

Vote after roll call:

Yea—Deratany

Motion to Reconsider

Senator Gordon moved that the Senate reconsider the vote by which **CS for SB 2670** as amended passed this day.

The motion was placed on the calendar.

On motion by Senator Margolis, by unanimous consent—

CS for SB 2764—A bill to be entitled An act relating to insurers; amending s. 624.316, F.S.; providing for submission of requests for reduction in costs of examination; amending s. 625.172, F.S.; providing for replacement of assets; providing for suspension of a certificate of authority; amending s. 628.461, F.S.; providing exemptions from filing requirements; amending s. 628.4615, F.S.; narrowing applicability of provisions relating to acquisition of controlling stock in allied lines insurers; repealing s. 628.291(3), F.S., relating to notice of reciprocity; amending s. 631.251, F.S.; specifying conditions for offsets for reinsurance agreements in insurer liquidation proceeding; amending s. 631.281, F.S.; fixing a date for certain offsets in insurer liquidation proceedings; creating s. 624.4075, F.S.; specifying surplus as to policyholders requirements for certain applications to convert a license of a captive insurer to a certificate of authority of a domestic insurer to transact property and casualty insurance; amending s. 641.2017, F.S.; authorizing health maintenance organizations to enter into specified contracts; reenacting ss. 48.151(3), 624.11(2), 631.051(7), 634.252, 634.3073, 634.4085, 637.153, 637.422, 638.052, 639.106, 641.125, 641.255, 641.416, 642.032(5), 651.024, 651.105(1), F.S., relating to service of process on statutory agents, risk retention groups, rehabilitation of domestic insurers, motor vehicle service agreement companies, home warranty associations, service warranty associations, optometric service plans, dental service plans, ambulance service associations, preneed funeral contracts, health care service plans, health maintenance organizations, prepaid health clinics, legal expense insurance corporations, and continuing care facilities and contracts, to incorporate the amendments to ss. 624.316, 628.461, 628.4615, F.S., in references thereto; providing an effective date.

—was taken up out of order and read the second time by title.

Senator Gardner moved the following amendment which was adopted:

Amendment 1—On page 11, line 9, insert new section 10:

Section 10.

641.315 Provider Contracts

(8) No HMO shall prohibit any provider from contracting with any other HMO or HMO's, nor shall any HMO require a provider to pay any financial payment, including, but not limited to, any assessment of liquidated damages, to the HMO, or to any other party, upon the event of provider either terminating provider's agreement with HMO or upon the event of a member assigned, or formerly assigned, to provider selecting the same provider through another HMO.

(Renumber subsequent sections.)

Further consideration of **CS for SB 2764** as amended was deferred.

On motion by Senator Kirkpatrick, by unanimous consent—

CS for SB 836—A bill to be entitled An act relating to jurors; amending s. 40.01, F.S.; revising qualifications of jurors; creating s. 40.011, F.S.; requiring the Department of Highway Safety and Motor Vehicles to deliver to the clerk of the court a list to be used for selection of jurors; providing for an affidavit to request jury service; creating s. 40.012, F.S.; providing for the purging of jury source lists; creating s. 40.0121, F.S.; providing for public notice of juror qualifications; amending s. 40.02, F.S.; providing that a chief judge's designation of a court administrator to perform certain jury management duties must be in conformity with normal county budgetary timeframes; providing that where the court administrator is designated to perform such duties the county shall not be financially responsible; amending s. 98.211, F.S.; deleting a provision that permits lists of electors be used for purposes of jury selection; amending s. 322.08, F.S.; providing for certain information on applications for drivers' licenses; amending s. 322.20, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall furnish to the courts, for jury selection purposes, lists of licensed drivers and persons possessing identification cards; providing that restrictions on the use of such information and fees for violation of such restrictions apply to the courts; amending s. 905.37, F.S.; providing that statewide grand jurors be selected from the same juror pool as petit jurors; providing for payment of costs of the jury selection system; providing an effective date.

—was taken up out of order and read the second time by title.

Senator Weinstein moved the following amendment:

Amendment 1—On page 6, strike all of lines 11-14 and insert: *conformity with normal county budgetary timeframes.*

Further consideration of **CS for SB 836** with pending **Amendment 1** was deferred.

On motion by Senator Kiser, by two-thirds vote HB 951 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Kiser, by two-thirds vote—

HB 951—A bill to be entitled An act relating to clean outdoor air; providing legislative findings and intent; providing definitions; requiring training and certification in the installation and use of refrigerant recycling equipment; providing for fees; providing duties of the Department of Environmental Regulation; providing penalties; providing an appropriation; amending s. 316.2935, F.S.; providing for a mandatory reduction in penalty for tampering with air pollution control equipment if the violation is corrected; amending s. 316.6105, F.S.; amending s. 316.2935, F.S.; providing an exemption from the requirement of air pollution control equipment; requiring licensed motor vehicle dealers to visually observe air pollution control devices; directing the Department of Environmental Regulation to provide certain rules; providing for the issuance of an affidavit-of-compliance form by a law enforcement officer who issues a citation for tampering with air pollution control equipment; amending s. 318.18, F.S.; modifying the penalty for tampering with air pollution control equipment; providing for a reduced fine under certain circumstances; providing an effective date.

—a companion measure, was substituted for CS for SB 968 and read the second time by title.

Senator Kiser moved the following amendments which were adopted:

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

Section 1. Legislative findings; intent.—The Legislature finds that:

(1) The stratospheric ozone layer shields the earth's surface from dangerous solar ultraviolet radiation.

(2) Manmade chemicals, including chlorofluorocarbons (CFCs) and halons, break ozone down, rendering it useless for screening deadly ultraviolet radiation and increasing the level of ultraviolet radiation striking the surface of the earth.

(3) According to the United States Environmental Protection Agency, the destruction of the protective stratospheric ozone layer and the consequent increase in the level of ultraviolet radiation reaching the earth's surface could result in 150 million additional skin cancer cases over the next 80 years, and 18 million additional cataract cases before the year 2075, and could damage the human immune system, decrease yields of certain staple crops by 20 percent, and adversely affect the reproduction of vital marine phytoplankton, earth's primary sources of lifegiving oxygen.

(4) Twenty-five percent of the total amount of CFCs produced in this country every year is lost to the atmosphere because of poor maintenance, inappropriate servicing practices, and leaking motor vehicle air conditioners.

(5) For all types of vehicles, leakage and repair service accounts for two-thirds of all CFC-12 emissions from motor vehicle air conditioners.

(6) Florida should take appropriate steps toward reducing the emissions of CFCs and halons, promote the use of alternative chemicals where technologically feasible, advance the recovery and recycling of CFCs and halons wherever possible, eliminate the nonessential use of CFCs and halons, and encourage the development of substitutes which are more environmentally sound and which do not contribute to the depletion of the stratospheric ozone layer.

Section 2. Definitions.—As used in this act, the following terms have the following meanings:

(1) "Motor vehicle air conditioner" means mechanical vapor compression refrigeration equipment used to cool the driver's or passenger compartment of any motor vehicle.

(2) "Refrigerant" means products containing or manufactured with the following halogenated substances: CFC-11, CFC-12, CFC-113, CFC-114, CFC-115, Halon-1211, Halon-1301, Halon-2402, or other compounds which have an ozone depletion potential of greater than 0.1 and have been identified by the United States Environmental Protection Agency as substances controlled by the Montreal Protocol on Substances that Deplete the Ozone Layer.

(3) "Approved refrigerant recycling equipment" means equipment that is certified by Underwriters Laboratories, or another independent standards testing organization, and certified by the Department of Environmental Regulation, to meet the Society of Automotive Engineers (SAE) standard applicable to equipment for the extraction and reclamation of refrigerants from motor vehicle air conditioners (SAE Standard J-1990 or revisions thereof). Equipment purchased before the commencement of certification by Underwriters Laboratories or another independent standards testing organization shall be considered approved if it is substantially identical to a model which is certified before January 1, 1991.

(4) "Proper procedures for recovering and recycling used refrigerants" means using that equipment in conformity with the Society of Automotive Engineers standard establishing the recommended service procedure for containment of R-12 refrigerant (SAE Standard J-1989 or revisions thereof).

(5) "Motor vehicle" has the same meaning as defined in s. 403.415(3), Florida Statutes.

Section 3. Training and certification requirements; penalties.—

(1) On and after July 1, 1991, no business establishment that installs or services motor vehicle air conditioners or that, in the course of doing collision repair or changing parts of or salvaging or dismantling motor vehicles, releases or may release refrigerants shall perform that activity without the use of approved refrigerant recycling equipment. Such establishments may not intentionally vent or dispose of chlorofluorocarbons or their halogenated substances into the atmosphere. Each establishment shall have mechanics, trained in the proper operation and maintenance of refrigerant recycling equipment and in the proper procedures for recovering and recycling used refrigerants from motor vehicle air conditioners, performing or supervising these services at all times.

(2) The Department of Environmental Regulation shall establish and administer a program to ensure the installation and proper use of refrigerant recycling equipment and to certify businesses and persons who are trained in the use of that equipment. All applicants for certification for the operation of approved refrigerant recycling equipment shall be required to obtain a compliance certificate from the department.

(3) On and after July 1, 1991, a person who is convicted of a violation of subsection (1) is liable for a civil penalty of $100 per incident, not to exceed a total of $1,000 per day.

(4) The requirements of subsection (1) shall not apply until June 1, 1992, to a business establishment with two or fewer service bays or one service bay dedicated to automobile air conditioner repairs or with five or fewer employees on any one shift.

(5) Not later than July 31, 1991, each business establishment which performs service on motor vehicle air conditioners shall certify to the department that either of the following is correct:

(a) That the establishment has acquired and is properly using approved refrigerant recycling equipment in any service on a motor vehicle air conditioner involving a refrigerant for the air conditioner and that each person authorized by the establishment to perform that service is properly trained and certified; or

(b) That the establishment contains two or fewer service bays or one service bay dedicated to automobile air conditioner repairs or with five or fewer employees on any one shift.

Each certification shall contain the name and address of the business establishment and shall be signed by the owner or another responsible corporate officer. Certifications under paragraph (a) may be made by submitting the required information to the department on a standard form provided by the manufacturer of approved refrigerant recycling equipment.

(6) The department shall establish appropriate fees for the issuance and annual renewal of certificates of compliance. In setting these fees, the department shall take into consideration the cost to the department of administering and enforcing this section, provided such fees shall not exceed $50 per annum.

Section 4. Subsection (7) of section 213.053(7), Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(7) The provisions of this section apply to all sections of chapter 207, the Florida Special Fuel and Motor Fuel Use Tax Act of 1981, except for s. 207.025, exchange of information. However, nothing in this section shall prevent the department from providing information relative to chapter 211, chapter 376, or chapter 377 to the proper state agency in the conduct of its official duties, from providing information relative to the commencement of business activities of a foreign corporation to the Division of Corporations of the Department of State in the conduct of its official duties, or from providing information relative to chapter 212 to the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation in the conduct of its official duties or *to the Department of Environmental Regulation, names and addresses only, in the conduct of its official duties, or* from providing information relative to chapter 88-282, Laws of Florida, to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation in the conduct of its official duties. Notwithstanding s. 119.14, such state agencies shall be bound by the same requirements of confidentiality as the Department of Revenue. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 5. There is hereby appropriated from the Air Pollution Control Trust Fund two postions and $149.865 to the Department of Environmental Regulation in Fiscal Year 1990-1991 to administer the provisions of this act.

Section 6. Subsections (2) and (6) of section 316.2935, Florida Statutes, are amended to read:

316.2935 Air pollution control equipment; tampering prohibited; penalty.—

(2) No person shall *operate* ~~allow~~ any gasoline-powered motor vehicle, except a motorcycle, moped, or scooter as defined in chapter 320, *or an imported nonconforming motor vehicle which has received a one-time exemption from federal emission control requirements under 40 C.F.R. 85, subpart P,* ~~to operate~~ on the public roads and streets of this state which emits visible emissions from the exhaust pipe for more than a continuous period of 5 seconds, and no person shall operate on the public roads or streets of this state any motor vehicle that has been tampered with in violation of this section, as determined pursuant to subsection (7).

(6) Except as provided in subsection (5), any person who violates subsection (1), subsection (2), or subsection (3) shall be charged with a noncriminal traffic infraction, punishable as provided in s. 318.18. However, the penalty may be reduced if the person committing the violation corrects the violation pursuant to the provisions of s. 316.6105.

Section 7. Subsection (1) of section 316.6105, Florida Statutes, is amended to read:

316.6105 Violations involving operation of motor vehicle in unsafe condition or without required equipment; procedure for disposition.—

(1) In the event that a law enforcement officer issues a traffic citation *for a violation of s. 316.2935 or* for the operation of a motor vehicle which is in an unsafe condition or which is not properly equipped as required pursuant to s. 316.610, the law enforcement officer shall also issue an affidavit-of-compliance form.

Section 8. Paragraph (c) of subsection (2) and subsection (10) of section 318.18, Florida Statutes, are amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to ss. 316.2935(6) and 318.14(1), (2), and (4) are as follows:

(2) Thirty-two dollars for all nonmoving traffic violations and:

(c) For all violations of s. 316.610 *and s. 316.2935*. However, for a violation of s. 316.610 *or s. 316.2935*, if the person committing the violation corrects the defect within 10 days from the date upon which the traffic citation was issued, the fine shall be reduced to $9, of which $2 shall be distributed to the clerk of the court for administrative costs, $4 to the law enforcement agency which confirms that the defect has been corrected and completes the affidavit of compliance form, $1 to the Department of Highway Safety and Motor Vehicles, and $2 to the Department of Health and Rehabilitative Services.

~~(10) Fifty dollars for violations punishable pursuant to s. 316.2935(6).~~

Section 9. Subsection (1) of section 316.2935, Florida Statutes, as amended by Section 5 of Chapter 89-212, and subsection (7) of said section, are amended to read:

316.2935 Air pollution control equipment; tampering prohibited; penalty.—

(1)*(a) On and after July 1, 1990,* it is unlawful for any person or motor vehicle dealer as defined in s. 320.27 to offer or display for retail sale or lease, sell, lease, or transfer title to, a motor vehicle in Florida that has been tampered with in violation of this section, as determined pursuant to subsection (7). Tampering is defined as the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle. *All motor vehicles sold, reassigned or traded to a licensed motor vehicle dealer are exempt from this paragraph.*

(b) On and after January 1, 1991, at the time of sale, lease, or transfer of title of a motor vehicle, the seller, ~~or~~ lessor *or transferor* shall certify in writing to the purchaser, lessee, *or transferee* ~~or person to whom title is being transferred~~ that the *air pollution control equipment of the* motor vehicle has not been tampered with ~~in violation of this section~~ *by the seller, lessor or transferor, their agents, employees or other representatives. A licensed motor vehicle dealer shall also visually observe those air pollution control devices listed by department rule pursuant to subsection (7), and certify that they are in place, and appear properly connected and undamaged.* Such certification shall not be deemed or construed as a warranty that the pollution control devices of the subject vehicle are in functional condition, *nor does the execution or delivery of this certification create by itself grounds for a cause of action between the parties to this transaction.*

(c) On and after July 1, 1990, all motor vehicles sold, reassigned, or traded *by a licensed motor vehicle dealer* to a licensed motor vehicle ~~dealers~~ *dealer*, ~~all wholesale transactions by licensed motor vehicle dealers~~, *all new motor vehicles subject to certification under Section 207, Clean Air Act, 42 U.S.C., 7541,* and all lease agreements for 30 days or less are exempt from this subsection. Also exempt from this subsection are sales of motor vehicles for salvage purposes only.

(7) The Department of Environmental Regulation shall adopt rules that define the specific wording of the required certification and the circumstances under which the certificate is not required. In addition, the department shall adopt rules as necessary to conform to requirements of federal law, to establish procedures to determine compliance with this section, including specifying what tampering activities constitute a violation of this section, and to provide for exceptions and waivers, taking into account the provisions of ss. 325.203 and 325.209. *For those rules applicable pursuant to subsection (1) to licensed motor vehicle dealers for certification by visual observation, the air pollution control devices or systems that shall be included in such certification for motor vehicles dated model year 1981 or later are the catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR), air pump and/or air injector system (AIS), and fuel evaporative emissions system (EVP). The department may by rule remove or add devices or systems to this test if justified by developments in air pollution control technology or changes in federal law.*

Section 10. Paragraph (j) of subsection (4) of section 325.203, Florida Statutes, is amended to read:

325.203 Motor vehicles subject to annual inspection; exemptions.—

(4) The following motor vehicles are not subject to inspection:

(j) Any vehicle ~~powered by other than gasoline or diesel fuel~~ which is exempted by rule of the Department of Highway Safety and Motor Vehicles upon Department of Environmental Regulation determination that the vehicle does not significantly contribute to air pollution.

Section 11. Section 325.212, Florida Statutes, is hereby repealed.

Section 12. This act shall take effect upon becoming a law.

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to clean outdoor air; providing legislative findings and intent; providing definitions; requiring training and certification in the installation and use of refrigerant recycling equipment; providing for fees; providing duties of the Department of Environmental Regulation; providing penalties; providing an appropriation; amending s. 213.053, F.S.; allowing certain information to be provided to the Department of Environmental Regulation; amending s. 316.2935, F.S.; providing for a mandatory reduction in penalty for tampering with air pollution control equipment if the violation is corrected; amending s. 316.6105, F.S.; amending s. 316.2935, F.S.; providing an exemption from the requirement of air pollution control equipment; providing times at which the requirements of the section become operative; requiring licensed motor vehicle dealers to visually observe air pollution control devices; directing the Department of Environmental Regulation to provide certain rules; providing for the issuance of an affidavit-of-compliance form by a law enforcement officer who issues a citation for tampering with air pollution control equipment; amending s. 318.18, F.S.; modifying the penalty for tampering with air pollution control equipment, providing for a reduced fine under certain circumstances; amending s. 325.203, F.S.; providing for vehicles not subject to inspection; repealing s. 325.212, F.S., relating to motor vehicle reinspections; providing an effective date.

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

Yeas—30

Mr. President	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Brown	Forman	Langley	Walker
Casas	Gardner	Malchon	Weinstein
Childers, D.	Girardeau	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Souto	
Deratany	Johnson	Stuart	

Nays—None

Consideration of **CS for SB 2566** was deferred.

On motions by Senator Weinstein, by two-thirds vote CS for HB's 1575 and 1975 were withdrawn from the Committees on Insurance and Health Care.

On motion by Senator Weinstein—

CS for HB's 1575 and 1975—A bill to be entitled An act relating to Medicare supplement policies; amending s. 627.673, F.S.; providing for designation of such policies; amending s. 627.6736, F.S., relating to filing requirements for out-of-state group policies, to conform language; creating s. 627.6737, F.S.; providing for reporting of multiple policies; amending s. 627.674, F.S.; revising minimum standards for Medicare supplement policies; creating s. 627.6741, F.S.; providing requirements for cancellation, nonrenewal, and replacement of such policies; creating s. 627.6742, F.S.; providing for restrictions on compensation arrangements between Medicare supplement insurers and agents pursuant to rules of the Department of Insurance; creating s. 627.6743, F.S.; providing standards for marketing; creating s. 627.6744, F.S.; requiring agents to determine appropriateness of a purchase or replacement; providing an effective date.

—a companion measure, was substituted for CS for SB 2982 and read the second time by title. On motion by Senator Weinstein, by two-thirds vote CS for HB's 1575 and 1975 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

RECESS

The Senate recessed at 12:28 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:17 p.m. A quorum present—38:

Mr. President	Deratany	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Plummer	
Davis	Jennings	Scott	

Consideration of Resolutions

On motion by Senator Stuart, by two-thirds vote HCR 3369 was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Stuart—

HCR 3369—A concurrent resolution commending Mr. James Weldon Wilson of Orlando for his contributions to the State of Florida through forty years of public service.

—was taken up out of order by unanimous consent, read the second time in full, adopted and certified to the House.

On motion by Senator Grant, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Grant—

SR 3226—A resolution relating to the hosting of the 1994 World Cup Soccer games.

WHEREAS, upon application made by the United States Soccer Federation, the recognized national governing body for soccer within the United States, the Federation Internationale de Football Association, the world governing body for soccer, has designated the United States as host country for the 1994 World Cup, the world's largest single sport event, and

WHEREAS, the State of Florida has within its jurisdiction facilities and their premises, access roads, thoroughfares, and other areas which may be used for the purposes of organizing, financing, promoting, accommodating, staging, and conducting the 1994 World Cup and its related activities, and

WHEREAS, hosting the 1994 World Cup will generate international goodwill, enhance the worldwide renown and prestige of the state, produce new jobs, and create substantial beneficial economic and fiscal activity, and

WHEREAS, the World Cup '94 Organizing Committee, the entity authorized to organize and stage the 1994 World Cup, has requested a declaration of support from the state and certain guarantees concerning the performance of reasonably necessary governmental services in connection with the event as part of the formal bid made by the cities of Miami, Orlando, and Tampa to be designated as a 1994 World Cup venue, NOW, THEREFORE,

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

That the Senate welcomes the 1994 World Cup and declares its full support of the efforts of the venue bid committees to have the cities of Miami, Orlando, and Tampa selected as 1994 World Cup venue sites.

BE IT FURTHER RESOLVED that, upon designation of any such city as a 1994 World Cup venue, and at all times thereafter, the State of Florida and its agencies, departments, and personnel, are hereby encouraged to provide all governmental services (including, without limitation, public safety, security, fire and medical emergency, traffic, decorative display, and public works/street maintenance services and supplies) reasonably necessary to the success of the 1994 World Cup within its jurisdiction (whether, recognizing the uniqueness and extraordinary scope of the World Cup, such services are below, equal to, or beyond the normal level and range of governmental services usually provided for events held within its jurisdiction), including all planning, training, or deployment activities related to the provision of such services, all at no cost, expense, or liability to the organizing committee.

BE IT FURTHER RESOLVED that the Senate intends that neither the governing bodies, the organizing committee, nor any director, member, officer, employee, or other representative of the same shall be held accountable for or incur any financial responsibility or liability of any kind or nature whatsoever in connection with the governmental services planned or provided relating to the 1994 World Cup.

On motion by Senator Grant, SR 3226 was read by title and was read the second time in full and adopted.

On motion by Senator Grant, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Grant—

SR 3228—A resolution relating to law enforcement support for the 1994 World Cup Soccer games.

WHEREAS, upon application made by the United States Soccer Federation, the recognized national governing body for soccer within the United States, the Federation Internationale de Football Association, the world governing body for soccer, has designated the United States as host country for the 1994 World Cup, the world's largest single sport event, and

WHEREAS, the State of Florida is desirous of hosting the 1994 World Cup and has within its jurisdiction facilities and their premises, access roads, thoroughfares, and other areas which may be used for the purposes of organizing, financing, promoting, accommodating, staging, and conducting the 1994 World Cup and its related activities, and

WHEREAS, the Florida Department of Law Enforcement and the Florida Highway Patrol are officially charged with the responsibility to provide public safety services within the state, NOW, THEREFORE,

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

That, with respect to any city which may be designated as a 1994 World Cup venue, the Florida Department of Law Enforcement and the Florida Highway Patrol are hereby encouraged to provide all law enforcement and public safety services (including, without limitation, proper vehicular and pedestrian traffic control, security, police escorts from time to time as requested by the organizing committee, and other police services and supplies for the protection of people and property) reasonably necessary to the success of the 1994 World Cup within its jurisdiction (whether, recognizing the uniqueness and extraordinary scope of the World Cup, such services are below, equal to, or beyond the normal level and range of public safety services usually provided for events held within its jurisdiction), including all planning, training, or deployment activities related to the provision of such services, all at no cost, expense, or liability to the organizing committee.

BE IT FURTHER RESOLVED that the Senate intends that neither the governing bodies, the organizing committee, nor any director, member, officer, employee, or other representative of the same shall be held accountable for or incur any financial responsibility, or liability of any kind or nature whatsoever, in connection with the law enforcement and public safety services planned or provided relating to the 1994 World Cup.

On motion by Senator Grant, SR 3228 was read by title and was read the second time in full and adopted.

On motion by Senator Grant, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Grant—

SR 3230—A resolution relating to tax policy in support of the 1994 World Cup Soccer games.

WHEREAS, upon application made by the United States Soccer Federation, the recognized national governing body for soccer within the United States, the Federation Internationale de Football Association, the world governing body for soccer, has designated the United States as host country for the 1994 World Cup, the world's largest single sport event, and

WHEREAS, the State of Florida is desirous of hosting the 1994 World Cup and has located within its jurisdiction the Orange Bowl, Joe Robbie Stadium, the Citrus Bowl, and Tampa Stadium, and

WHEREAS, the World Cup '94 Organizing Committee, the entity authorized to organize and stage the 1994 World Cup, will be engaged in the sale of admission tickets to the 1994 World Cup in as many as 12 different stadia around the country and will require a uniform "cap" on the aggregate total of taxes assessed on gross receipts from the sale of such tickets at each stadium, and

WHEREAS, the Florida Department of Revenue has the authority to tax the sale of admission tickets to such events, NOW, THEREFORE,

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

That, as part of the formal bid of the cities of Miami, Orlando, and Tampa to be designated as a 1994 World Cup venue, the Florida Department of Revenue is hereby encouraged, upon designation of a Florida city as a 1994 World Cup venue, to implement such policies or propose such legislation as may be necessary to provide that any tax on the gross receipts from admission tickets will not, when added to any other ticket taxes imposed by other state or local agencies with taxing authority over events at the stadium, exceed 5 percent of the gross receipts from admission tickets sold (excluding complimentary admissions which the organizing committee is required to provide) by the organizing committee for the 1994 World Cup games or activities held at any designated stadium.

BE IT FURTHER RESOLVED that the Senate intends that neither the governing bodies, the organizing committee, nor any director, member, officer, employee, or other representative of the same shall be held accountable for or incur any financial responsibility, or liability of any kind or nature whatsoever, in connection with any tax assessments which in the aggregate exceed 5 percent of the gross receipts from admission tickets sold (excluding complimentary admissions which the organizing committee is required to provide) by the organizing committee for 1994 World Cup games or activities held at any designated stadium.

On motion by Senator Grant, SR 3230 was read by title and was read the second time in full and adopted.

On motion by Senator Grant, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Grant—

SR 3232—A resolution relating to motor vehicle licensing policy in support of the 1994 World Cup Soccer games.

WHEREAS, upon application made by the United States Soccer Federation, the recognized national governing body for soccer within the United States, the Federation Internationale de Football Association, the world governing body for soccer, has designated the United States as host country for the 1994 World Cup, the world's largest single sport event, and

WHEREAS, the State of Florida is desirous of hosting the 1994 World Cup and has within its jurisdiction facilities and their premises, access roads, thoroughfares, and other areas which may be used for the purposes of organizing, financing, promoting, accommodating, staging, and conducting the 1994 World Cup and its related activities, and

WHEREAS, the World Cup '94 Organizing Committee, the entity authorized to organize and stage the 1994 World Cup, will require numerous official vehicles, such as buses, vans, and automobiles, to transport teams, referees, members of the media, and others during the 1994 World Cup, many of which may be furnished on a temporary basis by official sponsors of the event, and

WHEREAS, the Florida Department of Highway Safety and Motor Vehicles is officially charged with the responsibility to provide vehicle licensing services within the state, NOW, THEREFORE,

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

That, as part of the formal bid of the cities of Miami, Orlando, and Tampa to be designated as a 1994 World Cup venue, the Florida Department of Highway Safety and Motor Vehicles is hereby encouraged, upon designation of a Florida city as a 1994 World Cup venue, to implement such policies or propose such legislation as may be necessary to provide that, during a period beginning 120 days before and ending 30 days after the 1994 World Cup games, all official vehicles of the organizing committee shall be exempt from any licensing requirements and fees and to provide all vehicle licensing services reasonably necessary to the success of the 1994 World Cup within its jurisdiction, including all planning, training, or deployment activities related to the provision of such services, all at no cost, expense, or liability to the organizing committee.

BE IT FURTHER RESOLVED that the Senate intends that neither the governing bodies, the organizing committee, nor any director, member, officer, employee, or other representative of the same shall be held accountable for or incur any financial responsibility, or liability of any kind or nature whatsoever, in connection with the licensing, or exemption from licensing, of official vehicles or vehicle licensing services planned or provided relating to the 1994 World Cup.

On motion by Senator Grant, SR 3232 was read by title and was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Scott, by two-thirds vote CS for HB 475 was withdrawn from the Committees on Education; Finance, Taxation and Claims; and Appropriations; CS for HB 1189 was withdrawn from the Committee on Community Affairs; CS for HB 2493 was withdrawn from the Committees on Economic, Professional and Utility Regulation; Rules and Calendar; and Appropriations; and CS for HB 703 and CS for HB 1061 were withdrawn from the Committee on Judiciary-Civil.

On motions by Senator Margolis, by two-thirds vote HB 3657, CS for SB 1552, CS for SB 1736 and CS for SB 2962 were withdrawn from the Committee on Appropriations.

On motions by Senator Margolis, by two-thirds vote SB 1526 was withdrawn from Subcommittee C of the Committee on Appropriations and the Committee on Appropriations.

On motions by Senator Margolis, by two-thirds vote CS for HB 703, CS for SB 2734 and SB 1536 were withdrawn from the Committee on Appropriations.

On motions by Senator Scott, by two-thirds vote SB 1752 was withdrawn from the Committee on Governmental Operations; SB 2850 was withdrawn from the Committee on Judiciary-Criminal; and HB 3657 was withdrawn from the Committee on Economic, Professional and Utility Regulation.

On motion by Senator Deratany, by two-thirds vote CS for SB 2962 was withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Deratany, by two-thirds vote Senate Bills 1216 and 2530 were withdrawn from the committees of reference and further consideration.

On motions by Senator Margolis, by two-thirds vote CS for SB 2924 and CS for SB 3068 were withdrawn from the Committee on Appropriations.

Motion

On motion by Senator Scott, by two-thirds vote CS for HB 703 was placed at the end of the special order calendar.

SPECIAL ORDER, continued

CS for HB 3621—A bill to be entitled An act relating to insurance; revising ch. 626, F.S., relating to insurance field representatives and operations; amending s. 626.041, F.S.; deleting provisions that specified that certain employees of general lines agents or agencies are not deemed to be agents; creating s. 626.0428, F.S.; providing that certain personnel are not deemed agents, customer representatives, or solicitors; specifying authority of such personnel; amending s. 626.051, F.S.; correcting a cross reference; amending s. 626.062, F.S.; providing that an agent representing a health maintenance organization is deemed to be a health agent; correcting a cross reference; amending s. 626.071, F.S.; defining "solicitor"; creating s. 626.072, F.S.; defining "customer representative"; amending s. 626.081, F.S.; defining "service representative"; amending s. 626.091, F.S.; defining "managing general agent"; deleting references to supervising general agents; amending s. 626.094, F.S.; defining "insurance agency"; creating ss. 626.102, 626.103, and 626.104, F.S.; providing additional definitions; amending s. 626.112, F.S.; requiring license and appointment for agents, customer representatives, solicitors, adjusters, service representatives, managing general agents, and claims investigators; providing circumstances for licensing of insurance agencies; amending s. 626.141, F.S.; providing that a contract handled by an unappointed agent or solicitor is valid; amending s. 626.161, F.S.; requiring preparation and furnishing of forms; amending s. 626.171, F.S.; specifying content of application for license; requiring applications to be accompanied by a set of fingerprints; amending s. 626.181, F.S.; providing circumstances for required reexamination; amending s. 626.191, F.S.; authorizing an applicant to reapply for a license; amending s. 626.201, F.S.; authorizing interrogatories in connection with an application for license or appointment; amending s. 626.211, F.S.; providing for approval or disapproval of application for license; amending s. 626.221, F.S.; providing exemptions from examination requirements; amending s. 626.231, F.S.; specifying eligibility for examination; amending s. 626.241, F.S.; specifying scope of examination for license as an agent, customer representative, or adjuster; amending s. 626.251, F.S.; removing certain limitations on the place of taking examinations; amending s. 626.261, F.S.; providing for taking of examinations; amending s. 626.271, F.S.; requiring payment of examination fees; amending s. 626.281, F.S.; specifying procedures and requirements for reexamination; amending s. 626.2815, F.S.; specifying continuing education requirements; providing for nonrenewal of appointments of agents not in compliance; amending s. 626.291, F.S.; providing for scoring of examinations by the Department of Insurance or its designee; deleting provisions relating to originals and copies of licenses; deleting a provision relating to refund of license taxes; amending s. 626.301, F.S.; specifying form and content of licenses; authorizing the department to require photographs of licensees; amending s. 626.311, F.S.; specifying scope of licenses; amending s. 626.321, F.S.; modifying provisions relating to limited licenses; amending s. 626.322, F.S.; providing for license and appointment of nonresidents to represent certain insurers at military installations; amending s. 626.331, F.S.; requiring a separate appointment as to each insurer represented; providing for refund of state and county taxes; amending s. 626.341, F.S.; providing for additional appointment of general lines, life, and health agents; amending s. 626.342, F.S.; prohibiting furnishing of certain supplies to an unlicensed or unappointed agent; amending s. 626.361, F.S.; requiring submission of appointments to the department; specifying effective date of appointments; amending s. 626.371, F.S.; requiring payment of fees and taxes for retroactive appointment; amending s. 626.381, F.S.; providing for renewal, continuation, reinstatement, or termination of appointment; amending s. 626.431, F.S.; providing that an agent is without authority upon expiration of appointment; requiring reapplication after failing to maintain an appointment for a specified time; amending s. 626.441, F.S.; providing that licenses and appointments are not transferable; amending s. 626.451, F.S.; providing procedures for appointment of agents and other representatives; amending s. 626.461, F.S.; providing for duration of appointment; amending s. 626.471, F.S.; providing procedures for termination of appointment;

amending s. 626.511, F.S.; requiring filing of certain statements with respect to the termination of an appointment; amending s. 626.521, F.S.; requiring credit and character checks on applicants for license; amending s. 626.532, F.S.; prohibiting new or additional appointments under vending machine licenses; providing for renewal of vending machine licenses; amending s. 626.541, F.S.; requiring annual filing of certain information with the department; amending s. 626.551, F.S.; requiring notice of change of name or address; providing for termination of license and appointment of an agent who is no longer a resident; amending s. 626.561, F.S.; specifying accounting requirements; requiring separate accounts for certain funds; specifying penalties for unlawful diversion or appropriation of funds; amending s. 626.571, F.S.; requiring certain notice of agencies delinquent in accounts owing to insurers; creating s. 626.572, F.S.; specifying when rebating is allowed; amending s. 626.592, F.S.; specifying responsibilities of primary agent or sole agent of an agency; amending s. 626.601, F.S.; expanding authority of the department to investigate alleged improper conduct; authorizing fingerprinting in certain circumstances; amending s. 626.611, F.S.; requiring refusal, suspension, or revocation of license or appointment in specified circumstances; amending s. 626.621, F.S.; authorizing refusal, suspension, or revocation of license or appointment in specified circumstances; amending s. 626.6215, F.S.; specifying grounds for refusal, suspension, or revocation of agency license; amending s. 626.631, F.S.; providing procedures for refusal, suspension, or revocation of licenses; amending s. 626.641, F.S.; specifying duration of suspension or revocation; amending s. 626.651, F.S.; specifying effect of refusal, suspension, or revocation on associated licenses, licensees, appointments, and appointees; amending s. 626.661, F.S.; requiring surrender of license in specified circumstances; amending s. 626.681, F.S.; providing for administrative fines; amending s. 626.691, F.S.; providing for probation; amending s. 626.727, F.S.; specifying scope of General Lines Agents Law; amending s. 626.729, F.S.; defining "industrial fire insurance"; amending s. 626.730, F.S.; specifying circumstances for refusal of license or appointment; providing for determination of violation of prohibition against general lines agents securing rebates or commissions on controlled business; amending s. 626.731, F.S.; specifying qualifications for a general lines agent's license; amending s. 626.732, F.S.; providing educational requirements; amending s. 626.733, F.S.; requiring individual appointment of agents; amending s. 626.734, F.S., relating to corporate agent liability; limiting circumstances in which the section subjects a person to criminal liability or disciplinary actions; creating s. 626.7351, F.S.; specifying qualifications for customer representative's license; creating s. 626.7352, F.S.; providing requirements for the office of a customer representative; creating s. 626.7353, F.S.; providing for appointment of customer representatives; creating s. 626.7354, F.S.; specifying powers of customer representatives; specifying responsibility and accountability of appointing agent or agency; amending s. 626.736, F.S.; providing requirements for the office of a solicitor; amending s. 626.737, F.S.; providing for appointment of solicitors; amending s. 626.738, F.S.; specifying scope of solicitor's license and appointment; amending s. 626.739, F.S.; providing for issuance of a temporary agent's license; amending s. 626.740, F.S.; providing for issuance of a temporary limited license as industrial fire or burglary agent; amending s. 626.741, F.S.; providing restrictions on licensure and appointment of nonresident agents; amending s. 626.742, F.S.; providing for service of process on nonresident agents; amending s. 626.744, F.S.; providing for application for license as service representative or managing general agent; amending s. 626.745, F.S.; restricting activities of service representatives and managing general agents; creating s. 626.7451, F.S.; requiring certain provisions in contracts between managing general agents and insurers; authorizing agents to charge certain per-policy fees; creating s. 626.7452, F.S.; authorizing examination of managing general agents; creating s. 626.7453, F.S.; requiring certification that the managing general agent has obtained errors and omissions coverage; creating s. 626.7454, F.S.; specifying duties of insurers with respect to managing general agents; amending s. 626.747, F.S.; requiring branch agencies to be in charge of a general lines agent who is licensed and appointed; amending s. 626.748, F.S.; requiring agents to maintain certain records; amending s. 626.752, F.S.; providing definitions; providing limited authority for an agent to place business with an insurer for which the agent is not appointed; specifying liability of insurer that accepts business in violation of the section; requiring certain insurers to provide reports to the department; providing for reimbursement of insurer-paid fees; amending s. 626.753, F.S.; specifying circumstances in which an agent may share commissions; amending s. 626.754, F.S.; specifying rights of agent following termination of appointment; amending s. 626.777, F.S.; specifying scope of Life Agents Law; amending s. 626.784, F.S.; providing for refusal or other action against the license or appointment of an agent for procurement of controlled business; providing for determination of existence of violation; amending s. 626.785, F.S.; increasing maximum coverage under certain policies covering final disposition or burial of the insured; authorizing funeral directors, direct disposers, and employees of funeral establishments to be licensed to sell certain policies of life insurance; amending s. 626.7851, F.S.; requiring that educational requirements be satisfied within a specified time prior to application; amending s. 626.789, F.S.; providing requirements for military personnel licensed and appointed as life agents; amending s. 626.790, F.S.; providing for temporary licenses; amending s. 626.791, F.S.; providing for issuance of temporary license without examination in certain circumstances; amending s. 626.792, F.S.; requiring a nonresident agent to be licensed in his state of residence; providing for cancellation of license and appointments of a nonresident agent who becomes a resident of the state; amending s. 626.793, F.S.; providing authority for an agent to place business with an insurer for which the agent is not appointed; requiring certain insurers to provide reports to the department; providing for reimbursement of insurer-paid fees; amending s. 626.794, F.S.; prohibiting certain payment or sharing of commissions; amending s. 626.795, F.S.; limiting circumstances in which the section subjects a person to criminal liability or disciplinary actions; amending s. 626.796, F.S.; restricting employment or appointment of persons to sell weekly premium or industrial insurance; amending s. 626.798, F.S.; modifying prohibition on life agent as beneficiary; amending s. 626.827, F.S.; specifying scope of Health Agent Law; amending s. 626.829, F.S.; defining "health agent"; amending s. 626.830, F.S.; providing for refusal or other action against the license or appointment of an agent for procurement of controlled business; amending s. 626.831, F.S.; specifying qualifications for license; creating s. 626.8311, F.S.; requiring completion of certain educational programs within a specified time prior to application for license; amending s. 626.833, F.S.; prohibiting licensure of employees of specified veterans' agencies as health agents; amending s. 626.834, F.S.; providing requirements for military personnel licensed and appointed as health agents; amending s. 626.835, F.S.; requiring a nonresident agent to be licensed in his state of residence; providing for cancellation of license and appointments of a nonresident agent who becomes a resident of the state; amending s. 626.837, F.S.; providing authority for an agent to place business with an insurer for which the agent is not appointed; requiring certain insurers to provide reports to the department; providing for reimbursement of insurer-paid fees; amending s. 626.8373, F.S.; requiring certain inquiries with respect to health coverage or Medicare supplement coverage; amending s. 626.838, F.S.; prohibiting certain payment or sharing of commissions; amending s. 626.839, F.S.; limiting circumstances in which the section subjects a person to criminal liability or disciplinary actions; amending s. 626.8417, F.S.; providing for filing of application for title agent's license; providing qualifications for licensure; providing circumstances requiring the licensure of an attorney as a title agent; amending s. 626.842, F.S.; requiring credit and character checks on applicants for appointment; creating s. 626.8421, F.S.; requiring a title agent to have a separate appointment for each insurer; amending s. 626.8423, F.S.; authorizing interrogatories in connection with an application for license or appointment; amending s. 626.8427, F.S.; providing circumstances requiring the filing of additional applications by a licensed title agent; amending s. 626.843, F.S.; providing for renewal, continuation, reinstatement, and termination of a title agent's appointment; amending s. 626.8433, F.S.; requiring filing of certain statements with respect to the termination of an appointment; amending s. 626.8437, F.S.; providing grounds for compulsory refusal, suspension, or revocation of license or appointment; amending s. 626.844, F.S.; providing grounds for discretionary refusal, suspension, or revocation of license or appointment; amending s. 626.8443, F.S.; specifying duration of suspension or revocation; amending s. 626.8447, F.S.; specifying effect of suspension or revocation on associated licenses, licensees, appointments, and appointees; amending s. 626.845, F.S.; providing for cancellation of license in certain circumstances; amending s. 626.8453, F.S.; providing penalties for false or fraudulent applications for license or appointment; amending s. 626.8457, F.S.; providing for administrative fines; amending s. 626.846, F.S.; providing for probation; amending s. 626.8467, F.S.; providing for compelled testimony and immunity from prosecution; amending s. 626.8473, F.S.; authorizing a title agent to act as an escrow agent in certain circumstances; providing penalties for conversion or misappropriation of funds held in escrow or trust; amending s. 626.852, F.S.; specifying scope of the Insurance Adjusters Law; amending s. 626.857, F.S.; defining "claims investigator"; amending s. 626.858, F.S.; defining "nonresident adjuster"; amending s. 626.859, F.S.; defining "catastrophe" or "emergency" adjuster; amending s. 626.862, F.S.; authorizing adjusting by licensed and appointed agents and solicitors; amending s. 626.863, F.S.; requiring that independent adjusters be licensed and appointed; amending s. 626.864,

F.S.; providing categories for licensure and appointment of adjusters; amending s. 626.865, F.S.; providing for bonding of public adjusters; amending s. 626.869, F.S.; providing for licensing of adjusters; prohibiting new or additional licenses or appointments of certain types of adjusters; restricting licensure as an independent or public adjuster to certain persons; requiring continuing education for workers' compensation adjusters; amending s. 626.870, F.S.; providing form and content of application for license; amending s. 626.871, F.S.; providing for reappointment after military service; amending s. 626.872, F.S.; providing for temporary licenses; amending s. 626.873, F.S.; providing circumstances for issuance of a nonresident adjuster's license; amending s. 626.874, F.S.; providing for issuance of licenses for catastrophe and emergency adjusters; amending s. 626.875, F.S.; specifying content of adjuster's license; amending s. 626.876, F.S.; prohibiting multiple employment of persons licensed and appointed as public adjusters or independent adjusters; amending s. 626.878, F.S.; requiring adjusters to subscribe to a code of ethics provided by rule; amending s. 626.897, F.S.; providing fidelity bond and coverage requirements for service companies; amending s. 626.901, F.S.; prohibiting a person from representing or aiding an unauthorized insurer; specifying liability if an unauthorized insurer fails to pay a covered claim or loss; amending ss. 626.905, 626.906, 626.907, 626.908, 626.909, 626.910, 626.911, and 626.912, F.S.; applying the Unauthorized Insurers Process Law to persons representing or aiding insurers subject to such law; authorizing the department to bring certain actions for damages on behalf of insureds or others; providing for attorney's fees; amending s. 626.914, F.S.; defining terms used in the Surplus Lines Law; amending s. 626.915, F.S.; authorizing placement of surplus lines coverage through Florida-licensed nonresident agents; amending s. 626.916, F.S.; providing eligibility criteria for export of insurance coverage; amending s. 626.917, F.S.; removing requirement of filing of wet marine or transportation or aviation risk policies; amending s. 626.918, F.S.; specifying eligibility of surplus lines insurers; amending s. 626.919, F.S.; providing for withdrawal of eligibility; creating s. 626.9201, F.S.; requiring notice of cancellation or nonrenewal; amending s. 626.921, F.S.; providing for a surplus lines examining office; amending s. 626.922, F.S.; requiring delivery of a copy of the policy or evidence thereof to the insured within a specified time; amending s. 626.923, F.S.; providing for filing of copies of applications; amending s. 626.924, F.S.; requiring name and address of producing agent on policy; amending s. 626.927, F.S.; providing for licensure and appointment of surplus lines agents; amending s. 626.9271, F.S.; providing for temporary licenses; amending s. 626.928, F.S.; requiring posting of bond; amending s. 626.929, F.S.; providing for acceptance of business from Florida-licensed nonresident agents; amending s. 626.930, F.S.; providing for recordkeeping; amending s. 626.932, F.S.; defining "premium" for purposes of the surplus lines tax; amending s. 626.935, F.S.; providing for suspension, revocation, or refusal of surplus lines agent's license; amending s. 626.936, F.S.; specifying penalty for failure to pay surplus lines premium tax; amending s. 626.938, F.S.; providing for collection of tax; amending s. 626.939, F.S.; authorizing the department to require production of documents; amending s. 626.943, F.S.; conforming terminology; amending s. 626.944, F.S.; specifying requirements for licensure as a health care risk manager; amending s. 626.945, F.S.; specifying grounds for denial, suspension, or revocation of a health care risk manager's license; amending s. 626.9541, F.S.; revising elements of unfair methods of competition or unfair or deceptive acts or practices; amending s. 626.973, F.S.; limiting the exemption of certain insurance from provisions relating to fictitious groups; amending s. 626.988, F.S.; exempting certain activities of financial institutions from prohibitions on insurance agency activities; specifying authority of the Comptroller; amending s. 626.989, F.S.; expanding the definition of "fraudulent insurance act"; requiring certain persons to report certain information or suppositions to the Division of Insurance Fraud of the department; amending s. 626.99, F.S.; narrowing the exception to the requirement of a life insurance buyer's guide and policy summary; amending s. 624.34, F.S.; authorizing the Department of Law Enforcement to accept fingerprints of applicants for licensure under the insurance code; amending ss. 624.501, 624.5015, 624.504, 624.505, 624.506, and 624.507, F.S.; specifying filing, license, appointment, and miscellaneous fees and taxes; conforming terminology and references; amending ss. 215.22, 624.521, 624.523, 629.401, 633.111, 637.415, and 648.31, F.S., to conform terminology and references; repealing ss. 626.041(3) and (4), 626.121, 626.351, 626.391, 626.401, 626.411, 626.421, 626.481, 626.491, 626.501, 626.531, 626.552, 626.711(2)-(4), 626.735, 626.786, 626.787, 626.832, 626.868, 626.920, 626.9271(4) and (5), and 626.931(4) and (5), F.S., relating to definitions, permit requirements, licensure, continuance or expiration of licenses or permits, termination of appointment, vending machines, reporting, agents from other states, license applications, claims investigator permits, export procedures, temporary licenses, and reports; saving parts I, II, III, IV, VI, VII, VIII, and X of chapter 626, F.S., from Sunset repeal; providing for future review and repeal; providing effective dates.

—was read the second time by title.

The Committee on Insurance recommended the following amendments which were moved by Senator W. D. Childers and failed:

Amendment 1—On page 216, lines 17-24, strike all of said lines after the period (.) on line 17

Amendment 2—On page 217, lines 5-13, strike all of said lines after the period (.) on line 5 and insert:

(3) Notwithstanding any other provision of this section, in the event that any Florida national bank or subsidiary is selling annuity contracts in Florida, then state financial institutions shall have the same authority. National bank means a bank authorized and regulated pursuant to the National Bank Act, 12 U.S.C. SS 21 et seq. Nothing in this section is intended to grant national banks any powers in addition to those powers granted by federal law. Prior to a state financial institution or subsidiary thereof employing or contracting with a licensed agent to sell annuity contracts, the bank must notify the Comptroller. If a national bank is enjoined in Florida from selling annuity contracts due to a legal challenge regarding the authority to sell annuity contracts the agents selling annuity contracts for state financial institutions shall be prohibited from selling annuities on behalf of state financial institutions until the national bank is no longer enjoined from selling annuity contracts.

(Renumber subsequent sections.)

Amendment 3—On page 73, lines 10-30, and on page 74, lines 1-15, strike all of said lines and insert:

626.572 Rebating; when allowed.—

(1) No agent shall rebate any portion of his commission except as follows:

(a) The rebate shall be available to all insureds in the same actuarial class.

(b) The rebating schedule shall be uniformly applied in that all insureds who purchase the same policy through the agent for the same amount of insurance receive the same percentage rebate.

(c) The rebate schedule is prominently displayed in public view in the agent's place of doing business and a copy is available to insureds on request at no charge.

(d) The age, sex, place of residence, race, nationality, ethnic origin, marital status, or occupation of the insured or location of the risk is not utilized in determining the percentage of the rebate or whether a rebate is available.

(2) The agent shall maintain a copy of all rebate schedules for the most recent 5 years and their effective dates.

(3) No rebate shall be withheld or limited in amount based on factors which are unfairly discriminatory.

(4) No rebate shall be given which is not reflected on the rebate schedule.

(5) No rebate shall be refused or granted based upon the purchase or failure of the insured or applicant to purchase collateral business.

(6) In no event may an agent rebate in excess of 100 percent of his commission on the policy to which the rebate applies.

Senators D. Childers and Stuart offered the following amendment which was moved by Senator D. Childers and failed:

Amendment 4—On page 17, line 1, insert:

Section 1. Section 11.402, Florida Statutes, is created to read:

11.402 Legislative intent.—The intent of the Legislature is that the Public Counsel be a unit of the legislative branch of state government.

Section 2. Section 350.061, Florida Statutes, is renumbered as section 11.403, Florida Statutes, and amended to read:

11.403 ~~350.061~~ Public Counsel; appointment; oath; restrictions on Public Counsel and his employees.—

(1) The ~~Joint~~ Legislative Auditing Committee shall appoint a Public Counsel by majority vote of the members of the committee to represent the general public of Florida before the Florida Public Service Commission *and the Department of Insurance*. The Public Counsel shall be an attorney admitted to ~~practice before~~ The Florida *Bar* ~~Supreme Court~~ and shall serve at the pleasure of the ~~Joint~~ Legislative Auditing Committee, subject to annual reconfirmation by the committee. Vacancies in the office shall be filled in the same manner as the original appointment.

(2) The Public Counsel shall take and subscribe to the oath of office required of state officers by the State Constitution.

(3) No officer or full-time employee of the Public Counsel shall actively engage in any other business or profession; serve as the representative of any political party or on any executive committee or other governing body thereof; serve as an executive, officer, or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; or engage on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy. Neither the Public Counsel nor any employee of the Public Counsel shall become a candidate for election to public office unless he shall first resign from his office or employment.

Section 3. Section 350.0611, Florida Statutes, is renumbered as section 11.404, Florida Statutes, and amended to read:

11.404 ~~350.0611~~ Public Counsel; duties and powers.—It *is* ~~shall be~~ the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the *Public Service* Commission *and in proceedings before the Department of Insurance*. The Public Counsel shall have such powers as are necessary to carry out the duties of his office, including, but not limited to, the following specific powers:

(1) To recommend to the *Public Service* Commission, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission.

(2) To recommend to the Department of Insurance, by petition, the commencement of any proceeding or action, or to appear in the name of the state or its citizens in any proceeding or action, before the department relating to:

(a) Rules; or

(b) Rate filings for insurance which request rate increases or which request changes in coverages that have the effect of increasing insurance costs or rate decreases or changes in coverages that lower insurance costs. The Public Counsel must initiate or intervene in any rate proceeding or action within 60 days after the date the rate filing is made. To intervene, the Public Counsel must file notice with the Insurance Commissioner stating that based upon a preliminary review the Public Counsel believes that the rates filed are excessive or unfairly discriminatory. For purposes of this paragraph, Department of Insurance approval of rates, or retraction of objections by the Public Counsel to a rate filing, constitutes final agency action, which may be appealed only to the First District Court of Appeals and which may not be stayed. If the court or the department finds that the rates are excessive or unfairly discriminatory they may be returned to the policyholder pursuant to s. 627.0651.

(3) To ~~and~~ urge *in any proceeding or action to which he is a party* ~~therein~~ any position which he deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission *or department*, and *use* ~~utilize~~ therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission *or department* which shall be reviewable by summary procedure in the circuit courts of this state.;

(4)~~(2)~~ To have access to and use of all files, records, and data of *any insurer,* the commission, *or the department* available to any other attorney representing parties in a proceeding before the commission *or department*.;

(5)~~(3)~~ In any proceeding in which he has participated as a party, to seek review of any determination, finding, or order of the commission *or department*, or of any hearing examiner designated by the commission *or department*, in the name of the state or its citizens.;

(6)~~(4)~~ To prepare and issue reports, recommendations, and proposed orders to the commission *or department*, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission *or department*, and to make such recommendations as he deems appropriate for legislation relative to commission *or department* procedures, rules, jurisdiction, personnel, and functions.;

(7)~~(5)~~ To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission *or department*, in the name of the state or its citizens.

Section 4. Section 350.0612, Florida Statutes, is renumbered as section 11.406, Florida Statutes, and amended to read:

11.406 ~~350.0612~~ Public Counsel; location.—The Public Counsel shall maintain his office in Leon County ~~on the premises of the commission or, if suitable space there cannot be provided,~~ at such ~~other~~ place convenient to the offices of the *Public Service Commission and the Department of Insurance* ~~commissioners~~ as will enable him to carry out expeditiously the duties and functions of his office.

Section 5. Section 350.0613, Florida Statutes, is renumbered as section 11.407, Florida Statutes, and amended to read:

11.407 ~~350.0613~~ Public Counsel; employees; receipt of pleadings.—The *Legislative Auditing* Committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall ~~from time to time~~ prescribe. The committee may from time to time authorize retention of the services of additional attorneys, *actuaries, economists,* or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the *Public Service* Commission *or the Department of Insurance*. The commission *or department* shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission *or department*, and if the Public Counsel intervenes as a party in any proceeding he shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. *Pleadings shall include, but are not limited to, all rate filings for insurance filed pursuant to chapter 627.* Upon filing notice of intervention, the Public Counsel shall serve all interested parties with copies of such notice and all of his subsequent pleadings and exhibits.

Section 6. Section 350.0614, Florida Statutes, is renumbered as section 11.408, Florida Statutes, and amended to read:

11.408 ~~350.0614~~ Public Counsel; *trust fund;* compensation and expenses.—

(1)*(a) There is hereby created the Public Counsel Trust Fund to fund the operation of the Public Counsel for matters pertaining to insurance.*

(b) The salaries and expenses of the Public Counsel and his employees shall be allocated by the committee only from moneys appropriated to the Public Counsel by the Legislature.

(2) The Legislature hereby declares and determines that the Public Counsel is under the legislative branch of government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law and the rules or decisions of the *Legislative* ~~Joint~~ Auditing Committee.

(3) Neither the Executive Office of the Governor nor the Department of Administration or its successor shall have power to determine the number, or fix the compensation, of the employees of the Public Counsel or to exercise any manner of control over them.

Section 7. Subsection (3) is added to section 624.523, Florida Statutes, to read:

624.523 Insurance Commissioner's Regulatory Trust Fund.—

(3) An amount provided in the General Appropriations Act shall be transferred annually from the Insurance Commissioner's Regulatory Trust Fund to the Public Counsel Trust Fund for the purpose of funding the Office of the Public Counsel for matters pertaining to insurance.

Section 8. Subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)(a) The department may withhold from public inspection any examination report until filed and may withhold any investigation report for so long as the department deems reasonably necessary to protect the person investigated from unwarranted injury or deems to be in the public interest. *However, the Public Counsel shall have access to the examination and investigation files and reports pertaining to insurance at any time. The Public Counsel shall withhold from public inspection any information received while the department's examination or investigation is still in progress.*

(b) The department may withhold from public inspection any list of insurers or regulated companies if:

1. The financial solvency, condition, or soundness of such insurers or regulated companies is being monitored by the department;

2. The list is prepared to internally coordinate regulation by the department of the financial solvency, condition, or soundness of the insurers or regulated companies; and

3. The Insurance Commissioner and Treasurer determine that public inspection of such list could impair the financial solvency, condition, or soundness of such insurers or regulated companies.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 9. Subsection (1) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(1) Insurers shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on motor vehicle insurance written in this state. A copy of rates, rating schedules, and rating manuals, and changes therein, shall be filed with the department *under one of the following procedures:* ~~as soon as practicable following their effective date, but no later than 30 days after that date.~~

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

(b) If the filing is not made in accordance with paragraph (a), the filing shall be made as soon as practicable, but no later than 30 days after the effective date, and shall be considered a "use and file" filing. An insurer making a "use and file" filing is potentially subject to an order by the department to return to policyholders portions of premiums based on excessive or unfairly discriminatory rates.

Section 10. Paragraph (b) of subsection (1) of section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(1) For purposes of this section, unless the context otherwise requires, the term:

(b) "Specified state employee" means:

1. Public counsel created by chapter *11* ~~350~~, an assistant state attorney, an assistant public defender, a full-time state employee who serves as counsel or assistant counsel to any state agency, a judge of compensation claims, or a hearing officer.

2. Any person employed in the office of the Governor or in the office of any member of the Cabinet if that person is exempt from the Career Service System, except persons employed in clerical, secretarial, or similar positions.

3. Each appointed secretary, assistant secretary, deputy secretary, executive director, assistant executive director, or deputy executive director of each state department, commission, board, or council; unless otherwise provided, the division director, assistant division director, deputy director, bureau chief, and assistant bureau chief of any state department or division; or any person having the power normally conferred upon such persons, by whatever title.

4. The superintendent or institute director of a state mental health institute established for training and research in the mental health field or the superintendent or director of any major state institution or facility established for corrections, training, treatment, or rehabilitation.

5. Business managers, purchasing agents having the power to make any purchase exceeding $1,000, finance and accounting directors, personnel officers, or grants coordinators for any state agency.

6. The Auditor General, the Sergeant-at-Arms and Secretary of the Senate, the Sergeant-at-Arms and Clerk of the House of Representatives, the Executive Director of the Joint Legislative Management Committee, the Director of Statutory Revision, and the staff director of each committee of the Legislature.

7. Each employee of the Commission on Ethics.

Section 11. Section 407.54, Florida Statutes, is amended to read:

407.54 Budget review proceedings; duty of Public Counsel.—Notwithstanding any other provisions of this chapter, it shall be the duty of the Public Counsel to represent the general public of the state in any proceeding before the board or its advisory panels in any administrative hearing conducted pursuant to the provisions of s. 120.57 or before any other state and federal agencies and courts in any issue related to budget review. With respect to any such proceeding, the Public Counsel is subject to the provisions of and may *use* ~~utilize~~ the powers granted to him by *ss. 11.402-11.408* ~~ss. 350.061-350.0614~~.

Section 12. Subsection (11) of section 427.503, Florida Statutes, is amended to read:

427.503 Definitions.—The following terms and phrases when used in this part shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(11) "Public Counsel" means the individual appointed pursuant to *s. 11.403* ~~s. 350.061~~.

Section 13. Sections 11.402, 11.403, 11.404, 11.406, 11.407, 11.408, and 407.54, Florida Statutes, and subsection (3) of section 624.523, Florida Statutes, are repealed October 1, 1995, and shall be reviewed by the Legislature prior to that date pursuant to section 11.61, Florida Statutes.

The vote was:

Yeas—14

Mr. President	Davis	Gordon	Thomas
Brown	Diaz-Balart	Malchon	Thurman
Casas	Forman	Margolis	
Childers, D.	Gardner	Stuart	

Nays—18

Beard	Grant	Kiser	Souto
Childers, W. D.	Grizzle	Langley	Walker
Crenshaw	Jennings	McPherson	Woodson-Howard
Deratany	Johnson	Myers	
Dudley	Kirkpatrick	Scott	

Vote after roll call:

Yea—Weinstock

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

Amendment 5—On page 74, strike all of lines 13-15

Amendment 6—On page 158, strike all of lines 13-14 and insert: *adjuster's license and appointment limited to fire and allied lines, including marine or*

Amendment 7—On page 216, lines 17-24 and on page 217, lines 5-13, strike all underlined language, and on page 219, between lines 9 and 10, insert:

(8) In the event that a national bank is authorized, other than as authorized by 12 U.S.C. s. 92, to sell one or more types of annuities in Florida pursuant to federal law, then Florida chartered banks, savings and loan associations and savings banks, and federally chartered savings and loan associations and savings banks shall be authorized to sell the same type of annuities notwithstanding the provisions of this section; provided, however, that any such sales by any bank, savings bank, or savings and loan association shall be made in compliance with all other applicable requirements of the Florida Insurance Code and that such sales are made through a licensed resident agent. Nothing in this subsection is intended to grant national banks, federal savings and loan associations or federal savings banks any power or authority in addition to those granted under federal law nor to provide that federal law supersedes this section. Nothing herein shall be construed to limit the Florida Comptroller's authority pursuant to chapters 655, 658, and 665. Prior to any financial institution employing or contracting with a licensed resident agent to sell annuities, the financial institution shall notify the Department of Insurance and shall obtain approval to sell annuities from the Department of Banking and Finance. The prohibition set forth in subsection (2) of this section shall apply with respect to any agent during any period in which any financial institution is enjoined from selling annuities in Florida with respect to its authority to do so under federal law or Florida statute. For the purposes of this subsection, "national bank" means a bank authorized and regulated pursuant to the National Bank Act, 12 U.S.C., ss. 21 et seq.

Amendment 8—In title, on page 15, strike all of lines 21-24 and insert: amending s. 626.988, F.S.; providing contingent authority for selling of annuities; requiring notification, providing for additional requirements; providing for the subsequent possible prohibition upon a financial institution being enjoined from selling annuities;

On motion by Senator W. D. Childers, by two-thirds vote CS for HB 3621 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Deratany	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Stuart
Brown	Forman	Kiser	Thomas
Casas	Gardner	Langley	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	McPherson	Woodson-Howard
Crenshaw	Grant	Meek	
Davis	Grizzle	Myers	

Nays—None

Vote after roll call:

Yea—Bruner, Plummer, Weinstock

Motion

On motion by Senator Gardner, the House was requested to return CS for SB's 112 and 100.

CS for CS for SB 230—A bill to be entitled An act relating to the Florida Mobile Home Act; amending s. 723.002, F.S.; revising language with respect to the application of the Florida Mobile Home Act; amending s. 723.003, F.S.; providing definitions; amending s. 723.005, F.S.; revising language with respect to regulation by the Division of Florida Land Sales, Condominiums, and Mobile Homes to include reference to certain provisions of law; creating s. 723.010, F.S.; providing for disclosure of lot rental amount increases; amending s. 723.011, F.S.: deleting reference to unconscionable lot rental agreements; amending s. 723.013, F.S.; providing for additional disclosures in the absence of an offering prospectus; amending s. 723.014, F.S.; providing remedies for failure to make certain disclosures; amending s. 723.031, F.S.; requiring lot rental agreements to be reasonable and deleting reference to unconscionable lot rental agreements; correcting a cross-reference; amending s. 723.033, F.S.; prohibiting unreasonable lot rental agreements; establishing criteria to determine unreasonableness; providing additional remedies; amending s. 723.037, F.S.; providing for notice; providing for mediation; providing procedures; allowing mediation of all rent increases in a calendar year for one mobile home park in a single proceeding; amending s. 723.038, F.S.; providing for nonbinding mediation prior to filing court action; providing procedures; providing for appointment of mediators; providing qualifications for mediators; providing for rules of procedure to be established by the mediator in accordance with rules of procedure adopted by the Supreme Court; providing a filing fee; providing for paying the cost of mediation; providing for enforcement of resolution of a dispute; providing for confidentiality; providing immunity for mediators; creating s. 723.0381, F.S.; providing for court-annexed arbitration; requiring the court to refer actions filed pursuant to ch. 723, F.S., to nonbinding arbitration; providing for the parties to share equally the costs of arbitration in certain circumstances; providing for assessment of costs and attorney's fees in certain circumstances; providing for disclosure of an arbitration award in a subsequent court proceeding under certain circumstances; amending ss. 723.002, 723.058, F.S.; providing that restrictions on the disposal of mobile homes are applicable to certain persons; prohibiting certain restrictions against the sale or disposal of mobile homes; providing an effective date.

—was read the second time by title.

Senators Kiser, Langley and Dudley offered the following amendment which was moved by Senator Kiser and adopted:

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

Section 1. Subsection (1) of section 723.002, Florida Statutes, is amended to read:

723.002 Application of chapter.—

(1) The provisions of this chapter apply to any residential tenancy in which a mobile home is placed upon a rented or leased lot in a mobile home park in which 10 or more lots are offered for rent or lease. This chapter shall not be construed to apply to any other tenancy, including a tenancy in which both a mobile home and a mobile home lot are rented or leased by the mobile home resident or a tenancy in which a rental space is offered for occupancy by recreational-vehicle-type units which are primarily designed as temporary living quarters for recreational camping or travel use and which either have their own motor power or are mounted on or drawn by another vehicle. When both the mobile home and lot are rented or when fewer than 10 lots are available for rent or lease, the tenancy shall be governed by the provisions of part II of chapter 83, the "Florida Residential Landlord and Tenant Act." *However, this chapter shall continue to apply to any tenancy in a park even though the number of lots offered in that park has been reduced to below 10 if that tenancy was subject to the provisions of this chapter prior to the reduction in lots. This subsection is intended to clarify existing law.*

Section 2. Subsections (9), (10), (11), and (12) of section 723.003, Florida Statutes, are renumbered as subsections (10), (11), (12), and (13), respectively, and a new subsection (9) is added to said section, to read:

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

(9) The term "operator of a mobile home park" means either a person who establishes a mobile home park on land which is leased from another person or a person who has been delegated the authority to act as the park owner in all matters relating to the administration and management of the mobile home park, including, but not limited to, authority to make decisions relating to the mobile home park.

Section 3. Section 723.005, Florida Statutes, is amended to read:

723.005 Regulation by division.—The division has the power and duty to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the rental, development, and sale of mobile home parks. However, the division does not have the power or duty to enforce mobile home park rules and regulations or to enforce the provisions of ss. 723.022, ~~and~~ 723.023, *and 723.033.*

Section 4. Section 723.010, Florida Statutes, is created to read:

723.010 Disclosure of lot rental amount increases.—

(1) In addition to the written disclosure required by ss. 723.012 or 723.013, a park owner shall, prior to execution of the lot rental agreement or prior to the time of occupancy, whichever occurs first, or prior to the purchase of a new mobile home if s. 723.041(1)(d), is applicable, deliver

to a prospective mobile home owner of a new mobile home in an unfilled mobile home park a written disclosure as follows:

(a) The disclosure shall be a separate document provided to the mobile home owner and shall contain the following statements in conspicuous type. Immediately following this statement, the disclosure shall state the location in the other disclosure materials required by ss. 723.012 or 723.013 where the methods or reasons for rental increases are described in detail.

YOUR LOT RENTAL AMOUNT IS SUBJECT TO INCREASE. THE LOT RENTAL MAY BE INCREASED BY THE PARK OWNER. YOU MAY BE SUBJECT TO PASS-ON AND PASS-THROUGH COSTS AND OTHER FEES.

(b) If the lot rental agreement provides for a lot rental amount which is less than the market rate, or if the lot rental amount is based upon an introductory offer, the disclosure shall also contain the following disclosure in conspicuous type. Immediately following this statement, the disclosure shall state the location in the other disclosure materials required by s. 723.012 or s. 723.013 where the methods or reasons for rental increases are described in detail.

YOUR LOT RENTAL AMOUNT IS LESS THAN THE MARKET RATE. THE PARK OWNER HAS DETERMINED THAT THE LOT RENTAL AMOUNT MARKET RATE IS $. THE RENTAL AMOUNT MAY BE RAISED TO THE MARKET RATE BY THE PARK OWNER AS EARLY AS ONE YEAR FROM NOW. THIS COULD MEAN A SIGNIFICANT INCREASE IN YOUR LOT RENTAL AMOUNT.

(2) The disclosure statement required in this section shall be filed annually with the division. In addition, the park owner shall provide to the division a statement explaining and substantiating the basis upon which the park owner determined that the lot rental rate was or was not less than the market rate.

(3) For purposes of this section, the term "market rate" means a lot rental amount that is comparable with lot rental amounts in similar circumstances for similar facilities in comparable mobile home parks.

Section 5. Paragraph (a) of subsection (1) of section 723.011, Florida Statutes, is amended to read:

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

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

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

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

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

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

Section 6. Subsection (4) is added to section 723.013, Florida Statutes, to read:

723.013 Written notification in the absence of a prospectus.—A mobile home park owner who enters into a rental agreement in which a prospectus is not provided shall give written notification to the mobile home owner of the following information prior to occupancy:

(4) Disclosure of lot rental amount increases as provided in s. 723.010.

Section 7. Section 723.014, Florida Statutes, is amended to read:

723.014 Failure to provide prospectus or offering circular *or disclosure* prior to occupancy.—

(1) If a prospectus or offering circular *or disclosure under s. 723.010* was not provided to the prospective lessee 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 *or the disclosure under s. 723.010.*

(2) To cancel the rental agreement, the mobile home owner shall deliver written notice to the park owner within 15 days after receipt of the prospectus or offering circular *or disclosure under s. 723.010* and shall thereupon be entitled to a refund of any deposit together with relocation costs for the mobile home, or the market value thereof including any appurtenances thereto paid for by the mobile home owner, from the park owner.

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

723.031 Mobile home lot rental agreements.—

(5) The rental agreement shall contain the lot rental amount and services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement shall be in accordance with *ss. 723.033 and* ~~s.~~ 723.037 or s. 723.059(4), whichever is applicable, provided that, pursuant to s. 723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. No lot rental amount may be increased during the term of the lot rental agreement, except:

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

(b) For pass-through charges as defined in s. 723.003*(10)* ~~(9)~~.

(c) That no charge may be collected that results in payment of money for sums previously collected as part of the lot rental amount. The provisions hereof notwithstanding, the mobile home park owner may pass on, at any time during the term of the lot rental agreement, ad valorem property taxes and utility charges, or increases of either, provided that the ad valorem property taxes and the utility charges are not otherwise being collected in the remainder of the lot rental amount and provided further that the passing on of such ad valorem taxes or utility charges, or increases of either, was disclosed prior to tenancy, was being passed on as a matter of custom between the mobile home park owner and the mobile home owner, or such passing on was authorized by law. Such ad valorem taxes and utility charges shall be a part of the lot rental amount as defined by this chapter.

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

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

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

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

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

Section 9. Section 723.033, Florida Statutes, is amended to read:

723.033 *Unreasonable* ~~Unconscionable~~ lot rental agreements *increases, changes.*—

(1) If the court, as a matter of law, finds a mobile home lot rental *amount* ~~agreement~~, *rent increase, or change* or any provision of the rental agreement, to *be unreasonable* ~~have been unconscionable at the time it was made~~, the court may:

(a) Refuse to enforce the *lot* rental agreement.

(b) Refuse to enforce the rent increase or change.

(c)~~(b)~~ Enforce the remainder of the *lot* rental agreement without the *unreasonable* ~~unconscionable~~ provision.

(d)~~(c)~~ Limit the application of the *unreasonable* ~~unconscionable~~ provision so as to avoid any *unreasonable* ~~unconscionable~~ result.

(e) Award a refund or a reduction in future rent payments.

(f) Award such other equitable relief as deemed necessary.

(2) When it is claimed or appears to the court that *a lot* ~~the~~ rental *amount* ~~agreement~~, *rent increase, or change,* or any provision thereof, may be *unreasonable* ~~unconscionable~~, the parties shall be afforded a reasonable opportunity to present evidence as to its meaning and purpose, the relationship of the parties, and other relevant factors to aid the court in making the determination.

(3) For the purposes of this section, a lot rental amount that is in excess of market rent shall be considered unreasonable.

(4) Market rent means that rent which would result from market forces absent an unequal bargaining position between mobile home park owners and mobile home owners.

(5) In determining market rent, the court may consider rents charged by comparable mobile home parks in its competitive area. To be comparable, a mobile home park must offer similar facilities, services, amenities, and management.

(6) In determining whether a rent increase or resulting lot rental amount is unreasonable, the court may consider economic or other factors, including, but not limited to, increases or decreases in the consumer price index, all urban consumer south, published by the Bureau of Labor Statistics of the Department of Labor; increases or decreases in operating costs or taxes; and prior disclosures.

(7) An arbitrator or mediator under ss. 723.037, 723.038, and 723.0381 shall employ the same standards as set forth in this section.

Section 10. Section 723.037, Florida Statutes, is amended to read:

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

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

(2) Notice as required by this section shall, *in addition to the information required in subsection (1),* only be required to include *the dollar amount of the present lot rental amount and the dollar amount of the proposed lot rental amount if there is an increase in the lot rental amount* ~~the change in the present lot rental amount~~, the reduction in services or utilities, or the change in rules and regulations and the effective date thereof.

(3) The park owner shall file annually with the division a copy of any notice of a lot rental amount increase. The notice shall be filed on or before January 1 of each year for any notice given during the preceding year. If the actual increase is an amount less than the proposed amount stated in the notice, the park owner shall notify the division of the actual amount of the increase within 30 days of the effective date of the increase or at the time of filing, whichever is later.

(4)~~(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 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.

(5)(a)~~(4)~~ Within 30 days *after* ~~of~~ the date of the scheduled meeting described in subsection *(4)*~~(3)~~, the homeowners *may petition the division to initiate* ~~shall request that the dispute be submitted to~~ mediation *of the dispute* pursuant to s. 723.038 if a majority of the affected homeowners have designated, in writing, that:

1.~~(a)~~ The rental increase is unreasonable;

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

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

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

(b) A park owner, within the same time period, may also petition the division to initiate mediation of the dispute.

(c) When a dispute involves a rental increase for different home owners and there are different rates or different rental terms for those home owners, all such rent increases in a calendar year for one mobile home park may be considered in one mediation proceeding.

~~(5) If both parties subsequently agree, they may request that the dispute be arbitrated rather than mediated.~~

~~(6) No action relating to a dispute described in this section may be filed in any court unless and until a request has been submitted to the division for mediation or arbitration and the request has been processed in accordance with s. 723.038.~~

(6)~~(7)~~ If a party *requests mediation and the opposing party* refuses to agree to mediate ~~or arbitrate, or fails to request mediation,~~ upon proper request, *the* ~~that~~ party *refusing to mediate* shall not be entitled to attorney's fees in any action relating to a dispute described in this section.

Section 11. Section 723.038, Florida Statutes, is amended to read:

723.038 Dispute settlement*; mediation.*—

(1) Either party may petition the division to appoint a mediator and initiate mediation proceedings.

(2)~~(1)~~ The division *upon petition* shall *appoint a* ~~employ~~ qualified *mediator* ~~mediators and arbitrators~~ to conduct mediation ~~or arbitration~~ proceedings *unless the parties timely notify the division in writing that they have selected a mediator. A person appointed by the division shall be a qualified mediator from a list of circuit court mediators in each judicial circuit who has met training and educational requirements established by the Supreme Court. If such mediators are not available, the division may select a mediator from the list maintained by the Florida Growth Management Conflict Resolution Consortium* The division shall promulgate rules of procedure to govern such proceedings *in accordance with the rules of practice and procedure adopted by the Supreme Court. The division shall also establish, by rule, the fee to be charged by a mediator which shall not exceed the fee authorized by the circuit court.*

(3) A mediator appointed by the division shall comply with the rules adopted by the division. The mediator shall also notify the division in writing within 10 days after the conclusion of the mediation, that the mediation has been concluded.

~~(2) The mediation or arbitration as provided herein is not binding unless the parties agree otherwise in writing. When the parties have not~~

~~agreed to be bound by the result of the mediation or arbitration, a party is not foreclosed from seeking a trial de novo in a court of competent~~ jurisdiction.

(4) Upon receiving a petition to mediate a dispute, the division shall, within 20 days, notify the parties that a filing fee in the amount of $250 shall be paid by each party to the division and that the division will appoint a mediator within 20 days from the receipt of the filing fees from both parties.

(5) The parties shall pay their respective share of the filing fee to the division within 10 days from the date stated on the notice unless, within such time, they indicate in writing to the division that they have agreed to select their own mediator. The division shall refund to each party the filing fee, exclusive of any interest earned during the period it was held by the division, upon withdrawal of the petition by either party prior to mediation or upon receipt of notification by the mediator that the mediation has been concluded.

(6)~~(3)~~ The division director is authorized to exercise his authority to subpoena the books and records of any party if the mediator ~~or arbitrator~~ determines that such information is relevant to the resolution of the dispute. Any information acquired by subpoena shall be for use by the division only and is exempt from chapter 119.

(7)~~(4)~~ No resolution arising from a *mediation* ~~dispute settlement~~ proceeding as provided for in s. 723.037 or this section shall be deemed final agency action. *Any party, however, may initiate an action in the circuit court to enforce a resolution or agreement arising from a mediation proceeding which has been reduced to writing. The court shall consider such resolution or agreement to be a contract for the purpose of providing a remedy to the complaining party.*

(8) Mediation pursuant to this section is an informal and nonadversarial process. Either party may submit to the opposing party at least 10 days prior to mediation a written request for information.

(9) Each party involved in the mediation proceeding has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding, whether or not the dispute was successfully resolved. This subsection shall not be construed to prevent or inhibit the discovery or admissibility of any information which is otherwise subject to discovery or admission under applicable law or rules of court. There is no privilege as to communications made in furtherance of the commission of a crime or fraud or as part of a plan to commit a crime or a fraud. Nothing in this subsection shall be construed so as to permit an individual to obtain immunity from prosecution for criminal conduct.

(10) A mediator appointed pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge.

Section 12. Section 723.0381, Florida Statutes, is created to read:

723.0381 Civil actions; arbitration.—

(1) After mediation of a dispute pursuant to s. 723.038 has failed to provide a resolution of the dispute, either party may file an action in the circuit court.

(2) The court shall refer the action to a panel of three arbitrators for court-annexed nonbinding arbitration pursuant to s. 44.303 and the Florida Rules of Civil Procedure. The court shall assess the parties equally to pay the compensation awarded to the arbitrators if neither party requests a trial de novo. If a party has filed for a trial de novo, the party shall be assessed the arbitration costs, court costs, and other reasonable costs of the opposing party including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If subsequent to arbitration a party files for a trial de novo, the arbitration decision may be made known to the judge only after he has entered his order on the merits.

Section 13. Subsection (2) of section 723.002, Florida Statutes, is amended to read:

723.002 Application of chapter.—

(2) The provisions of ss. 723.035, 723.037, 723.038, 723.054, 723.055, 723.056, *723.058,* and 723.068 are applicable to mobile home subdivision developers and the owners of lots in mobile home subdivisions.

Section 14. Section 723.058, Florida Statutes, is amended to read:

723.058 Restrictions on *sale* ~~disposal~~ of mobile homes.—

(1) No mobile home park owner *or subdivision developer* shall make or enforce any rule, regulation, or rental agreement provision which denies or abridges the right of any mobile home owner *or owner of a lot in a mobile home subdivision* to sell his mobile home within the park *or mobile home subdivision*; which prohibits the mobile home owner *or the owner of a lot in a mobile home subdivision* from placing a "for sale" sign on or in his mobile home (except that the size, placement, and character of all signs are subject to properly promulgated and reasonable rules and regulations of the mobile home park *or mobile home subdivision*); or which requires the mobile home owner *or the owner of a lot in a mobile home subdivision* to remove the mobile home from the park *or mobile home subdivision* solely on the basis of the sale thereof.

(2) The park owner *or subdivision developer* shall not exact a commission or fee with respect to the price realized by the seller unless the park owner *or subdivision developer* has acted as agent for the mobile home owner *or the owner of a lot in a mobile home subdivision* in the sale pursuant to a written contract.

Section 15. This act shall take effect October 1, 1990.

On motion by Senator Weinstein, by two-thirds vote CS for CS for SB 230 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	Deratany	Johnson	Stuart
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Langley	Thurman
Brown	Forman	Malchon	Walker
Bruner	Gardner	McPherson	Weinstein
Casas	Girardeau	Meek	Weinstock
Childers, D.	Gordon	Myers	Woodson-Howard
Childers, W. D.	Grant	Plummer	
Crenshaw	Grizzle	Scott	
Davis	Jennings	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

Consideration of **SB 1982** was deferred.

LOCAL BILLS

Consideration of **SB 1836** was deferred.

CS for SB 3124—A bill to be entitled An act relating to Alachua County; amending ss. 1(1), (2)(a), 3(2)(b), ch. 84-388, Laws of Florida, as amended by s. 1, ch. 86-342, Laws of Florida; providing that deputy sheriffs are deemed public employees and enjoy all rights granted public employees by law, including the protections afforded to law enforcement officers by pt. VI, ch. 112, F.S., and the right to engage in collective bargaining; repealing a provision relating to the rehiring of sheriff's employees who have been placed on disciplinary probation for periods of 6 months or more; eliminating the requirement that the sheriff review all complaints against employees and permitting the sheriff to review such complaints at his discretion; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 3124 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

Consideration of **SB 3160** was deferred.

On motions by Senator Plummer, by two-thirds vote—

HB 3859—A bill to be entitled An act relating to Monroe County; creating the Solid Waste and Resource Recovery Authority of Monroe County, to construct, issue permits, acquire, own, maintain, and operate a waste collection, resource recovery, and disposal system in said county for the collection or disposal or both of solid waste, septage, and other waste matter; providing for the governing body of the authority and for terms of its members; providing for officers, meetings, and method of removing members; prescribing the powers of the authority; providing for the granting of franchises; providing for an executive director; authorizing the authority to enter into interlocal agreements with the county and municipalities; authorizing the authority to adopt rules pursuant to public hearing; providing that such rules may be more strict than rules imposed by the Department of Environmental Regulation; authorizing the authority to establish, fix, and collect fees, rentals, or other charges for the services and facilities of said waste collection, resource recovery, and disposal system, and to issue bonds to finance the cost of the construction, acquisition, expansion, or improvement of said waste collection, resource recovery, and disposal system, and purposes related thereto; requiring that such bonds be issued pursuant to a referendum; providing that the bonds shall be revenue bonds payable solely from the fees, rentals, or other charges derived from said waste collection, resource recovery, and disposal system, or from funds other than ad valorem taxes; providing for budget and approval of budget; providing that the authority may supply or furnish the services and facilities of said waste collection, resource recovery, and disposal system outside the service area pursuant to contract authorized by the Board of Trustees; providing for the exercise of eminent domain by the authority; providing for a receiver of said waste collection, resource recovery, and disposal system on default of the authority in the payment on such bonds or of covenants with the holders of such bonds; providing for covenants of the state with respect to the rights of the holders of said bonds; providing for the issuance of refunding bonds; authorizing the authority to covenant with holders of such bonds to include the amounts necessary for debt service and reserves on said bonds in each year in the budget of such authority for such year; authorizing the authority to require the use of the facilities of said waste collection, resource recovery, and disposal system; authorizing the authority to make other valid and legally binding covenants with the holders of said bonds relative to said waste collection, resource recovery, and disposal system; specifying the rights, security, and remedies of the holders of said bonds; providing that the authority has sole and exclusive authority within the county to collect and dispose of solid waste, and other waste matter; authorizing the authority to prohibit or control incineration and disposal of solid waste and other waste matter; authorizing the authority to prohibit or issue permits, control, and require the disposal of all solid waste, septage, and other waste in a disposal facility as specified by the authority; authorizing the authority to enter into contracts for the collection or disposal or both of solid waste and other waste matter; authorizing the authority to use property rights held by the state and political subdivisions thereof; authorizing the authority to accept grants and loans; authorizing the authority to lease the waste collection, resource recovery, and disposal system, or part thereof, and to lease facilities; authorizing the authority to divide the county into districts for the purposes of solid waste collection or disposal or both; exempting the fees, rentals, or other charges for the services and facilities of such system from regulation, supervision, and control of state agencies; authorizing the authority to delegate authority to administer such waste collection, resource recovery, and disposal system or part thereof; authorizing the authority to make rules and regulations for the use, control, management, and operation of the waste collection, resource recovery, and disposal system; exempting the exercise of rights and powers conferred by the act from the Florida Antitrust Act of 1980; authorizing the authority to grant permits or licenses for collection or disposal, or both, of solid waste, septage, and other waste matter; providing severability; authorizing the authority to issue a specified amount of special assessment anticipation notes to provide for interim operation of solid waste facilities; repealing ch. 89-434, Laws of Florida, relating to the Solid Waste and Resource Recovery Authority of Monroe County; providing for a referendum; providing an effective date.

—a companion measure, was substituted for SB 3212 and by two-thirds vote read the second time by title. On motion by Senator Plummer, by two-thirds vote HB 3859 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

SB 3214—A bill to be entitled An act relating to the Sarasota County Public Hospital Board, Sarasota County; amending s. 8(b), ch. 26468, Laws of Florida, 1949, as amended, relating to the powers of the board, to enable the hospital board to construct outpatient health facilities and medical offices and to do so without regard to municipal and county zoning ordinances, laws, and regulations; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote SB 3214 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 2691—A bill to be entitled An act relating to the City of Punta Gorda, Charlotte County; amending chapter 79-558, Laws of Florida, as amended; increasing maximum annual tax levies with respect to special taxing districts for the maintenance of canals, waterways, and navigable channels; providing a referendum.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote HB 2691 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3221—A bill to be entitled An act relating to Palm Beach County; repealing chapter 83-495, Laws of Florida, which provides for the dissolution of all fire control taxing districts created under chapter 63-1747, Laws of Florida, upon the adoption of an ordinance by Palm Beach County providing for municipal service taxing units to provide fire protection and advanced life support/fire rescue services and for certain other matters related thereto; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3221 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3239—A bill to be entitled An act relating to the Golden Gate Fire Control and Rescue District, Collier County; amending chapter 87-498, Laws of Florida, to increase the millage cap for the levy of taxes by the district; providing for a referendum.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 3239 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3273—A bill to be entitled An act relating to the City of Jacksonville; amending chapter 67-1320, Laws of Florida, as amended; exempting certain positions from the civil service system of the city; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote HB 3273 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3277—A bill to be entitled An act relating to the City of Jacksonville; amending section 17.06 of chapter 67-1320, Laws of Florida, as amended, concerning employees of the City of Jacksonville exempt from civil service; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote HB 3277 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Childers, D.	Forman	Jennings
Bankhead	Childers, W. D.	Gardner	Johnson
Beard	Crenshaw	Girardeau	Kirkpatrick
Brown	Deratany	Gordon	Kiser
Bruner	Diaz-Balart	Grant	Langley
Casas	Dudley	Grizzle	Malchon
Margolis	Peterson	Stuart	Weinstein
McPherson	Plummer	Thomas	Weinstock
Meek	Scott	Thurman	Woodson-Howard
Myers	Souto	Walker	

Nays—None

HB 3279—A bill to be entitled An act relating to the Big Corkscrew Island Fire Control and Rescue District, Collier County; amending chapter 77-535, Laws of Florida, authorizing a millage not to exceed 2 mills; deleting a millage of 1 mill authorized for a period of 3 years beginning July 1987 to be used for the construction of a fire station in the district; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 3279 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3287—A bill to be entitled An act relating to Indian Trail Water Control District, Palm Beach County; reenacting chapter 88-501, Laws of Florida, to comply with s. 189.4051(1)(b), F.S., relating to the organization of the board of supervisors and the voting procedures; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3287 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3321—A bill to be entitled An act relating to Manatee County; amending chapter 84-477, Laws of Florida, as amended, relating to the Oneco-Tallevast Fire Control District; authorizing the board to establish a schedule of charges for no-fire hazardous incidents which impact the health and safety of the public; amending provisions relating to the authority of the board to acquire land and to otherwise grant powers provided by statute to municipal corporations; providing an effective date.

—was read the second time by title. On motion by Senator Woodson-Howard, by two-thirds vote HB 3321 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3331—A bill to be entitled An act relating to Manatee County; amending chapter 84-478, Laws of Florida, as amended, relating to the Cedar Hammock Fire Control District; amending the schedule of special assessments; providing an effective date.

—was read the second time by title. On motion by Senator Woodson-Howard, by two-thirds vote HB 3331 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3339—A bill to be entitled An act relating to Manatee County; amending chapter 85-454, Laws of Florida, as amended, relating to the Braden River Fire Control and Rescue District; amending the description of lands to be incorporated within the district; authorizing the board to establish a schedule of charges for no-fire hazardous incidents which impact the health and safety of the public; amending the schedule of special assessments and charges; providing an effective date.

—was read the second time by title. On motion by Senator Woodson-Howard, by two-thirds vote HB 3339 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3351—A bill to be entitled An act relating to Anna Maria Fire Control District, Manatee County; codifying and amending chapter 27696, Laws of Florida, 1951, as amended; providing for the continued existence of said district as a public municipal corporation; specifying the lands embraced in said district; providing the powers of said district and its officers and for the exercise and administration of the district's powers by a board of commissioners; providing that members of the board of commissioners shall be appointed; providing their financial reporting obligations; providing for the levy, collection and enforcement of special assessments against lands in said district to raise funds for the district's purposes; providing for the levy of impact fees on new construction within the district to defray the cost of improvements required to provide fire and emergency service to such new construction; authorizing the district to borrow money and pledge future assessments as security; providing an effective date.

—was read the second time by title. On motion by Senator Woodson-Howard, by two-thirds vote HB 3351 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Childers, D.	Forman	Jennings
Bankhead	Childers, W. D.	Gardner	Johnson
Beard	Crenshaw	Girardeau	Kirkpatrick
Brown	Deratany	Gordon	Kiser
Bruner	Diaz-Balart	Grant	Langley
Casas	Dudley	Grizzle	Malchon
Margolis	Peterson	Stuart	Weinstein
McPherson	Plummer	Thomas	Weinstock
Meek	Scott	Thurman	Woodson-Howard
Myers	Souto	Walker	

Nays—None

HB 3355—A bill to be entitled An act relating to the West Palm Beach Downtown Development Authority, Palm Beach County; amending chapter 67-2170, Laws of Florida, as amended, to increase the annual millage rate of the West Palm Beach Downtown Development Authority; providing for a referendum.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3355 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3389—A bill to be entitled An act relating to Collier County, prohibiting the taking of saltwater fish, except by hook and line, hand-held cast nets, and with no more than five (5) crab traps, in the residential man-made saltwater canals in the unincorporated area of Collier County; providing a penalty; repealing chapter 83-389, Laws of Florida, which prohibits the setting of fishing nets within 100 feet of a man-made seawall on Marco Island or the Isles of Capri during certain hours; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 3389 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3391—A bill to be entitled An act relating to the City of Tallahassee and Leon County; creating a commission to develop a charter to consolidate the City of Tallahassee and Leon County upon voter approval; providing for the membership of the commission; providing for meetings and staff; providing for a referendum if the Legislature adopts the proposed Charter; and providing for an effective date.

—was read the second time by title. On motion by Senator Walker, by two-thirds vote HB 3391 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3395—A bill to be entitled An act relating to Gilchrist County; authorizing the District School Board of Gilchrist County to issue bonds to raise moneys to pay for the construction of classrooms at Bell High School; authorizing the school board to issue refunding bonds and bond anticipation notes; requiring the school board to pay the principal of, premium for, and interest on such bonds out of racetrack moneys and jai alai fronton moneys that accrue annually to Gilchrist County and are allocated to the school board and from certain other moneys of the school board; requiring the school board to annually reserve $100,000 of such moneys to secure the payment of the principal of, premium for, and interest on such bonds; specifying costs of classroom construction for which the school board may issue such bonds; providing for the investment of the proceeds of the sale of bonds; making the bonds legal investments, lawful collateral for public deposits, and negotiable instruments; providing that a referendum is not required to exercise any powers under the act, unless required by the State Constitution; amending s. 1, ch. 63-942, Laws of Florida, as amended; revising the distribution of racetrack moneys and jai alai fronton moneys that accrue to Gilchrist County and are allocated to the district school board and the board of county commissioners; deleting a provision that has had its effect; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 3395 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3401—A bill to be entitled An act relating to Collier County; amending chapter 69-1326, Laws of Florida, as amended, relating to the City of Naples Airport Authority; permitting the authority to contract for the operation of any airport facilities located in the county; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 3401 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3403—A bill to be entitled An act relating to the City of Naples, Collier County; prohibiting the taking of saltwater fish, except by hook and line, hand-held cast nets, and with no more than five (5) crab traps, in the residential, man-made saltwater canals in the City of Naples; providing a penalty; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Dudley, by two-thirds vote HB 3403 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3407—A bill to be entitled An act relating to St. Lucie County; amending chapter 69-1550, Laws of Florida; requiring payment of all payable taxes on the land and redemption of all tax sales against the land before any plat shall be recorded; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3407 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3411—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 69-1469, Laws of Florida, as amended; allowing the city and the trustees of the pension systems of the city to contract with one or more investment banks to act as corporate trustees for investment purposes; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 3411 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3415—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 15425, Laws of Florida, 1931, as amended; amending the petition filing date for candidates qualifying for election to the city council for whom the filing fee is an undue burden; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 3415 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Casas	Diaz-Balart	Gordon
Bankhead	Childers, D.	Dudley	Grant
Beard	Childers, W. D.	Forman	Grizzle
Brown	Crenshaw	Gardner	Jennings
Bruner	Deratany	Girardeau	Johnson

Kirkpatrick	McPherson	Scott	Walker
Kiser	Meek	Souto	Weinstein
Langley	Myers	Stuart	Weinstock
Malchon	Peterson	Thomas	Woodson-Howard
Margolis	Plummer	Thurman	

Nays—None

HB 3417—A bill to be entitled An act relating to the Escambia County Utilities Authority; amending chapter 81-376, Laws of Florida; increasing the penalty for violation of wastewater pretreatment rules or regulations of the authority; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, between lines 6 and 7, insert:

Section 2. A hazardous waste processing, transfer, or storage facility may not be sited within the drainage basin of the Perdido River or Perdido Bay.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 6, following the semicolon (;) insert: prohibiting the siting of a hazardous waste processing, transfer, or storage facility within the drainage basin of the Perdido River or Perdido Bay;

On motion by Senator W. D. Childers, by two-thirds vote HB 3417 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

CS for HB 3419—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 84-510, Laws of Florida; amending the civil service law to specify deadlines for notice of appeal, filing of specifications of charges, and freeze of pension rights; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote CS for HB 3419 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3423—A bill to be entitled An act relating to the City of Sebring, Highlands County; amending chapter 23535, Laws of Florida, 1945, as amended; authorizing the sale, conveyance, transfer, and lease of assets of the Utilities Commission upon approval of the city council; requiring approval by the city council before the Utilities Commission incurs certain debts; providing for a referendum.

—was read the second time by title. On motion by Senator Crawford, by two-thirds vote HB 3423 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3443—A bill to be entitled An act relating to the Tindall Hammock Irrigation and Soil Conservation District, Broward County; amending chapter 27428, Laws of Florida, 1951, as amended; adding a millage tax; repealing all laws or parts of laws in conflict with the provisions of this act; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote HB 3443 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3491—A bill to be entitled An act relating to the Lake Worth Drainage District, Palm Beach County; amending chapter 61-1747, Laws of Florida, as amended; providing for an alternate method of electing the board of supervisors of the district; providing definitions; providing for the creation of five single-member subdistricts by petition and referendum of qualified electors; providing for the boundaries of the subdistricts; providing for the compensation of the board of supervisors; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3491 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3507—A bill to be entitled An act relating to Santa Rosa County; adding certain lands to the Skyline Fire Protection and Rescue Service District; amending chapter 80-606, Laws of Florida, as amended; providing for a change in the rate of special assessment the board is authorized to levy; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote HB 3507 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3555—A bill to be entitled An act relating to Broward County; providing for the annexation of certain lands located in unincorporated Broward County commonly referred to as the Ravenswood Road Annexation Area into the Cities of Dania and Hollywood; prohibiting the annexation of certain lands for a specified period; providing for the deannexation of certain lands; providing for zoning considerations; providing for the delivery of specified governmental services; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote HB 3555 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3559—A bill to be entitled An act relating to the North Broward Hospital District, Broward County; amending chapter 27438, Laws of Florida, 1951, as amended, relating to the powers of the hospital board to invest its funds; authorizing investment in specified instruments; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote HB 3559 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Stuart
Beard	Forman	Langley	Thomas
Brown	Gardner	Malchon	Thurman
Bruner	Girardeau	Margolis	Walker
Casas	Gordon	McPherson	Weinstein
Childers, D.	Grant	Meek	Weinstock
Childers, W. D.	Grizzle	Myers	Woodson-Howard
Crenshaw	Jennings	Peterson	
Deratany	Johnson	Plummer	

Nays—None

Abstention from Voting

In an abundance of caution, I might have a possible conflict of interest and have abstained from voting on this bill.

James A. Scott, 31st District

HB 3591—A bill to be entitled An act relating to Broward County and the South Broward Hospital District; adding s. 40 to chapter 24415, Laws of Florida, 1947, as amended, relating to the powers of the Board of Commissioners of the South Broward Hospital District to invest its funds; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote HB 3591 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3667—A bill to be entitled An act relating to the Town of Worthington Springs; amending chapter 61-3012, Laws of Florida; increasing the amount of money the town can obligate without a public bid; granting the town the authority to levy ad valorem taxes; providing an effective date.

—was read the second time by title.

Senator Crenshaw moved the following amendment which was adopted:

Amendment 1—On page 1, strike line 22 and insert: valorem taxes on real and tangible personal property.

On motion by Senator Crenshaw, by two-thirds vote HB 3667 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3707—A bill to be entitled An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; amending chapter 61-2655, Laws of Florida, as amended; providing for increases in certain retirement benefits; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator W. D. Childers, by two-thirds vote HB 3707 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

CS for HB's 3303 and 3305—A bill to be entitled An act relating to Pinellas County; repealing chapter 70-907, Laws of Florida, as amended, and requiring the review of the Pinellas Suncoast Transit Authority; providing for periodic review if continued or reestablished; providing elements of review; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote CS for HB's 3303 and 3305 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3557—A bill to be entitled An act relating to the City of Coconut Creek, Broward County; contracting and reducing the corporate limits of the City of Coconut Creek to deannex the Sunshine State Parkway (also known as Florida's Turnpike) Right-of-Way within said corporate limits; redefining city limits; repealing chapter 89-417, Laws of Florida, relating to the existing definition of the corporate limits of the City of Coconut Creek; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote HB 3557 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

SB 3202—A bill to be entitled An act relating to Manatee County; prohibiting the use of a gill net in the saltwaters of Manatee County without a license; providing for an annual license fee; providing for the form of the license; providing for display; providing for disposition of license fees; providing for application of the act; providing that persons holding or applying for a saltwater products license may credit that license fee against the gill net license fee; providing that certain similar licenses issued in other Florida counties shall be valid in Manatee County; providing a penalty; providing for repeal; providing for validity of current licenses; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Woodson-Howard, by two-thirds vote SB 3202 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

SB 3216—A bill to be entitled An act relating to the Everglades Agricultural Area Environmental Protection District; amending sections 6 and 8 of chapter 89-423, Laws of Florida; authorizing the district to borrow money and issue bond anticipation notes and revenue bonds or other evidences of indebtedness; increasing to $10 per acre the maximum amount of the special assessment which may be levied by the district board upon assessable land within the district; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator D. Childers, by two-thirds vote SB 3216 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3485—A bill to be entitled An act relating to the South Florida Conservancy District in Palm Beach and Hendry Counties; amending chapter 71-380, Laws of Florida, as amended, relating to the District Restoration Tax; authorizing the Board of Supervisors to utilize restoration taxes for the payment of restoration and rehabilitation of works of the district, including facilities and systems within the District and connected to district works; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3485 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

Consideration of **HB 3231** and **HB 3283** was deferred.

HB 3193—A bill to be entitled An act relating to the City of Ocoee, Orange County; providing police jurisdiction on roadways located outside city limits but inside county limits to grant additional arrest powers to duly constituted law enforcement officers of the city; providing an effective date.

—was read the second time by title. On motion by Senator Jennings, by two-thirds vote HB 3193 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

On motions by Senator Langley, by two-thirds vote—

SB 3224—A bill to be entitled An act relating to Lake County; requiring the Lake County Board of County Commissioners to hold a straw ballot referendum on the issue of whether commissioners should be elected at large within the county; 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—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

SB 3204—A bill to be entitled An act relating to the North Port Water Control District; providing for the dissolution of the water control district; providing for the transfer of the property, assets, rights, responsibilities, and obligations thereof to the North Port Road and Drainage District; providing that the road and drainage district is to replace the water control district as a party to contracts of the water control district; specifying conditions precedent for the dissolution of the water control district; specifying a date for the transfer of the powers and responsibilities of the water control district, subject to the satisfaction of the conditions precedent; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 3, strike all of lines 20-23

On motion by Senator Johnson, by two-thirds vote SB 3204 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3879—A bill to be entitled An act relating to the City of Gainesville and Alachua County; creating the Consolidated Government of Gainesville and Alachua County and providing the charter therefor; providing general and urban service districts; providing for the continuance of separate municipalities; providing legislative and executive branches and providing for the organization, powers, duties, and functions thereof; providing procedures with respect to budget and financial matters, including bonded indebtedness; providing election procedures; establishing a charter revision commission; providing for amendment to the charter by voter initiation and referendum; providing for personnel matters and pension plans; providing for the transition of present governmental functions to the consolidated government; providing for a special election to ratify the charter; amending chapter 85-376, Laws of Florida; conforming provisions relating to the governing board of the Alachua County Library District; providing effective dates.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote HB 3879 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

HB 3261—A bill to be entitled An act relating to the Loxahatchee River Environmental Control District; amending chapter 71-822, Laws of Florida, as amended, to include a specified parcel of land within the territorial limits of the district; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote HB 3261 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 1816, with amendment, and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1816—A bill to be entitled An act relating to the City of Gainesville; amending chapter 12760, Laws of Florida, 1927, as amended; revising the charter of the City of Gainesville; providing for continuation of municipal powers; providing territorial limits; providing for liberal construction of municipal powers; providing severability; providing special powers and authority; providing for the exercise of eminent domain within Alachua County and without the county under certain limitations; providing for the levy of ad valorem and other taxes; providing for the election of a city commission; providing for the creation of districts; providing eligibility requirements for city commissioners; providing terms of office; providing powers and duties of the commission; authorizing the commission to appoint certain charter officers; providing powers and duties of such officers; providing for advisory boards and committees; providing powers and duties of such boards and committees; providing for variances to certain land use regulations; providing for amendments to the charter; providing for a retirement and pension plan for municipal employees; prohibiting the disposal of utility facilities by the commission unless pursuant to ordinance approved by the electors; providing for fresh pursuit and arrest by municipal police officers; providing for construction of prior provisions of the charter; providing an effective date.

House Amendment 1—On page 30, line 13, strike all of said line and insert:

3.06 GENERAL MANAGER FOR UTILITIES.

(1) Appointment; administrative head of municipal utilities; qualifications; terms.

The commission shall appoint a general manager for utilities ("general manager") who shall be responsible to the commission. The general manager shall be responsible for the efficient administration of the Utility System. The general manager for utilities shall serve at the will of the commission.

(2) Powers and duties generally.

The general manager:

(a) Shall be responsible for and have exclusive management jurisdiction and control over operating and financial affairs of the Utility System including, but not limited to, the planning, development, production, purchase, sale, exchange, interchange, transmission and distribution of all electricity; the planning, development, purchase, sale, exchange, inter-

change, transmission and distribution of all natural gas; the planning, development, supply, treatment, transmission, distribution and sale of all potable water; and the planning, development, collection, treatment, disposal and billing of all wastewater now or hereafter provided by the City;

(b) Shall submit to the commission for its consideration a yearly budget for the operation of the Utility System;

(c) Shall be the purchasing agent for all equipment, materials, supplies and services necessary for operating and maintaining the Utility System subject to policies promulgated by the commission;

(d) Shall propose ordinances to designate the job titles of subordinates that are to be considered directors of department;

(e) Shall appoint and, except as otherwise provided in this charter, remove all directors of departments at will;

(f) Shall recommend to the commission all measures necessary and expedient for the proper governance and management of the Utility System;

(g) Shall keep the commission fully advised as to the management, governance and needs of the Utility System;

(h) Shall perform all other duties prescribed by law, this charter, ordinance, or direction of the commission.

3.07 Audits and examinations of administrative

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

SB 1816 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—39

Mr. President	Diaz-Balart	Kirkpatrick	Scott
Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

LOCAL BILLS, continued

HB 3561—A bill to be entitled An act relating to the City of Deerfield Beach, Broward County; enlarging and extending the corporate limits of the City of Deerfield Beach to include specified unincorporated lands within the City of Deerfield Beach corporate limits; providing for zoning of the land annexed into the City of Deerfield Beach; providing for certain development standards, regulations, buffers and criteria as to such land; providing for business operations and uses; providing for municipal powers; providing for enforcement; granting certain municipal powers over annexed territory to the City of Deerfield Beach; providing an effective date.

—was read the second time by title.

Motions

On motion by Senator Meek, by two-thirds vote HB 3561 was also referred to the Committee on Education.

On motion by Senator Johnson, by two-thirds vote HB 3561 was withdrawn from the Committee on Education.

On motion by Senator Forman, by two-thirds vote HB 3561 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Mr. President	Deratany	Kiser	Souto
Bankhead	Diaz-Balart	Langley	Stuart
Beard	Forman	Malchon	Thomas
Bruner	Gardner	McPherson	Thurman
Casas	Grant	Myers	Walker
Childers, D.	Grizzle	Peterson	Weinstein
Childers, W. D.	Jennings	Plummer	Weinstock
Crenshaw	Johnson	Scott	

Nays—8

Brown	Dudley	Gordon	Meek
Davis	Girardeau	Margolis	Woodson-Howard

Vote after roll call:

Nay to Yea—Margolis

Senator W. D. Childers presiding

HB 3317—A bill to be entitled An act relating to the City of Jacksonville; providing for the termination of the Duval County Hospital Authority as created by chapter 63-1305, Laws of Florida, upon the establishment by the Council of the City of Jacksonville of an oversight committee to monitor indigent health care contracts existing between the City of Jacksonville and University Medical Center, Inc. or its successor; providing for future repeal of chapters 63-1305, 65-1499, 67-1308, 67-1330, 73-450, 77-542, 79-449, 80-498, 81-373, and 85-434, Laws of Florida; providing for transfer of powers, duties, functions, personnel, and obligations to the City of Jacksonville; providing an effective date.

—was read the second time by title.

Motion

On motion by Senator Langley, debate was limited to five minutes per side.

Senator Girardeau moved the following amendments which failed:

Amendment 1—On page 1, line 29, after the period (.) insert: There shall be created a Community Advisory Committee, composed of seven members who are appointed by the mayor and confirmed by the council and who shall serve terms of 4 years each; the committee shall provide oversight of the nonindigent functions and policymaking of the hospital, and it shall have access to the University Medical Center's policymaking body and operational leadership and has the responsibility of advising these bodies with respect to issues which the committee feels are vital to addressing the needs of patients in the community.

Amendment 2—On page 1, line 29, after the period (.) insert: There shall be created a Community Advisory Committee; the committee shall have access to the University Medical Center's policymaking body and operational leadership, and it has the responsibility of advising these bodies with respect to issues which the committee feels are vital to addressing the needs of patients in the community.

On motion by Senator Girardeau, by two-thirds vote HB 3317 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Bankhead	Deratany	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Casas	Grant	Malchon	Thurman
Childers, D.	Grizzle	McPherson	Weinstein
Childers, W. D.	Jennings	Myers	Weinstock
Crenshaw	Johnson	Peterson	Woodson-Howard

Nays—6

Davis	Gordon	Plummer
Girardeau	Meek	Walker

Consideration of **HB 3283** was deferred.

SB 1836—A bill to be entitled An act relating to Hillsborough County; amending ss. 2(6), 6, ch. 80-510, Laws of Florida, relating to the Hillsborough County Hospital Authority; exempting certain records, meetings, and activities of the authority from s. 286.011, F.S., relating to

public meetings and records, and from s. 119.07(1), F.S., relating to inspection of public records; providing for termination of these exemptions if certain events occur; authorizing the governing board of the hospital authority to enter into contracts for the purpose of attracting new or additional business for the authority; providing an effective date.

—was read the second time by title. On motion by Senator Davis, by two-thirds vote SB 1836 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Bankhead	Dudley	Kirkpatrick	Scott
Beard	Forman	Kiser	Souto
Brown	Gardner	Langley	Stuart
Bruner	Girardeau	Malchon	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

On motion by Senator Deratany, by two-thirds vote CS for HB 3247 was withdrawn from the Committees on Natural Resources and Conservation; and Rules and Calendar.

On motion by Senator Deratany—

CS for HB 3247—A bill to be entitled An act relating to the Indian River Lagoon System and Basin; prohibiting new discharges or increased loadings from existing sewage treatment facilities into the Indian River Lagoon System; requiring elimination of existing discharges of treated effluent into the system before July 1, 1995; providing exceptions; requiring owners of sewage treatment facilities within the Indian River Lagoon Basin to investigate the feasibility of using reclaimed wastewater from their facilities for beneficial purposes; directing the Department of Environmental Regulation to identify areas served by package sewage treatment plants which are considered a threat to the water quality of the system; directing the St. Johns River and South Florida Water Management Districts, through the SWIM Plan, to identify areas where existing septic tanks are considered a threat to the water quality of the system; requiring counties and municipalities within the basin to develop and implement programs to provide centralized sewage collection and treatment facilities for the problem areas identified by the department and the water management districts; amending chapter 88-469, Laws of Florida; providing a date by which the Board of County Commissioners of Marion County must fix and assess a schedule of rates, fees, and charges to finance the cost of providing water and sewer services within the Rainbow River Management Area; providing an effective date.

—a companion measure, was substituted for CS for SB 3162 and read the second time by title. On motion by Senator Deratany, by two-thirds vote CS for HB 3247 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Stuart
Bruner	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Weinstein
Childers, D.	Gordon	McPherson	Weinstock
Childers, W. D.	Grant	Meek	Woodson-Howard
Crenshaw	Grizzle	Myers	
Davis	Jennings	Peterson	
Deratany	Johnson	Scott	

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives requests the return of HB 2549.

John B. Phelps, Clerk

HB 2549—A bill to be entitled An act relating to agricultural advertising; creating part II of ch. 571, F.S.; amending ss. 571.01-571.10, F.S.; correcting references; creating ss. 571.21-571.30, F.S., the Florida Agricultural Promotional Campaign Act; providing legislative intent; providing definitions; providing purpose; providing duties of the Division of Marketing of the Department of Agriculture and Consumer Services; requiring participants in the campaign to register with the department; providing for fees; creating the Florida Agricultural Promotional Campaign Trust Fund; providing rulemaking authority; creating the Florida Agricultural Promotional Campaign Advisory Council; providing for appointment, organization, and responsibilities; specifying unlawful acts; providing an administrative fine; providing penalties; creating an Advertising Interagency Coordinating Council; providing for future repeal; providing a directive to statute editors; providing for review and repeal; providing an effective date.

On motion by Senator Thurman, HB 2549 was returned to the House as requested.

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives returns, as requested, CS for SB's 112 and 100.

John B. Phelps, Clerk

CS for SB's 112 and 100—A bill to be entitled An act relating to offenses involving alcohol or drugs; providing a short title; authorizing a court to order, as a condition of probation, certain persons convicted of driving under the influence to participate in the Youthful Drunk Driver Visitation Program; requiring a court to determine whether the program is appropriate for a probationer; allowing a court to require supervised probationers to visit certain prescribed facilities to view appropriate victims of vehicle accidents involving drinking drivers; prescribing appropriate supervisory personnel for such visitations; requiring a comprehensive counseling session before visitations; providing for a waiver of visitation if it is determined to be inappropriate; providing for a discretionary post-visitation conference; providing immunity from civil liability; creating s. 322.056, F.S.; providing mandatory withholding, revocation, or suspension of the driving privilege of a person under 21 years of age who is found guilty of or delinquent for certain offenses; amending ss. 562.11, 562.111, F.S.; providing that penalties imposed under s. 322.056, F.S., are in addition to penalties imposed for the specified violations of the Beverage Law; providing an effective date.

Motion to Reconsider

On motion by Senator Langley, the Senate reconsidered the vote by which **CS for SB's 112 and 100** passed this day.

Senators Gardner and Langley offered the following amendment to House Amendment 2 which was moved by Senator Langley and adopted:

Senate Amendment 1 to House Amendment 2—In title, on page 2, strike all of lines 16-21 and insert: 322.055, F.S.; providing for revocation or suspension of, or delay of eligibility for, driver's licenses of persons 18 years of age or older convicted of certain drug offenses; providing effective dates.

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

CS for SB's 112 and 100 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Stuart
Bruner	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Deratany

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 836—A bill to be entitled An act relating to jurors; amending s. 40.01, F.S.; revising qualifications of jurors; creating s. 40.011, F.S.; requiring the Department of Highway Safety and Motor Vehicles to deliver to the clerk of the court a list to be used for selection of jurors; providing for an affidavit to request jury service; creating s. 40.012, F.S.; providing for the purging of jury source lists; creating s. 40.0121, F.S.; providing for public notice of juror qualifications; amending s. 40.02, F.S.; providing that a chief judge's designation of a court administrator to perform certain jury management duties must be in conformity with normal county budgetary timeframes; providing that where the court administrator is designated to perform such duties the county shall not be financially responsible; amending s. 98.211, F.S.; deleting a provision that permits lists of electors be used for purposes of jury selection; amending s. 322.08, F.S.; providing for certain information on applications for drivers' licenses; amending s. 322.20, F.S.; providing that the Department of Highway Safety and Motor Vehicles shall furnish to the courts, for jury selection purposes, lists of licensed drivers and persons possessing identification cards; providing that restrictions on the use of such information and fees for violation of such restrictions apply to the courts; amending s. 905.37, F.S.; providing that statewide grand jurors be selected from the same juror pool as petit jurors; providing for payment of costs of the jury selection system; providing an effective date.

—with pending **Amendment 1** which was withdrawn.

On motion by Senator Kirkpatrick, by two-thirds vote CS for SB 836 was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Bankhead	Dudley	Kiser	Souto
Beard	Forman	Langley	Stuart
Brown	Gardner	Malchon	Thomas
Bruner	Girardeau	Margolis	Thurman
Casas	Gordon	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Davis	Johnson	Plummer	
Diaz-Balart	Kirkpatrick	Scott	

Nays—None

Vote after roll call:

Yea—Deratany

On motions by Senator Stuart, by two-thirds vote HB 3709 was withdrawn from the Committees on Higher Education, Governmental Operations and Appropriations.

On motion by Senator Stuart, by two-thirds vote—

HB 3709—A bill to be entitled An act relating to education; repealing s. 12, ch. 85-241, Laws of Florida; abrogating the repeal of provisions of ss. 216.181, 216.251, 240.205, 240.209, 240.225, 240.227, 240.272, 240.277, 110.205, and 447.203, F.S., relating to university budgets, the salaries of university positions not specified in the appropriations acts, the acquisition of property by the Board of Regents and certain powers and duties of the board, the exclusion of the State University System from construction rules of the Department of General Services, certain powers and duties of university presidents, the unexpended funds of universities at the end of the budget year, the appropriation to the Board of Regents of certain moneys received by institutions under the management of the board, the exemption of state university employees from state career service, and the definition of the term "public employer" for purposes of provisions relating to Board of Regents bargaining units; amending s. 235.193, F.S.; providing for review and approval process of proposed educational facilities; amending s. 240.116, F.S.; authorizing the inclusion of certain nonpublic secondary students in dual enrollment instruction; revising provisions relating to credit for student participation in the International Baccalaureate Program; amending s. 240.1161, F.S.; authorizing the inclusion of certain nonpublic secondary schools in interinstitutional articulation agreements; amending s. 240.209, F.S.; authorizing the Board of Regents to permit certain employees to take tuition-free courses; amending s. 240.2111, F.S.; renaming the meritorious service awards program and revising provisions thereof; amending s. 240.233, F.S.; revising foreign language credit requirements for admission to universities; amending s. 240.2605, F.S.; revising provisions relating to contributions and matching grants from the Trust Fund for Major Gifts; providing an effective date.

—a companion measure, was substituted for SB 1982 and read the second time by title.

Senator Stuart moved the following amendment:

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

Section 1. Paragraph (a) of subsection (2) and subsection (6) of section 240.116, Florida Statutes, are amended to read:

240.116 Articulated acceleration.—

(2)(a) The dual enrollment program shall be the enrollment of an eligible secondary student in a postsecondary course creditable toward a vocational certificate or an associate or baccalaureate degree. *For the purpose of this paragraph, an eligible secondary student is defined as a student who is enrolled in a Florida public secondary school or in a Florida nonpublic secondary school which is in compliance with s. 229.808 and conducts a secondary curriculum pursuant to s. 232.246.* Students enrolled in postsecondary instruction that is not creditable toward the high school diploma shall not be classified as dual enrollments. Students shall be permitted to enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term. Any student so enrolled shall be exempt from the payment of registration, matriculation, and laboratory fees. With the exception of vocational preparatory instruction, college preparatory instruction, and other forms of precollegiate instruction, as well as physical education courses that focus on the physical execution of a skill rather than the intellectual attributes of the activity, shall be ineligible for inclusion in the dual enrollment program. Recreation and leisure studies courses shall be evaluated individually in the same manner as physical education courses for potential inclusion in the program.

(6) The International Baccalaureate Program shall be the curriculum in which eligible secondary students are enrolled in a program of studies offered through the International Baccalaureate Program administered by the International Baccalaureate Office. *The State Board of Education shall establish rules which specify the cut-off scores and International Baccalaureate Examinations which will be used to grant postsecondary credit at community colleges and universities. Any such rules, which have the effect of raising the required cut-off score or of changing the International Baccalaureate Examinations which will be used to grant postsecondary credit, shall only apply to students taking International Baccalaureate Examinations after such rules are adopted by the State Board of Education.* ~~Postsecondary credit for student participation in the International Baccalaureate Program shall be limited to students who earn a minimum of 4, on a 7 point scale, on an individual subject examination conducted by the International Baccalaureate Office.~~ Students shall be awarded a maximum of 30 semester credit hours pursuant to this subsection. The specific course for which a student receives such credit shall be determined by the community college or university that accepts the student for admission. Students enrolled pursuant to this subsection shall be exempt from the payment of any fees for administration of the examinations.

Section 2. Subsection (5) of section 240.1161, Florida Statutes, is amended to read:

240.1161 District interinstitutional articulation agreements.—

(5) School districts and community colleges may enter into additional interinstitutional articulation agreements with state universities for the purposes of this section. School districts may also enter into interinstitutional articulation agreements with eligible independent colleges and universities pursuant to s. 236.081(1)(h). *State universities and community colleges may enter into interinstitutional articulation agreements with nonpublic secondary schools, pursuant to s. 240.116.*

Section 3. Paragraph (a) of subsection (3) of section 240.209, Florida Statutes, is amended, and subsection (7) is added to said section, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(a) Appoint or remove the president of each university in accordance with *procedures and* rules adopted by the Board of Regents. *The board may appoint a search committee to assist in evaluating presidential candidates.* ~~The Chancellor and the Board of Regents, or a committee composed of members of the Board of Regents, shall review the applications of all presidential candidates and shall transmit the names of applicants they deem to be qualified to the Chancellor. The Chancellor shall be responsible for conducting the applicant interview process, analyzing the qualifications of the remaining candidates, and recommending applicants from a list of applicants submitted by the committee to the board for appointment. At least 50 percent of any search committee appointed to serve at the university level shall be composed of representatives of business and industry. The remainder of any university level search committee shall be composed of equal numbers of representatives of university administrators, faculty, other employees, and students. No entity shall officially endorse or withhold endorsement from any candidate except the university level search committee, the committee of the Board of Regents, or the Chancellor.~~ Each ~~such~~ appointment *of a university president* shall be conducted in accordance with the provisions of ss. 286.011 and 119.07. The board shall determine the compensation and other conditions of employment for each president. The board shall not provide a tenured faculty appointment to any president who is removed through termination by the board or resignation tendered at the request of the board.

(7) The Board of Regents is authorized to permit full-time State University System employees who have at least 6 continuous months of state government service and meet academic requirements to enroll for up to 6 credit hours of tuition-free courses per term on a space-available basis.

Section 4. Section 240.2111, Florida Statutes, is amended to read:

240.2111 *Employee recognition* ~~Meritorious service awards~~ program.—

(1)(a) Notwithstanding the provisions of s. 110.1245~~(1)~~, the Board of Regents and each university shall promulgate rules for *an employee recognition* ~~a meritorious service awards~~ program which provides for the following components:

~~1. A suggestion component to reward faculty members and university support personnel system employees who propose procedures or ideas which are adopted and which will result in eliminating or reducing expenditures of the Board of Regents or university, in improving operations of the Board of Regents or university, or in generating additional revenues, provided such proposals are placed in effect and can be implemented under current statutory authority.~~

1.~~2.~~ A superior accomplishment component to recognize employees who have contributed outstanding and meritorious service in their fields, including those who have made exceptional contributions to efficiency, economy, or other improvement in State University System operations. *No cash award under the superior accomplishment component of the program shall exceed $1,000, excluding applicable taxes.*

2. A satisfactory service component to recognize employees who have achieved increments of 5 continuous years of satisfactory service at the Board of Regents or university, in appreciation and recognition of such service. No cash award granted under the satisfactory service component shall exceed $50, excluding applicable taxes.

(b) The Board of Regents and each university are authorized to expend funds for such recognition and awards. ~~No award granted under the suggestion component of the program shall exceed $2,000 or 10 percent of the first year's actual savings, whichever is greater, unless a larger award is made by the Legislature. No award under the superior accomplishments component of the program shall exceed $1,000. The Board of Regents and each university may award~~ Savings bonds *may be awarded* ~~or other items~~ in lieu of cash awards, provided that *their* ~~the~~ cost ~~of such item~~ does not exceed the limits specified in this subsection. In addition, ~~the Board of Regents and each university may award~~ certificates, pins, plaques, letters of commendation, and other tokens of recognition *may be awarded* ~~of meritorious service~~ to an employee eligible for recognition under either component of the program, provided that the *cost of such* award does not exceed $50.

(c)~~(b)~~ Each university shall submit a report each year to the Board of Regents. ~~and the Board of Regents shall submit a report to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year which outlines the level of participation of each university and the Board of Regents in the meritorious service awards program. The report shall include:~~

~~1. The number of proposals made.~~

~~2. The number of awards made to employees for adopted proposals.~~

~~3. The actual cost savings realized as a result of implementing employee proposals.~~

~~4. Total expenditures incurred by the university or board for providing awards to employees for adopted proposals.~~

~~5. The number of employees recognized for superior accomplishments.~~

~~6. The number of employees recognized for continuous satisfactory service to the Board of Regents or universities.~~

(2) In addition to the two components specified in subsection (1), the Board of Regents and each university are authorized to incur expenditures not to exceed $50 each to award suitable framed certificates, plaques, or other tokens of recognition to the following individuals:

(a) Retiring employees whose service with the Board of Regents or university has been satisfactory.

(b) Any appointed member of a state board or commission whose service to the State University System has been satisfactory, upon the expiration of such board or commission member's final term in such position.

~~(2) The Board of Regents and each university are authorized to incur expenditures to award suitable framed certificates, pins, and other tokens of recognition to retiring employees whose service with the Board of Regents or university has been satisfactory, in appreciation and recognition of such service. Such awards may not cost in excess of $50 each.~~

~~(3) The Board of Regents and each university are authorized to incur expenditures to award suitable framed certificates, pins, or other tokens of recognition to employees who have achieved increments of 5 continuous years of satisfactory service at the Board of Regents or university, in appreciation and recognition of such service. Such awards may not cost in excess of $10 each.~~

~~(4) The Board of Regents and each state university are authorized to incur expenditures not to exceed $50 each for suitable framed certificates, plaques, or other tokens of recognition to any appointed member of a state board or commission whose service to the State University System has been satisfactory, in appreciation and recognition of such service upon the expiration of such board or commission member's final term in such position.~~

Section 5. Paragraph (b) of subsection (1) and subsection (2) of section 240.233, Florida Statutes, are amended to read:

240.233 Universities; admissions of students.—Each university shall govern admissions of students, subject to this section and rules of the Board of Regents.

(1) Minimum academic standards for undergraduate admission to a university shall include the requirements that:

(b) ~~Effective August 1, 1989,~~ Each student have earned two credits of sequential foreign language at the secondary level or the equivalent of such instruction at the postsecondary level. A student who receives an associate of arts degree prior to September 1, *1989* ~~1987~~, or who enrolls in a program of studies leading to an associate degree from a Florida community college prior to August 1, 1989, and maintains continuous enrollment shall be exempt from this admissions requirement.

(2) *The Board of Regents shall adopt rules which provide for a limited number of students to be admitted to the State University System, notwithstanding the admission requirements of paragraph (1)(b), if there is evidence that the applicant is expected to do successful academic work at the admitting university. The number of applicants admitted under this subsection may not exceed 5 percent of the total number of freshmen who entered the State University System the prior*

year. ~~Effective August 1, 1991, each student who is admitted to a state university must have completed two credits of sequential foreign language at the secondary level or the equivalent of such instruction at the postsecondary level. A~~ *Any lower-division* student *admitted without meeting the foreign language requirement* must earn such credits prior to admission to the upper-division of a state university. *Any associate of arts degree graduate from a public community college or university in Florida, or other upper-division transfer student, admitted without meeting the foreign language requirement, must earn such credits prior to graduation from a state university.*

Section 6. Subsection (2) of section 240.2605, Florida Statutes, is amended to read:

240.2605 Trust Fund for Major Gifts.—

(2) The amount appropriated to the trust fund shall be allocated by the Board of Regents to each university on the ~~following~~ basis *of one $50,000 grant for each $100,000 contributed by private sources.*:

~~(a) Each university that raises a contribution of at least $50,000, but no more than $75,000, from private sources shall receive a matching grant equal to 70 percent of the private contribution.~~

~~(b) Each university that raises a contribution in excess of $75,000, but no more than $100,000, from private sources shall receive a matching grant equal to 75 percent of the private contribution.~~

~~(c) Each university that raises a contribution in excess of $100,000, but no more than $125,000, from private sources shall receive a matching grant equal to 80 percent of the private contribution.~~

~~(d) Each university that raises a contribution in excess of $125,000 from private sources shall receive a matching grant equal to 100 percent of the private contribution.~~

Grants from the fund shall be allocated for contributions made after July 1, *1985* ~~1989~~. ~~Contributions made prior to July 1, 1989, shall be matched on the basis of a $50,000 match for each $100,000 in private contributions.~~ A contribution may also qualify for a matching grant if the donor makes an initial payment of *$20,000* ~~$25,000~~ and provides a written pledge to pay the balance of the contribution within the subsequent 4 years in an annual amount equal to at least 25 percent of the written pledge. Payments on the balance shall be made on or before the anniversary date of the initial payment. No grant shall be allocated prior to collection of the total *$100,000* ~~private~~ contribution. ~~The private sources providing contributions may include combined contributions for a common purpose, but shall not include separate unrelated contributions.~~

Section 7. Subsections (5), (6), (7), (8), and (9) are added to section 235.193, Florida Statutes, to read:

235.193 Coordination of planning with local governing bodies.—

(5) The School Board shall file with the local governing body which regulates land use, a notice of intent 90 days prior to bidding the award of an educational facility. The notice of intent must include a description of the proposed educational facility, proposed location or locations, capacity of the facility, and anticipated completion date. Any local governing body that regulates land use may, solely at its option, waive all or part of the 90 day notice period.

(6) Each local governing body which regulates the use of land shall determine, in writing within 90 days after receiving the necessary documents, whether the proposed educational facility and site plan, and the off-site impacts, are consistent with the local comprehensive plan and local land development regulations. If the determination is affirmative, school construction may proceed and no further local government approvals shall be required. Failure of the local governing body to make a determination within 90 days on consistency shall be considered an approval of the school board's application.

(7) A local governing body may not deny the site applicant based on adequacy of the site plan as it relates solely to the needs of the school. The local government may consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, off-site impact, and effects on adjacent property.

(8) If the determination is negative, the local governing body will advise the school board of the deficiencies and make recommendations to address its concerns. The local school board may, within 90 days, resubmit revised documents. The local governing body will have 90 days after receiving the revised documents from the school board to make a determination as to whether the proposed educational facility and site plan, and the off-site impacts, are consistent with the local comprehensive plan and local land development regulations.

(9) Nothing herein shall prohibit a local governing body and district school board from agreeing and establishing an alternative process for reviewing a proposed educational facility and site plan, and off-site impacts.

Section 8. Subsection (2) and paragraph (a) of subsection (4) of section 240.498, Florida Statutes, are amended to read:

240.498 Florida Endowment Fund for Higher Education.—

(2)(a) The Florida Endowment Fund for Higher Education, a not-for-profit statutory corporation, is created from *a challenge* ~~the~~ endowment *grant from* ~~of~~ the McKnight Foundation and *operates on income* ~~from moneys~~ derived from the investment of ~~such~~ endowment gifts and other gifts as provided by state statute and appropriate matching funds as provided by the state.

(b) *The amount appropriated to the fund shall be on the basis of $1 for each $2 contributed by private sources. The Florida Endowment Fund for Higher Education shall certify to the Legislature the amount of donations contributed between July 1, 1990, and June 30, 1991. Only the new donations above the certified base shall be calculated for state matching funds during the first year of the program. In subsequent years, only the new donations above the certified prior-year base shall be calculated for state matching funds.* ~~Specifically, the directors of the McKnight Foundation will provide an endowment gift of $10 million and the state will match it with a gift of $5 million to create an endowment fund. The endowment fund shall be fully matched and completed no later than July 1, 1986, with the following matching amounts completed by the designated dates: The state shall provide $2.5 million no later than July 1, 1984, an additional $1.5 million no later than July 1, 1985, and an additional $1 million no later than July 1, 1986; and the McKnight Foundation shall provide $5 million no later than July 1, 1984, an additional $3 million no later than July 1, 1985, and an additional $2 million no later than July 1, 1986.~~

(4) The Florida Endowment Fund for Higher Education shall be administered by a board of directors, which is hereby established.

(a) The board of directors shall consist of 12 members, to be appointed as follows:

1. Two lay persons appointed by the Governor;

2. Two lay persons appointed by the President of the Senate;

3. Two lay persons appointed by the Speaker of the House of Representatives;

4. Two representatives of the State University System appointed by the Board of Regents;

5. Two representatives of the State Community College System appointed by the State Board of Community Colleges; and

6. Two representatives of independent colleges or universities appointed by the State Board of Independent Colleges and Universities.

The board of directors may appoint to the board an additional five members from the private sector for the purpose of assisting in the procurement of private contributions. Such members shall serve as voting members of the board.

Section 9. No university or university direct support organization shall accept or purchase facilities for which the state will be asked for operating funds unless there has been prior approval for acquisition granted by the Legislature.

Section 10. Subsection (7) of section 228.072, Florida Statutes, is amended to read:

228.072 Adult general education.—

(7) PROVISION OF INSTRUCTION.—Both community colleges and school districts may offer adult basic secondary education courses and adult vocational preparatory courses and activities within the same service area upon approval of the regional coordinating council. Any state university in which the percentage of incoming students who require col-

lege preparatory instruction equals or exceeds *25 percent* ~~the average percentage of such students for the community college system~~ may offer a college preparatory program. Nothing in this subsection prohibits area vocational-technical centers from contracting with community colleges for the provision of vocational preparatory instruction.

Section 11. Dropout reentry and mentor project.—

(1) There is created a dropout reentry and mentor project to be coordinated on a pilot basis by the Florida Agricultural and Mechanical University National Alumni Association. The project will be implemented in Tallahassee, Jacksonville, Daytona Beach, and Miami.

(2) The project shall identify 15 black students in each location who have dropped out of high school but were not encountering academic difficulty when they left school. Students chosen to participate may not have a high school diploma, be enrolled in an adult general education program which includes a GED program, an adult high school, or be enrolled in a vocational-technical school. Students may be employed but must be able to adjust their work schedules to accommodate classes and project sessions. Priority must be given to students who have dropped out of school within the last 3 years.

(3) In identifying participants, the following factors must be considered:

(a) The student's performance in school before dropping out;

(b) The student's performance on aptitude and achievement tests;

(c) The student's desire to reenter school.

(4) In each of the four locations, the project shall identify 15 high-achieving minority students to serve as one-on-one mentors to the students who are being reentered in school. An alumnus of Bethune-Cookman College, Florida Memorial College, Edward Waters College, or Florida A & M University shall be assigned to each pair of students. Student mentors and alumni must serve as role models and resource people for the students who are being reentered in school.

(5) Selected project participants shall be evaluated and enrolled in a GED program, regular high school, vocational school, or alternative school. In conjunction with school guidance personnel, project staff shall design a supplemental program to reinforce basic skills, provide additional counseling, and offer tutorial assistance. Weekly, project staff shall monitor students' attendance, performance, homework, and attitude toward school.

(6) The project shall use tests to identify students' interests and academic weaknesses. Based on the test results, an individualized study program shall be developed for each reentry student.

(7) The alumni at each location must meet with their assigned reentry students and high achievers, together, at least once per week. All reentry students must meet as a group at least once per week for structured, organized activities which include instruction in test-taking skills, positive attitude, coping, study habits, budgeting time, setting goals, career choices, homework assistance, and conflict resolution.

(8) Follow-up interviews with both the reentry students and high achievers must be conducted after 1 year to determine the project's impact.

Section 12. Section 12 of chapter 85-241, Laws of Florida, is hereby repealed.

Section 13. Subsection (8) is added to section 240.235, Florida Statutes, to read:

240.235 Fees.—

(8) Any graduate student enrolled in a state approved school psychology training program shall be entitled to a waiver of registration fees for internship credit hours applicable to an internship in the public school system under the supervision of a Department of Education certified school psychologist employed by the school system.

Section 14. Subsection (7) of section 240.241, Florida Statutes, is amended to read:

240.241 Divisions of sponsored research at state universities.—

(7) Moneys deposited in the permanent sponsored research development fund of a university shall be disbursed in accordance with the terms of the contract, grant, or donation under which they are received. Moneys received for overhead or indirect costs and other moneys not required for the payment of direct costs shall be applied to the cost of operating the division of sponsored research. Any surplus moneys shall be used to support other research or sponsored training programs in any area of the university. Moneys allocated for the payment of salaries from the sponsored research development fund shall be paid out by the Comptroller of the state in the same manner as salaries from other state funds. Transportation and per diem expense allowances shall be the same as those provided by law for state employees in s. 112.061, *except that non-State of Florida personnel performing travel under a sponsored research subcontract may be reimbursed for travel expenses in accordance with the provisions of the applicable prime contract or grant and the travel allowances established by the subcontractor, subject to the requirements of subsection (9), or* except as provided in subsection (13).

Section 15. Subsection (3) of section 240.257, Florida Statutes, is amended to read:

240.257 Florida Endowment Trust Fund for Eminent Scholars Act.—

(3) ESTABLISHMENT OF THE TRUST FUND.—There is established a Trust Fund for Eminent Scholars to be divided into challenge grants to be administered by the Board of Regents. The Legislature shall designate funds to be transferred to the trust fund from the General Revenue Fund. All appropriated funds deposited into the trust fund shall be invested pursuant to the provisions of s. 18.125. Interest income accruing to that portion of the trust fund not matched shall increase the total funds available for challenge grants. In the event funds in the Trust Fund *for Eminent Scholars* are insufficient to match private contributions, the Board of Regents may authorize, *pursuant to the provisions of s. 216.351, the transfer of funds residing in the Major Gifts Trust Fund into the Trust Fund for Eminent Scholars or* any university to encumber the state matching portion from funds available under s. 240.272, up to a total of $5 million for the system. *If excess unencumbered funds exist in the Trust Fund for Eminent Scholars or the Trust Fund for Major Gifts, such funds may be transferred between such trust funds to be used for matching grants on the approved priority list.* Such authorization shall not entitle a university to a subsequent general revenue appropriation.

Section 16. Subsections (1) and (3) of section 240.2605, Florida Statutes, are amended to read:

240.2605 Trust Fund for Major Gifts.—

(1) There is established a Trust Fund for Major Gifts to be divided into challenge grants to be administered by the Board of Regents. The Legislature shall designate funds to be transferred to the trust fund from the General Revenue Fund. All appropriated funds deposited into the trust fund shall be invested pursuant to rules of the Board of Regents. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to that portion of the trust fund not allocated shall remain in the trust fund and shall increase the total funds available for such challenge grants. *If excess unencumbered funds exist in the Trust Fund for Eminent Scholars or the Trust Fund for Major Gifts, such funds may be transferred between such trust funds to be used for matching grants on the approved priority list.*

(3) Grants received pursuant to this section shall be placed in a restricted endowment by the university foundation. The interest income accrued to the endowment shall be expended exclusively for endowed professorships~~, library resources, scientific and technical equipment,~~ and scholarships other than athletic.

Section 17. Subsection (5) of section 159.445, Florida Statutes, is amended and new subsections (7), (8), (9), (10), and (11) are created to read:

159.445 Florida Seed Capital Fund.—

(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.

(p) *Make an investment from the fund in one or more limited partnerships physically located in Florida and established for the purpose of raising and investing venture and seed capital and attracting others to invest in the limited partnership. As a condition of receipt of an investment from the fund, the limited partnership must maintain net capital which demonstrates that the general partner has contributed to the limited partnership a minimum of at least $1 for every $2 invested by the fund and must have the capacity to raise a minimum of $15 million in other funds within a 24-month time period from the date of the state's investment. The limited partnership must also agree to invest primarily in companies physically located in Florida. The investment by the fund in such limited partnerships shall entitle the state to all rights and privileges accorded any other limited investment partners. The board may impose additional criteria as a condition of such investments, provided that such criteria are deemed necessary in the public interest.* ~~Serve as a source of expertise and information regarding the Florida Strategic Fund feasibility study.~~

(7) The Florida Seed Capital Board may authorize a direct-support organization to be known as the Florida Enterprise Development Corporation. Such direct-support organization must:

(a) Be incorporated as a corporation not-for-profit pursuant to chapter 617.

(b) Be governed by a board of directors comprised of the members of the Florida Seed Capital Board and one additional member appointed by the Chairman of the Board of Regents.

(c) Have as its purpose, as stated in its articles of incorporation:

1. To receive, hold, invest, and administer property.

2. To raise funds and receive gifts.

3. To promote and develop venture and seed capital sources.

4. To evaluate technology developed by the private and public universities within the state, in cooperation with the applicable university, for the purpose of determining if such technology is suitable for licensing to entrepreneurial companies.

5. To assist the universities in licensing technology to appropriately capitalized entrepreneurial companies. Nothing in this paragraph may be construed to prohibit universities from negotiating directly with private companies or any other entity, for the licensing of technologies developed by the universities.

6. To assist sources of venture and seed capital to form or invest in entrepreneurial companies which will license technology from the private and public universities within the state.

(8) The Florida Seed Capital Board shall contract with the direct-support organization authorized pursuant to subsection (6), and shall include in the contract provisions which specify that:

(a) The board may review the organization's articles of incorporation.

(b) The direct-support organization will submit an annual budget proposal to the board for inclusion by the board within the board's annual budget.

(c) Any funds that the direct-support organization holds in trust will revert to the state upon the expiration or cancellation of the contract.

(d) The direct-support organization is subject to an annual financial and performance review by the board to determine whether the direct-support organization is complying with the terms of the contract and whether it is acting in a manner consistent with the goals of the board and in the best interest of the state.

(e) The fiscal year of the direct-support organization will begin on July 1 of each year and end on June 30 of the following year.

(9) The direct-support organization shall provide an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant pursuant to rules established by the Department of Commerce. The auditors shall submit the audit report to the Secretary of Commerce and to the Florida Seed Capital Board for review and approval. If the audit report is approved, the department and the board shall certify the audit report to the Auditor General for review. The audit report may not reveal the identity of any person who has anonymously made a donation to the direct-support organization.

(10) The identity of donors or prospective donors to the direct-support organization who desire to remain anonymous, and all information of the department, the Florida Seed Capital Board, the direct-support organization, or the Auditor General identifying such donors or prospective donors are confidential and exempt from s. 119.07(1). All other fiscal records of the direct-support organization constitute public records for the purposes of chapter 119. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(11) The direct-support organization is not granted any taxing power.

Section 18. Section 240.294, Florida Statutes, is created to read:

240.294 Lease-purchase agreement.—Any lease-purchase agreement executed between a university direct-support organization and a university or the Board of Regents shall provide for insurance which guarantees the payment of all principal and interest payable under the lease-purchase agreement in the event of the failure of the university, the Board of Regents, or the state to make such payments. Such insurance must be sufficient to permit the payment obligation under the lease-purchase agreement to receive a rating in the highest rating category available from a nationally recognized rating service as determined by the Board of Regents.

Section 19. The Postsecondary Education Planning Commission shall examine national and state policy related to collegiate athletic associations in the area of due process with regard to all penalties and proceedings. A report and recommendations shall be submitted to the Legislature by March 1, 1991.

Section 20. Paragraph (d) is added to subsection (1) of section 121.055, Florida Statutes, to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(d) Effective January 1, 1991, participation in the Senior Management Service Class shall be compulsory for any member of the Florida

Retirement System in a position that has been designated eligible for inclusion in the Executive Service of the State University System or who holds a position as president of a state university, unless such member elects, pursuant to s. 121.35, to participate in the optional retirement program.

Section 21. This act shall take effect upon becoming a law.

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

Amendment 1A—On page 15, line 19, after "The" insert: 15

Amendment 1B—On page 18, line 23 through page 23, line 4, strike all of Section 17

Amendment 1 as amended was adopted.

Senator Stuart moved the following amendment:

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to postsecondary education; amending s. 240.116, F.S.; revising provisions relating to credit for student participation in the International Baccalaureate Program; amending s. 240.1161, F.S.; providing that state universities and community colleges may enter into interinstitutional articulation agreements as specified; amending s. 240.209, F.S.; revising procedures relating to the appointment of university presidents; revising membership requirements of search committees which recommend candidates for such appointment; deleting duties of the Chancellor in the appointment process; authorizing the Board of Regents to permit certain employees to take tuition-free courses; amending s. 240.2111, F.S.; renaming the meritorious service awards program and revising provisions thereof; amending s. 240.233, F.S.; revising foreign language credit requirements for admission to universities; amending s. 240.2605, F.S.; revising provisions relating to contributions and matching grants from the Trust Fund for Major Gifts; amending s. 235.193, F.S.; requiring school boards to provide notice to local governing bodies of intent to construct an educational facility; providing for review of plans for the construction of educational facilities by the local governing body to determine consistency with the local comprehensive plan and local development regulations; providing a timeframe for such review; amending s. 240.498, F.S.; revising provisions relating to the creation of the Florida Endowment Fund for Higher Education; removing obsolete language; providing state matching funds for certain private contributions; providing for certification; authorizing an increase in membership of the board of directors for the Florida Endowment Fund for Higher Education; requiring legislative approval prior to the acquisition of facilities by state universities or university direct-support organizations under certain conditions; amending s. 228.072, F.S.; prescribing when institutions in the State University System may offer college preparatory instruction; creating a dropout reentry and mentor project; specifying eligibility criteria; specifying project components; repealing s. 12, ch. 85-241, Laws of Florida; abrogating the repeal of provisions of ss. 216.181, 216.251, 240.205, 240.209, 240.225, 240.227, 240.272, 240.277, 110.205, 447.203, F.S., relating to university budgets, the salaries of university positions not specified in the appropriations acts, the acquisition of property by the Board of Regents and certain powers and duties of the board, the exclusion of the State University System from construction rules of the Department of General Services, certain powers and duties of university presidents, the unexpended funds of universities at the end of the budget year, the appropriation to the Board of Regents of certain moneys received by institutions under the management of the board, the exemption of state university employees from state career service, and the definition of the term "public employer" for purposes of provisions relating to Board of Regents bargaining units; amending s. 240.235, F.S.; providing a waiver of internship credit hour registration fees for certain school psychology graduate students; amending s. 240.241, F.S.; providing for reimbursement of travel and per diem expenses for nonstate of Florida personnel performing travel under a sponsored research subcontract; amending ss. 240.257, 240.2605, F.S.; authorizing the transfer of funds between the Trust Fund for Eminent Scholars and the Trust Fund for Major Gifts; amending s. 159.445, F.S.; authorizing the Florida Seed Capital Fund to invest in limited partnerships meeting certain criteria; revising powers and duties of the board; authorizing the board to establish a direct-support organization known as the Florida Enterprise Development Corporation; providing purpose of the organization; requiring a contract between the board and the direct-support organization and specifying contract requirements; requiring the organization to provide an annual financial and compliance audit; providing an exemption from public records requirements; providing for future review and repeal; creating s. 240.294, F.S.; requiring the purchase of insurance for lease-purchase agreements executed between a state university direct-support organization and a university or the Board of Regents; specifying the amount of such insurance; directing the Postsecondary Education Planning Commission to conduct a study of collegiate athletic associations; requiring a report to the Legislature; amending s. 121.055, F.S.; requiring senior managers of the State University System and the State Board of Administration to participate in the Senior Management Service Class of the Florida Retirement System; providing an effective date.

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

Amendment 2A—On page 4, strike all of lines 1-15 and insert: Fund for Major Gifts; creating s. 240.294

Amendment 2 as amended was adopted.

On motion by Senator Stuart, by two-thirds vote HB 3709 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	
Deratany	Johnson	Scott	

Nays—None

CONSENT CALENDAR

Consideration of **CS for SB's 854, 2078 and 2792** was deferred.

On motions by Senator Beard, by two-thirds vote CS for HB 1357 was withdrawn from the Committees on Judiciary-Civil, Transportation and Appropriations.

On motion by Senator Beard, by two-thirds vote—

CS for HB 1357—A bill to be entitled An act relating to costs of land acquisition; amending s. 73.091, F.S.; conforming a cross reference to other changes made by the act; creating s. 73.032, F.S.; providing for offer of judgment in eminent domain actions; providing for acceptance, rejection, and withdrawal of the offer of judgment; requiring the person making the offer to make certain construction plans available; amending s. 73.092, F.S.; revising procedures for award of attorney's fees in eminent domain proceedings; requiring that the greatest weight be given to benefits resulting to the client; providing for reduction of attorney's fees to be paid pursuant to a fee agreement in specified circumstances; providing circumstances for limiting attorney's fees after rejection of an offer of judgment; amending s. 74.011, F.S.; deleting an obsolete reference; amending s. 337.271, F.S.; specifying contents of the invoice for costs in Department of Transportation negotiations for land acquisition; providing for nonbinding mediation of compensation and business damage claims; providing that certain statements used in mediation are not admissible in subsequent proceedings; specifying applicability; providing an effective date.

—a companion measure, was substituted for SB 400 and read the second time by title. On motion by Senator Beard, by two-thirds vote CS for HB 1357 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Childers, D.	Dudley	Grant
Beard	Childers, W. D.	Forman	Grizzle
Brown	Crenshaw	Gardner	Jennings
Bruner	Davis	Girardeau	Johnson
Casas	Diaz-Balart	Gordon	Kirkpatrick

Kiser	Meek	Stuart	Weinstock
Langley	Myers	Thomas	Woodson-Howard
Malchon	Peterson	Thurman	
Margolis	Plummer	Walker	
McPherson	Souto	Weinstein	

Nays—None

Vote after roll call:

Yea—Deratany

CS for SB 1302—A bill to be entitled An act relating to local government; amending s. 125.01, F.S.; providing for the establishment of municipal service taxing and benefit units within municipal boundaries upon consent by ordinance of the municipality; amending s. 200.066, F.S.; providing for the imposition of ad valorem taxes prior to July 1 for municipal service taxing units conforming to the boundaries of an entire municipality; amending s. 200.071, F.S.; clarifying that municipal service taxing units when combined with other millage levied may not exceed 10 mills for municipal purposes; 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 Brown and adopted:

Amendment 1—On page 2, strike all of lines 11 and 12 and insert: *areas. The millage levied on*

On motion by Senator Brown, by two-thirds vote CS for SB 1302 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

Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Childers, D.	Girardeau	Margolis	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Woodson-Howard
Deratany	Jennings	Peterson	

Nays—None

Consideration of **CS for SB 1806** was deferred.

On motions by Senator Bankhead, by two-thirds vote CS for HB 33 was withdrawn from the Committees on Health and Rehabilitative Services; Judiciary-Civil; and Appropriations.

On motion by Senator Bankhead—

CS for HB 33—A bill to be entitled An act relating to substance abuse treatment; amending ss. 396.032, 397.021, F.S.; defining "addictions receiving facility" as a treatment resource for alcohol or other drug abuse; amending s. 396.0425; disqualifying a treatment resource operated by a person convicted of trafficking in controlled substances from receiving state funding; amending s. 397.0715; disqualifying a treatment resource operated by a person convicted of trafficking in controlled substances from receiving state funding; creating s. 396.0815, F.S.; providing criteria and procedures for the involuntary evaluation of minors believed to be alcoholic; providing alternative dispositions upon evaluation; requiring parental participation; providing parental responsibility to pay certain fees for services; creating s. 396.125, F.S.; providing rights of minors in treatment; amending s. 396.1816, F.S.; adding legislative intent to expand treatment services based on critical need; creating s. 396.1819, F.S.; establishing the juvenile substance abuse emergency evaluation and specialized treatment services program for the provision of community-based prototype model treatment resources for detoxification, stabilization, and short-term treatment and medical care; providing funding criteria; providing for core services; providing for program implementation and evaluation; authorizing local appropriations; providing rulemaking authority; requiring graduated levels of care from nonintensive to secure; creating s. 397.0515, F.S.; providing for emergency treatment of persons publicly under the influence of a controlled substance; providing for protective custodial detention, examination, transportation, and notice; providing a definition; providing an exemption from liability; creating s. 397.0516, F.S.; providing criteria and procedures for the involuntary evaluation of minors believed to be drug abusers or drug dependents; providing alternative dispositions upon evaluation; requiring parental participation; providing parental responsibility to pay certain fees for services; creating s. 397.0517, F.S.; providing rights of minors in treatment; creating s. 397.0518, F.S.; providing for emergency commitment of drug dependents in certain circumstances; providing criteria and procedure; providing for transportation, examination, and disposition; amending s. 397.098, F.S.; providing authority to determine and publish need for medication treatment programs and limiting the establishment of additional medication treatment programs; requiring an annual assessment of need; providing rulemaking authority; amending s. 397.215, F.S.; adding legislative intent to expand treatment services based on critical need; creating s. 397.218, F.S.; establishing the juvenile substance abuse emergency evaluation and specialized treatment services program for the provision of community-based prototype model treatment resources for detoxification, stabilization, and short-term treatment and medical care; providing funding criteria; providing for core services; providing for program implementation and evaluation; authorizing local appropriations; providing rulemaking authority; requiring graduated levels of care from nonintensive to secure; providing an effective date.

—a companion measure, was substituted for CS for SB's 854, 2078 and 2792 and read the second time by title. On motion by Senator Bankhead, by two-thirds vote CS for HB 33 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Malchon	Thomas
Bruner	Gardner	Margolis	Thurman
Casas	Girardeau	McPherson	Walker
Childers, D.	Gordon	Meek	Weinstein
Childers, W. D.	Grant	Myers	Weinstock
Crenshaw	Grizzle	Peterson	Woodson-Howard
Davis	Jennings	Plummer	
Deratany	Johnson	Scott	

Nays—None

CS for SB 1460—A bill to be entitled An act relating to not for profit corporations; providing a short title; prescribing filing requirements for documents and forms; prescribing filing fees; providing for effective date of documents accepted for filing; providing procedures for correcting filed documents; prescribing powers and duties of the Department of State; providing for review of refusal by the department to file documents; prescribing evidentiary effect of copies of filed documents; providing for certificates of status; providing a penalty; providing definitions; providing requirements for notice under the act; providing procedures for incorporation; specifying content of articles of incorporation; prescribing liability for certain transactions; providing for organizational meetings of directors; providing requirements for bylaws; providing purposes of corporations organized under the act; prescribing powers of corporations; prescribing requirements for corporate names and for registered names of foreign corporations; requiring maintenance of registered offices and agents; providing for changes of such offices or agents; providing for service of process on a corporation; prohibiting payment of dividends or distribution of income; providing requirements for meetings of corporation members; prescribing duties of corporation boards of directors; providing qualifications for such directors; providing for certain terms of office, compensation, and removal of directors; providing for resignation by directors; providing requirements for meetings of boards of directors; authorizing boards of directors to act without a meeting; prescribing requirements for notice of meetings; providing quorum and voting requirements; providing for committees of a corporation; providing duties of corporation directors; providing for indemnification, liability, and immunity for officers, directors, employees, and agents of a corporation; providing requirements in case of certain conflicts of interest; prohibiting certain loans to directors, officers, and employees of a corporation; prohibiting certain activities by private foundations; providing for the election and duties of corporation officers; providing for their resignation and removal; prescribing contract rights of officers; providing requirements for the reincorporation of certain corporations; prescribing requirements for amendments to articles of incorporation; prescribing requirements for the merger of certain corporations; providing requirements for disposing of corporate property and assets; providing procedures for the dissolution of a corporation; providing procedures for revoking such dissolution; providing for distributing corporate assets; specifying grounds under which

the department may administratively dissolve a corporation; prescribing the procedure for and the effect of such dissolution; providing for reinstatement of an administratively dissolved corporation and appeal from denial of such reinstatement; specifying grounds and procedure under which a circuit court may dissolve a corporation; providing for a court-appointed receiver or custodian of a corporation; providing for the deposit of the assets of a dissolved corporation with the Department of Banking and Finance; prescribing requirements for foreign corporations conducting affairs in the state; providing requirements of corporate names of foreign corporations; providing requirements for registered offices and agents of foreign corporations; providing for service of process on a foreign corporation; providing requirements for withdrawal of foreign corporations from the state; providing circumstances under which the Department of State may revoke the certificate of authority of foreign corporations; providing for reinstatement; providing for appeal of such revocation; providing requirements for corporation records; requiring certain reports; providing for application of the act; providing for deposit of funds; prohibiting the lack of legal organization as a defense to certain actions; providing for the effect of the repeal of prior acts; providing for application of the Florida Business Corporation Act; prohibiting the incorporation of certain corporations under the act; providing requirements for the incorporation of certain medical services corporations; prescribing proceedings to revoke articles of incorporation or charter; providing for property held by extinct churches and religious societies; providing for the dissolution of such churches or societies; providing for the incorporation of labor unions or bodies; authorizing the incorporation of sponge packing and marketing corporations; providing procedures under which corporations for profit may become corporations not for profit; authorizing corporations organized under this act to act as trustees under certain circumstances; repealing ss. 617.001-617.21, F.S., the Florida Not For Profit Corporation Act; 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 6, lines 30 and 31; on page 7, lines 1-31; and on page 8, lines 1-4, strike all of said lines and insert: fees on documents delivered to the department for filing, as provided in section 607.0122, Florida Statutes.

Amendment 2—On page 71, strike all of lines 26-29 and insert: corporation provides the Department of State with an affidavit executed as required by section 3 of this act permitting the immediate assumption or use of the name by another corporation.

Amendment 3—On page 92, strike all of lines 8-11 and insert: unless the corporation provides the Department of State with an affidavit executed as required by section 3 of this act permitting the immediate assumption or use of the name by another corporation.

Amendment 4—On page 106, strike all of lines 25-29 and insert:

Section 128. Sections 617.001, 617.002, 617.003, as amended by this act, 617.01, 617.0101, 617.0105, 617.011, 617.012, 617.013, as amended by this act, 617.014, 617.016, 617.017, 617.018, as amended by this act, 617.019, 617.0201, 617.021, 617.022, 617.023, as amended by this act, 617.026, 617.028, as amended by this act, 617.0285, 617.03, 617.041, as amended by this act, 617.05, 617.051, 617.052, 617.0525, 617.053, 617.054,

Senator Grant moved the following amendments which were adopted:

Amendment 5—On page 107, strike line 9 and insert:

Section 130. Section 214.23, Florida Statutes, is amended to read:

214.23 Procedure for notices.—Whenever notice is required by this chapter, such notice shall, if not otherwise provided, be given to the taxpayer by personal delivery by an agent of the department or issued by mailing it by registered or certified mail to the taxpayer concerned at his last known address as shown on the most recently filed return under applicable law or, if no return has previously been filed, at the address shown on the corporation report last filed under *s. 607.1622* ~~s. 607.357~~. Alternatively, notice may be issued by registered or certified mail to the taxpayer at any other address which the taxpayer has designated in writing as his current mailing address.

Section 131. Subsection (13) of section 253.03, Florida Statutes, is amended to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(13) The Board of Trustees of the Internal Improvement Trust Fund is hereby authorized to administer, manage, control, conserve, protect, and sell all real property forfeited to the state pursuant to ss. 895.01-895.09 or acquired by the state pursuant to *s. 607.0505* ~~s. 607.325~~ or s. 620.192. The board is directed to immediately determine the value of all such property and shall ascertain whether the property is in any way encumbered. If the board determines that it is in the best interest of the state to do so, funds from the Forfeited Property Trust Fund may be used to satisfy any such encumbrances. If the Forfeited Property Trust Fund does not contain a balance sufficient to satisfy encumbrances on the property and expenses permitted under this section, funds from the Land Acquisition Trust Fund may be used to satisfy any such encumbrances and expenses. All property acquired by the board pursuant to ss. 895.01-895.09, *s. 607.0505* ~~s. 607.325~~, or s. 620.192 shall be sold as soon as commercially feasible unless the Attorney General recommends and the board determines that retention of the property in public ownership would effectuate one or more of the following policies of statewide significance: protection or enhancement of floodplains, marshes, estuaries, lakes, rivers, wilderness areas, wildlife areas, wildlife habitat, or other environmentally sensitive natural areas or ecosystems; or preservation of significant archaeological or historical sites identified by the Secretary of State. In such event the property shall remain in the ownership of the board, to be controlled, managed, and disposed of in accordance with chapter 253, and the Forfeited Property Trust Fund shall be reimbursed from the Land Acquisition Trust Fund, or other appropriate fund designated by the board, for any funds expended from the Forfeited Property Trust Fund pursuant to this subsection in regard to such property. Upon the recommendation of the Attorney General, the board may reimburse the investigative agency for its investigative expenses, costs, and attorneys' fees, and may reimburse law enforcement agencies for actual expenses incurred in conducting investigations leading to the forfeiture of such property from funds deposited in the Forfeited Property Trust Fund of the Department of Natural Resources. The proceeds of the sale of property acquired under ss. 895.01-895.09, *s. 607.0505* ~~s. 607.325~~, or s. 620.192 shall be distributed as follows:

(a) After satisfaction of any valid claims arising under the provisions of s. 895.09(1)(a) or (b), any moneys used to satisfy encumbrances and expended as costs of administration, appraisal, management, conservation, protection, sale, and real estate sales services and any interest earnings lost to the Land Acquisition Trust Fund as of a date certified by the Department of Natural Resources shall be replaced first in the Land Acquisition Trust Fund, if those funds were used, and then in the Forfeited Property Trust Fund; and

(b) The remainder shall be distributed as set forth in s. 895.09.

Section 132. Section 424.10, Florida Statutes, is amended to read:

424.10 Incorporation; purpose; shares; articles.—Any number of natural persons not less than three, a majority of whom are citizens of the United States, may become a corporation by subscribing, acknowledging, and filing with the Department of State articles of incorporation, hereinafter called "articles," setting forth the information required by *s. 607.0202* ~~s. 607.164~~, except as herein modified or changed.

(1) The purpose for which a limited dividend housing company is to be formed shall be as follows: to acquire, construct, maintain, and operate housing projects when authorized by and subject to the supervision of the Department of Community Affairs.

(2) The shares of which the capital shall consist shall have a par value.

(3) Articles of incorporation shall contain a declaration that the corporation has been organized to serve a public purpose and that it shall remain at all times subject to the supervision and control of the Department of Community Affairs or of other appropriate state authority; that all real estate acquired by it and all structures erected by it shall be deemed to be acquired for the purpose of promoting the public health and safety and subject to the provisions of the State Housing Law; and that the stockholders of this corporation shall be deemed, when they subscribe to and receive the stock thereof, to have agreed that they shall at no time receive or accept from the company, in repayment of their invest-

ment in its stock, any sums in excess of the par value of the stock together with cumulative dividends at the rate of 6 percent per year and that any surplus in excess of such amount, if the company is dissolved, shall revert to the state.

Section 133. Subsection (9) of section 607.0120, Florida Statutes, is amended to read:

607.0120 Filing requirements.—

(9) The document must be delivered to the office of the Department of State for filing, *may* ~~and must~~ be accompanied by one exact or conformed copy (except as provided in s. 607.1509), *and must be accompanied by* the correct filing fee, and any other tax or penalty required by this act or other law.

Section 134. Subsection (12) of section 607.0122, Florida Statutes, is amended to read:

607.0122 Fees for filing documents and issuing certificates.—The Department of State shall collect the following fees when the documents described in this section are delivered to the department for filing:

(12) Articles of merger or share *exchange* ~~exchanges~~ for each party thereto: $20.

Section 135. Subsection (2) of section 607.0125, Florida Statutes, is amended to read:

607.0125 Filing duties of Department of State.—

(2) The Department of State files a document by stamping or otherwise endorsing "filed," together with the Secretary of State's official title and the date and time of receipt. After filing a document, the Department of State shall deliver *an acknowledgment* ~~the original~~ or certified copy to the domestic or foreign corporation or its representative.

Section 136. Section 607.0126, Florida Statutes, is amended to read:

607.0126 Appeal from Department of State's refusal to file document.—If the Department of State refuses to file a document delivered to its office for filing, *within 30 days after return of the document by the department by mail, as evidenced by the postmark*, the domestic or foreign corporation, ~~within 30 days after return of the document~~, may:

(1) Appeal the refusal pursuant to s. 120.68; or

(2) Appeal the refusal to the circuit court of the county where the corporation's principal office (or, if none in this state, its registered office) is or will be located. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Department of State's explanation of its refusal to file. The matter shall promptly be tried de novo by the court without a jury. The court may summarily order the Department of State to file the document or take other action the court considers appropriate. The court's final decision may be appealed as in other civil proceedings.

Section 137. Section 607.0140, Florida Statutes, is renumbered as section 607.01401, Florida Statutes, and subsections (1), (5), and (22) of said section are amended to read:

607.01401 ~~607.0140~~ Definitions.—As used in this act, unless the context otherwise requires, the term:

(1) "Articles of incorporation" includes original, amended, and restated articles of incorporation, articles of *share exchange* ~~consolidation~~, and articles of merger, and all amendments thereto.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Business day" means Monday through Friday, excluding any day a national banking association is not open for normal business transactions.

(4) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics, bold face, or a contrasting color or typing in capitals or underlined is conspicuous.

(5) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this act.

(6) "Day" means a calendar day.

(7) "Deliver" includes mail and electronic transmission.

(8) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(9) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.

(10) "Entity" includes corporation and foreign corporation; unincorporated association; business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest; and state, United States, and foreign governments.

(11) "Foreign corporation" means a corporation for profit incorporated under laws other than the laws of this state.

(12) "Governmental subdivision" includes authority, county, district, and municipality.

(13) "Includes" denotes a partial definition.

(14) "Individual" includes the estate of an incompetent or deceased individual.

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

(16) "Mail" means the United States mail, facsimile transmissions, and private mail carriers handling nationwide mail services.

(17) "Means" denotes an exhaustive definition.

(18) "Person" includes individual and entity.

(19) "Principal office" means the office (in or out of this state) where the principal executive offices of a domestic or foreign corporation are located as designated in the articles of incorporation or other initial filing until an annual report has been filed, and thereafter as designated in the annual report.

(20) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(21) "Record date" means the date on which a corporation determines the identity of its shareholders and their share holdings for purposes of this act. The determination shall be made as of the close of the business on the record date unless another time is fixed.

(22) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under *s. 607.08401* ~~s. 607.0840~~ for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(23) "Shareholder" or "stockholder" means one who is a holder of record of shares in a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(24) "Shares" means the units into which the proprietary interests in a corporation are divided.

(25) "State," when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory and insular possession (and their agencies and governmental subdivisions) of the United States.

(26) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(27) "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

(28) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this act are entitled to vote and be counted together collectively on a matter at the meeting of shareholders. All shares entitled by the articles of incorporation or this act to vote generally on the matter are for that purpose a single voting group.

Section 138. Paragraphs (b) and (g) of subsection (1) of section 607.0202, Florida Statutes, are amended to read:

607.0202 Articles of incorporation; content.—

(1) The articles of incorporation must set forth:

(b) The *address of the* principal office, if known, *and* ~~or~~ the mailing address of the corporation;

(g) The street address of the corporation's initial registered office and the name of its initial registered agent at that office *together with a written acceptance as required in s. 607.0501(3)*; and

Section 139. Paragraph (b) of subsection (1) and subsections (4) and (5) of section 607.0501, Florida Statutes, are amended to read:

607.0501 Registered office and registered agent.—

(1) Each corporation shall have and continuously maintain in this state:

(b) A registered agent, who may be either:

1. An individual who resides in this state whose business office is identical with such registered office; ~~or~~

2. *Another* ~~A~~ corporation *or not-for-profit corporation as defined in chapter 617*, authorized to transact business *or conduct its affairs* in this state, having a business office identical with the registered office*; or*.

3. A foreign corporation or not-for-profit foreign corporation authorized pursuant to this chapter or chapter 617 to transact business or conduct its affairs in this state, having a business office identical with the registered office.

(4) The Department of State shall maintain an accurate record of the registered agents and registered offices for the service of process and shall furnish any information disclosed thereby promptly upon request and payment of the required fee. *There shall be no charge for telephone requests for general corporate information, including the corporation's status, names of officers and directors, address of principal place of business, and name and address of registered agent.*

(5) A corporation may not maintain any action in a court in this state until the corporation complies with the provisions of this section or *s. 607.1507* ~~s. 607.1508~~, as applicable, and pays to the Department of State a penalty of $5 for each day it has failed to so comply or $500, whichever is less.

Section 140. Subsection (2) of section 607.0504, Florida Statutes, is amended to read:

607.0504 Service of process, notice, or demand on a corporation.—

(2) Any notice to or demand on a corporation *under* ~~made pursuant to~~ this act may be made to the chairman of the board, the president, any vice president, the secretary, or the treasurer; to the registered agent of the corporation at the registered office of the corporation in this state; or to any other address in this state that is in fact the principal office of the corporation in this state.

Section 141. Paragraph (a) of subsection (1) of section 607.0505, Florida Statutes, is amended, and subsection (11) is added to said section, to read:

607.0505 Registered agent; duties.—

(1)(a) Each corporation, foreign corporation, or alien business organization that owns real property located in this state, that owns a mortgage on real property located in this state, or that transacts business in this state shall have and continuously maintain in this state a registered office and a registered agent and shall file with the Department of State notice of the registered office and registered agent as provided in ss. 607.0501 and 607.0502. The appointment of a registered agent in compliance with s. 607.0501 or *s. 607.1507* ~~s. 607.0502~~ is sufficient for purposes of this section provided the registered agent so appointed files, in such form and manner as prescribed by the Department of State, an acceptance of the obligations provided for in this section.

(11) As used in this section, the term:

(a) "Alien business organization" means:

1. Any corporation, association, partnership, trust, joint stock company, or other entity organized under any laws other than the laws of the United States, of any United States territory or possession, or of any state of the United States; or

2. Any corporation, association, partnership, trust, joint stock company, or other entity or device 10 percent or more of which is owned or controlled, directly or indirectly, by an entity described in subparagraph 1. or by a foreign natural person.

(b) "Financial institution" means:

1. A bank, banking organization, or savings association, as defined in s. 220.62;

2. An insurance company, trust company, credit union, or industrial savings bank, any of which is licensed or regulated by an agency of the United States or any state of the United States; or

3. Any person licensed under the provisions of chapter 494.

(c) "Mortgage" means a mortgage on real property situated in this state, except a mortgage owned by a financial institution.

(d) "Real property" means any real property situated in this state or any interest in such real property.

(e) "Ultimate equitable owner" means a natural person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, or alien business organization, regardless of whether such natural person owns or controls such ownership interest through one or other natural persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

Section 142. Subsection (2) of section 607.0603, Florida Statutes, is amended to read:

607.0603 Issued and outstanding shares.—

(2) The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection (3) and to *s. 607.06401* ~~s. 607.0640~~.

Section 143. Section 607.0624, Florida Statutes, is amended to read:

607.0624 Share options.—

(1) Unless the articles of incorporation provide otherwise, a corporation may issue rights, options, or warrants for the purchase of shares of the corporation. The board of directors shall determine the terms upon which the rights, options, or warrants are issued, their form and content, and the consideration for which the shares are to be issued.

(2) The terms and conditions of stock rights and options which are created and issued by a corporation formed under this chapter, or its successor, and which entitle the holders thereof to purchase from the corporation shares of any class or classes, whether authorized but unissued shares, treasury shares, or shares to be purchased or acquired by the corporation, may include, without limitation, restrictions, or conditions that preclude or limit the exercise, transfer, receipt, or holding of such rights or options by any person or persons, including any person or persons owning or offering to acquire a specified number or percentage of the outstanding common shares or other securities of the corporation, or any transferee or transferees of any such person or persons, or that invalidate or void such rights or options held by any such person or persons or any such transferee or transferees.

Section 144. Section 607.0640, Florida Statutes, is renumbered as section 607.06401, Florida Statutes.

Section 145. Subsection (1) of section 607.0721, Florida Statutes, is amended to read:

607.0721 Voting entitlement of shares.—

(1) Except as provided in subsections (2), (3), and (4) or unless the articles of incorporation *or this act provides* ~~provide~~ otherwise, each outstanding share, regardless of class, is entitled to one vote on each matter submitted to a vote at a meeting of shareholders. Only shares are entitled to vote. If the articles of incorporation provide for more or less than one vote for any share on any matter, every reference in this act to a majority or other proportion of shares shall refer to such a majority or other proportion of votes entitled to be cast.

Section 146. Subsection (3) of section 607.0727, Florida Statutes, is amended to read:

607.0727 Shareholder quorum and voting; greater or lesser voting requirements.—

(3) *If a quorum exists, action on a matter, other than the election of directors, is approved if the votes cast by the holders of the shares represented at the meeting and entitled to vote on the subject matter favoring the action exceed the votes cast opposing the action, unless a greater number of affirmative votes or voting by classes is required by this act or the articles of incorporation.* ~~If a quorum is present, the affirmative vote of a majority of the shares represented at the meeting and entitled to vote on the subject matter shall be the act of the shareholders, unless the vote of a greater number or voting by classes is required by this act or the articles of incorporation.~~

Section 147. Subsection (3) of section 607.0731, Florida Statutes, is amended to read:

607.0731 Shareholders' agreements.—

(3) Except in cases in which the shares of the corporation are listed on a national securities exchange or in which the shares are ones as to which a market exists as evidenced by regular quotations by licensed securities dealers or brokers, *a* ~~no~~ written agreement to which all the shareholders have ~~actually~~ assented, whether embodied in the articles of incorporation or bylaws or in any agreement in writing and signed by all the parties thereto, and which relates to any phase of the affairs of the corporation, whether to the management of its business, division of its profits, or otherwise, shall be *valid* ~~invalid as between the parties thereto~~ to restrict the discretion of the board of directors in its management of the business of the corporation, to treat the corporation as if it were a partnership, or to arrange their relationships in a manner that would be appropriate only between partners. The effect of any such agreement is to relieve the directors and impose upon the shareholders assenting thereto the liability for managerial acts or omissions that is imposed on directors by law, to the extent that, and so long as, the discretion or powers of the board of directors in its management of corporate affairs are controlled by any such agreement. When a shareholders' agreement is signed, the shareholders parties thereto shall deliver copies of the agreement to the corporation's principal office. After filing a copy of the agreement in the corporation's principal office, such copy shall be open to inspection by any shareholder of the corporation (subject to the requirements of s. 607.1602(3)) or any party to the agreement during business hours.

Section 148. Section 607.0740, Florida Statutes, is renumbered as section 607.07401, Florida Statutes.

Section 149. Section 607.0810, Florida Statutes, is renumbered as section 607.08101, Florida Statutes.

Section 150. Section 607.0834, Florida Statutes, is amended to read:

607.0834 Liability for unlawful distributions.—

(1) A director who votes for or assents to a distribution made in violation of *s. 607.06401* ~~s. 607.0640~~ or the articles of incorporation is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating *s. 607.06401* ~~s. 607.0640~~ or the articles of incorporation if it is established that he did not perform his duties in compliance with s. 607.0830. In any proceeding commenced under this section, a director has all of the defenses ordinarily available to a director.

(2) A director held liable under subsection (1) for an unlawful distribution is entitled to contribution:

(a) From every other director who could be liable under subsection (1) for the unlawful distribution; and

(b) From each shareholder for the amount the shareholder accepted knowing the distribution was made in violation of *s. 607.06401* ~~s. 607.0640~~ or the articles of incorporation.

(3) A proceeding under this section is barred unless it is commenced within 2 years after the date on which the effect of the distribution was measured under *s. 607.06401(6) or (8)* ~~s. 607.0640(6) or (8)~~.

Section 151. Section 607.0840, Florida Statutes, is renumbered as section 607.08401, Florida Statutes.

Section 152. Subsection (1) of section 607.1105, Florida Statutes, is amended to read:

607.1105 Articles of merger or share exchange.—

(1) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the Department of State for filing articles of merger or share exchange which shall be executed *by each corporation as required by s. 607.0120* ~~by each corporation by its president or a vice president and by its secretary or an assistant secretary and acknowledged by one of the officers of each corporation signing such articles~~ and which shall set forth:

(a) The plan of merger or share exchange;

(b) The effective date of the merger or share exchange, which may be on or after the date of filing the articles of merger or share exchange; if the articles of merger or share exchange do not provide for an effective date of the merger or share exchange, then the effective date shall be the date on which the articles of merger or share exchange are filed;

(c) If shareholder approval was not required, a statement to that effect; and

(d) As to each corporation, the date of adoption of the plan of merger or share exchange by the shareholders or by the board of directors when no vote of the shareholders is required.

Section 153. Subsection (8) of section 607.1202, Florida Statutes, is amended to read:

607.1202 Sale of assets other than in regular course of business.—

(8) A transaction that constitutes a distribution is governed by *s. 607.06401* ~~s. 607.0640~~ and not by this section.

Section 154. Subsections (4) and (5) are added to section 607.1405, Florida Statutes, to read:

607.1405 Effect of dissolution.—

(4) The name of a dissolved corporation shall not be available for assumption or use by another corporation until 120 days after the effective date of dissolution.

(5) For purposes of this section, the circuit court may appoint a trustee for any property owned or acquired by the corporation who may engage in any act permitted under subsection (1) if any director or officer of the dissolved corporation is unwilling or unable to serve or cannot be located.

Section 155. Subsection (10) of section 607.1406, Florida Statutes, is amended to read:

607.1406 Claims against dissolved corporation.—

(10) A dissolved corporation or successor entity which has not followed the procedures described in subsections (2) and (3) shall pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims known to the corporation or such successor entity and all claims which are known to the dissolved corporation or such successor entity but for which the identity of the claimant is unknown. Such claims shall be paid in full, and any such provision for payment made shall be made in full if there are sufficient funds. If there are insufficient funds, such claims and obligations shall be paid or provided for according to their priority and, among claims of equal priority, ratably to the extent of funds legally available therefor. Any remaining funds shall be distributed to the *shareholders* ~~stockholders~~ of the dissolved corporation.

Section 156. Subsection (2) of section 607.1420, Florida Statutes, is amended to read:

607.1420 Grounds for administrative dissolution.—

(2) The foregoing enumeration in subsection (1) of grounds for *administrative* ~~involuntary~~ dissolution shall not exclude actions or special proceedings by the Department of Legal Affairs or any state officials for the annulment or dissolution of a corporation for other causes as provided in any other statute of this state.

Section 157. Subsections (1) and (4) of section 607.1422, Florida Statutes, are amended to read:

607.1422 Reinstatement following administrative dissolution.—

(1)(a) A corporation administratively dissolved under s. 607.1421 may apply to the Department of State for reinstatement at any time after the effective date of dissolution. The application must:

1. Recite the name of the corporation and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated and that no further grounds currently exist for dissolution;

3. State that the corporation's name satisfies the requirements of s. 607.0401; and

4. State that all fees owed by the corporation and computed at the rate provided by law at the time the corporation applies for reinstatement have been paid; or

(b) *As an alternative, the corporation may* submit a current annual report, signed by the registered agent *and an officer or director*, which substantially complies with the requirements of paragraph (a).

(4) The name of the dissolved corporation shall not be available for assumption or use by another corporation until 1 year after the *effective* date of ~~final~~ dissolution *unless the dissolved corporation provides the Department of State with an affidavit executed as required by s. 607.0120 permitting the immediate assumption or use of the name by another corporation.*

Section 158. Subsections (2) and (3) of section 607.1433, Florida Statutes, are amended to read:

607.1433 Decree of dissolution.—

(2) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the corporation's business and affairs in accordance with *s. 607.1405* ~~s. 607.1406~~ and the notification of claimants in accordance with *s.* ~~ss.~~ 607.1406 ~~and 607.1420~~, subject to the provisions of subsection (3).

(3) In a proceeding for judicial dissolution, the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims, it shall fix a date, which shall be not less than 4 months from the date of the order, as the last day for filing of claims. The court shall prescribe the *method by which such notice of the* deadline for filing claims that shall be given to creditors and claimants. Prior to the date so fixed, the court may extend the time for the filing of claims by court order. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation. Nothing in this section affects the enforceability of any recorded mortgage or lien or the perfected security interest or rights of a person in possession of real or personal property.

Section 159. Section 607.1440, Florida Statutes, is renumbered as section 607.14401, Florida Statutes.

Section 160. Paragraphs (e) and (f) are added to subsection (2) of section 607.1504, Florida Statutes, to read:

607.1504 Amended certificate of authority.—

(2) Such application shall be made within 30 days after the occurrence of any change mentioned in subsection (1), shall be made on forms prescribed by the Department of State, shall be executed and filed in the same manner as an original application for authority, and shall set forth:

(e) If the amendment changes its period of duration, a statement of such change.

(f) If the amendment changes the jurisdiction of incorporation, a statement of such change.

Section 161. Paragraph (b) of subsection (1) of section 607.1506, Florida Statutes, is amended to read:

607.1506 Corporate name of foreign corporation.—

(1) A foreign corporation is not entitled to file an application for a certificate of authority unless the corporate name of such corporation satisfies the requirements of s. 607.0401. If the corporate name of a foreign corporation does not satisfy the requirements of s. 607.0401, the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state:

(b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the Department of State for filing a copy of the resolution of its board of directors, *executed as required by s. 607.0120* ~~certified by its secretary~~, adopting the fictitious name.

Section 162. Paragraphs (b) and (c) of subsection (2) of section 607.1507, Florida Statutes, are amended to read:

607.1507 Registered office and registered agent of foreign corporation.—Each foreign corporation authorized to transact business in this state must continuously maintain in this state:

(2) A registered agent, who may be:

(b) A ~~domestic~~ corporation or not-for-profit ~~domestic~~ corporation *as defined in chapter 617,* the business office of which is identical with the registered office; or

(c) *Another* ~~A~~ foreign corporation or foreign not-for-profit corporation authorized *pursuant to this chapter or chapter 617,* to transact business *or conduct its affairs* in this state the business office of which is identical with the registered office.

Section 163. Paragraphs (e) and (f) of subsection (1) of section 607.1508, Florida Statutes, are amended and paragraph (g) is added to said subsection to read:

607.1508 Change of registered office and registered agent of foreign corporation.—

(1) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the Department of State for filing a statement of change that sets forth:

(e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; ~~and~~

(f) That, after the change or changes are made, the street address of its registered office and the business office of its registered agent will be identical*; and*.

(g) That such change was authorized by resolution duly adopted by its board of directors or by an officer of the corporation so authorized by the board of directors.

Section 164. Subsection (1) of section 607.1509, Florida Statutes, is amended to read:

607.1509 Resignation of registered agent of foreign corporation.—

(1) The registered agent of a foreign corporation may resign his agency appointment by signing and delivering to the Department of State for filing ~~the original and two exact or conformed copies of~~ a statement of resignation and mailing a copy of such statement to the corporation at the corporation's principal office address shown in its most recent annual report *or, if none, shown in its application for a certificate of authority or other most recently filed document.* The statement of resignation must state that a copy of such statement has been mailed to the corporation at the address so stated. The statement of resignation may include a statement that the registered office is also discontinued.

Section 165. Section 607.1510, Florida Statutes, is renumbered as section 607.15101, Florida Statutes.

Section 166. Section 607.1531, Florida Statutes, is amended to read:

607.1531 Procedure for and effect of revocation.—

(1) If the Department of State determines that one or more grounds exist under s. 607.1530 for revocation of a certificate of authority, the Department of State shall serve the foreign corporation with written notice of such determination under *s. 607.15101* ~~s. 607.1510~~.

(2) If the foreign corporation does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Department of State that each ground determined by the Department of State does not exist within 60 days after issuance of notice is perfected under *s. 607.15101* ~~s. 607.1510~~, the Department of State shall revoke the foreign

corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date.

(3) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate revoking its certificate of authority.

(4) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

Section 167. Section 607.15315, Florida Statutes, is created to read:

607.15315 Revocation; application for reinstatement.—

(1)(a) A foreign corporation the certificate of authority of which has been revoked pursuant to s. 607.1531 may apply to the Department of State for reinstatement at any time after the effective date of revocation of authority. The application must:

1. Recite the name of the foreign corporation and the effective date of its revocation of authority;

2. State that the ground or grounds for revocation of authority either did not exist or have been eliminated and that no further grounds currently exist for revocation of authority;

3. State that the foreign corporation's name satisfies the requirements of s. 607.1506; and

4. State that all fees owed by the corporation and computed at the rate provided by law at the time the foreign corporation applies for reinstatement have been paid; or

(b) As an alternative, the foreign corporation may submit a current annual report, signed by the registered agent and an officer or director, which substantially complies with the requirements of paragraph (a).

(2) If the Department of State determines that the application contains the information required by subsection (1) and that the information is correct, it shall cancel the certificate of revocation of authority and prepare a certificate of reinstatement that recites its determination and prepare a certificate of reinstatement, file the original of the certificate, and serve a copy on the corporation under s. 607.0504(2).

(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the revocation of authority and the foreign corporation resumes carrying on its business as if the revocation of authority had never occurred.

(4) The name of the foreign corporation the certificate of authority of which has been revoked is not available for assumption or use by another corporation until 1 year after the effective date of revocation of authority unless the corporation provides the Department of State with an affidavit executed as required by s. 607.0120 permitting the immediate assumption or use of the name by another corporation.

(5) If the name of the foreign corporation has been lawfully assumed in this state by another corporation, the Department of State shall require the foreign corporation to comply with s. 607.1506 before accepting its application for reinstatement.

Section 168. Paragraph (c) of subsection (1) of section 607.1622, Florida Statutes, is amended, present subsection (7) is renumbered as subsection (8), and a new subsection (7) is added to said section to read:

607.1622 Annual report for Department of State.—

(1) Each domestic corporation and each foreign corporation authorized to transact business in this state shall deliver to the Department of State for filing a sworn annual report on such forms as the Department of State prescribes that sets forth:

(c) The ~~street~~ address of its principal office *and the mailing address of the corporation*;

(7) If an additional updated report is received, the department shall file the document and make the information contained therein part of the official record.

(8)~~(7)~~ Any corporation failing to file an annual report which complies with the requirements of this section shall not be permitted to maintain or defend any action in any court of this state until such report is filed and all fees and taxes due under this act are paid and shall be subject to dissolution or cancellation of its certificate of authority to do business as provided in this act.

Section 169. Subsection (2) of section 607.1801, Florida Statutes, is amended to read:

607.1801 Domestication of non-United States corporations.—

(2) Any non-United States corporation may become domesticated in this state by filing with the Department of State:

(a) A certificate of domestication which shall be executed in accordance with subsection (7) and filed and recorded in accordance with *s. 607.0120* ~~s. 607.0202~~; and

(b) Articles of incorporation, which shall be executed, ~~acknowledged,~~ filed, and recorded in accordance with ss. *607.0120 and* 607.0202 ~~and 607.0401~~.

Section 170. Section 607.1907, Florida Statutes, is amended to read:

607.1907 Effect of repeal of prior acts.—

(1) Except as provided in subsection (2), the repeal of a statute by this act does not affect:

(a) The operation of the statute or any action taken under it before its repeal, *including, without limiting the generality of the foregoing, the continuing validity of any provision of the articles of incorporation or bylaws of a corporation authorized by the statute at the time of its adoption*;

(b) Any ratification, right remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(c) Any violation of the statute, or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal;

(d) Any proceeding, *merger, consolidation, sale of assets,* reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, *merger, consolidation, sale of assets,* reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

(2) If a penalty or punishment imposed for violation of a statute repealed by this act is reduced by this act, the penalty or punishment if not already imposed shall be imposed in accordance with this act.

Section 171. Section 608.451, Florida Statutes, is amended to read:

608.451 Filings by Department of State.—All filings made by the Department of State shall be in accordance with the provisions of *s. 607.0125* ~~s. 607.384~~.

Section 172. Section 617.003, Florida Statutes, is amended to read:

617.003 Corporate name.—The corporate name shall comply with the provisions of *s 607.0401* ~~s. 607.024~~, except that:

(1) The corporate name:

(a) May not contain the word "company."

(b) May contain the word "cooperative" or "co-op" only if the resulting name is not deceptively similar to the name of any corporation, agricultural cooperative marketing association, or nonprofit cooperative association existing or doing business in this state under the provisions of chapter 607, chapter 618, or chapter 619.

(2) Any corporation eligible to reincorporate under the provisions of s. 617.012 may do so and retain its corporate name.

Section 173. Subsection (5) of section 617.013, Florida Statutes, is amended to read:

617.013 Incorporators; articles of incorporation; execution; content; delivery and filing.—

(5) The articles of incorporation shall be delivered to the Department of State. If the Department of State finds that the articles of incorporation conform to law, it shall, when all fees have been paid as prescribed in this chapter, file the articles of incorporation in accordance with *s. 607.0125* ~~s. 607.384~~.

Section 174. Subsections (2) and (3) of section 617.018, Florida Statutes, are amended to read:

617.018 Articles of amendment; execution; content; delivery and filing.—

(2) The articles of amendment shall be delivered to the Department of State. If the Department of State finds that the articles of amendment conform to law, it shall, when all fees and taxes have been paid as prescribed in this chapter, file the articles of amendment in accordance with *s. 607.0125* ~~s. 607.384~~.

(3) The Department of State shall not approve or file any amendment to the charter of a corporation which may reincorporate under s. 617.012, but which has not reincorporated thereunder, unless such corporation has previously filed with the Department of State a copy of its charter and all amendments thereto, certified by the clerk of the circuit court of the county wherein recorded, with respect to charters and amendments granted by circuit judges, and certified by the Department of State, with respect to legislative charters, together with an affidavit executed by its president stating that such documents constitute copies of the charter of the corporation and all amendments thereto. Such certified copies and affidavit shall be delivered to the Department of State, which shall, if it finds that the documents conform to law, file such documents in accordance with *s. 607.0125* ~~s. 607.384~~ when all fees and taxes have been paid as prescribed in this chapter.

Section 175. Section 617.023, Florida Statutes, is amended to read:

617.023 Registered office and registered agent.—The provisions of *ss. 607.0501 and 607.0502* ~~ss. 607.034 and 607.037~~ apply to corporations not for profit.

Section 176. Section 617.028, Florida Statutes, is amended to read:

617.028 Indemnification and liability of officers, directors, managers, trustees, employees, and agents.—Except as provided in s. 617.0285, the provisions of *ss. 607.0831 and 607.0850* ~~ss. 607.014, 607.1645, and 607.165~~ apply to corporations not for profit and rural electric cooperatives organized under chapter 425. Any reference to "directors" in those sections includes the directors, managers, or trustees of a corporation not for profit or of a rural electric cooperative organized under chapter 425, provided that the term "director" as used in *s. 607.0831* ~~s. 607.1645~~ shall not include a director appointed by the developer to the board of directors of a condominium association under chapter 718, a cooperative association under chapter 719, or a time-share managing entity under chapter 721. Any reference to "shareholders" in those sections includes members of a corporation not for profit and members of a rural electric cooperative organized under chapter 425.

Section 177. Subsection (2) of section 617.041, Florida Statutes, is amended to read:

617.041 Members.—

(2) The corporation shall keep a membership book containing the name and address of each member. The corporation shall also keep books and records in accordance with the provisions of *s. 607.1601* ~~s. 607.157~~ which are consistent with this chapter.

Section 178. Subsection (6) of section 620.192, Florida Statutes, is amended to read:

620.192 Registered agent; duties.—

(6)(a) If a domestic or foreign limited partnership fails to comply with the requirements of subsection (2), the Department of Legal Affairs may pursue, in addition to any other remedies and penalties provided by law, the same remedies and penalties against such domestic or foreign limited partnership as are authorized in *s. 607.0505(1)(b)* ~~s. 607.325(1)(b)~~ for failure of a corporation to comply with the requirements of *s. 607.0505(1)* ~~s. 607.325(1)~~, and the state, through the Attorney General, may bid, at any judicial sale to enforce its judgment lien, any amount up to the amount of the judgment or lien obtained pursuant to this subsection.

(b) If a domestic or foreign limited partnership fails to comply with the requirements of subsection (3), the Department of Legal Affairs may pursue, in addition to any other remedies and penalties provided by law, the same remedies and penalties against such domestic or foreign limited partnership as are authorized in *s. 607.0505(5)* ~~s. 607.325(5)~~ for failure of a corporation to comply with the requirements of *s. 607.0505(2)* ~~s. 607.325(2)~~, and the state, through the Attorney General, may bid, at any judicial sale to enforce its judgment lien, any amount up to the amount of the judgment or lien obtained pursuant to this subsection.

(c) All moneys recovered under this subsection shall be treated as forfeitures under ss. 895.01-895.09 and used or distributed in accordance with the procedure set forth in s. 895.09.

Section 179. Section 621.13, Florida Statutes, is amended to read:

621.13 Applicability of chapter 607.—Chapter 607 is applicable to a corporation organized pursuant to this act except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 607, and in such event the provisions and sections of this act shall take precedence with respect to a corporation organized pursuant to the provisions of this act. A professional corporation organized under this act shall consolidate or merge only with another domestic professional corporation organized under this act to render the same specific professional service, and a merger or consolidation with any foreign corporation is prohibited. A professional corporation heretofore or hereafter organized under this act may change its business purpose from the rendering of professional service to provide for any other lawful purpose by amending its certificate of incorporation in the manner required for an original incorporation under chapter 607. However, such an amendment, when filed with and accepted by the Department of State, shall remove such corporation from the provisions of this chapter including, but not limited to, the right to practice a profession. A change of business purpose shall not have any effect on the continued existence of the corporation and the limitations of *s. 607.1001(1)* ~~s. 607.177(1)~~ shall not preclude such an amendment.

Section 180. Section 628.530, Florida Statutes, is amended to read:

628.530 Effects of redomestication.—The certificate of authority, agents appointments and licenses, rates, and other items which the department allows, in its discretion, which are in existence at the time any insurer licensed to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, merger pursuant to *s. 607.1107(5)* ~~s. 607.234(4)~~, or any other lawful method shall continue in full force and effect upon such transfer if such insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the department. Every transferring insurer shall file new policy forms with the department on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as are approved by, the department. However, every such transferring insurer shall notify the department of the details of the proposed transfer and shall file promptly any resulting amendments to corporate documents filed or required to be filed with the department.

Section 181. Section 631.0515, Florida Statutes, is amended to read:

631.0515 Appointment of receiver; insurance holding company.—A delinquency proceeding pursuant to this chapter constitutes the sole and exclusive method of dissolving, liquidating, rehabilitating, reorganizing, conserving, or appointing a receiver of a Florida corporation which is not insolvent as defined by *s. 607.0140(15)* ~~s. 607.004(9)~~; which through its shareholders, board of directors, or governing body is deadlocked in the management of its affairs; and which directly or indirectly owns all of the stock of a Florida domestic insurer. The department may petition for an order directing it to rehabilitate such corporation if the interests of policyholders or the public will be harmed as a result of the deadlock. The department shall use due diligence to resolve the deadlock. Whether or not the department petitions for an order, the circuit court shall not have jurisdiction pursuant to s. 607.271, s. 607.274, or s. 607.277 to dissolve, liquidate, or appoint receivers with respect to, a Florida corporation which directly or indirectly owns all of the stock of a Florida domestic insurer and which is not insolvent as defined by *s. 607.0140(15)* ~~s. 607.004(9)~~.

Section 182. Subsection (1) of section 658.23, Florida Statutes, is amended to read:

658.23 Submission of articles of incorporation; contents; form; approval; filing; commencement of corporate existence; bylaws.—

(1) Within 3 months after approval by the department and the appropriate federal regulatory agency, the applicant shall submit its duly exe-

cuted articles of incorporation to the department, together with the filing fee due the Department of State under *s. 607.0122* ~~s. 607.361~~.

Section 183. Subsection (7) of section 658.48, Florida Statutes, is amended to read:

658.48 Loans.—A state bank may make loans and extensions of credit, with or without security, subject to the following limitations and provisions:

(7) APPROVAL BY BOARD.—The requirements of this section concerning approval of lending activities by the board of directors or an authorized committee therefrom have been met only when such approvals are recorded in the formal minutes of the actions of the board and its committees by name of borrower, amount of loan, maturity of loan, and general type of collateral. If, at the time of approval of a line of credit, such information is not available, the name of the borrower and the amount of the approved line of credit shall be recorded in the minutes. Any action required by this section to be taken by the board of directors or an authorized committee therefrom may be taken pursuant to *s. 607.0820(4)* ~~s. 607.131(7)~~ if the minutes of the proceedings of the board or of the committee reflect such action and each director taking such action signs the minutes reflecting such action at the next regular meeting of the board or committee attended by such director.

Section 184. Section 663.03, Florida Statutes, is amended to read:

663.03 Applicability of chapter 607.—Notwithstanding the definition of the term "foreign corporation" appearing in *s. 607.0140(11)* ~~s. 607.004(8)~~, all of the provisions of chapter 607 not in conflict with the Florida Banking Code which relate to foreign corporations shall apply to all international bank agencies and representative offices doing business in this state.

Section 185. Subsection (5) of section 665.0201, Florida Statutes, is amended to read:

665.0201 Incorporation.—

(5) ACTION BY DEPARTMENT.—If the department approves the application for authority to organize, the applicant shall apply for a commitment for insurance of accounts as provided for in s. 665.0501(8). Upon approval by the department of the application for authority to organize, the department shall forward a copy of its final order to the Federal Savings and Loan Insurance Corporation or other approved insurer. The failure by the applicant to apply for a commitment for insurance of accounts within 6 months after approval by the department or a final order of denial by the insurer will terminate and revoke the final order issued by the department approving the application. Upon notice to the department that the commitment for insurance of accounts has been approved by the insurer, the executed and adopted articles of incorporation shall be forwarded to the department for approval and filing with the Department of State, together with the filing fee due under *s. 607.0122* ~~s. 607.361~~ and the tax *due*, if any~~, due under s. 607.364~~. The department shall require retention of one certified copy. The corporate existence of an association shall begin on the date that the approved articles of incorporation are filed with the Department of State, unless otherwise provided in the articles of incorporation. However, no association shall commence business before it is in possession of a certificate of authorization to transact business as provided in s. 665.027. Prior to that time, an association may perform only such acts as are necessary to perfect its organization, obtain and equip a place of business, and otherwise prepare for a general savings association business. Corporate existence shall be perpetual unless terminated in accordance with the provisions of this chapter.

Section 186. Subsections (2) and (4) of section 665.023, Florida Statutes, are amended to read:

665.023 Capital stock; power and limitations on sale and issuance of stock; characteristics of capital stock; loans secured by capital stock prohibited.—

(2) PREFERRED STOCK.—With the prior approval of the department, shares of preferred or special stock of any class may be divided by number from time to time into, and issued in, designated series. Such shares of preferred or special stock of any class or series thereof shall have such relative rights and preferences with regard to dividend rates, redemption rights, conversion privileges, voting power, and other distinguishing characteristics as are stated and expressed with respect to such class or series, either in the articles of incorporation or in the resolution or resolutions providing for the issue of such stock adopted by the board of directors. When shares of any preferred or special class of stock are issued in series pursuant to a resolution adopted by the board of directors, the association shall cause to be filed with the Department of State the statement required by *s. 607.0602(4)* ~~s. 607.047~~.

(4) STATED CAPITAL AND CAPITAL SURPLUS.—

(a) As used in this subsection, the term:

1. "Capital surplus" means the entire surplus of a corporation other than its earned surplus.

2. "Stated capital" means, at any particular time, the sum of:

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

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

c. Such amounts, not included in sub-subparagraphs a. and b., as have been transferred to stated capital of the corporation, whether upon the issue of shares as a share dividend or otherwise;

minus all reductions from such sum that have been effected in a manner permitted by law. Irrespective of the manner of designation thereof by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation shall be determined on the same basis and in the same manner as the stated capital of a domestic corporation, for the purpose of computing taxes on qualification and other charges imposed by this act. ~~the terms "stated capital" and "capital surplus" shall have the meanings set forth in s. 607.004.~~

(b) The stated capital and capital surplus of an association shall not be available for the payment of dividends or other distribution to the stockholders except upon liquidation. No association shall reduce its stated capital without first obtaining the consent of the department. Except in supervisory cases, such consent shall be withheld if the reduction will cause the stated capital to be less than the minimum required by s. 665.0201(4)(d)1. at the time of incorporation of the association as a capital stock association.

Section 187. Subsection (1) of section 665.0311, Florida Statutes, is amended to read:

665.0311 Power to reorganize, merge, or consolidate.—

(1) Pursuant to a plan adopted by the board of directors and approved by the department as equitable, as resulting in substantial business benefit to the association, and as adequately protecting the interests of the association, its members or stockholders, its savings account holders and borrowers, and the public, an association shall have power to reorganize or merge or consolidate with another association, a successor institution, or a federal association within this state, provided the plan of such reorganization, merger, or consolidation is approved pursuant to *s. 607.1103* ~~s. 607.221~~. In all cases, the corporate continuity of the resulting association must possess substantially the same incidents as that of an association which has organized in accordance with this chapter, including insurance of accounts as provided in s. 665.0501(8).

Section 188. Section 719.1035, Florida Statutes, is amended to read:

719.1035 Creation of cooperatives.—The date when cooperative existence shall commence is upon commencement of corporate existence of the cooperative association as provided in *s. 607.0203* ~~s. 607.167~~.

Section 189. Sections 607.001, 607.004, 607.007, 607.011, 607.014, 607.017, 607.021, 607.024, 607.027, 607.031, 607.034, 607.037, 607.041, 607.044, 607.047, 607.051, 607.054, 607.057, 607.058, 607.061, 607.064, 607.067, 607.071, 607.074, 607.077, 607.081, 607.084, 607.087, 607.091, 607.094, 607.097, 607.101, 607.104, 607.107, 607.108, 607.109, 607.110, 607.111, 607.114, 607.117, 607.121, 607.124, 607.127, 607.131, 607.134, 607.137, 607.141, 607.144, 607.147, 607.151, 607.154, 607.157, 607.161, 607.164, 607.1645, 607.165, 607.167, 607.171, 607.174, 607.177, 607.181, 607.184, 607.187, 607.191, 607.194, 607.197, 607.201, 607.204, 607.207, 607.211, 607.214, 607.217, 607.219, 607.221, 607.224, 607.227, 607.231, 607.234, 607.237, 607.241, 607.244, 607.247, 607.251, 607.254, 607.257, 607.261, 607.264, 607.267, 607.271, 607.274, 607.277, 607.281, 607.284, 607.287, 607.291, 607.294, 607.297, 607.301, 607.304, 607.307, 607.311, 607.317, 607.321, 607.324, 607.325, 607.327, 607.337, 607.341, 607.344,

607.347, 607.351, 607.354, 607.355, 607.357, 607.361, 607.371, 607.372, 607.374, 607.377, 607.381, 607.384, 607.387, 607.391, 607.394, 607.397, 607.401, 607.404, 607.407, 607.411, and 607.414, Florida Statutes, are hereby repealed.

Section 190. This act shall take effect July 1, 1990, or upon becoming a law, whichever occurs later except sections 1 through 129 shall take effect July 1, 1991.

Amendment 6—In title, on page 4, line 22, strike "providing an effective date." and insert: amending s. 214.23, F.S.; correcting a cross-reference; amending s. 253.03, F.S.; correcting a cross-reference; amending s. 424.10, F.S.; correcting a cross-reference; amending s. 607.0120, F.S.; permitting additional copies of documents to be filed; amending s. 607.0122, F.S.; correcting spelling; amending s. 607.0125, F.S.; permitting delivery of acknowledgments; amending s. 607.0126, F.S.; prescribing time within which appeal may be taken; renumbering and amending s. 607.0140, F.S.; correcting a cross-reference; amending s. 607.0202, F.S.; requiring articles of incorporation to contain certain addresses; requiring an acceptance; amending s. 607.0501, F.S.; authorizing certain corporations to be registered agents; providing certain free corporate information; correcting a cross-reference; amending s. 607.0504, F.S.; providing for certain notice; amending s. 607.0505, F.S.; correcting a cross-reference; adding definitions; amending s. 607.0603, F.S.; correcting a cross-reference; amending s. 607.0624, F.S.; prescribing conditions of stock rights and options; renumbering s. 607.0640, F.S.; amending s. 607.0721, F.S.; revising exceptions to voting entitlement of shares; amending s. 607.0727, F.S.; providing voting requirements in shareholder voting; amending s. 607.0731, F.S.; providing validity of shareholder agreements; renumbering ss. 607.0740, 607.0810, 607.0840, F.S.; amending s. 607.0834, F.S.; correcting a cross-reference; amending s. 607.1105, F.S.; prescribing requirements for execution of articles of merger or share exchange; amending s. 607.1202, F.S.; correcting a cross-reference; amending s. 607.1405, F.S.; permitting certain assumptions of corporate name; permitting appointment of a trustee; amending s. 607.1406, F.S.; correcting an obsolete term; amending s. 607.1420, F.S.; correcting an obsolete term; amending s. 607.1422, F.S.; requiring an additional signature on annual report; permitting immediate use of corporate name under certain conditions; amending s. 607.1433, F.S.; correcting cross-references; prescribing method for notice; renumbering s. 607.1440, F.S.; amending s. 607.1504, F.S.; prescribing additional requirements for application; amending s. 607.1506, F.S.; prescribing method of executing document; amending s. 607.1507, F.S.; prescribing limitations on registered agents of foreign corporations; amending s. 607.1508, F.S.; prescribing additional requirement for statement of change; amending s. 607.1509, F.S.; requiring submission of additional addresses; renumbering s. 607.1510, F.S.; amending s. 607.1531, F.S.; correcting cross-references; creating s. 607.15315, F.S.; providing for applications for reinstatement; providing procedure for reinstatement; amending s. 607.1622, F.S.; requiring additional address; permitting updated annual report to be part of official record; amending s. 607.1801, F.S.; correcting cross-references; deleting reference to an acknowledgment; amending s. 607.1907, F.S.; providing that the repeal of prior statutes by the Florida Business Corporation Act does not affect certain acts by corporations and corporate documents; amending s. 608.451, F.S; correcting a cross-reference; amending s. 617.003, F.S.; correcting a cross-reference; amending s. 617.013, F.S.; correcting a cross-reference; amending s. 617.018, F.S.; correcting a cross-reference; amending s. 617.023, F.S.; correcting cross-references; amending s. 617.028, F.S.; correcting cross-references; amending s. 617.041, F.S.; correcting a cross-reference; amending s. 620.192, F.S.; correcting cross-references; amending s. 621.13, F.S.; correcting a cross-reference; amending s. 628.530, F.S.; correcting a cross-reference; amending s. 631.0515; correcting a cross-reference; amending s. 658.23, F.S.; correcting a cross-reference; amending s. 658.48, F.S.; correcting a cross-reference; amending s. 663.03, F.S.; correcting a cross-reference; amending s. 665.0201, F.S.; correcting a cross-reference; deleting a cross-reference; amending s. 665.023, F.S.; correcting a cross-reference; providing definitions; amending s. 665.0311, F.S.; correcting a cross-reference; amending s. 719.1035, F.S.; correcting a cross-reference; repealing ss. 607.001, 607.004, 607.007, 607.011, 607.014, 607.017, 607.021, 607.024, 607.027, 607.031, 607.034, 607.037, 607.041, 607.044, 607.047, 607.051, 607.054, 607.057, 607.058, 607.061, 607.064, 607.067, 607.071, 607.074, 607.077, 607.081, 607.084, 607.087, 607.091, 607.094, 607.097, 607.101, 607.104, 607.107, 607.108, 607.109, 607.110, 607.111, 607.114, 607.117, 607.121, 607.124, 607.127, 607.131, 607.134, 607.137, 607.141, 607.144, 607.147, 607.151, 607.154, 607.157, 607.161, 607.164, 607.1645, 607.165, 607.167, 607.171, 607.174, 607.177, 607.181, 607.184, 607.187, 607.191, 607.194, 607.197, 607.201, 607.204, 607.207, 607.211, 607.214, 607.217, 607.219, 607.221, 607.224, 607.227, 607.231, 607.234, 607.237, 607.241, 607.244, 607.247, 607.251, 607.254, 607.257, 607.261, 607.264, 607.267, 607.271, 607.274, 607.277, 607.281, 607.284, 607.287, 607.291, 607.294, 607.297, 607.301, 607.304, 607.307, 607.311, 607.317, 607.321, 607.324, 607.325, 607.327, 607.337, 607.341, 607.344, 607.347, 607.351, 607.354, 607.355, 607.357, 607.361, 607.371, 607.372, 607.374, 607.377, 607.381, 607.384, 607.387, 607.391, 607.394, 607.397, 607.401, 607.404, 607.407, 607.411, and 607.414, F.S.; providing an effective date.

Amendment 7—In title, on page 1, line 2, strike "not for profit"

On motion by Senator D. Childers, by two-thirds vote CS for SB 1460 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

Bankhead	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kiser	Stuart
Bruner	Forman	Malchon	Thomas
Casas	Gardner	McPherson	Thurman
Childers, D.	Girardeau	Meek	Walker
Childers, W. D.	Grant	Myers	Weinstock
Davis	Grizzle	Peterson	Woodson-Howard
Deratany	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB 2568—A bill to be entitled An act relating to sale of liquefied petroleum gas; amending s. 527.01, F.S.; revising definitions; revising the types of activities that constitute a qualifier; amending s. 527.02, F.S.; revising licensure categories; providing an exemption; providing original application and renewal fees; revising examination requirements and fees; creating s. 527.021, F.S.; requiring annual registration of transport vehicles; providing a penalty; amending s. 527.03, F.S.; revising the licensure period; providing a restoration fee; amending s. 527.04, F.S.; revising bond and insurance requirements; amending s. 527.055, F.S.; revising powers of the Department of Insurance relating to competency standards; amending s. 527.0605, F.S.; providing for the application of chapter 527 to liquefied petroleum gas bulk storage locations; amending s. 527.061, F.S.; authorizing inspection of vehicles; amending s. 527.11, F.S., revising minimum storage requirements; amending s. 527.13, F.S.; increasing the civil penalty that may be imposed; amending s. 527.15, F.S.; correcting a cross-reference; providing an effective date.

—was read the second time by title. On motion by Senator Bruner, by two-thirds vote CS for SB 2568 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Bankhead	Deratany	Kiser	Souto
Beard	Diaz-Balart	Langley	Stuart
Brown	Dudley	Malchon	Thomas
Bruner	Forman	McPherson	Thurman
Casas	Gardner	Meek	Walker
Childers, D.	Girardeau	Myers	Weinstein
Childers, W. D.	Grant	Peterson	Weinstock
Davis	Grizzle	Scott	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick

Consideration of **CS for SB 1142** was deferred.

CS for SB 1708—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending ss. 212.054, 212.055, F.S.; reenacting an indigent care surtax for certain counties; specifying the rate; providing purposes of the surtax; providing for a trust fund; providing for

use of the proceeds; providing legislative findings with respect to liens against such funds; providing an effective date.

—was read the second time by title.

Senator Beard moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of lines 21 and 22 and insert: *of any tax paid to the state pursuant to this part, except this section, s. 212.0606, and s. 212.0305; provided, however, such sales surtax must be approved by a majority of the electors voting in a referendum. The provisions of s.*

Amendment 2—On page 1, line 5, after the first semicolon (;) insert: providing for a referendum;

On motion by Senator Davis, by two-thirds vote CS for SB 1708 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstein
Davis	Grizzle	Myers	Weinstock
Deratany	Jennings	Peterson	Woodson-Howard

Nays—None

CS for SB 1806—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 550.0121, F.S., which section prescribes numbers of authorized performances and days for certain permitholders; amending s. 550.02, F.S.; specifying the information that must be required of each applicant for a permit; deleting a reference relating to the permit application; requiring the reporting of changes of ownership or interest by permitholders; prohibiting entries to be placed by a spouse under certain conditions; amending s. 550.03, F.S.; requiring payment of charity day proceeds within a specified time after the end of an association's fiscal year; allowing the deduction of expenses based upon total performances in the fiscal year; authorizing additional scholarship day operations; providing for distribution of funds; amending ss. 550.09, 550.13, F.S.; providing for the distribution of funds to the Pari-mutuel Wagering Trust Fund; amending s. 550.10, F.S.; permitting the denial, revocation, or suspension of an occupational license for conviction of a felony or of certain misdemeanors or for prior revocation of an occupational license related to pari-mutuel wagering; providing for felony waiver under certain conditions; allowing the denial, revocation, or suspension of an occupational license for financial irresponsibility related to the pari-mutuel industry; permitting the fining, or revocation or suspension of a license, of a licensee who provides false information; amending s. 550.115, F.S.; deleting requirement for division approval for disbursement by a board of relief of moneys deposited into the board of relief fund; amending s. 550.12, F.S.; requiring filing of the annual report within a specified time after the end of the fiscal year; amending s. 550.16, F.S.; authorizing the distribution of specified moneys as capital improvement funds under certain circumstances; amending s. 550.241, F.S.; providing disclosure requirements for positive test results of tests for certain substances; amending s. 550.262, F.S.; requiring certification of information to the Florida Thoroughbred Breeders' Association, Florida Standardbred Breeders and Owners Association, and Florida Quarter Horse Breeders and Owners Association relating to the eligibility of certain horses for breeders' awards; amending s. 551.04, F.S.; specifying information that may be required of applicants to operate frontons; amending s. 535.21, F.S.; correcting cross-references; repealing s. 535.19, F.S., relating to financial reporting for horse shows; repealing s. 535.21, F.S., relating to occupational license qualifications with respect to horse shows; providing an effective date.

—was read the second time by title.

Senator Casas moved the following amendments which were adopted:

Amendment 1—On page 23, between lines 4 and 5, insert:

Section 13. Subsection (1) of section 550.10, Florida Statutes, is amended to read:

550.10 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(1) Every person connected with a racetrack shall purchase from the Division of Pari-mutuel Wagering an annual occupational license for each specified job performed which license shall be valid for 1 year. *All monies* ~~The first $200,000~~ collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. ~~The division shall deposit all other collections for occupational licenses into the Pari-mutuel Tax Collection Trust Fund.~~ The license shall expire on July 1 of each year. In the event that the division determines that it is in the best interest of the division and persons connected with racetracks, the division may issue a license valid for one season at one racetrack but may not make that determination apply to any person who objects to such determination. In any event, the season license fee shall be equal to the annual occupational license fee. Any person may, at his option and pursuant to the rules promulgated by the division, purchase an occupational license valid for a period of 3 years provided the purchaser of the license pays the full occupational license fee for each of the years for which the license is purchased at the time the 3-year license is requested. The occupational license shall be valid during its specified term at any pari-mutuel facility. The scheduled annual license fees are as follows:

(a) Contractual concessionaires with permitholders: $150.

(b) Professional persons such as owners, trainers, veterinarians, doctors, nurses, officials, and supervisors of all departments: $40.

(c) Jockeys, apprentice jockeys, jockey agents, harness drivers, and jai alai players: $40.

(d) Permitholder employees, concession employees, grooms, exercise persons, hot-walkers, miscellaneous stable help, platers, and all others not specifically provided: $10.

Section 14. Paragraph (e) of subsection (4) of section 550.48, Florida Statutes, is amended to read:

550.48 Totalisator licensing.—

(4)

(e) Upon the failure of the totalisator owner or operator to make the payment found to be due the state, the division may cause the forfeiture of the bond or proceed against the insurance contract, and the proceeds of the bond or contract shall be deposited into the Pari-mutuel Wagering ~~Tax Collection~~ Trust Fund. In the event that bond was not posted or insurance obtained, the division may proceed against any assets of the totalisator owner or operator to collect the amounts due under this subsection.

Section 15. Subsection (6) of section 551.06, Florida Statutes, is amended to read:

551.06 Daily license fee; admission tax; taxes on handle and breaks; surtax.—

(6) Payment for the admission tax, the tax on breaks, and the tax on handle imposed in this section shall be made to the Division of Pari-mutuel Wagering. The division shall deposit these sums with the Treasurer, with one-half to be credited to the Pari-mutuel *Wagering* ~~Tax Collection~~ Trust Fund and one-half to be credited to the General Revenue Fund. The surtax imposed by subsection (5) shall be paid to the Division of Pari-mutuel Wagering, and the division shall deposit these sums with the Treasurer for deposit into the General Revenue Fund.

(Renumber subsequent sections.)

Amendment 2—In title, on page 2, line 25, after "frontons;" insert: amending ss. 550.10, 550.48, 551.06, F.S.; providing for the distribution of funds to the Pari-mutuel Wagering Trust Fund;

On motion by Senator Casas, by two-thirds vote CS for SB 1806 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

Bankhead	Bruner	Childers, W. D.	Deratany
Beard	Casas	Crenshaw	Diaz-Balart
Brown	Childers, D.	Davis	Dudley

Forman	Johnson	Myers	Thurman
Gardner	Kirkpatrick	Peterson	Walker
Girardeau	Kiser	Plummer	Weinstein
Gordon	Langley	Souto	Weinstock
Grant	Malchon	Stuart	Woodson-Howard
Jennings	Meek	Thomas	

Nays—None

On motions by Senator Diaz-Balart, by two-thirds vote CS for HB's 2683 and 1305 was withdrawn from the Committees on Education and Appropriations.

On motion by Senator Diaz-Balart, by two-thirds vote—

CS for HB's 2683 and 1305—A bill to be entitled An act relating to education; amending s. 232.246, F.S.; revising credit requirements for high school graduation; amending s. 236.081, F.S.; conforming a cross reference; amending s. 233.058, F.S.; providing for English language instruction for limited English proficient students; providing definitions; providing school district procedures; providing for funding; providing for evaluation and rules; repealing s. 228.121(5), F.S., relating to entrance criteria and tuition fees for certain foreign students; amending s. 200.001, F.S., relating to school millages; correcting cross references; amending s. 228.195, F.S.; clarifying language relating to school breakfast programs; amending s. 230.2316, F.S.; revising provisions relating to student participation in educational alternatives programs; amending s. 231.15, F.S.; requiring certification of school counselors; amending s. 233.0681, F.S.; revising provisions relating to proposed programs to identify and train occupational specialists; amending s. 234.02, F.S.; revising provisions relating to school board use of motor vehicles other than school buses for transporting students; amending s. 234.091, F.S.; revising licensing requirements for school bus drivers; amending s. 235.04, F.S.; providing for rules relating to disposal of property; amending s. 235.056, F.S.; revising provisions relating to lease of educational facilities and sites; amending s. 235.212, F.S.; revising provisions relating to low-energy usage features in the design and construction of educational facilities; amending s. 235.26, F.S.; requiring the development of educational facilities standards relating to accessibility; amending s. 236.081, F.S.; amending s. 236.083, F.S.; revising provisions relating to the determination of students who may be transported; amending s. 236.25, F.S.; revising provisions relating to use of millage for payment of loans; amending s. 233.061, F.S.; requiring certain instruction pertaining to the Declaration of Independence, the Federalist Papers, and the United States Constitution; amending s. 236.081, F.S.; revising provisions relating to students eligible for a special program for the hospitalized or homebound; creating subsection (5) of section 411.222, Florida Statutes, relating to prevention and early assistance regarding handicaps in preschool children; creating a Human Assistance Network to provide a single, well-publicized point of access to the continuum of comprehensive services specified by section 411.203, Florida Statutes; authorizing the Department of Education and the Department of Health and Rehabilitative Services to award contracts and grants for network; placing network under purview of State Coordinating Council for Early Childhood Services; providing an effective date.

—a companion measure, was substituted for CS for SB's 2872 and 464 and read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 9, lines 28-31, and on page 10, lines 1-6, strike all of said lines and insert: *a student whose English competency does not meet the criteria for proficiency after three years in the ESOL program may be reported for a fourth, fifth, and sixth year of funding, provided his limited English proficiency is assessed and properly documented prior to his enrollment in each additional year beyond the 3-year base period.*

2. If a student exits the program and is later reclassified as limited English proficient, the student may be reported in the ESOL program for funding for an additional year, or extended annually for a period not to exceed a total of 6 years pursuant to this paragraph, based on an annual evaluation of the student's status.

Amendment 2—On page 12, line 11, through page 14, line 16, strike all of said lines and insert:

Section 7. Paragraph (a) of subsection (2) and paragraph (a) of subsection (9) of section 230.2305, Florida Statutes, are amended to read:

230.2305 Prekindergarten early intervention program.—

(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 program shall be administered by a district school board and shall receive state funds pursuant to subsection (9). Prekindergarten early intervention programs shall be implemented and conducted by school districts pursuant to a plan developed and approved as provided in this section. School district participation in the prekindergarten early intervention program shall be at the discretion of each school district.

(a) Beginning with the 1989-1990 school year, at least 75 percent of the children projected to be served by the district program shall be economically disadvantaged 4-year-old children, including migrant children. Other children projected to be served by the district program may include any of the following up to a maximum of 25 percent of the total number of children served:

1. Three-year-old and four-year-old children who are referred to the school system who may not be economically disadvantaged but who are abused, drug addicted, from foster homes, or who are marginal in terms of Exceptional Student Education placement.;

2. Three-year-old children and four-year-old children who may not be economically disadvantaged but who are eligible handicapped students and served in a specific part-time or combination of part-time exceptional student education programs with required special services, aids, or equipment and who are reported for funding part-time in the Florida Education Finance Program as exceptional students. These students may be funded from prekindergarten early intervention program funds the portion of the time not funded by the Florida Education Finance Program for the actual instructional time or one full-time equivalent student membership, whichever is the lesser. These part-time handicapped students shall be counted toward the 25-percent student limit based on full-time equivalent student membership funded part-time by prekindergarten early intervention program funds. Also, three-year-old or four-year-old eligible handicapped students who are reported for funding in the Florida Education Finance Program in a full-time or an authorized combination of full-time and part-time exceptional student programs as provided in s. 236.081(1)(c) may be mainstreamed in the prekindergarten early intervention program if such programming is reflected in the student's individual educational plan, if required special services, aids, or equipment are provided, and if there is no operational cost to prekindergarten early intervention program funds. These full-time exceptional students shall not count against the 75-percent or 25-percent student limit as stated in this paragraph.

3.~~2.~~ Economically disadvantaged 3-year-old children served in groups.;

4.~~3.~~ Economically disadvantaged 3-year-old children served at home through home visitor programs and intensive parent education programs.~~; and~~

5.~~4.~~ Children who meet federal and state requirements for eligibility for the migrant preschool program but who do not meet the criteria of "economically disadvantaged" as defined in paragraph (b), *who* shall not pay a fee.

6.~~5.~~ After the groups listed in subparagraphs 1., 2., ~~and~~ 3., *and 4.* have been served, 3-year-old and 4-year-old children who are not economically disadvantaged and for whom a fee is paid for the children's participation.

(9) FUNDING.—

(a) This section shall be implemented only to the extent that funding is available. State funds appropriated for the prekindergarten early intervention program may not be used for the construction of new facilities, the transportation of students, or the purchase of buses, but may be used for educational field trips which enhance the curriculum. A portion of such funds, as determined by the commissioner, may be used to remodel or renovate existing facilities pursuant to the provisions of chapter 235, to lease facilities in accordance with subsection (3) of this section, and to

purchase classroom equipment to allow the implementation of the prekindergarten early intervention program. A portion of such funds may also be used to provide training for program teachers and administrative personnel employed by the school district and by agencies with which the school district contracts for the provision of prekindergarten services. Beginning July 1, *1990* ~~1989~~, and ending June 30, *1991* ~~1990~~, up to $1,000,000 of such funds shall be allocated by the commissioner to supplement the school transportation formula as specified in s. 236.083 to fully reimburse school districts for the transportation of prekindergarten students. If the $1,000,000 is insufficient to cover the calculation, the allocation shall be prorated. Funds may also be used to provide the prekindergarten early intervention program for more than 180 school days.

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

Section 21. Notwithstanding section 236.25(2), Florida Statutes, school districts are not subject to an equal dollar reduction in Florida Education Finance Program funds for violations of former sections 235.435(1)(c) and 236.25(2)(b), Florida Statutes, 1988 Supplement, which violations occurred prior to July 1, 1989, if the Department of Education did not provide an equal dollar reduction of Florida Education Finance Program funds, before July 1, 1989, for such violations.

(Renumber subsequent sections.)

Amendment 4—On page 28, lines 5-31, and on page 29, lines 1-8, strike all of said lines

Amendment 5—In title, on page 2, lines 20-31, and on page 3, lines 1 and 2, after the semicolon (;) on line 20, page 2 through the semicolon on line 2, page 3, strike all of said language

Amendment 6—In title, on page 1, line 21, after the semicolon (;) insert: amending s. 236.25, F.S.; exempting school districts from a provision that requires the reduction of moneys provided to them pursuant to the Florida Education Finance Program, under certain circumstances;

Amendment 7—In title, on page 1, line 17, after "programs;" insert: amending s. 230.2305, F.S.; revising provisions relating to children to be served by the prekindergarten early intervention program; providing for allocation of funds;

On motion by Senator Diaz-Balart, by two-thirds vote CS for HB's 2683 and 1305 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1, amended Senate Amendments 2 and 3 and concurred in same as amended, passed as further amended, HB 2039, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 2039—A bill to be entitled An act relating to concealed weapons; amending s. 27.53, F.S.; authorizing an investigator employed by a public defender to carry concealed weapons in specified circumstances; providing that certain judges and justices may receive a license to carry a concealed weapon or firearm under certain circumstances; repealing s. 790.06(6)(g), F.S.; relating to licenses to carry concealed weapons or firearms issued to circuit or county judges; providing an effective date.

House Amendment 1 to Senate Amendment 2—On page 1, lines 17-31, and on page 2, lines 1-21, strike all of said lines on the printed bill and insert: enforcement officers *and correctional probation officers.*—Law enforcement officers *and correctional probation officers as defined in s. 943.10(3) who have met the firearm training standards established by the Criminal Justice Standards and Training Commission for law enforcement officers as defined in s. 943.10(1)* are exempt from the licensing and penal provisions of this chapter when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty. *However such correctional probation officers are not eligible for membership in the special risk class of the Florida Retirement System.*

House Amendment 1 to Senate Amendment 3—On page 1, lines 3-9, of the printed bill strike all of said lines and insert: amending s. 790.051, F.S.; exempting correctional probation officers from the licensing and penal provisions of chapter 790, F.S.;

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

CONSENT CALENDAR, continued

SB 1890—A bill to be entitled An act relating to real property; creating s. 695.26, F.S.; requiring that certain names and addresses be printed, typewritten, or stamped on specified documents affecting real property before the instrument may be recorded; providing circumstances under which an instrument may be accepted for recordation notwithstanding failure to comply fully with such requirements; providing that the failure of the clerk of the circuit court to comply with certain requirements does not impair the validity of the recordation; repealing ss. 695.21, 695.24, F.S., relating to recordation of instruments affecting real property; providing an effective date.

—was read the second time by title.

The Committee on Judiciary-Civil recommended the following amendments which were moved by Senator Dudley and adopted:

Amendment 1—On page 2, strike all of lines 15 and 16 and insert: take acknowledgment or proofs;

(e) A 1 1/2-inch square at the top right-hand corner is reserved for use by the clerk of the court; and

(f) In any instrument other than a mortgage conveying

Amendment 2—In title, on page 1, line 6, after the semicolon (;) insert: requiring a space be reserved for the use of the clerk of the circuit court;

On motion by Senator Dudley, by two-thirds vote SB 1890 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard
Deratany	Johnson	Plummer	

Nays—None

CS for SB 1142—A bill to be entitled An act relating to expressway authorities; creating the Florida Expressway Authority Act; providing definitions; providing for creation and membership of expressway authorities; providing purposes and powers; providing for bonds; providing for lease-purchase agreement; providing that the Department of Transportation may be appointed by the Division of Bond Finance of the Department of General Services as an agent of the division for construction; providing for acquisition of lands and property; providing for cooperation with other units, boards, agencies, and individuals; providing for the cov-

enant of the state; providing for exemption from taxation; providing for applicability; providing an effective date.

—was read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—On page 15, between lines 2 and 3, insert:

Section 13. Section 338.250, Florida Statutes, is created to read:

338.250 Central Florida Beltway Mitigation.—

(1) The Central Florida Beltway, consisting of the Western Beltway, the Eastern Beltway in Seminole County, the Southern Connector, the Turnpike/Southern Connector Interchange and the Southern Connector Extension, is of regional transportation benefit. It is the intent of the Legislature that any adverse environmental effect of the beltway, or portions thereof, be mitigated through the acquisition of lands and through environmental restoration or creation of projects of corresponding regional environmental benefit. The Legislature finds that the creation and enhancement of wetlands and acquisition of such lands is reasonably necessary for and constitutes appropriate mitigation for securing applicable environmental permits.

(2) Environmental mitigation required as a result of construction of the beltway, or portions thereof, shall be satisfied in the following manner:

(a) For those projects which the Department of Transportation is authorized to construct, funds for environmental mitigation shall be deposited in the Central Florida Beltway Trust Fund created within the department at the time bonds for the specific project are sold. If a road building authority other than the department is authorized to construct the project, funds for environmental mitigation shall be deposited in a mitigation fund account established in the construction fund for the bond issues. Said account shall be established at the time bond proceeds are deposited into the construction fund for the specific project. These funds shall be provided from bond proceeds and the use of such funds from bond proceeds for mitigation shall be deemed a public purpose. The amount to be provided for mitigation for the Eastern Beltway in Seminole County shall be up to $4 million, the amount to be provided for mitigation for the Western Beltway shall be up to $30.5 million, the amount to be provided for mitigation for the Southern Connector shall be up to $14.28 million, the amount to be provided for mitigation for the Turnpike/Southern Connector Interchange shall be up to $1.46 million and the amount to be provided for mitigation for the Southern Connector Extension shall be in proportion to the amount provided for the Southern Connector based upon the amount of wetlands displaced. To the extent allowed by law, the interest on said funds as earned, after deposit into the Central Florida Beltway Trust Fund, or in a mitigation fund account shall accrue and be paid to the agency responsible for the construction of the appropriate project. Where feasible, mitigation funds shall be used in coordination with funds from the Conservation and Recreation Lands Trust Fund, Save Our Rivers Land Acquisition Program, or from other appropriate sources.

(b) The appropriate road building authority shall prepare and submit to the St. Johns River Water Management District an inventory of wetland resources to be impacted by its plan of construction for the Western Beltway, the Southern Connector, the Turnpike/Southern Connector Interchange, or the Southern Connector Extension. The appropriate road building authority shall prepare and submit to the South Florida Water Management District an inventory of wetland resources within and near the preliminary right-of-way limits that could be impacted by its plan of construction for the Western Beltway. A copy of each plan shall also be submitted to the Department of Environmental Regulation. Said inventory shall list the acreage type and location of the wetlands to be potentially impacted as well as an assessment of the functions presently served by wetlands to potentially be impacted within and near the preliminary right-of-way limits of the beltway project. In the design of the project, wetland impacts which are reasonably avoidable should be avoided.

(c) Immediately upon receipt of the wetland inventory by the St. Johns River Water Management District and the South Florida Water Management District, as appropriate, in consultation with the Central Florida Beltway Project Environmental Advisory Group, shall develop a conceptual plan for the mitigation of such wetland impacts as are shown in the wetland inventory submitted in accordance with paragraph (b) above. Separate mitigation plans, identifying a variety of appropriate mitigation options shall be prepared for each of the segments of the beltway project identified in subsection (1) above. St. Johns River Water Management District will prepare a plan for that portion of the mitigation activities which will occur within its boundaries, as shown in paragraph (d) below, and South Florida Water Management District will prepare the plan for that portion of the mitigation which will occur within its boundaries. The conceptual plan shall identify and propose for acquisition for purposes of preservation, restoration, or enhancement lands located in those areas identified in paragraph (d) below and shall be consistent with the criteria outlined therein. Said plan shall identify as many alternative mitigation sites and projects as are practicable, together with a reasonable estimate of the cost of each alternative. The affected district shall give strong consideration to the county in which wetland impacts occur in identifying mitigation locations. The conceptual plan must be completed and approved by the governing board of the appropriate water management district within 90 days of receipt of the wetland inventory required by paragraph (b) above by the water management district. Preference shall be given in the selection of mitigation sites to locations where other entities contribute funding toward acquisition. The water management districts shall be reimbursed for the actual cost of preparation of the mitigation plans from the mitigation funds derived from the sale of bonds only when and if the funds are transferred to the water management district in accordance with this section.

(d) With regard to the Western Beltway, the Southern Connector, the Turnpike/Southern Connector Interchange, and the Southern Connector Extension, where feasible, the mitigation plan shall propose for acquisition lands located within the Wekiva River hydrologic basin, the Lake Apopka hydrologic basin, and the Econlockhatchee River hydrologic basin, and only to the extent provided in paragraph (1), the Upper Kissimmee chain-of-lakes hydrologic basin, Shingle Creek, Boggy Creek or Reedy Creek. The lands identified for acquisition shall be or have the potential to be of regional environmental importance taking account of their proximity to waterbodies and other publicly held lands, the extent and diversity of wildlife on the property, recreational benefits available on the property as well as environmental enhancement, recreation, and wetland creation potential.

(e) Immediately upon approval of the conceptual mitigation plan by the appropriate water management district governing board, the plan shall be sent to the Secretary of the Department of Environmental Regulation for review. Within 30 days of receipt of the plan, the department shall take final action either approving the conceptual plan or referring the plan back to the appropriate water management district with directions as to what portions of the plan are unacceptable and how they may be corrected. Approval of the conceptual mitigation plan shall create a presumption in favor of approval of any wetland mitigation proposed in any permit applications submitted to the department pursuant to paragraph (g) below, provided the wetland impacts proposed are not inconsistent with those reflected in the wetlands inventory submitted in accordance with paragraph (b) above and provided impacts to waters of the state which are reasonably avoidable have been avoided in the design of the project. If the mitigation plan is referred back to a water management district by the department, the water management district shall modify those portions deemed unacceptable by the department and resubmit the plan to the secretary within 30 days of referral. The department shall then have 30 days to take action on the modified mitigation plan.

(f) Upon approval of the conceptual mitigation plans submitted by the water management districts, the department will forward such information and comments to any appropriate federal agencies which also require permitting or approval of wetland mitigation, as is necessary for the appropriate road building authority to obtain such permits or approvals. The department shall seek to obtain formal concurrence of the approved mitigation plan from the federal agencies.

(g) The appropriate road building authority shall make its permit application to the Department of Environmental Regulation which shall be solely responsible for review and final action on such application required by chapters 373 or 403, F.S. No local environmental permits shall be required for construction of the project. Copies of any permit applications filed by an expressway authority shall be provided by that expressway authority to any county government where construction shall take place. Such affected county government shall have 30 days from the date of its receipt of said permit application to make written comments for same to the department. In reviewing any permit applications submitted pursuant to chapter 373, F.S., the department shall utilize the rule

criteria adopted by the water management district in which the construction is proposed. Notwithstanding the provisions of paragraphs (d), (e), and (i), should any federal permitting authority require modification of a mitigation plan approved by the department in order to gain approval of the mitigation plan by said federal authority, or as the result of phases construction of the beltway project sufficient funds are not available at the time of permitting for the appropriate water management district to carry out the required mitigation, the department shall have the authority to make appropriate modifications, insofar as the total funding amount provided in this legislation would permit, to allow said mitigation funds to be applied within any of the hydrologic basins described in paragraphs (d) and (i) herein.

(h) Should the department or any federal agency require modification to the beltway project plans, the cost of implementing those modifications shall not be funded from the moneys provided for wetland mitigation. However, to the extent the required modifications decrease dredge and fill activities, the moneys herein required to be provided for wetland mitigation shall be reduced in the same proportion as the acreage of impacted wetlands are reduced in an amount to be determined by the department. No water management district shall be required to expend funds for mitigation in excess of those provided in paragraph (a).

(i) Mitigation funds derived from the Western Beltway in the amount of $7 million and mitigation funds derived from the Southern Connector in the amount of $3 million shall be used to supplement the acquisition of land within the Upper Kissimmee chain-of-lakes hydrologic basin, Shingle Creek, Boggy Creek or Reedy Creek. The South Florida Water Management District shall consult with the Central Florida Beltway Environmental Advisory Group in selecting those lands to be acquired under this paragraph.

(j) A decision by Seminole County Expressway Authority to enter into the Central Florida Beltway Mitigation program established in this section shall be at the sole discretion of the Seminole County Expressway Authority. If the authority elects this participation, the selection of mitigation lands shall be made pursuant to paragraph (c), and contracts to purchase or the filing of declarations of taking pursuant to chapter 73 or chapter 74 shall take place within 15 months after the effective date of project authorization. The St. Johns River Water Management District, in consultation with the Seminole County Expressway Authority and affected water management districts, shall select lands within the Lake Jessup/St. Johns River or Econlockhatchee River hydrologic basins. The lands selected shall be of regional environmental importance based upon criteria which include proximity to waterbodies and other publicly held hands, wildlife and endangered species value, recreational benefits, and the potential for wetlands creation and enhancement.

(k) The affected water management district shall serve as acquisition agent in acquiring lands necessary to implement the mitigation plan once it is approved. The affected water management district may contract with, or otherwise enter into agreements with, the agency responsible for the right-of-way acquisition of the beltway for the provision of appraisals of mitigation projects. Such appraisals may be made by the agency responsible for the right-of-way acquisition of the beltway either in conjunction with, or separate from, appraisals of property necessary for right-of-way acquisition. Title to lands which are acquired by a water management district as mitigation lands shall be held by the affected water management district and may be transferred, if appropriate for management purposes, to any other public or governmental agency.

(l) Management plans for mitigation lands shall be conditions of the permit and shall be prepared and implemented by the agency holding title to the lands in consultation with the Environmental Advisory Group to the Central Florida Beltway Project. The management plan shall be submitted to the Department of Environmental Regulation for final approval.

(m) Approval of the mitigation plan by the Department of Environmental Regulation and the water management district and approval and issuance of any necessary permits by the Department of Environmental Regulation and by the U.S. Corps of Engineers must occur prior to the commencement of the construction of the project. Upon the issuance of the permits, the trustee of the Central Florida Beltway Trust Fund or the applicable road building authority shall transfer to the appropriate water management district the moneys provided for in paragraph (a) above in accordance with the schedule of payments mutually adopted by both parties. The appropriate water management district shall be responsible for the implementation of the mitigation plan. All bond proceeds disbursed to the water management district shall be invested and disbursed by said district in accordance with all applicable state and federal laws and in accordance with the terms of the trust indenture or bond resolutions for the bond issue from which such proceeds were obtained.

(n) The St. Johns River Water Management District and the South Florida Water Management District shall have full authority to acquire those lands and implement those projects identified in the mitigation plan prepared by the appropriate water management district. This authority shall be in addition to that conferred under s. 373.139, F.S.

(o) All funds deposited in the Central Florida Beltway Trust Fund or in a mitigation fund account shall be disbursed and invested in accordance with applicable state and federal law and in accordance with the terms of the trust indenture or bond resolutions for the bond issue from which such proceeds were obtained.

(p) In the event that the applicable water management district and the Department of Environmental Regulation fail to timely adopt the conceptual mitigation plans as herein contemplated, or in the event that such plans are not approved by the appropriate federal agencies, a road building authority on any of the Central Florida Beltway projects as herein defined may then make application for necessary permits to the appropriate agencies which may be accompanied by conventional mitigation plans, and proceed as if this act did not exist.

(q) Nothing in this act shall, in any way, prevent a road building authority from electing not to build a project of the Central Florida Beltway and thereby using the bond proceeds in accordance with the applicable trust indenture or bond resolutions. In such event, if moneys have been deposited in the Central Florida Beltway Trust Fund, the trustee shall forthwith disburse the moneys together with all accrued interest to the appropriate road building authority for use in accordance with the trust indenture or bond resolutions.

Section 14. Section 372.074, Florida Statutes, is created to read:

372.074 Fish and Wildlife Habitat Trust Fund.—

(1) There is established within the Game and Fresh Water Fish Commission the Fish and Wildlife Habitat Trust Fund for the purpose of acquiring and managing lands important to the conservation of fish and wildlife.

(e) Title to all lands acquired pursuant to this section shall be vested in the Board of Trustees of the Internal Improvement Trust Fund. The Game and Fresh Water Fish Commission or its designee shall manage such lands for the primary purpose of maintaining and enhancing their habitat value for fish and wildlife. Other uses may be allowed that are not contrary to this purpose.

(b) Land acquisition pursuant to this section shall be voluntary, negotiated acquisition and is subject to the acquisition procedures of s. 253.025.

(c) Acquisition costs payable from the fund shall include purchase prices and costs and fees associated with title work, surveys, and appraisals required to complete an acquisition.

(2) Moneys which may be deposited into the trust fund may be from donations, grants, development of regional impact wildlife mitigation contributions, or legislative appropriations.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 17, insert: amending s. 349.05, F.S.; repealing a maximum limit on the interest rates of bonds issued by the Jacksonville Transportation Authority; deleting provisions that require publication of notice of the sale of such bonds; revising the procedure for the sale of such bonds to provide that such bonds must be sold pursuant to the State Bond Act and to provide for the underwriting of such bonds; specifying provisions that such bonds may contain; authorizing the authority to employ fiscal agents; revising a provision that authorizes the State Board of Administration to act as fiscal agent for the authority;

On motion by Senator Crenshaw, by two-thirds vote CS for SB 1142 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	
Deratany	Johnson	Plummer	

Nays—None

CS for SB 2070—A bill to be entitled An act relating to motor vehicle licenses; amending ss. 320.0805, 320.08065, 320.08066, 320.0808, 320.0809, 320.083, 320.089, 320.0895, F.S.; authorizing lessees of motor vehicles to purchase certain special license plates; providing for the disposition of the annual use fee assessed on personalized prestige license plates; creating s. 320.0806, F.S.; requiring an annual audit of the expenditure of the use fees assessed on special license plates; providing a limitation on the use of such fees; providing an effective date.

—was read the second time by title.

Senator Woodson-Howard moved the following amendments which were adopted:

Amendment 1—On page 7, between lines 28 and 29, insert:

Section 10. Paragraph (a) of subsection (3) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(3)(a) Registration license plates shall be of metal specially treated with a retroreflective material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and shall be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers shall be treated with a retroreflective material, shall be of such size as specified by the department, and shall adhere to the license plate. The registration license plate shall be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate shall also be imprinted with the word "Florida" at the top. *Upon request, the department must provide to each county tax collector retroreflective adhesive tape designating the appropriate county name. The department must maintain a supply of such adhesive tape sufficient to allow the tax collector to attach the county name to the bottom of each plate issued.* ~~and the name of the county in which it is sold at the bottom, except that~~ Apportioned license plates shall have the word "Apportioned" at the bottom ~~in place of the county name~~. License plates issued for vehicles taxed under the provisions of s. 320.08(3)(d), (4)(m), (5)(b), (c) or (d), (12), or (14) shall be imprinted with the word "Florida" at the top and the word "Restricted" at the bottom. License plates issued for vehicles taxed under s. 320.08(6) shall be imprinted with the word "Florida" at the top and the word "Lease" at the bottom.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, between lines 12 and 13, insert: amending s. 320.06, F.S.; requiring the department to supply retroreflective adhesive tape with county name; eliminating the requirement that license plates include a county designation at the bottom of the plates;

On motion by Senator Forman, by two-thirds vote CS for SB 2070 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

Bankhead	Childers, D.	Diaz-Balart	Gordon
Beard	Childers, W. D.	Dudley	Grant
Brown	Crenshaw	Forman	Grizzle
Bruner	Davis	Gardner	Jennings
Casas	Deratany	Girardeau	Johnson
Kirkpatrick	Myers	Stuart	Weinstock
Kiser	Peterson	Thomas	Woodson-Howard
Malchon	Plummer	Thurman	
McPherson	Scott	Walker	
Meek	Souto	Weinstein	

Nays—1

Langley

On motions by Senator Gardner, by two-thirds vote CS for HB 457 was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

On motion by Senator Gardner—

CS for HB 457—A bill to be entitled An act relating to retirement; creating s. 121.45, F.S., the "Interstate Pension Portability Act"; providing purpose and findings; providing for establishment of interstate compacts; providing an effective date.

—a companion measure, was substituted for CS for SB 800 and read the second time by title. On motion by Senator Gardner, by two-thirds vote CS for HB 457 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Stuart
Bruner	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstein
Davis	Grizzle	Myers	Weinstock
Deratany	Jennings	Peterson	Woodson-Howard

Nays—None

SB 2768—A bill to be entitled An act relating to faculty in the State University System; requiring faculty members to complete a course in applied pedagogy as a condition for renewal of their annual contracts; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 1, line 13, after the comma insert: at least once,

Amendment 2—On page 1, lines 10 and 15, after "member" insert: or graduate teaching assistants

Amendment 3—In title, on page 1, line 3, after "faculty" insert: and graduate teaching assistants

On motion by Senator Gordon, by two-thirds vote SB 2768 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

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Gordon	McPherson	Weinstein
Childers, D.	Grant	Meek	Weinstock
Childers, W. D.	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	
Deratany	Johnson	Souto	

Nays—None

CS for SB 2642—A bill to be entitled An act relating to contracts in restraint of trade; amending s. 542.33, F.S.; providing that with respect to certain contracts in restraint of trade the court shall not enter an injunction under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote CS for SB 2642 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Stuart
Brown	Forman	Kiser	Thomas
Bruner	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Walker
Childers, D.	Gordon	McPherson	Weinstein
Crenshaw	Grant	Myers	Weinstock
Davis	Grizzle	Peterson	Woodson-Howard
Deratany	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—W. D. Childers

CS for SB 914—A bill to be entitled An act relating to victims' rights; creating s. 960.003, F.S.; providing legislative intent; providing for human immunodeficiency virus testing of persons charged with, convicted of, or incarcerated for certain sex offenses upon the request of the victims or guardians and for disclosure of test results to the victims or their guardians; providing limited exceptions; providing for victim counseling; providing for post-conviction testing orders and disclosure of results and for disclosure of results of testing during incarceration; amending s. 951.27, F.S., to authorize disclosure of human immunodeficiency virus test results obtained under that section to victims or their guardians; providing for retroactive applicability with respect to testing previously performed on inmates; amending s. 381.609, F.S., relating to testing for human immunodeficiency virus, to conform; providing severability; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for SB 914 to conform the bill to CS for HB 1115.

Pending further consideration of CS for SB 914 as amended, on motion by Senator Johnson, by two-thirds vote CS for HB 1115 was withdrawn from the Committees on Judiciary-Criminal and Appropriations.

On motion by Senator Johnson—

CS for HB 1115—A bill to be entitled An act relating to victims' rights; creating s. 960.003, F.S.; providing legislative intent; providing for human immunodeficiency virus testing of persons charged with, convicted of, or incarcerated for certain sex offenses, upon the victim's or victim's guardian's request, and for disclosure of test results to the victims or their guardians; providing limited exceptions; providing for victim counseling; providing for post-conviction testing orders and disclosure of results and for disclosure of results of testing during incarceration; amending s. 951.27, F.S., to authorize disclosure of human immunodeficiency virus test results obtained under that section to victims or their guardians; providing for retroactive applicability with respect to testing previously performed on inmates; amending s. 381.609, F.S., relating to testing for human immunodeficiency virus, to conform; providing severability; providing an appropriation; providing an effective date.

—a companion measure, was substituted for CS for SB 914 and read the second time by title. On motion by Senator Johnson, by two-thirds vote CS for HB 1115 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

CS for CS for SB 2528—A bill to be entitled An act relating to waste tire management; amending s. 403.709, F.S.; providing for distribution of proceeds of waste tire fees; authorizing the Department of Environmental Regulation to take certain actions to recover moneys expended from the Solid Waste Management Trust Fund; amending s. 403.717, F.S.; revising definitions; providing requirements for waste tire sites; prohibiting contracts for the disposal or processing of waste tires under certain circumstances; requiring the department to adopt rules for the registration of waste tire collection centers and site closure permits; exempting indoor tire storage from permit requirements; requiring the department to undertake safety measures at certain waste tire sites; providing for demonstration projects and funding of such projects; providing for an exemption from the sales tax for mobile waste tire processing equipment; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick offered the following amendments which were moved by Senator McPherson and adopted:

Amendment 1—On page 7, between lines 20-21, insert:

Section 4. The Legislature finds and declares that the volume of customer directories produced each year by the telecommunications companies is a significant contributor to the volume of solid waste required to be disposed at solid waste management facilities. The Legislature hereby requires all telecommunications companies operating in this state to formulate plans to ensure that directories that are distributed to their customers are annually recycled as part of the ongoing activities of local governments to help reduce the total volume of recyclable paper products in the municipal waste stream. Each telecommunications company operating in this state shall submit an operational recycling plan by February 1, 1991 to the Department of Environmental Regulation and to the President of the Senate and Speaker of the House of Representatives to describe the activities which will be undertaken within 1 year to cause their directories to be recycled.

(Renumber subsequent sections.)

Amendment 2—In title, on page 1, line 2, strike "waste tire management" and insert: solid waste

On motion by Senator McPherson, by two-thirds vote CS for CS for SB 2528 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstein
Davis	Grizzle	Myers	Weinstock
Deratany	Jennings	Peterson	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Bankhead

SB 2976—A bill to be entitled An act relating to periodic legislative review of regulatory functions and advisory bodies, commissions, and boards of trustees adjunct to executive agencies; repealing the following regulatory laws and providing for review of such laws pursuant to s. 11.61, F.S., the Regulatory Sunset Act, in advance of their respective repeal dates: s. 240.4075(6), F.S., relating to the additional annual fee for a nursing license for the Nursing Student Loan Forgiveness Trust Fund; s. 367.0816, F.S., relating to recovery of expenses of water or wastewater utility rate cases; s. 393.17, F.S., relating to certification of behavioral analysts; ss. 394.4787(4), 394.4788(2), (3), F.S., relating to duties of the Health Care Cost Containment Board related to hospital reimbursement rates for mental health services provided to indigent patients; ss. 395.01465, 395.0175, 395.037, 395.038, 395.103, F.S., relating to emergency care hospitals, investigation of complaints against hospitals, rulemaking authority of the Department of Health and Rehabilitative Services pertaining to hospital regulation, regional poison control centers, and rural hospital impact statements; s. 400.442, F.S., relating to pharmacy and dietary services in adult congregate living facilities; ss. 401.425, 401.445, F.S., relating to emergency medical services quality assurance and emergency examination and treatment of incapacitated persons by

emergency medical technicians, paramedics, or physicians; s. 402.28, F.S., relating to regulation of child care facilities and family day care homes providing care to high-risk and handicapped preschool children; s. 402.48, F.S., relating to regulation of health care services pools; ch. 419, F.S., relating to regulation of community residential homes; ss. 489.114, 489.510, F.S., relating to evidence of workers' compensation coverage by persons and entities engaged in construction contracting or electrical and alarm system contracting; s. 494.036, F.S., relating to issuance of certification to mortgage brokerage businesses; ch. 538, F.S., relating to the regulation of secondhand dealers and secondhand metals recyclers; ss. 627.0645, 627.4143, 627.482, 627.6746, F.S., relating to annual filings of insurance rating organizations, private passenger or basic homeowner's policy coverages, interest payable on cash surrender of insurance policies, and compliance of Medicare Supplement policies with the Omnibus Budget Reconciliation Act of 1987; ss. 631.154, 631.155, F.S., relating to property or funds in possession of third persons and unearned commissions and premiums in insurer insolvency cases; s. 655.51, F.S., relating to provision of employment information to financial institutions; s. 663.319, F.S., relating to the exemption of rules regulating regional development banks from economic-impact-statement requirements; s. 3, ch. 89-541, Laws of Florida, relating to the Physician Training Trust Fund; repealing the following laws relating to bodies adjunct to executive agencies and providing for review of such laws pursuant to s. 11.611, F.S., the Sundown Act, in advance of their dates of repeal: s. 20.23(2)(h), (i), F.S., relating to the Florida Transportation Commission; s. 230.2309(3), F.S., relating to the advisory committee for the District School Site Restructuring Incentives Program; ss. 233.0663(2), (4), (5), (6), (7), 233.0664, F.S., relating to the Drug Abuse Resistance Education Program and its board of directors; ss. 233.642, 233.643, F.S., relating to the K through 12 Mathematics, Science, and Computer Education Quality Improvement Advisory Council; s. 233.65(2), (3), (4), (6), F.S., relating to the Council on Residential Mathematics and Science Honors High Schools; s. 320.08065, F.S., relating to communities trust license plates; part III, ch. 380, F.S., relating to the Florida Communities Trust; ss. 380.31, 380.32, 380.33, F.S., relating to the Coastal Resources Interagency Management Committee; s. 402.45(6), F.S., relating to the jurisdiction of the State Coordinating Council for Early Childhood Services over the community resource mother or father program; s. 420.5087(6)(c), (f), F.S., relating to the review committee of the State Apartment Incentive Loan Program; s. 633.445(5), (6), (7), (9), (10), (11), F.S., relating to the State Fire Marshal Scholarship Grant Fund Council; amending s. 215.475, F.S., relating to the Florida Retirement System Total Fund Investment Plan; subdividing the section into subsections; repealing new subsection (2), relating to the duties assigned to the Investment Advisory Council with respect to the plan, and providing for review of said subsection pursuant to the Sundown Act, s. 11.611, F.S., in advance of repeal; amending s. 288.063, F.S., relating to contracts for transportation projects; reorganizing the section; repealing new subsection (5), relating to the duties assigned to a committee to consider factors in selecting transportation projects for funding; providing for review of said subsection pursuant to the Sundown Act, s. 11.611, F.S., in advance of repeal; providing for review of pt. II, ch. 331, F.S., the Spaceport Florida Authority Act, by the Legislature; repealing s. 61, ch. 89-300, Laws of Florida, a provision that provides for repeal of the Spaceport Florida Authority Act and for review of that act under s. 11.61, F.S., the Regulatory Sunset Act; repealing s. 943.0572, F.S., relating to the advisory group to develop a youth gang data base; amending s. 13, ch. 89-70, Laws of Florida; advancing the repeal date for ch. 490, F.S.; amending s. 39, ch. 89-175, Laws of Florida, relating to the review of the Advisory Council on Environmental Education and the Interagency Coordinating Committee for Environmental Education under s. 11.611, F.S., the Sundown Act, to eliminate review under that act and to provide for repeal and review of such provisions outside the provisions of that act; providing an effective date.

—was read the second time by title. On motion by Senator Kiser, by two-thirds vote SB 2976 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Childers, W. D.	Forman	Jennings
Beard	Crenshaw	Gardner	Johnson
Brown	Davis	Girardeau	Kirkpatrick
Bruner	Deratany	Gordon	Kiser
Casas	Diaz-Balart	Grant	Langley
Childers, D.	Dudley	Grizzle	Malchon
McPherson	Plummer	Thurman	Woodson-Howard
Meek	Souto	Walker	
Myers	Stuart	Weinstein	
Peterson	Thomas	Weinstock	

Nays—None

On motion by Senator Malchon, by two-thirds vote HB 733 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator Malchon—

HB 733—A bill to be entitled An act relating to saltwater fisheries; amending s. 370.061, F.S.; providing for municipal or county law enforcement agencies to receive all or a portion of funds received in the confiscation of property and products, pursuant to certain forfeiture proceedings; providing for the use of such funds; providing that such funds shall be supplemental funds; providing an effective date.

—a companion measure, was substituted for SB 84 and read the second time by title. On motion by Senator Malchon, by two-thirds vote HB 733 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

On motion by Senator McPherson, by two-thirds vote CS for HB 2273 was withdrawn from the Committee on Natural Resources and Conservation.

On motion by Senator McPherson—

CS for HB 2273—A bill to be entitled An act relating to invasive nonnative plants; prohibiting the sale, transportation, collection, cultivation, or possession of plants of the species Melaleuca quinquenervia, Schinus terebinthifolius, Casuarina equisetifolia, Casuarina glauca, and Mimosa pigra; providing a penalty; requiring the Department of Natural Resources to study methods of control of such plants; requiring the South Florida Water Management District to remove Melaleuca quinquenervia from certain areas of the district; requiring the Department of Natural Resources to adopt rules; providing an effective date.

—a companion measure, was substituted for CS for SB 1670 and read the second time by title. On motion by Senator McPherson, by two-thirds vote CS for HB 2273 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Diaz-Balart	Johnson	Stuart
Brown	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Langley	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	McPherson	Weinstein
Childers, W. D.	Gordon	Meek	Weinstock
Crenshaw	Grant	Myers	Woodson-Howard
Davis	Grizzle	Plummer	
Deratany	Jennings	Souto	

Nays—1

Peterson

Vote after roll call:

Yea to Nay—Bruner, Thomas

SB 1428—A bill to be entitled An act relating to education; amending s. 240.529, F.S., relating to approved teacher education programs; authorizing universities and community colleges to establish preteacher educa-

tion and teacher education pilot programs; providing requirements; requiring an annual report; requiring the Commissioner of Education to make certain recommendations; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, line 23, after the period (.) insert: *Priority consideration shall be given to those pilot programs which are jointly submitted by community colleges and universities.*

On motion by Senator Meek, by two-thirds vote SB 1428 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	Diaz-Balart	Kirkpatrick	Souto
Brown	Dudley	Kiser	Stuart
Bruner	Forman	Malchon	Thomas
Casas	Girardeau	McPherson	Thurman
Childers, D.	Gordon	Meek	Weinstein
Childers, W. D.	Grant	Myers	Weinstock
Crenshaw	Grizzle	Peterson	Woodson-Howard
Davis	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Deratany

SB 1356—A bill to be entitled An act relating to education; providing legislative intent; creating the Florida Educational Options Program; providing for administering the program by the Commissioner of Education; providing duties; providing conditions for school district participation; providing guidelines for awarding grants under the program; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote SB 1356 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Weinstock
Crenshaw	Grant	Meek	Woodson-Howard
Davis	Grizzle	Myers	
Deratany	Jennings	Peterson	

Nays—None

CS for SB 2648—A bill to be entitled An act relating to education; amending s. 231.17, F.S.; authorizing the use of National Teacher Examination tests in certain circumstances; providing a 1-year extension of a 2-year nonrenewable teaching certificate in certain circumstances; creating s. 231.1725, F.S.; prescribing requirements for the employment of substitute teachers, teachers of adult education, and nondegreed teachers of vocational education; requiring applicants for teaching certificates to file a complete set of fingerprints; creating s. 231.173, F.S.; prescribing qualifications for certification of experienced out-of-state teachers; amending s. 231.172, F.S.; authorizing alternative preparation programs to train teachers for all the school levels; creating s. 231.174, F.S.; authorizing alternative teacher preparation programs in certain areas; providing an effective date.

—was read the second time by title.

Senator Peterson moved the following amendments which were adopted:

Amendment 1—On page 3, line 23, after the period (.) insert: *However, any vocational teacher employed to teach a course, in grades 6 through 12, in agriculture, business, home economics, marketing, or technology education must hold a bachelor's degree in that area from a standard institution which is accredited by a member of the Council on Postsecondary Accreditation.*

Amendment 2—On page 10, between lines 14 and 15, insert:

Section 8. Subsection (1) and paragraph (b) of subsection (2) of section 231.24, Florida Statutes, is amended to read:

231.24 Renewal of certificates.—

(1) All certificates, *except a nonrenewable professional certificate,* issued to school personnel shall be renewable for successive periods not to exceed 5 years from the date of submission of documentation of completion of the requirements for renewal provided in subsection (2). Only one renewal may be granted during each 5-year validity period of a certificate. However, the state board shall promulgate rules to allow a 1-year extension of the validity period of a professional certificate in the event of serious illness, injury, or other extraordinary extenuating circumstances of the applicant. The department shall grant such extension upon written request of the superintendent of the local school district.

(2) For the renewal of a professional certificate, the following requirements shall be met:

(b) A candidate who holds an active certificate and has not been employed in an instructional position by a public school district or a nonpublic school requiring state certification having a Department of Education approved beginning teacher program plan at any time during the validity period of such current certificate may renew the certificate by receiving a passing score on the subject area examination or completing the college course credits as provided in paragraph (a); however, if the candidate becomes employed in an instructional position by a public school district or a nonpublic school requiring state certification having a Department of Education approved beginning teacher program plan, he shall undergo a performance evaluation by a performance measurement system approved by the department for such purpose during the first 3 months of employment. A candidate who fails to demonstrate satisfactory performance shall complete the beginning teacher program provided for in s. 231.17. *For the purposes of this paragraph, "instructional position" includes those positions held by certificateholders who are district-level personnel, district-level personnel on special assignment, nonpublic school area administrators and supervisors, school principals, assistant school principals, school board members, instructional personnel on special assignment, and instructional personnel on leave through collective bargaining regarding contracts or school board rule, and other positions held by certificateholders as specified by necessary State Board of Education rules.*

(Renumber subsequent sections.)

Amendment 3—On page 10, between lines 14 and 15, insert:

Section 7. Comprehensive revision of Florida's system of school improvement and education responsibility.—

(1) The Legislature intends that Florida establish a system of school improvement and responsibility based on the performance of students and educational programs. The school improvement and responsibility system shall use procedures and programs established locally to improve public schools and increase their responsibility for students' attaining identified outcomes.

(2) Florida's system for school improvement and education responsibility shall:

(a) Establish state and local education goals.

(b) Increase the use of educational outcomes over educational processes in assessing educational programs.

(c) Redirect state fiscal and human resources to assist school districts and schools to meet state and local goals for student success in school and in later life.

(3) In developing the state system of public education, the State Board of Education shall establish statewide goals for educational achievements. Goals shall be established for at least the following educational issues:

(a) Readiness to start school;

(b) Graduation rate;

(c) Readiness for postsecondary education or employment;

(d) Student performance; and

(e) School safety and environment.

Section 8. Implementation of state system of educational responsibility and school improvement.—

(1) Based on the recommendations of the Commission to Improve Schools and Simplify Education Reports, the commissioner shall develop and implement plans for the following programs and procedures:

(a) A system of data collection and analysis that will improve information about the educational success of individual students and schools. The information and analyses must be capable of identifying educational programs or activities in need of improvement.

(b) A program of school improvement that will analyze information to identify schools, educational programs, or educational activities in need of improvement.

(c) A method of delivering services to assist school districts and schools to improve.

(d) A method of coordinating with the state educational goals and school improvement plans any other state program that creates incentives for school improvement.

(2) The Department of Education shall implement a training program to develop among state and district educators a cadre of facilitators of school improvement. These facilitators shall assist schools and districts to implement school improvement programs to meet state goals.

Section 9. Commission to improve schools and simplify education reports.—

(1) There is established the Commission to Improve Schools and Simplify Education Reports, which is assigned to the Department of Education. The commission shall be assigned to the Office of the Commissioner of Education for administrative purposes, but shall exercise its responsibilities independently. The commission shall study and may recommend improvements in all education reports that serve as evaluations, accountability measures, or management tools for public education, kindergarten through grade 12. Its reports and recommendations must be made available to the Legislature, the State Board of Education, other appropriate governmental officials, and the public schools in this state.

(2) The commission shall be composed of 11 members, of whom four must be appointed by the Commissioner of Education and three must be appointed by the Governor. The commissioner shall appoint a teacher, a school administrator, a parent of a child in a public school in Florida, and a representative of the postsecondary academic community. The Governor shall appoint representatives of the business community. The chairpersons of the education committees of the Senate and the House of Representatives or their designees and a representative of the Executive Office of the Governor shall serve as voting ex officio members. The Commissioner of Education shall be an ex officio voting member and shall serve as chairperson. The lay members must be approved by three members of the State Board of Education other than the Governor and confirmed by the Senate.

(3) The commissioner shall call the first meeting of the commission and subsequent meetings must be held as often as the commission deems necessary to carry out its responsibilities.

(4) The commission shall appoint an executive director, who shall serve at its pleasure, to perform the duties assigned to him by the commission. The executive director shall be the chief administrative officer of the commission and shall be responsible for appointing all commission employees and staff members, who shall serve under his direction and control.

(5) Lay members shall be entitled to receive travel and per diem expenses as provided in section 112.061, Florida Statutes, while performing their duties under this act, and legislators shall be entitled to receive travel and per diem expenses as provided by the Joint Legislative Management Committee for meetings of legislative committees.

Section 10. Powers and duties of the commission.—The commission shall:

(1) Document and analyze all statutes, laws, and rules of the State Board of Education that require reports evaluating activities conducted by public educational institutions in this state, kindergarten through grade 12. This analysis must include a review of reports submitted to comply with any statute, law, or rule and must contain an evaluation of the extent to which the reports constitute a sound and efficient system to assist program evaluation and resource decisions at the state, district, and school levels.

(2) Prepare and submit to the State Board of Education a plan for public education report simplification. The plan must describe a comprehensive public school reporting system, including content and appropriate distribution of accountability reports, coordination with federal requirements, and agency responsibilities. The plan must also contain components of ways to improve measurement of student outcomes, including the development of methods of assessing higher level skills of thinking and problem-solving; of increasing the use of data on student performance for program improvement; and of improving the data available to elected officials who wish to determine resource needs of the educational system.

(3) Recommend to the Legislature and the State Board of Education any changes in statutes or administrative rules that would improve or simplify the use of student evaluations, program evaluations, and reports of educational outcomes for planning and allocating resources to public school programs.

(4) Recommend to the Legislature and the State Board of Education any changes in statutes or administrative rules that would establish a coordinated system of resource allocation to schools or school districts based on evaluations of the outcomes of the programs conducted by a school or school district.

(5) The commission shall carry out its responsibilities within 3 years after its first meeting. The commission is abolished October 1, 1994, and shall be reviewed by the Legislature prior to that date pursuant to section 11.611, Florida Statutes.

Section 11. Model curriculum standards.—

(1) The Commissioner of Education shall coordinate the development of a model curriculum standard for the courses of study required for grades 9 through 12 under section 232.246, Florida Statutes. Model curriculum standards shall be developed for English, mathematics, and science, and a single curriculum standard shall be developed to include American history, world history, economics, and American government. Each curriculum standard shall ensure that courses within that standard develop a student's cumulative skills, include higher level skills of thinking and solving problems, and prevent a student from repeatedly taking courses designed to develop skills at the same level. Each curriculum standard shall assist in adopting textbooks, subject area tests, and standards for teacher training. The commissioner shall seek the advice of classroom teachers, school administrators, parents, postsecondary educators, and representatives of business and industry in developing the model curriculum standards. The commissioner shall:

(a) Review the courses and curriculum frameworks currently in the State Course Code Directory, assess the implementation of each course by the schools in the state, and determine the skill level developed by each course.

(b) By January 1, 1993, recommend to the State Board of Education the adoption of curriculum standards for the courses of study required under section 232.246(1)(b)1.-7., Florida Statutes.

(c) Recommend any changes in the State Course Code Directory that are required by the adoption of curriculum standards.

(d) Provide technical assistance to school districts in implementing any changes required by an adopted curriculum standard, including assistance in implementing policies to ensure that students develop cumulative skills within each course of study. The commissioner shall provide technical assistance to any school district in which more than 30 percent of the students in grades 9 through 12 are enrolled in courses with the lowest skill level, as determined by the curriculum standard for each course of study. Such a school district shall, with assistance from the commissioner, develop a plan for improving the performance of its students, including developing higher level skills of thinking and problem solving. Such a plan must state goals for measurable improvement in student performance for 3 to 5 years in the future, and must include an annual assessment of progress toward meeting the improvement goals.

(2) By February 1, 1993, the State Board of Education shall adopt the curriculum standards prepared by the Commissioner of Education.

(3) Beginning in September 1993, and not less than every 3 years thereafter, the governing board of each school district shall compare local curriculum, course content, and course sequence with the curriculum standards adopted as required by this act.

(Renumber subsequent section.)

Amendment 4—In title, on page 1, line 20, after the semicolon insert: requiring a comprehensive revision of Florida's system of school improvement and education responsibility; providing legislative intent; providing responsibilities of the system; requiring the State Board of Education to develop goals for certain educational achievements; requiring the Commissioner of Education to develop and implement certain plans; requiring the Department of Education to develop a training program; creating the Commission to Improve Schools and Simplify Education Reports within the Department of Education; providing membership and authorization for the commission to employ staff; allowing reimbursement of travel and per diem expenses; providing duties and responsibilities; providing for future abolition and legislative review of the commission; requiring the Commissioner of Education to coordinate the development of model curriculum standards for specified courses of study; providing requirements for the model curriculum standards; requiring a review and determination of skill levels of certain courses of study; providing for technical assistance to school districts in implementing changes required by a model curriculum standard; requiring the State Board of Education to adopt curriculum standards; requiring school districts to compare certain educational activities with curriculum standards;

Amendment 5—In title, on page 1, line 20, after the semicolon insert: amending s. 231.24, F.S.; revising provisions relating to renewal of professional certificates; defining the term "instructional position"; amending s. 231.17, F.S.; revising provisions relating to issuance of a teaching certificate and providing for extension of a certificate in certain circumstances; including developmental research schools in certification provisions; creating s. 231.1725, F.S.; prescribing requirements for the employment of substitute teachers, teachers of adult education, and nondegreed teachers of vocational education;

Amendment 6—In title, on page 1, line 7, after the semicolon insert: requiring certain vocational teachers to hold degrees in their areas of instruction;

On motion by Senator Peterson, by two-thirds vote CS for SB 2648 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Bankhead	Deratany	Jennings	Peterson
Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kirkpatrick	Stuart
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Langley	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	McPherson	Weinstein
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Woodson-Howard

Nays—None

On motions by Senator Plummer, by two-thirds vote HB 1229 was withdrawn from the Committees on Higher Education, Judiciary-Civil and Appropriations.

On motion by Senator Plummer—

HB 1229—A bill to be entitled An act relating to educational institutions; creating the Florida Uniform Management of Institutional Funds Act; providing definitions; providing circumstances under which the governing board of an institution may appropriate for expenditure appreciation on the value of an endowment fund; specifying investments that may be made by a governing board; authorizing a governing board to delegate investment management responsibilities; providing standards of conduct; providing circumstances for release of restrictions on use or investment of a gift; providing for uniform applicability and construction; providing an effective date.

—a companion measure, was substituted for SB 2388 and read the second time by title. On motion by Senator Plummer, by two-thirds vote HB 1229 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 228 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 228—A bill to be entitled An act relating to landlord and tenant; amending s. 83.51, F.S.; requiring landlords of certain dwelling units to provide smoke-detection devices, as defined; providing an effective date.

House Amendment 1—On page 1, line 9, strike everything after the enacting clause and insert:

Section 1. Section 83.51, Florida Statutes, is amended to read:

83.51 Landlord's obligation to maintain premises.—

(1) The landlord at all times during the tenancy shall:

(a) Comply with the requirements of applicable building, housing, and health codes; or

(b) Where there are no applicable building, housing, or health codes, maintain the roofs, windows, screens, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads and the plumbing in reasonable working condition. However, the landlord shall not be required to maintain a mobile home or other structure owned by the tenant.

The landlord's obligations under this subsection may be altered or modified in writing with respect to a single-family home or duplex.

(2)(a) Unless otherwise agreed in writing, in addition to the requirements of subsection (1), the landlord of a dwelling unit other than a single-family home or duplex shall, at all times during the tenancy, make reasonable provisions for:

1. The extermination of rats, mice, roaches, ants, wood-destroying organisms, and bedbugs. When vacation of the premises is required for such extermination, the landlord shall not be liable for damages but shall abate the rent. The tenant shall be required to vacate the premises on 7-days' written notice, if necessary, for extermination pursuant to this subparagraph.

2. Locks and keys.

3. The clean and safe condition of common areas.

4. Garbage removal and outside receptacles therefor.

5. *Functioning facilities for* heat during winter, running water, and hot water.

(b) Unless otherwise agreed in writing, at the commencement of the tenancy of a single-family home or duplex, the landlord shall install working smoke detection devices. As used in this paragraph, the term "smoke detection device" means an electrical or battery-operated device which detects visible or invisible particles of combustion and which is listed by Underwriters Laboratory, Factory Mutual, or any other nationally recognized testing laboratory using nationally accepted testing standards.

(c)~~(b)~~ Nothing in this part authorizes the tenant to raise a noncompliance by the landlord with this subsection as a defense to an action for possession under s. 83.59.

(d)~~(c)~~ This subsection shall not apply to a mobile home owned by a tenant.

(e)~~(d)~~ Nothing contained in this subsection prohibits the landlord from providing in the rental agreement that the tenant is obligated to pay costs or charges for garbage removal, water, fuel, or utilities.

(3) If the duty imposed by subsection (1) is the same or greater than any duty imposed by subsection (2), the landlord's duty is determined by subsection (1).

(4) The landlord is not responsible to the tenant under this section for conditions created or caused by the negligent or wrongful act or omission of the tenant, a member of his family, or other person on the premises with his consent.

Section 2. Subsection (3) of section 83.46, Florida Statutes, is amended to read:

83.46 Rent; duration of tenancies.—

(3) If the dwelling unit is furnished without rent as an incident of employment and there is no agreement as to the duration of the tenancy, the duration is determined by the periods for which wages are payable. If wages are payable weekly or more frequently, then the tenancy is from week to week; and if wages are payable monthly, then the tenancy is from month to month. In the event that the employee ceases employment, the employer shall be entitled to rent for the period from the day after the employee ceases employment until the day that the dwelling unit is vacated at a rate equivalent to the rate charged for similarly situated residences in the area. This subsection shall not apply to *an employee or* a resident manager of an apartment house or an apartment complex when there is a written agreement to the contrary.

Section 3. Subsection (3) of section 83.67, Florida Statutes, is amended to read:

83.67 Prohibited practices.—

(3) No landlord of any dwelling unit governed by this part shall remove the outside doors, locks, roof, walls, or windows of the unit except for purposes of maintenance, repair, or replacement; nor shall the landlord remove the tenant's personal property from the dwelling unit unless said action is taken after surrender, abandonment, or a lawful eviction. *If provided in a written agreement separate from the rental agreement, upon surrender or abandonment by the tenant, the landlord shall not be liable or responsible for storage or disposition of the tenant's personal property. For the purposes of this section, abandonment shall not be presumed unless the tenant is absent from the premises for a period of at least 15 days.*

Section 4. This act shall take effect October 1, 1990.

House Amendment 2—On page 1, in the title, line 5, after the semicolon (;) insert: amending the landlord's duty to provide heat during a tenancy; amending s. 83.46, F.S.; providing an exemption; amending s. 83.67, F.S.; exempting the landlord from liability in certain circumstances;

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

CS for SB 228 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—33

Beard	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kirkpatrick	Stuart
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Malchon	Thurman
Childers, D.	Girardeau	McPherson	Weinstock
Childers, W. D.	Gordon	Meek	Woodson-Howard
Crenshaw	Grant	Myers	
Davis	Grizzle	Peterson	
Deratany	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Weinstein

CONSENT CALENDAR, continued

Consideration of **CS for SB 2450** was deferred.

On motions by Senator Stuart, by two-thirds vote HB 217 was withdrawn from the Committees on Health and Rehabilitative Services; and Appropriations.

On motion by Senator Stuart—

HB 217—A bill to be entitled An act relating to mental health; amending s. 394.875, F.S.; providing requirements for a crisis stabilization unit for minors located on the same premises as a unit for adults; requiring the Department of Health and Rehabilitative Services to adopt rules for construction, staffing, licensure, and operation of units for minors; providing the amount a crisis stabilization unit may exceed its licensed capacity; providing an effective date.

—a companion measure, was substituted for CS for SB 1010 and read the second time by title. On motion by Senator Stuart, by two-thirds vote HB 217 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Dudley	Kiser	Stuart
Brown	Gardner	Langley	Thomas
Bruner	Girardeau	Malchon	Thurman
Casas	Gordon	Margolis	Walker
Childers, D.	Grant	McPherson	Weinstock
Childers, W. D.	Grizzle	Meek	Woodson-Howard
Crenshaw	Jennings	Myers	
Davis	Johnson	Peterson	
Deratany	Kirkpatrick	Souto	

Nays—None

Senator Langley presiding

On motions by Senator Thurman, by two-thirds vote CS for HB 1213 was withdrawn from the Committees on Agriculture and Judiciary-Civil.

On motion by Senator Thurman—

CS for HB 1213—A bill to be entitled An act relating to environmental management; creating s. 590.026, F.S.; creating the "Florida Prescribed Burning Act"; providing legislative findings and purpose regarding prescribed burning as a land management tool; providing definitions; providing rulemaking authority of the Division of Forestry of the Department of Agriculture and Consumer Services; providing requirements for the conduct of prescribed burning; providing liability of property owner; requiring a report by the Department of Community Affairs, the Division of Forestry, and the Office of the State Fire Marshal regarding actions to minimize wildfires; providing duty of the Office of Environmental Education of the Department of Education; providing an effective date.

—a companion measure, was substituted for CS for SB 2608 and read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for HB 1213 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Stuart
Bruner	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, D.	Gordon	Margolis	Walker
Childers, W. D.	Grant	McPherson	Weinstein
Davis	Grizzle	Meek	Weinstock
Deratany	Jennings	Myers	Woodson-Howard
Diaz-Balart	Johnson	Peterson	

Nays—None

CS for SB 2852—A bill to be entitled An act relating to prisoners and inmates; requiring the county sheriff, the Department of Corrections,

or a medical treatment facility to file medical insurance claims on behalf of certain prisoners and inmates; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for SB 2852 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Bankhead	Deratany	Johnson	Plummer
Beard	Diaz-Balart	Kirkpatrick	Souto
Brown	Dudley	Kiser	Thomas
Bruner	Forman	Langley	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	Margolis	Weinstock
Childers, W. D.	Grant	McPherson	Woodson-Howard
Crenshaw	Grizzle	Meek	
Davis	Jennings	Myers	

Nays—None

Consideration of **CS for SB's 548 and 1070** was deferred.

CS for SB 2052—A bill to be entitled An act relating to business regulation; requiring certain hotels, motels, and apartment complexes to file a certificate of inspection; providing for the filing of such certificates every 3 years; providing penalties; amending s. 509.211, F.S.; providing that public lodging establishments shall maintain railings; providing an effective date.

—was read the second time by title.

Senator Weinstein moved the following amendment which was adopted:

Amendment 1—On page 1, strike all of lines 16-21 and insert:

(1) Every public lodging establishment, including apartments, in the state file a certificate stating that any and all balconies, platforms, stairways, and railways have been inspected by a person competent to conduct such inspections and are safe, secure, and free of defects.

On motion by Senator Weinstein, by two-thirds vote CS for SB 2052 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Johnson	Peterson
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Stuart
Bruner	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, D.	Gordon	Margolis	Walker
Crenshaw	Grant	McPherson	Weinstein
Davis	Grizzle	Meek	Weinstock
Deratany	Jennings	Myers	Woodson-Howard

Nays—None

Vote after roll call:

Yea—W. D. Childers

SB 2098—A bill to be entitled An act relating to local occupational license taxes; amending s. 205.033, F.S.; extending to all counties the authority to levy an additional occupational license tax, the proceeds of which are to be used for implementation of a comprehensive economic development strategy; providing an effective date.

—was read the second time by title.

The Committee on Community Affairs recommended the following amendments which were moved by Senator Weinstock and adopted:

Amendment 1—On page 1, strike all of lines 13-31 and insert:

Section 1. (1) There is created an Occupational License Tax Study Commission, which shall be composed of 14 members, including:

(a) One member appointed by the Florida League of Cities.

(b) One member appointed by the Association of Counties.

(c) Two members appointed by the Florida Association of Occupational Licensing Officials, one representing a municipal government and one representing a county government.

(d) Two members appointed by the Florida Government Finance Officers Association, one representing a municipal government and one representing a county government.

(e) One member appointed by the Florida Chamber of Commerce.

(f) One member appointed by the Florida Retail Federation.

(g) One member appointed by the Florida Association of Insurance Agents.

(h) One member appointed by the National Federation of Independent Business-Florida.

(i) One member appointed by the Florida Hotel and Motel Association.

(j) One member appointed by the Florida Amusement-Vending Association.

(k) One member appointed by Associated Industries of Florida.

(l) One member appointed by the Florida Economic Development Council.

(2) All members shall be appointed within 20 days after the effective date of this act.

(3) The commission shall review the current occupational license tax structures in place, and make recommendations for updating, revising, or restructuring as needed.

(4) A chairperson shall be elected by a majority vote of the members of the commission. With the approval of the Advisory Council on Intergovernmental Relations, staff of the council shall conduct research for the commission. The commission shall report its findings to the Legislature no later than January 25, 1991.

(5) The commission shall expire on July 1, 1991.

Amendment 2—In title, on page 1, strike all of lines 3-9 and insert: taxes; creating an Occupational License Tax Study Commission and providing its duties; providing for expiration; providing an effective date.

On motion by Senator Weinstock, by two-thirds vote SB 2098 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	Dudley	Kirkpatrick	Stuart
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Langley	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	McPherson	Weinstein
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Woodson-Howard
Deratany	Jennings	Peterson	
Diaz-Balart	Johnson	Plummer	

Nays—None

Senator W. D. Childers presiding

CS for SB 2450—A bill to be entitled An act relating to farm labor registration; amending s. 450.29, F.S.; providing additional persons who are excluded from farm labor registration provisions; amending s. 450.30, F.S.; requiring the Division of Labor, Employment, and Training of the Department of Labor and Employment Security to provide a program of education and examination for applicants for a farm labor contractor certificate of registration; requiring an education and examination fee; amending ss. 450.31, 450.32, F.S.; revising provisions relating to issuance, revocation, and suspension of, and refusal to issue or renew, certificates of registration; increasing the application fee; amending s. 450.33, F.S.;

specifying additional duty of farm labor contractors; amending s. 450.38, F.S.; revising penalty provisions; providing effective dates.

—was read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 6, between lines 9 and 10, insert:

Section 7. Subsection (2) of section 232.06, Florida Statutes, is amended to read:

232.06 Certificates of exemption authorized in certain cases.—Children within the compulsory attendance age limits who hold valid certificates of exemption which have been issued by the superintendent shall be exempt from attending school. A certificate of exemption shall cease to be valid at the end of the school year in which it is issued. Children entitled to such certificates and the conditions upon which they may be issued are as follows:

(2) EMPLOYMENT EXEMPTION.—*Employment exemptions may be granted under the following conditions:*

a. Children who have reached 14 years of age who hold employment certificates and are employed under provisions of the Child Labor Law.

b. Children who are employed pursuant to s. 450.132. In such cases, the certificates of exemption shall be valid for the duration of the length of the child's contract with the studio, as provided in such child's Certification of eligibility for minors employed in the entertainment industry.

c. Children who are employed due to economic hardship or a family emergency. Such determination shall be made by the school district superintendent or his designee.

d. Children who are benefitting from the training and experience of the employment. Such determination must be made by the school district superintendent or his designee and the legal guardian of the child. This exemption must be documented and notarized at the beginning of employment and reviewed every six months by the superintendent or his designee and the legal guardian of the child.

(3) JUDICIAL EXEMPTIONS.—Upon the recommendation of a circuit judge and the agreement of the superintendent, any child within the compulsory attendance age limit may be granted a certificate of exemption.

(4) CHILD CARE EXEMPTION.—A parent who does not have access to child care.

Section 8. *Child Labor Study Commission.—*

(1) It is the intent of the Legislature to establish a commission to review current child labor laws, to undertake a fact-finding mission to examine child labor employment practices, and to determine if there is a need for revising state child labor laws.

(2) There is hereby created within the Department of Labor and Employment Security the Child Labor Study Commission which shall be staffed by the department. The purpose of the commission is to review:

(a) Child labor definitions.

(b) Minimum age general requirements.

(c) Hazardous occupations.

(d) Hours of work.

(e) Enforcement of child labor laws.

(f) Employment of children by motion picture and television studios.

(g) Employment of children in agriculture.

(h) Coordination with dropout prevention programs and the Department of Health and Rehabilitative Services and the Department of Education.

(i) Other child labor issues as may be determined by the commission.

(3) The membership of the commission shall include:

(a) One member from the House of Representatives, to be appointed by the Speaker of the House of Representatives.

(b) One member from the Senate, to be appointed by the President of the Senate.

(c) The Secretary of Labor and Employment Security, or his designee.

(d) The Secretary of Health and Rehabilitative Services, or his designee.

(e) The Commissioner of Education, or her designee.

(f) One member from the restaurant industry, to be appointed by the Governor.

(g) One member from the retail industry, to be appointed by the Speaker of the House of Representatives.

(h) One member from the agricultural industry, to be appointed by the Governor.

(i) One member from the entertainment industry, to be appointed by the President of the Senate.

(j) One member who is a Florida certified teacher, to be appointed by the Commissioner of Education.

(k) One member who is the parent of a high school student who is currently working under the provisions of chapter 450, Florida Statutes, to be appointed by the Commissioner of Education.

(l) A representative of labor, to be appointed by the President of the Senate.

(m) A representative of a farmworker advocacy organization, to be appointed by the Speaker of the House of Representatives.

All members shall be appointed no later than September 1, 1990. Each official appointing one or more members shall notify each other appointing official of such appointments. The members of the commission shall elect a chairman.

(4) It shall be the duty of the commission to review and make recommendations to the Legislature regarding current Florida child labor laws and current child labor employment practices. Specifically, the commission shall:

(a) Make recommendations for coordination and consistency between state and federal child labor laws.

(b) Evaluate the existing employment practices relating to children and identify public policy concerns.

(c) Develop recommendations for remedial changes to Florida's child labor laws to ensure in the workplace the safety and health of persons employed pursuant to such laws, while preserving reasonable opportunities for children to be employed.

(d) Report its findings to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than January 25, 1991.

Section 9. Paragraph (a) of subsection (1) of section 450.081, Florida Statutes is amended to read:

450.081 Hours of work in certain occupations.—

(1)(a) No child 17 years of age or younger shall be employed, permitted, or suffered to work in any gainful occupation for more than 6 consecutive days in any one week, more than 30 hours in any one week, or more than 10 hours in any one day; nor shall any child 15 years of age or younger be so employed, permitted, or suffered to work before 6:30 a.m. or after 9 p.m. when school is scheduled for the following day. No child 16 or 17 years of age shall be so employed, permitted, or suffered to work before 5 a.m. or after *11 p.m.* ~~12 midnight~~ when school is scheduled for the following day. On any day when school is in session, no child 15 years of age or younger who is not enrolled in a vocational education program shall be gainfully employed for more than 4 hours, unless there is no session of school on the following day.

(b) The provisions of paragraph (a) shall not apply to:

1. Any child 17 years of age or younger during holiday and summer vacations, but shall be applicable to such child only during the regular school year.

2. Any child 16 or 17 years of age who has graduated from high school.

3. Any child within the compulsory school-attendance age limit who holds a valid certificate of exemption issued by the school superintendent or his or her designee pursuant to the provisions of s. 232.06.

4. Any child who qualifies on a hardship basis such as economic necessity, family emergency, or seasonal work. Such determination shall be made by the school superintendent or his or her designee.

(2) No child under 18 shall be employed, permitted, or suffered to work for more than 5 hours continuously without an interval of at least 30 minutes for a lunch period; and for the purposes of this law no period of less than 30 minutes shall be deemed to interrupt a continuous period of work.

(3) The presence of any child in any place of employment during working hours shall be prima facie evidence of his employment therein.

(4) Any person who violates any provisions of this part may be assessed a civil penalty of at least $250 but not more than $1,000 for such violation. Such assessed penalties shall be deposited into the General Revenue Fund.

~~(4)~~*(5)* This section shall not apply to the work of minors in domestic service in private homes, farmwork, pages in the Florida Legislature, or street trades, except that no one 15 years of age or younger shall engage in street trades between the hours of 9 p.m. and 5 a.m.

(Renumber subsequent section.)

Senator Souto moved the following amendment which was adopted:

Amendment 2—On page 6, between lines 9 and 10, insert:

Section 7. There is hereby appropriated $144,743 from the Crew Chief Registration Trust Fund and five Career Service Positions to the Department of Labor and Employment Security.

Senator Johnson moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 20, after the semicolon (;) insert: providing for exemptions from school attendance for children employed in the entertainment industry, when a child is employed due to economic hardship or a family emergency, or when a child is benefitting from the training and experience of the employment; creating the Child Labor Study Commission; providing for membership and duties; provides for hours of work in certain occupations; providing for rules;

Senator Souto moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 20, after the semicolon (;) insert: providing an appropriation;

On motion by Senator Souto, by two-thirds vote CS for SB 2450 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

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

On motions by Senator Walker, by two-thirds vote CS for HB's 1437 and 1809 was withdrawn from the Committees on Economic, Professional and Utility Regulation; Rules and Calendar; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Walker—

CS for HB's 1437 and 1809—A bill to be entitled An act relating to the 911 emergency telephone system; creating a task force committee on "911"; providing for membership, organization, and meetings; providing for a review and evaluation of the "911" emergency telephone system in the state; providing for operations review and evaluation; providing for an interim and final report; providing for termination of the committee; amending s. 365.171, F.S.; increasing the time period over which the payment of the nonrecurring charge for the "911" service may be made at the request of the subscribing county; revising language with respect to confidentiality of records; prohibiting false "911" calls; providing a penalty; providing an appropriation; providing an effective date.

—a companion measure, was substituted for CS for SB's 548 and 1070 and read the second time by title.

Senator Walker moved the following amendment which was adopted:

Amendment 1—On page 8, line 17, after the period (.) insert: *A telephone company shall not be liable for damages to any person resulting from or in connection with such telephone company's provision of any lawful assistance to any investigative or law enforcement officer of the State of Florida or political subdivisions thereof, of the United States, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer unless the telephone company acted in a wanton and willful manner.*

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 2—On page 8, between lines 28 and 29, insert:

Section 5. The Legislature finds and declares that the volume of customer directories produced each year by the telecommunications companies is a significant contributor to the volume of solid waste required to be disposed at solid waste management facilities. The Legislature hereby requires all telecommunications companies operating in this state to formulate plans to ensure that directories that are distributed to their customers are annually recycled as part of the ongoing activities of local governments to help reduce the total volume of recyclable paper products in the municipal waste stream. Each telecommunications company operating in this state shall submit an operational recycling plan by February 1, 1991 to the Department of Environmental Regulation and to the President of the Senate and Speaker of the House of Representatives to describe the activities which will be undertaken within 1 year to cause their directories to be recycled.

(Renumber subsequent sections.)

Senator Walker moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 17, after the semicolon (;) insert: providing telephone companies' immunity from liability for damages in specified circumstances;

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 17, insert: requiring telecommunications companies to formulate plans for recycling customer directories;

On motion by Senator Walker, by two-thirds vote CS for HB's 1437 and 1809 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstein
Davis	Grizzle	Myers	Weinstock
Deratany	Jennings	Peterson	Woodson-Howard

Nays—None

SPECIAL ORDER, continued

The Senate resumed consideration of—

SB 1152—A bill to be entitled An act relating to complaints against law enforcement and correctional officers; amending s. 112.533, F.S.; authorizing such officers to review certain material immediately prior to the beginning of an investigative interview; providing an effective date.

—with pending **Amendment 2** which was adopted.

On motion by Senator Weinstein, by two-thirds vote SB 1152 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kirkpatrick	Souto
Bruner	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstein
Davis	Grizzle	Myers	Weinstock
Deratany	Jennings	Peterson	Woodson-Howard

Nays—None

CLAIM BILLS

CS for HB 19—A bill to be entitled An act relating to Lee County; providing for the relief of Suzanne Alexander, Stephen Alexander, Rebeka Alexander, and Bryan Alexander; compensating them for personal injuries sustained as a result of an automobile accident occurring on May 1, 1985, in Fort Myers, Florida; providing for payment by Lee County; 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 Langley and adopted:

Amendment 1—On page 2, strike all of lines 18-21 and insert: appropriated and to draw a warrant in the sum of $200,000 payable to Suzanne Alexander. Lee County is further authorized and directed to appropriate each year for five years from funds of the county not otherwise appropriated and to draw a warrant each year for five years in the sum of $125,219.70 payable to Suzanne Alexander as total compensation for the injuries sustained.

Amendment 2—On page 2, strike all of lines 19-21 and insert: payable to Suzanne Alexander as total compensation for the injuries sustained.

Amendment 3—On page 2, line 21, after the period (.) insert: The attorney fees provided in this act shall be paid proportionately as the proceeds are paid to the claimant.

Amendment 4—In title, on page 1, strike all of lines 3-6 and insert: the relief of Suzanne Alexander; providing for attorney's fees; compensating her for personal injuries

On motion by Senator Langley, by two-thirds vote CS for HB 19 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Bankhead	Deratany	Johnson	Souto
Beard	Dudley	Kirkpatrick	Stuart
Brown	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Myers	Weinstein
Crenshaw	Grizzle	Peterson	Weinstock
Davis	Jennings	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kiser

On motions by Senator Langley, by two-thirds vote—

CS for SB 70—A bill to be entitled An act for the relief of A. H. Kinsey, inventor of the Kinsey Sampler; providing an appropriation to compensate him for the Florida Citrus Commission's refusal to compensate him fairly for his work in inventing and developing samplers used in the citrus industry; 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—33

Bankhead	Dudley	Kiser	Thomas
Beard	Forman	Langley	Thurman
Brown	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Myers	Weinstock
Childers, W. D.	Grant	Peterson	Woodson-Howard
Davis	Grizzle	Plummer	
Deratany	Jennings	Souto	
Diaz-Balart	Johnson	Stuart	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

Motion

On motion by Senator Scott, the rules were waived and time of recess was extended until 9:00 p.m.

HB 121—A bill to be entitled An act for the relief of Mary Avon and Richard Avon, her husband; providing an appropriation to compensate them for the damages sustained as a result of injury to Mary Avon; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote HB 121 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Bankhead	Deratany	Johnson	Souto
Beard	Diaz-Balart	Kirkpatrick	Stuart
Brown	Dudley	Kiser	Thomas
Bruner	Forman	Langley	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Peterson	Woodson-Howard
Davis	Jennings	Plummer	

Nays—None

CS for HB 145—A bill to be entitled An act for the relief of Stella Yamuni, as adoptive mother, next friend and guardian of Sean Yamuni, a minor; providing an appropriation to compensate for injuries sustained by him through the negligence of the Department of Health and Rehabilitative Services; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote CS for HB 145 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Beard	Dudley	Kirkpatrick	Scott
Brown	Forman	Kiser	Stuart
Casas	Gardner	Langley	Thomas
Childers, D.	Girardeau	Malchon	Thurman
Childers, W. D.	Gordon	McPherson	Walker
Crenshaw	Grant	Meek	Weinstein
Davis	Grizzle	Myers	Weinstock
Deratany	Jennings	Peterson	Woodson-Howard
Diaz-Balart	Johnson	Plummer	

Nays—None

HB 177—A bill to be entitled An act for the relief of Steven Mahan; authorizing payment out of the Institutions Claims Fund of the Department of Health and Rehabilitative Services to compensate Steven Mahan

for personal property stolen by a juvenile in custody of the department; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote HB 177 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Beard	Dudley	Kiser	Thomas
Brown	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Walker
Childers, D.	Gordon	Meek	Weinstein
Childers, W. D.	Grant	Myers	Weinstock
Crenshaw	Grizzle	Peterson	Woodson-Howard
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	
Diaz-Balart	Kirkpatrick	Stuart	

Nays—None

HB 191—A bill to be entitled An act for the relief of Richard J. Scheuer, as personal representative of the estate of Mrs. Helen R. Scheuer; providing an appropriation in payment of an obligation of the Department of Revenue for a refund of estate tax that has become unenforceable; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote HB 191 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30

Beard	Dudley	Kiser	Stuart
Brown	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Thurman
Childers, D.	Grant	McPherson	Walker
Childers, W. D.	Grizzle	Meek	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Davis	Johnson	Plummer	
Deratany	Kirkpatrick	Souto	

Nays—None

HB 363—A bill to be entitled An act for the relief of Mirtha Schlussler, as the widow of William Schlussler and the intended beneficiary of his estate; providing an appropriation for the purpose of paying Mirtha Schlussler the retirement benefits earned by William Schlussler through his service as a Metropolitan Dade County police officer and member of the Florida Retirement System; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote HB 363 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Bankhead	Deratany	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Walker
Childers, D.	Grant	Myers	Weinstein
Childers, W. D.	Grizzle	Peterson	Weinstock
Crenshaw	Jennings	Plummer	Woodson-Howard
Davis	Johnson	Souto	

Nays—None

On motions by Senator Langley, by two-thirds vote—

CS for SB 394—A bill to be entitled An act for the relief of Sharon L. Firesheets; providing an appropriation to compensate her for severe personal injuries sustained as a result of the negligence of the Department of Transportation; 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—34

Bankhead	Diaz-Balart	Kiser	Stuart
Beard	Forman	Langley	Thomas
Brown	Gardner	Malchon	Thurman
Casas	Girardeau	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Davis	Johnson	Plummer	
Deratany	Kirkpatrick	Souto	

Nays—None

CS for HB 427—A bill to be entitled An act relating to Hillsborough County; providing for the relief of Irma Payne, to compensate her for injuries sustained during an operation at Tampa General Hospital; providing for payment by the Hillsborough County Hospital Authority; 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 Langley and adopted:

Amendment 1—On page 2, strike all of lines 24-27 and insert: sum of $2,000,000 payable to Lottie Taylor as guardian of the person and property of Irma Payne to compensate Irma Payne for injuries sustained during an operation at Tampa General Hospital. The guardian is directed to expend $800,000 of that amount for the purchase of an annuity in favor of Irma Payne for life.

On motion by Senator Langley, CS for HB 427 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Bankhead	Diaz-Balart	Kiser	Stuart
Beard	Forman	Langley	Thomas
Brown	Gardner	Malchon	Thurman
Bruner	Girardeau	McPherson	Walker
Casas	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Davis	Johnson	Plummer	
Deratany	Kirkpatrick	Souto	

Nays—None

On motions by Senator Langley, by two-thirds vote—

CS for SB 484—A bill to be entitled An act for the relief of Lori Bishop; providing an appropriation to compensate her for injuries she sustained from an accident caused in part by the negligence of the Department of Transportation; 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—33

Bankhead	Diaz-Balart	Langley	Thomas
Beard	Forman	Malchon	Thurman
Brown	Gardner	McPherson	Walker
Casas	Grant	Meek	Weinstein
Childers, D.	Grizzle	Myers	Weinstock
Childers, W. D.	Jennings	Peterson	Woodson-Howard
Crenshaw	Johnson	Plummer	
Davis	Kirkpatrick	Souto	
Deratany	Kiser	Stuart	

Nays—None

Vote after roll call:

Yea—Girardeau

HB 2621—A bill to be entitled An act relating to the City of Haines City; providing for the relief of William and Margaret Allen; Arlene Auer, as personal representative of the estate of Ray Auer; Mary Goodrich, as personal representative of the estate of John Guthrie; and Joan Nivens,

as personal representative of the estate of Robert Nivens, to compensate them for personal injuries and deaths; providing appropriations; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote HB 2621 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—18

Brown	Diaz-Balart	Meek	Thomas
Casas	Forman	Myers	Thurman
Childers, W. D.	Girardeau	Plummer	Weinstein
Davis	Grizzle	Souto	
Deratany	Langley	Stuart	

Nays—8

Beard	Childers, D.	Johnson	Malchon
Bruner	Grant	Kiser	Woodson-Howard

Vote after roll call:

Yea—Weinstock

SB 3072—A bill to be entitled An act relating to Pinellas County; providing for the relief of Paul Mitchell, surviving husband of Wilhelmina Mitchell, and for the relief of Mrs. Mitchell's surviving children, Gerry Cave and Belinda Sue Cave; directing the Board of County Commissioners of Pinellas County to pay the balance of a judgment rendered in favor of Paul Mitchell, as personal representative of Mrs. Mitchell's estate, out of funds of the office of the sheriff; providing an effective date.

—was read the second time by title. On motion by Senator Langley, by two-thirds vote SB 3072 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Bankhead	Davis	Kirkpatrick	Stuart
Beard	Diaz-Balart	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	Meek	Weinstein
Childers, D.	Grant	Myers	Weinstock
Childers, W. D.	Grizzle	Plummer	Woodson-Howard
Crenshaw	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Deratany

The President presiding

Reconsideration

On motion by Senator Langley, the Senate reconsidered the vote by which—

HB 121—A bill to be entitled An act for the relief of Mary Avon and Richard Avon, her husband; providing an appropriation to compensate them for the damages sustained as a result of injury to Mary Avon; providing an effective date.

—passed this day.

On motion by Senator Langley, the Senate reconsidered the vote by which HB 121 was read the third time.

Senator Forman offered the following amendment which was moved by Senator Langley and adopted:

Amendment 1—On page 2, lines 19 and 26, strike "$1,396345.26" and insert: $1,126,279.26

On motion by Senator Langley, by two-thirds vote HB 121 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Deratany	Kiser	Thomas
Bankhead	Forman	Langley	Thurman
Beard	Gardner	Malchon	Walker
Brown	Girardeau	McPherson	Weinstein
Bruner	Grant	Meek	Weinstock
Casas	Grizzle	Myers	Woodson-Howard
Childers, D.	Jennings	Plummer	
Crenshaw	Johnson	Souto	
Davis	Kirkpatrick	Stuart	

Nays—None

Vote after roll call:

Yea—W. D. Childers

SPECIAL ORDER, continued

On motions by Senator Stuart, by two-thirds vote CS for CS for HB 1325 was withdrawn from the Committees on Higher Education and Appropriations.

On motion by Senator Stuart, by two-thirds vote—

CS for CS for HB 1325—A bill to be entitled An act relating to postsecondary education; amending s. 240.115, F.S.; providing for the admission of a community college associate of arts graduate at a state university; amending ss. 240.209 and 240.2097, F.S.; providing duties of the Board of Regents relating to limited access programs; requiring reports; providing for the compilation and distribution of a systemwide counseling manual; amending s. 228.086, F.S.; providing that certain science museums may establish regional centers of excellence in mathematics, science, computers, and technology; revising provisions relating to the reporting and coordinating regions of the Department of Education in which centers shall be located; providing an effective date.

—a companion measure, was substituted for CS for SB 1968 and read the second time by title.

Senator Stuart moved the following amendment:

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

Section 1. Paragraph (a) of subsection (1) of section 240.115, Florida Statutes, is amended to read:

240.115 Articulation agreement; acceleration mechanisms.—

(1)(a) Articulation between secondary and postsecondary education; admission of associate in arts degree graduates from Florida community colleges and state universities; the use of acceleration mechanisms, including nationally standardized examinations through which students may earn credit; and articulation among programs in nursing shall be governed by the articulation agreement, as established by the Department of Education. *The articulation agreement must specifically provide that every associate in arts graduate of a Florida community college must be granted admission to the upper division of a state university except to a limited access or teacher certification program or a major program requiring an audition. After admission has been granted to students under provisions of this section and to university students who have successfully completed 60 credit hours of course work and met the requirements of s. 240.107, admission shall be granted to State University System and Florida community college students who have successfully completed 60 credit hours of work. Community college associate of arts graduates shall receive priority for admission to a state university over out-of-state students. Orientation programs and student handbooks provided to freshman enrollees and transfer students at state universities must include an explanation of this provision of the articulation agreement.*

Section 2. Paragraph (d) of subsection (3) of section 240.209, Florida Statutes, is amended and paragraphs (q) and (r) are added to said subsection, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(d) Set the specific in-state and out-of-state student tuition and matriculation fees which will generate an amount sufficient to equal the

total matriculation and tuition fee revenues which are established annually in the General Appropriations Act. The board is authorized to collect for financial aid purposes an amount not to exceed 5 percent of the student tuition and matriculation fee per credit hour. The revenues from fees are to remain at each campus and replace existing financial aid fees. *Such funds shall be disbursed to students as quickly as possible. An amount not greater than 40 percent of the fees collected in a fiscal year may be carried forward unexpended to the following fiscal year.* A minimum of 50 percent of these funds shall be used to provide financial aid based on absolute need. A student who has received an award prior to July 1, 1984, shall have his eligibility assessed on the same criteria that was used at the time of his original award. Each university shall report annually to the Board of Regents and the Department of Education on the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards.

(q) Monitor the extent of limited access programs within the state universities and report to the State Board of Education and the Legislature admissions and enrollment data for limited access programs. Such report shall be submitted by December 1, 1991, and annually thereafter, and shall assist in determining the potential need for academic program contracts with independent institutions pursuant to s. 229.053. The report shall include, for each limited access program within each institution, the following categories, by race and gender:

1. The number of applicants.

2. The number of applicants granted admission.

3. The number of applicants who are granted admission and enroll.

4. The number of applicants denied admission.

5. The number of applicants neither granted admission nor denied admission.

Each category shall be reported for each term. Each category shall be reported by type of student, including the following subcategories: native student, community college associate of arts degree transfer student, and other student. Each category and subcategory shall further be reported according to the number of students who meet or exceed the minimum eligibility requirements for admission to the program and the number of students who do not meet or exceed the minimum eligibility requirements for admission to the program.

(r) Adopt rules providing that each state university shall advise students who meet the minimum requirements for admission to the upper division of a state university, but are denied admission to limited access programs, of the availability of similar programs at other State University System institutions and the admissions requirements of such programs.

Section 3. Section 240.2097, Florida Statutes, is amended to read:

240.2097 Education programs, limited access status; transfer students; *counseling manual;* student handbook; rules.—The Board of Regents shall adopt rules to include the following provisions:

(1) The criteria for assigning limited access status to an educational program shall be delineated. A process for the periodic review of programs shall be identified so that the board can determine the need for retention or removal of limited access status. *The board shall provide in a report to the Legislature, by institution, a list of all limited access programs, the minimum admissions standards for each program, and a copy of the most recent review demonstrating the need for retention of limited access status. Such report shall be submitted by December 1, 1990, and annually thereafter.*

(2) Each university shall provide registration opportunities for transfer students that allow such students access to high demand courses comparable to that provided native students. Further, each university that provides an orientation program for freshman enrollees shall also provide orientation programs for transfer students. Each orientation program for freshmen or transfer students shall include education on the transmission and prevention of human immunodeficiency virus with emphasis on behavior and attitude change.

(3)*(a) The Board of Regents shall compile and update annually a systemwide counseling manual for distribution to the state's community colleges by March 1 of each year. Such manual shall consist of two sections, the first providing information by institution, the second providing information by academic program. The board shall prescribe a standardized format for the submission of information by each state university. The board shall consult with the Division of Community Colleges and, to the extent possible, prescribe a standardized format that is compatible with the Division of Community Colleges' computer-assisted student advising network established pursuant to s. 240.2099.*

(b) Each university shall compile and update annually a student handbook that includes, but is not limited to, a comprehensive calendar that emphasizes important dates and deadlines, student rights and responsibilities, appeals processes available to students, a roster of contact persons within the administrative staff available to respond to student inquiries, and a statement as to the State University System policy on acquired immune deficiency syndrome including the name and telephone number of the university acquired immune deficiency syndrome counselor.

(4) The development of a comprehensive State University System policy that addresses the provision of instruction, information, and activities regarding human immunodeficiency virus infection and acquired immune deficiency syndrome. Such instruction, information, or activities shall emphasize the known modes of transmission of human immunodeficiency virus infection and acquired immune deficiency syndrome, signs and symptoms, associated risk factors, appropriate behavior and attitude change and means used to control the spread of human immunodeficiency virus infection and acquired immune deficiency syndrome.

Section 4. Subsection (2) of section 240.107, Florida Statutes, is amended to read:

240.107 College-level communication and computation skills examination.—

(2) State universities and community colleges shall conduct a minimum of two administrations, one of which may consist of an alternative administration, of the college-level communication and computation skills examination per academic term. Such administrations shall be available to all lower-division students seeking associate of arts or baccalaureate degrees *upon completion of at least 12 semester hours or the equivalent.* State universities and community colleges shall report at a minimum the examination scores of all students *tested at each administration of the college-level communication and computation skills examination* ~~who are currently enrolled in their 60th credit hour or who have completed their 60th credit hour~~.

Section 5. A student who is enrolled in a public or private college or university in this state may apply state student financial assistance towards the cost of a program of study in another state or a foreign country for a period of up to 1 year, if the program of study is offered or promoted by the Florida institution as an integral part of the academic studies of that degree-seeking student or as a program that would enhance the student's academic experience. This program must be approved by the president of the public or private college or university in this state or by his designee; however, private, postsecondary Florida institutions with out-of-state subsidiary institutions are not authorized to make Florida residents attending their out-of-state subsidiary institutions eligible for Florida financial assistance.

Section 6. Section 240.529, Florida Statutes, is amended to read:

240.529 Approved teacher education programs.—

(1) Each teacher education program of an institution of higher learning within the state which has been approved by the Department of Education, as provided for by rules of the State Board of Education, shall require, as a prerequisite for admission into the teacher education program, that a student receive a passing score at the 40th percentile or above, to be established by state board rule, on a nationally standardized college entrance examination. However, the State Board of Education shall provide by rule for a waiver of this requirement. The rule, when adopted, shall require that 90 percent of those admitted to each teacher education program meet the 40th-percentile requirement. This rule shall be effective upon adoption by the state board pursuant to chapter 120.

(2) ~~Effective July 1, 1982,~~ Continued approval of specific teacher education programs at each institution of higher learning within the state shall be contingent upon the passing of the state written examination required by s. 231.17(2) by at least 80 percent of the graduates of the program who take the examination.

~~(3) The State Board of Education may grant a waiver of the requirements of subsection (2) on an annual basis to an institution submitting a request for a waiver, if such request includes a plan for fulfilling such requirements. No waiver may be granted beyond the 1985-1986 academic year.~~ On request of an institution, the Department of Education shall provide an analysis of the performance of the graduates of such institution with respect to the competencies assessed by the examination required by s. 231.17.

(3) Universities and community colleges may establish preteacher education and teacher education pilot programs to encourage promising minority students to prepare for a career in education. These pilot programs shall be designated to recruit and provide additional academic, clinical, and counseling support for students whom the institution judges to be potentially successful teacher education candidates but who may not meet teacher education program admission standards. Priority consideration shall be given to those pilot programs which are jointly submitted by universities and community colleges.

(a) These pilot programs must be approved by the State Board of Education and must be designed to provide help and support for program participants during the preteacher education period of general academic preparation at a community college or university and during professional preparation in an approved university teacher education program. Emphasis shall be placed on development of the basic skills needed by successful teachers.

(b) Universities and community colleges may admit into the pilot program those incoming students who demonstrate an interest in teaching as a career but who may not meet the requirements of subsection (1) for entrance into an approved teacher education program.

(c) In order to be certified, a graduate from a pilot program must meet all requirements for teacher certification specified by s. 231.17. If a graduate of a pilot program does not meet the requirements of s. 231.17, that person may not be included in the calculations required by subsection (2) and State Board of Education rules for continued program approval.

(d) Institutions that participate in the pilot program shall submit an annual report evaluating the success of the program to the Commissioner of Education by March 1 of each year. The report must contain, but is not limited to: the number of pilot program participants, including the number participating in general education and the number admitted to approved teacher education programs, the number of pilot program graduates, and the number of pilot program graduates who met the requirements of s. 231.17. The commissioner shall consider the number of participants recruited, the number of graduates, and the number of graduates successfully meeting the requirements of s. 231.17 reported by each institution and shall make an annual recommendation to the state board regarding the institution's continued participation in the pilot program.

Section 7. Community college police.—

(1) Each community college is permitted and empowered to employ police officers for the college, who must be designated community college police.

(2) Each community college police officer is a law enforcement officer of the state and a conservator of the peace who has the authority to arrest, in accordance with the laws of this state, any person for a violation of state law or applicable county or municipal ordinance if that violation occurs on or in any property or facilities of the community college by which he is employed. A community college police officer may also arrest a person off campus for a violation committed on campus after a hot pursuit of that person which began on campus. A community college police officer may bear arms in the performance of his duties and carry out a search pursuant to a search warrant on the campus where he is employed. Community college police, upon request of the sheriff or local police authority, may serve subpoenas or other legal process and may make arrests of persons against whom arrest warrants have been issued or against whom charges have been made for violations of federal or state laws of county or municipal ordinances.

(3) Community college police shall promptly deliver all persons arrested and charged with felonies to the sheriff of the county within which the community college is located and all persons arrested and charged with misdemeanors to the applicable authority as provided by law, but otherwise to the sheriff of the county in which the college is located.

(4) Community college police must meet the minimum standards established by the Police Standards and Training Commission of the Department of Law Enforcement and chapter 943, Florida Statutes, for law enforcement officers. Each community college police officer must, before entering into the performance of his duties, take the oath of office established by the community college. Each community college that employs police officers shall obtain a surety bond on each police officer, conditioned upon the officer's faithful performance of his duties, which bond must be in the amount of $5,000 payable to the Governor. The bond must be obtained from a surety company authorized to do business in this state. The community college shall provide a uniform set of identifying credentials to each community college police officer it employs.

(5) In performance of any of the powers, duties, and functions authorized by law, community college police have the same rights, protections, and immunities afforded other law enforcement officers.

(6) The community college, with the approval of the Department of Law Enforcement, shall adopt rules, including, without limitation, rules for the appointment, employment, and removal of community college police in accordance with the State Career System and shall establish in writing a policy manual, that includes, without limitation, procedures for managing routine law enforcement situations and emergency law enforcement situations. The community college shall furnish a copy of the policy manual to each of the police officers it employs.

Section 8. Report of campus crime statistics.—

(1) Each community college shall prepare an annual report of statistics of crimes committed on its campus and shall submit the report to the State Board of Community Colleges. The data for these reports may be taken from the annual report of the Department of Law Enforcement. The Department of Education shall prescribe the form for submission of these reports. The State Board of Community Colleges shall compile the reports and convey the aggregate institutional data from the reports to the Commissioner of Education.

(2) Each community college shall prepare annually a report of statistics of crimes committed on its campus for the preceding 3 years. The community college shall give students and prospective students notice that this report is available upon request.

Section 9. Paragraph (o) of subsection (3) of section 240.319, Florida Statutes, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(o) Each board of trustees is authorized to establish a policy for law enforcement operations. ~~The law enforcement operations policy shall be restricted to the protection of employees, students, and property of the community college. Criminal investigations are specifically prohibited under this paragraph.~~ Each board of trustees is authorized to employ personnel to carry out the duties imposed by this paragraph.

Section 10. Section 240.61, Florida Statutes, is amended to read:

240.61 College reach-out program.—

(1) It is the intent of the Legislature to increase the number of students successfully completing a postsecondary education, who would be unlikely to seek admission to a community college, ~~or~~ state university, *or independent postsecondary institution* without special support and recruitment efforts.

(2) There is established a college reach-out program. The primary objective of the program is to strengthen the educational motivation and preparation of low-income or educationally disadvantaged students in grades 6 through 12 who desire, and who may benefit from, a postsecondary education.

(3) *To participate in the college reach-out program, a* ~~Each public~~ community college, ~~and state~~ university, *or independent postsecondary institution that is participating in a special program for students from disadvantaged backgrounds pursuant to 20 U.S.C., ss. 1070d et seq. may submit a proposal to the Department of Education* ~~president may submit to the State Board of Community Colleges and the Board of Regents, respectively, a proposal for a college reach-out grant~~. *The State* ~~Each~~ Board *of Education* shall consider the ~~respective~~ proposals and

determine which proposals to implement as programs which will strengthen the educational motivation and preparation of low-income or educationally disadvantaged students.

(4) Community colleges, ~~and~~ universities, *and independent postsecondary institutions* that participate must provide on-campus academic and advisory activities which are offered during summer vacation and provide opportunities for interacting with ~~community~~ college and university students as mentors, tutors, or role models. University proposals must provide students with an opportunity to live on campus.

(5) Community colleges, ~~and~~ universities, *and independent postsecondary institutions* that participate must also provide procedures for continuous contact with students from the point at which they are selected for participation until they enroll in a postsecondary education institution in order to assist students in selecting courses required for graduation from high school and admission to a postsecondary institution and to ensure students continue to participate in program activities.

(6) In selecting proposals for approval, the State Board of *Education* ~~Community Colleges and the Board of Regents, respectively,~~ shall give preference to:

(a) Proposals submitted jointly by two or more eligible postsecondary institutions;

(b)~~(a)~~ A program that will utilize institutional, federal, or private resources to supplement state appropriations;

(c)~~(b)~~ An applicant that demonstrates success in conducting similar programs previously funded under this section;

(d)~~(c)~~ A program that includes innovative approaches, provides a great variety of activities, and includes a large number of disadvantaged and minority students in the college reach-out program; ~~and~~

(e)~~(d)~~ An applicant that demonstrates commitment to the program by proposing to match the grant funds at least one-to-one in services or cash, or both*; and*~~.~~

(f) An applicant that demonstrates an interest in cultural diversity and that addresses the unmet regional needs of varying communities.

(7) A participating ~~community~~ college or university is encouraged to use its resources to meet program objectives. A participating college, university, or institution shall establish an advisory committee composed of high school and junior high school personnel to provide advice and assistance in implementing its program.

(8) A proposal must contain the following information:

(a) A statement of purpose which includes a description of the need for, and the results expected from, the proposed program;

(b) An identification of the service area which names the schools to be served, provides community and school demographics, and sets forth the postsecondary enrollment rates of high school graduates within the area;

(c) An identification and description of existing programs for improving the preparation of minority and disadvantaged students for postsecondary education;

(d) A description of the proposed program which describes criteria to be used to identify students and schools for participation in the program;

(e) A description of the program activities which must encompass the following goals:

1. Identifying students who are not motivated to pursue a postsecondary education;

2. Identifying students who are not developing basic learning skills;

3. Counseling students and parents on the benefits of postsecondary education;

4. Providing supplemental instruction; and

(f) A design for program evaluation which incorporates results, procedures, and the accomplishment of objectives. The evaluation design shall include quantitative measures, including, but not limited to, the following:

1. An identification of each student, by middle school or high school, and grade level at the time of participation in the program;

2. The student's academic performance, by course, each year during and following participation in the program;

3. The student's attendance rate and disciplinary record for each year during and following participation in the program;

4. If applicable, an identification of the postsecondary institution in which the student enrolled, and

5. The student's academic performance following enrollment in a postsecondary institution.

(9) ~~The Chancellor of the Board of Regents, the Executive Director of the State Board of Community Colleges, and the Commissioner of Education shall appoint~~ An advisory committee ~~composed of representatives from the State University System, the State Community College System, the public school districts, private or community based associations with similar programs and objectives, the Postsecondary Education Planning Commission, and the Department of Education, including, but not limited to, the equal opportunity coordinator for each sector or body represented. The committee~~ shall review the proposals and recommend to the ~~Board of Regents or~~ State Board of *Education* ~~Community Colleges, as appropriate,~~ an order of priority for funding the proposals. Proposals shall be funded competitively. *The advisory committee shall consist of nine members and shall be established as follows:*

(a) The two equal opportunity coordinators for the Community College System and the State University System;

(b) Two representatives of private or community-based associations which have similar programs, appointed by the President of the Senate and the Speaker of the House of Representatives, respectively;

(c) One representative of the State University System, appointed by the Chairman of the Board of Regents;

(d) One representative of the Community College System, appointed by the Chairman of the State Board of Community Colleges;

(e) One representative of the Independent Colleges and Universities of Florida, appointed by the President of the Independent Colleges and Universities of Florida;

(f) One representative of a public school district, appointed by the Commissioner of Education; and

(g) One representative of the Postsecondary Education Planning Commission, appointed by the chairman of the commission.

(10) On or before October 15 of each year, universities and community colleges participating in the program shall submit to their respective boards *an interim* a report on the effectiveness of *their* ~~its~~ program *and a final report by January 15 of each year. Independent postsecondary institutions shall submit such report to the Commissioner of Education.* The *final* report must include, without limitation:

(a) A certificate-of-expenditures form showing expenditures by category; encumbered expenses; state grant funds; and institutional matching, in cash or in services, or both;

(b) The number of students participating in the program by grade, age, sex, and race;

(c) A description of the needs for the program;

(d) A statement of how the program addresses:

1. Identification of students who do not realize the value of postsecondary education;

2. Identification of students who are not developing basic learning skills;

3. Counseling and advising of students and parents;

4. Supplemental instruction; and

5. Instruction on the relationship between good learning skills and economic and social mobility.

(e) A recommendation as to how the results of the program could be achieved by other institutions or agencies;

(f) A description of the cooperation received from other units or organizations; and

(g) An explanation of how the program accomplished its objectives, including student performance on the measures provided for in paragraph (8)(f).

(11) Funding for the college reach-out program shall be provided in the General Appropriations Act.

Section 11. Section 240.2601, Florida Statutes, is amended to read:

240.2601 State University System Facility Enhancement Challenge Grant Program.—

(1) The Legislature recognizes that the State University System does not have sufficient physical facilities to meet the current demands of its instructional and research programs. It further recognizes that, to strengthen and enhance the State University System, it is necessary to provide facilities in addition to those currently available from existing revenue sources. It further recognizes that there are sources of private support that, if matched with state support, can assist in constructing much-needed facilities and strengthen the commitment of citizens and organizations in promoting excellence throughout the state universities. Therefore, it is the intent of the Legislature to establish a trust fund to provide the opportunity for each state university to receive and match challenge grants for instructional and research-related capital facilities within the university.

(2) There is hereby established the State University System Facility Enhancement Challenge Grant Program for the purpose of assisting the State University System build high priority instructional and research-related capital facilities, *including common areas connecting such facilities*. The associated foundations that serve the universities shall solicit gifts from private sources to provide matching funds for capital facilities. For the purposes of this act, private sources of funds shall not include any federal, state, or local government funds that a university may receive.

(3) There is established the Capital Facilities Matching Trust Fund for the purpose of providing matching funds from private contributions for the development of high priority instructional and research-related capital facilities, *including common areas connecting such facilities, within* ~~in~~ the State University System. The Legislature shall appropriate funds to be transferred to the trust fund. The Public Education Capital Outlay and Debt Service Trust Fund, Capital Improvement Trust Fund, Division of Sponsored Research Trust Fund, and Contracts and Grants Trust Fund shall not be used as the source of the state match for private contributions. All appropriated funds deposited into the trust fund shall be invested pursuant to the provisions of s. 18.125. Interest income accruing to that portion of the trust fund shall increase the total funds available for the challenge grant program. *Interest income accruing from the private donations shall be returned to the participating foundation upon completion of the project.* The Board of Regents shall administer the trust fund and all related construction activities.

(4) No project shall be initiated unless all private funds for planning, construction, and equipping the facility have been received and deposited in the trust fund and the state's share for the minimum amount of funds needed to begin the project have been appropriated by the Legislature. The Legislature may appropriate the state's matching funds in one or more fiscal years for the planning, construction, and equipping of an eligible facility.

(5) To be eligible to participate in the Capital Facilities Matching Trust Fund, a state university shall raise a contribution equal to one-half of the total cost of a facilities construction project from private nongovernmental sources which shall be matched by a state appropriation equal to the amount raised for a facilities construction project subject to the General Appropriations Act.

(6) If the state's share of the required match is insufficient to meet the requirements of subsection (5), the university shall renegotiate the terms of the contribution with the donors. *If the project is terminated, each private donation, plus accrued interest, reverts to the donor.*

(7) By November 1 of each year, the Board of Regents shall transmit to the Legislature a list of projects which meet all eligibility requirements to participate in the Capital Facilities Matching Trust Fund and a budget request which includes the recommended schedule necessary to complete each project.

(8) In order for a project to be eligible under this program, it must be included in the State University System 5-year Capital Improvement Plan and must receive prior approval from the Board of Regents and the Legislature.

(9) No university's project shall be removed from the approved 3-year PECO priority list because of its successful participation in this program until approved by the Legislature and provided for in the General Appropriations Act. When such a project is completed and removed from the list, all other projects shall move up on the 3-year PECO priority list. A university shall not use PECO funds, including the Capital Improvement Trust Fund fee and the building fee, to complete a project under this section.

(10) Any *project* funds that are unexpended after a project is completed shall revert to the Capital Facilities Matching Trust Fund. Fifty percent of such unexpended funds shall be reserved for the university which originally received the private contribution for the purpose of providing private matching funds for future facility construction projects as provided in this section. The balance of such unexpended funds shall be available to any state university for future facility construction projects conducted pursuant to this section.

(11) The surveys, architectural plans, facility, and equipment shall be the property of the State of Florida. A facility constructed pursuant to this section may be named in honor of a donor at the option of the university and the Board of Regents. No facility shall be named after a living person without prior approval by the Legislature.

Section 12. Subsection (4) of section 240.2605, Florida Statutes, is amended to read:

240.2605 Trust Fund for Major Gifts.—

(4) The New College Foundation shall also establish a trust fund account for ~~new~~ donors into which shall be deposited private, voluntary contributions and appropriated moneys appropriated thereto by the state. The foundation shall annually report to the board the amount of funds actually transferred to New College for programs identified in subsection (3). ~~Only donations by persons who have not previously contributed to the University of South Florida are eligible for deposit into such trust fund account.~~

Section 13. Subsection (2) of section 240.295, Florida Statutes, is amended to read:

240.295 State University System buildings; approval of construction.—

(2) This section shall not be construed to prohibit:

(a) Construction of any new buildings, or remodeling of existing buildings, when funded from nonstate sources such as federal grant funds, private gifts, grants, or lease arrangements if such grants or gifts are given for the specific purpose of construction. However, no facilities shall be constructed under this paragraph which require general revenue funds for operation or maintenance upon project completion or in subsequent years of operation unless approved by the Legislature. *A private donor may pay all the moneys to construct a facility that is on the State University System 5-Year Capital Improvement Plan. The Board of Regents may authorize a local organization to manage the planning and construction of the facility, if all plans are approved by the State University System and necessary inspections are made pursuant to state standards;*

(b) The replacement of any buildings destroyed by fire or other calamity;

(c) Construction of dormitories or other auxiliary accommodations financed as provided in s. 243.131; or

(d) Construction of new facilities or remodeling of existing facilities to meet needs as determined by the university, provided the amount of funds included in any such project does not exceed $100,000.

Section 14. Subsections (1), (2), and (3) and paragraph (a) of subsection (4) of section 228.086, Florida Statutes, are amended to read:

228.086 Regional centers of excellence in mathematics, science, computers, and technology.—

(1) The Department of Education is authorized to award grants to public school districts, developmental research schools, state community colleges, state universities, ~~or~~ private postsecondary institutions, *or museums of science as defined in s. 265.608,* or any combination thereof, to establish regional centers of excellence in mathematics, science, computers, and technology.

(2) The State Board of Education shall adopt rules to implement the program for regional centers of excellence. Such rules shall provide procedures for proposals to be submitted by individual public school districts, developmental research schools, state community colleges, state universities, ~~and~~ private postsecondary institutions, *or museums of science as defined in s. 265.608* according to prescribed format criteria. The rules shall also specify criteria for evaluation of the proposals so that the final selections will result at least in one center being located in each of the ~~five~~ reporting and coordinating regions of the Department of Education, which regions shall be known as "Panhandle," "Crown," "East Central," "West Central," and "South." *For purposes of this section, the South region shall be further divided into "Upper" and "Lower" regions. Dade County and Monroe County shall comprise the Lower South region. The Upper South region shall be composed of the remaining counties in the South region. At least one center shall be located in the Upper South region and at least one center shall be located in the Lower South region.* The final selections shall be made by the commissioner with the primary consideration to be the greatest potential impact on student performance within the region in terms of dollars required. Funding for each regional center shall be in an amount established by the Legislature after consideration of the budget request of the center, which request shall include specific performance data and quantifiable objectives for the following year. If a center is deemed not to be meeting its stated objectives, as determined by the State Board of Education, the Legislature shall zero-fund the center and the commissioner shall promptly call for new proposals within that region.

(3)(a) Each center shall have a director appointed by the appropriate administrator of the district school board, developmental research school, state community college, ~~or~~ state university, *private postsecondary institution, or museums of science as defined in s. 265.608,* where the center is located, funded, and administered. Such governing entity shall be generally responsible and accountable for all activities of the center with the director being specifically responsible and accountable.

(b) Upon consideration of the recommendations of the governing entity of the center, the commissioner shall appoint an advisory council for each center consisting of no more than 11 members. Prior to appointing the advisory council, the commissioner shall solicit input from each of the groups which shall be represented on the council. Membership shall be representative of public school districts, developmental research schools, state community colleges, state universities, private postsecondary institutions, *or museums of science as defined in s. 265.608,* and private industry and business. The advisory council shall make recommendations regarding policy, activities, and fiscal operations and shall facilitate coordination of entities within the region. The director of the center and staff of the center shall also serve as staff to the council.

(4) The evaluation of proposals shall include consideration of:

(a) Cooperative arrangements among public school districts, developmental research schools, state community colleges, state universities, private postsecondary institutions, *or museums of science as defined in s. 265.608,* and the other governmental agencies and the private sector, including cooperative funding arrangements.

Section 15. Section 240.4093, Florida Statutes, is created to read:

240.4093 Vocational Student Assistance Grant Fund; eligibility for grants.—

(1) There is created a Vocational Student Assistance Grant Fund to be administered by the Department of Education in accordance with rules of the State Board of Education.

(2) Vocational student assistance grants from the fund may be made only to full-time students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. A grant from the fund may be awarded to a student who:

(a)1. Is enrolled in a public vocational-technical center, community college, or any nonpublic postsecondary vocational, technical, trade, or business school accredited by the National Association of Trade and Technical Schools, the Association of Independent Colleges and Schools, the Accrediting Bureau of Health Education Schools, or the Southern Association of Colleges and Schools, which accrediting association maintains membership in the Council on Postsecondary Accreditation, and which school has never had its accreditation removed for any reason, has been in continuous operation for at least 5 years, has been issued a biennial license under s. 246.217, has not been the subject of a finding of probable cause and subsequent disciplinary action under s. 246.226 or s. 246.228, is not required by the Federal Government to apply for reimbursement for Title IV funding, and is located in and chartered by the state; or

2. Is enrolled in an institution that has been licensed continuously for the preceding 5 years by the State Board of Independent Colleges and Universities, or has met the requirements of s. 246.085(2)(a), and is accredited by the National Association of Trade and Technical Schools, the Association of Independent Colleges and Schools, the Accrediting Bureau of Health Education Schools, or the Southern Association of Colleges and Schools, which accrediting association maintains membership in the Council on Postsecondary Accreditation, and which school has not been the subject of a finding of probable cause and subsequent disciplinary action under s. 246.111, s. 246.226, or s. 246.228, has been issued a license under s. 246.217, is not required by the Federal Government to apply for reimbursement for Title IV funding, and is located in and chartered by the state.

(b) Is enrolled in a course or program of at least 900 clock hours, 36 quarter hours, or 24 semester hours which awards a diploma as defined in s. 246.203(6).

1. A student enrolled in a nonpublic school must be enrolled in a program which is comparable and compatible, as determined by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, with a public job-preparatory vocational-technical program and the program standards, including curriculum framework and student performance standards, as provided by rule of the State Board of Education.

2. A student enrolled in a nonpublic school must meet the same basic skills requirements as a student enrolled in public postsecondary adult vocational education as provided by rule of the State Board of Education.

(3) A student applying for a vocational student assistance grant must also apply for the Pell Grant. The Pell Grant entitlement shall be considered by the department when conducting an assessment of the financial resources available to each student. The criteria and procedure for establishing standards of eligibility shall be determined by the department in consultation with the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools and the State Board of Independent Colleges and Universities. The department shall establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the postsecondary vocational, technical, trade, or business school or other institution of the applicant's choice. Priority in the distribution of grants shall be given to students with the lowest total family resources, as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs.

(4) A student may not receive simultaneously a vocational student assistance grant and any other form of student assistance grant or tuition voucher provided pursuant to s. 240.409, s. 240.4095, s. 240.4097, or s. 240.605.

(5)(a) The amount of the vocational student assistance grant may not exceed $1,000 and may not exceed the amount of demonstrated unmet need for tuition and fees.

(b) A student may not receive a vocational student assistance grant for more than 2 years.

(c) As a condition for renewal of a vocational student assistance grant, a student shall be in compliance with the institutional definition of satisfactory progress for the receipt of Federal Title IV programs and be eligible for continuous enrollment in the institution.

(d) Payment of vocational student assistance grants shall be transmitted to the eligible institution which the recipient is attending in advance of the registration period except in the case of delayed awards. If any recipient terminates his enrollment for any reason during the academic year, the unused portion of the grant, as determined by rules of the state board, shall be refunded within 60 days to the department.

(e) Each institution that receives moneys through the Vocational Student Assistance Grant Fund shall prepare an annual report that includes an independent external audit of the institution's administration of the fund and a complete accounting of the moneys in the fund. Such report shall be submitted to the department on or before March 1 every year. The department may conduct its own annual audit of an institution's administration of the fund. The department may suspend or revoke an institution's eligibility to receive future moneys from the fund or request a refund of any moneys overpaid to the institution through the fund if the department finds that an institution has not complied with the provisions of this section. Any refund requested pursuant to this paragraph shall be remitted within 60 days.

(6) There is created a Vocational Student Assistance Grant Trust Fund to be administered by the Commissioner of Education. Funds appropriated by the Legislature for vocational student assistance grants shall be deposited in the Vocational Student Assistance Grant Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain therein and shall be available for carrying out the purposes of this section.

(7) This section shall be implemented during the 1991-1992 academic year and thereafter to the extent funded and authorized by law.

Section 16. Paragraph (a) of subsection (1) of section 240.404, Florida Statutes, is amended to read:

240.404 General requirements for student eligibility for state financial aid.—

(1)(a) The general requirements for eligibility of students for state financial aid awards consist of the following:

1. Acceptance at a state university or community college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college, university, or community college which is accredited by a member of the Council on Postsecondary Accreditation; any Florida institution the credits of which are acceptable for transfer to state universities; any area vocational-technical center; or any private vocational-technical institution accredited by a member of the Council on Postsecondary Accreditation.

2. Participation in the college-level communication and computation skills testing program. This requirement is limited to students seeking associate's or bachelor's degrees.

3. Residency in this state for no less than 1 year preceding the award of aid for a program established pursuant to s. 240.402, s. 240.408, s. 240.409, *s. 240.4093,* s. 240.4095, s. 240.4097, s. 240.412, s. 240.60, s. 240.604, or s. 240.605. Resident status for purposes of receiving state financial aid awards shall be determined in the same manner as resident status for tuition purposes pursuant to s. 240.1201.

4. Compliance with Selective Service System registration requirements pursuant to s. 240.4045.

5. Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibility to receive state financial aid awards. Falsification of such information shall result in the denial of any pending application and revocation of any award currently held to the extent that no further payments shall be made. Additionally, students who knowingly make false statements in order to receive state financial aid awards shall be guilty of a misdemeanor of the second degree subject to the provisions of s. 837.06 and shall be required to return all state financial aid awards wrongfully obtained.

Section 17. Paragraph (a) of subsection (2) and subsection (6) of section 240.4097, Florida Statutes, are amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Fund; eligibility for grants.—

(2)(a) Florida postsecondary student assistance grants from the fund may be made only to full-time students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed a total of $1,500 per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a Florida postsecondary student assistance grant. Recipients of such grants must have been accepted at a postsecondary institution that is located in and chartered as a domestic corporation by the state and that is:

1. A private nursing diploma school approved by the Florida Board of Nursing; *or*

2. An institution either licensed by the State Board of Independent Colleges and Universities or exempt from licensure pursuant to s. 246.085(2)(a), excluding those institutions *the students of which are eligible to receive a Florida private student assistance grant pursuant to s. 240.4095.* ~~accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or~~

~~3. An institution licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, which board has authorized the institution to offer baccalaureate degrees or associate of arts or associate of science degrees, and which institution is not a pervasively sectarian institution and is accredited at the junior or senior college level by an accreditation agency which is a member of the Council on Postsecondary Accreditation.~~

No student may receive an award for more than the equivalent of 9 semesters or 14 quarters in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

(6) Any institution that was eligible to receive state student assistance grants on January 1, 1989, *and* that is not eligible to receive grants pursuant to s. 240.4095 *is,* ~~and that is not a pervasively sectarian institution shall be~~ eligible to receive grants pursuant to this section.

Section 18. Section 295.019, Florida Statutes, is amended to read:

295.019 Children of servicemen who died in U.S.S. Stark attack.—

(1) It is hereby declared to be state policy to provide educational opportunity at state expense for the dependent children of those servicemen killed in the Iraqi missile attack on the U.S.S. Stark in the Persian Gulf on May 17, 1987, which servicemen claimed Florida as their home of record on the date of the attack.

(2) The provisions of ss. *240.404,* 295.03, 295.04, and 295.05 shall apply.

Section 19. Present subsections (2), (3), (4), and (5) of section 232.2465, Florida Statutes, are renumbered as subsections (3), (4), (5), and (6), respectively, and a new subsection (2) is added to said section to read:

232.2465 Florida Academic Scholars' Certificate Program.—For the purpose of recognizing and rewarding outstanding performance and academic achievement on the part of public school students, nonpublic school students, and developmental research school students, the Commissioner of Education shall award to each high school graduate who meets the requirements specified herein, and as further specified by the State Board of Education, a special certificate recognizing and designating the graduate as a Florida Academic Scholar.

(1) In order to qualify as a Florida Academic Scholar, a student must:

(a) Effective with the 1983-1984 school year, complete a program of at least two more credits than the minimum number of credits required for high school graduation in advanced-level studies as prescribed by the State Board of Education, including as a minimum:

1. Four years of progressively advanced instruction in language arts, including courses in English composition and literature;

2. Four years of progressively advanced instruction in science, including laboratory courses in biology, chemistry, and physics where laboratory facilities are available;

3. Four years of progressively advanced instruction in mathematics, including courses in algebra and geometry and calculus or trigonometry;

4. Two years of sequential foreign language;

5. One year of instruction in art and music or in either art or music;

6. Three years of instruction in social studies, including courses in American history and government, world history, and comparative political and economic systems; and

7. One year of instruction in health and physical education to include assessment, improvement, and maintenance of personal fitness.

(b) Demonstrate mastery of the performance standards and basic skills required by s. 232.246(6)(a) and (b) or, if the student is a nonpublic school student, have achieved a score of 1100 on the combined verbal and quantitative parts of the Scholastic Aptitude Test of the College Entrance Examination or an equivalent score on the American College Testing Program.

(c) In lieu of the requirements specified in paragraphs (a) and (b), successfully complete the International Baccalaureate Program sponsored and administered by the International Baccalaureate Office.

(2) A student who does not meet the requirements of paragraph (1)(a) as a result of reliance on inaccurate or incomplete information provided by a high school guidance counselor is eligible for a Florida Academic Scholars' certificate if such deficiencies are verified in writing by the principal of the student's high school or the superintendent of schools on forms provided by the department, and the student satisfies such requirements by the end of his first semester of enrollment in a postsecondary institution. The requirements may be satisfied by successful completion of the required coursework provided by a school district or community college adult general education program. A student who does not satisfy all requirements of paragraph (1)(a) by the end of his first semester of postsecondary enrollment is ineligible to continue to participate in the program.

(3)~~(2)~~ Each Florida Academic Scholar who demonstrates advanced proficiency, as defined by the State Board of Education, through performance on the combined verbal and quantitative portions of an approved standardized test is entitled to automatic admission to a state university or community college within the state, if his application for admission is filed within 3 years following graduation from high school and he meets the nonacademic standards established by the institution.

(4)~~(3)~~ Each Florida Academic Scholar who demonstrates advanced proficiency, as defined by the State Board of Education, through performance on the combined verbal and quantitative portions of an approved standardized test and who enrolls full time in a state university, a public community college, a nursing diploma school approved by the Board of Nursing, or a private institution of higher education which is accredited by a member of the Council on Postsecondary Accreditation or the credits of which are acceptable for transfer to state universities is eligible for a scholarship from the Florida Undergraduate Scholars' Fund, as provided by s. 240.402.

(5)~~(4)~~ Each district school board and the administrators of each nonpublic school are encouraged to make provision, through appropriate and adequate course offerings at an advanced level in each high school or through cooperative arrangements with other schools, community colleges, or universities, pursuant to ss. 229.814(5) and 240.115, for students desiring to participate in the Florida Academic Scholars' Certificate Program.

(6)~~(5)~~ The State Board of Education is authorized to adopt rules necessary for the implementation and administration of this section. Such rules shall include specific course requirements as defined by the Course Code Directory and may establish alternatives to any area of study or course of study specified herein, provided that adopted curriculum frameworks demonstrate that the alternative authorized is equivalent or more advanced.

Section 20. This act applies to students who qualify for the award on or after the effective date of this act and to students who qualified for the award during the 1989-1990 academic year.

Section 21. Section 240.118, Florida Statutes, is amended to read:

240.118 Postsecondary feedback of information to high schools.—

(1) On or before January 1, *1991* ~~1984~~, the State Board of Education shall adopt rules *that require* ~~authorizing~~ each state university, ~~and~~ each public community college, *and each public postsecondary vocational school* to report to *the Commissioner of Education* ~~each school district~~ on the performance of *each first-time-in-college student* ~~the students~~ from *each public high school in this state* ~~that school district~~ who *is* ~~are~~ enrolled *in a* ~~at the~~ state university, ~~or~~ public community college, *or public postsecondary vocational school.* Such reports shall *be submitted each term and shall include performance information on both regular and preparatory courses or programs and shall* indicate students referred *for remediation through* ~~to~~ college *or vocational* preparatory *programs or courses.*

(2) The State Board of Education shall report to the Legislature, no later than March 1 of each year, on the number of *first-time-in-college* Florida high school graduates, by high school, *who enrolled in public postsecondary education in this state and the number* referred *for remediation through* ~~to~~ college *or vocational* preparatory programs *during the previous summer or fall term.*

(3) The commissioner shall organize the student-level records by school district and public high school in which the public postsecondary education students were enrolled and report the information to each school district in time for the district and high school to prepare the reports required by s. 229.575.

Section 22. Section 229.575, Florida Statutes, is amended to read:

229.575 Reporting procedures.—

(1) COMMISSIONER'S REPORT.—The commissioner shall annually report the status of the state system of public education. All reports shall be received by the school districts prior to their release to the general public. Such reports shall contain:

(a) Information about how well district instructional programs enable students to meet the minimum performance standards.

(b) Comparative numerical rankings and other appropriate analyses of this state with other states based on the nationally normed testing program specified in s. 233.011(4).

(c) Comparative numerical rankings and other appropriate analyses of districts and regions within the state based on the nationally normed testing program specified in s. 233.011(4) and student performance pursuant to ss. 232.2454(1) and 229.565(1) and (2).

(d) Results of educational program evaluations, *including the performance of high school graduates who enroll in public universities, community colleges, or postsecondary vocational institutions in this state.*

(e) Information about the needs of education.

(f) Areas of immediate and long-range concern to state and district education decision makers.

(g) Recommendations for action.

(h) Information on policy decisions.

(i) Any other information and analyses which explain or clarify the status of the state system of public education.

(j) The comparisons required by s. 229.57.

(k) The high school completion rate of the state compared to that of other states and the high school completion rate of each district in the state. Students who withdraw from high school to attend adult education programs shall be reported separately and shall not be counted as high school completers unless they have earned a high school diploma or its equivalent or a certificate of completion.

The commissioner's annual report shall be presented to the Legislature prior to the convening of each regular session and shall be made available to the general public and the citizens of this state through all appropriate means.

(2) DISTRICT REPORT.—Each district shall annually report on the status of education in the district. Such report shall contain:

(a) Information about how well school instructional programs enable students to meet the minimum performance standards.

(b) Comparative numerical rankings and other appropriate analyses of this state with other states based on the nationally normed testing program specified in s 233.011(4).

(c) Comparative numerical rankings and other appropriate analyses of districts and regions within the state based on the nationally normed testing program specified in s. 233.011(4) and student performance pursuant to ss. 232.2454(1) and 229.565(1) and (2).

(d) Comparative numerical rankings and other appropriate analyses of schools within the district based on the nationally normed testing program specified in s. 233.011(4) and student performance pursuant to ss. 232.2454(1) and 229.565(1) and (2).

(e) Comparisons of the performance in public postsecondary education of graduates of the high schools in the district. Such comparisons shall include the ratio of graduates enrolled in public postsecondary education to the total number of graduates and to the number of graduates who were referred for remediation through college preparatory or vocational preparatory programs. A report may not identify individual students.

(f)~~(e)~~ Information on student attendance; dropouts, including an analysis of progress made toward identifying potential dropouts and remedying the problem; incidents of corporal punishment; in-school and out-of-school suspensions; and expulsions. Such information shall include a breakdown by sex and race. When reporting school dropouts in accordance with this requirement, the number of students counted as dropouts who are transient students because their parents or legal guardians either are part of the seasonal migrant labor force or are part-time residents of this state shall be separately indicated. *The number of students who transferred to adult education programs shall also be separately reported. Such students shall be counted as dropouts for purposes of this calculation, unless the district verifies that they have received an adult high school diploma or its equivalent.* The State Board of Education shall prescribe by rule the nature of information required and the manner and format for reporting such information.

(g)~~(f)~~ Results of program evaluations.

(h)~~(g)~~ Information about the needs of education in the district.

(i)~~(h)~~ Information on district policy decisions.

(j)~~(i)~~ Any other information and analyses which explain or clarify the status of education in the district, including a comparison of statistical trends from the prior year.

The district annual report shall be made available to the general public and the citizens of the district, to each school in the district, and to appropriate local news media.

(3) SCHOOL REPORT.—Each school shall report annually on its status of education. Such report shall be based upon information for the prior school year and shall contain:

(a) Information on how well the school is meeting its goals and objectives.

(b) Interpretation and analysis of student progress, including information on how well students are achieving the minimum performance standards.

(c) Comparative numerical rankings and other appropriate analyses of this state with other states based on the nationally normed testing program specified in s. 233.011(4).

(d) Comparative numerical rankings and other appropriate analyses of districts and regions within the state based on the nationally normed testing program specified in s. 233.011(4) and student performance pursuant to ss. 232.2454(1) and 229.565(1) and (2).

(e) Comparative numerical rankings and other appropriate analyses of schools within the district based on the nationally normed testing program specified in s. 233.011(4) and student performance pursuant to ss. 232.2454(1) and 229.565(1) and (2).

(f) Comparisons of the performance in public postsecondary education of graduates of the high schools in the district. Such comparisons shall specify the ratio of graduates enrolled in public postsecondary education to the total number of graduates and to the number of graduates who were referred for remediation through college preparatory or vocational preparatory programs. A report may not identify individual students.

(g)~~(f)~~ Information on student attendance; dropouts, including an analysis of progress made toward identifying potential dropouts and remedying the problem; incidents of corporal punishment; in-school and out-of-school suspensions; and expulsions. Such information shall include a breakdown by sex and race. When reporting school dropouts in accordance with this requirement, the number of students counted as dropouts who are transient students because their parents or legal guardians either are part of the seasonal migrant labor force or are part-time residents of this state shall be separately indicated. *The number of students who transferred to adult education programs shall also be separately reported. Such students shall be counted as dropouts for purposes of this calculation, unless the school verifies that they have received an adult high school diploma or its equivalent.* The principal or his designated representative is responsible for including such information and analysis in the report. The State Board of Education shall prescribe by rule the nature of information required and the manner and format for reporting such information.

(h)~~(g)~~ Fiscal information, including the school budget.

(i)~~(h)~~ Information on the needs of the school and its students.

(j)~~(i)~~ Summaries of teacher, student, parent, and community attitudes toward the school.

(k)~~(j)~~ Any other information and analyses which explain or clarify the status of education, including a comparison of statistical trends from the prior year.

The principal, with the assistance of teachers, students, and the school advisory committee, where existing, shall prepare the report which shall be published by November 1 each school year beginning with the 1977-1978 school year. The report shall be reproduced and distributed at the least possible cost and may be issued in a series or as part of existing school publications. The report shall be distributed to the parent or guardian of each student in the school and made available to all other interested citizens upon request.

Section 23. Elderly Education Program Grants.—

(1) Contingent upon annual funding by the Legislature, the Department of Education shall administer a grant program for planned noncredit instructional activities or programs for adults who are 65 years of age or older. Any instructional activity or program provided according to this section must have an innovative format that would make it difficult or impossible to register students and calculate them for reporting for funding through the Florida Education Finance Program or the Community College Program Fund. Eligible activities include but are not limited to seminars, publications, public service presentations, and multi-media events. People under 65, especially families and caretakers of older people, may be included in activities provided by the program if those activities are designed expressly to benefit people over 65.

(2) The State Board of Education shall adopt rules to govern the distribution of funds, administration procedures, and evaluation of the Elderly Education Program. The rules shall include at least the following provisions:

(a) Content of requests from school districts and community colleges.

(b) Methods of enhancing cooperative ventures among school districts, community colleges, public and private community service agencies, and agencies with special missions or statewide jurisdiction such as public universities, Developmental Research Schools, and the Florida School for the Deaf and the Blind.

(c) Guidelines for the Commissioner of Education to award grants for the program.

(d) The method of distributing funds for the program equitably statewide and among school districts and community colleges. This method shall include provisions for assuring cooperation among community colleges and school districts serving the same population of older people.

(e) Maximum administrative cost.

(f) Requirements for oversight and evaluation, which may include participation by state-level advocacy groups.

Section 24. Section 229.559, Florida Statutes, is created to read:

229.559 Social security numbers used as student identification numbers.—Beginning in the 1990-1991 school year, each school district shall request that each student enrolled in a public school in this state provide his social security number. Beginning in the 1991-1992 school year, each school district shall use social security numbers as student identification numbers in the management information system maintained by the school district. However, a student shall not be required to provide his social security number as a condition for enrollment or graduation. A student satisfies this requirement by presenting to school enrollment officials his social security card or a copy of such card. The school district shall include the social security number in the student's permanent records and shall indicate if the student identification number is not a social

security number. The commissioner shall provide assistance to school districts to assure that the assignment of student identification numbers other than social security numbers is kept to a minimum and to avoid duplication of any student identification number. By March 1, 1991, the commissioner shall report to the State Board of Education the increase in student social security numbers on record and the actions implemented and planned to enable districts to comply with the requirements of this section by the 1991-1992 school year.

Section 25. Paragraph (e) of subsection (2) of section 228.093, Florida Statutes, is amended to read:

228.093 Pupil and student records and reports; rights of parents, guardians, pupils, and students; notification; penalty.—

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

(e) "Records" and "reports" mean any and all official records, files, and data directly related to pupils and students which are created, maintained, and used by public educational institutions, including all material that is incorporated into each pupil's or student's cumulative record folder and intended for school use or to be available to parties outside the school or school system for legitimate educational or research purposes. Materials which shall be considered as part of a pupil's or student's record include, but are not necessarily limited to: identifying data, *including a student's social security number*; academic work completed; level of achievement records, including grades and standardized achievement test scores; attendance data; scores on standardized intelligence, aptitude, and psychological tests; interest inventory results; health data; family background information; teacher or counselor ratings and observations; verified reports of serious or recurrent behavior patterns; and any other evidence, knowledge, or information recorded in any medium, including, but not limited to, handwriting, typewriting, print, magnetic tapes, film, microfilm, and microfiche, and maintained and used by an educational agency or institution or by a person acting for such agency or institution. However, the terms "records" and "reports" do not include:

1. Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which records are in the sole possession of the maker thereof and are not accessible or revealed to any other person except a substitute for any of such persons. An example of records of this type is instructor's grade books.

2. Records of law enforcement units of the institution which are maintained solely for law enforcement purposes and which are not available to persons other than officials of the institution or law enforcement officials of the same jurisdiction in the exercise of that jurisdiction.

3. Records made and maintained by the institution in the normal course of business which relate exclusively to a pupil or student in his capacity as an employee and which are not available for use for any other purpose.

4. Records created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, which are created, maintained, or used only in connection with the provision of treatment to the pupil or student and which are not available to anyone other than persons providing such treatment. However, such records shall be open to a physician or other appropriate professional of the pupil's or student's choice.

5. Directory information as defined in this section.

6. Other information, files, or data which do not permit the personal identification of a pupil or student.

7. Letters or statements of recommendation or evaluation which were confidential under Florida law and which were received and made a part of the pupil's or student's educational records prior to July 1, 1977.

8. Copies of the pupil's or student's fingerprints. No public educational institution shall maintain any report or record relative to a pupil or student which includes a copy of the pupil's or student's fingerprints.

Section 26. Paragraph (b) subsection (7) of section 240.35, Florida Statutes, is amended to read:

240.35 Student fees.—

(7)

(b) All funds collected under this program shall be placed in the loan and endowment fund or scholarship fund of the college, by whatever name known. *Such funds shall be disbursed to students as quickly as possible. An amount not greater than 40 percent of the fees collected in a fiscal year may be carried forward unexpended to the following fiscal year. However, funds collected prior to July 1, 1989, and placed in an endowment fund may not be considered part of the balance of funds carried forward unexpended to the following fiscal year.*

Section 27. From the funds collected by state universities and community colleges or a financial aid fee and from other funds appropriated by the Legislature for financial aid from the Educational Enhancement Trust Fund, not less than 80 percent of expenditures designed as need-based aid shall be used to award aid to students who do not qualify for institutional, state, or federal merit-based student financial aid.

Section 28. The Auditor General shall conduct a program and financial audit of the Florida Public Student Assistance Grant Program, pursuant to section 240.409, Florida Statutes, the Florida Private Student Assistance Grant Program, pursuant to section 240.4095, Florida Statutes, and the Florida Postsecondary Student Assistance Grant Program, pursuant to section 240.4097, Florida Statutes. In addition, the program audit shall examine and make recommendations concerning the feasibility of decentralizing administration of the Florida Public Student Assistance Grant Program. The audit shall be submitted to the Legislature by December 15, 1990.

Section 29. (1) There is established a Florida Student Financial Aid Task Force which shall submit recommendations for the improvement of the state's student financial assistance programs.

(2) The task force shall consist of 13 members to be appointed as follows:

(a) One lay person appointed by the Governor;

(b) One lay person appointed by the President of the Senate;

(c) One lay person appointed by the Speaker of the House of Representatives;

(d) Two representatives of the Florida Council of Student Financial Aid Advisors appointed by the Commissioner of Education;

(e) Two representatives of the State University System appointed by the Board of Regents;

(f) Two representatives of the State Community College System appointed by the State Board of Community Colleges;

(g) Two representatives of independent colleges or universities appointed by the State Board of Independent Colleges and Universities; and

(h) One representative of the Postsecondary Education Planning Commission appointed by the chairman of the commission.

(i) One student who is a recipient of a Florida student assistance grant program appointed by the Commissioner of Education.

(3) The Commissioner of Education shall call the first meeting of the task force and serve as chairperson until a permanent chairperson is selected by the members. The task force is assigned to the Department of Education for administrative purposes, and the department shall provide staff for the task force.

(4) The responsibilities of the task force shall include, but are not limited to:

(a) Recommendations on consolidating existing financial aid programs to simplify the application and award process by examining such concerns as differential application dates, duplication in paperwork, and lead-in periods for new financial aid legislation;

(b) Assessment of the feasibility of electronic transfer of selected student record information;

(c) Suggestions to reduce student loan indebtedness;

(d) Recommendations on improving financial aid preservice and inservice staff training opportunities; and

(e) Development of a pilot project to implement a decentralized student assistance grant program among a sample of community colleges and state universities, if that is the recommendation of the Auditor General.

(5) Members of the task force are entitled to per diem and travel expenses pursuant to section 112.061, Florida Statutes.

(6) The task force shall submit a report and recommendations to the President of the Senate and the Speaker of the House of Representatives on or before February 1, 1991, and is abolished immediately thereafter.

Section 30. Section 2 of chapter 78-94, Laws of Florida, as amended by section 45 of chapter 84-336, Laws of Florida, is amended to read:

Section 2. The provisions of chapter 230, Florida Statutes, or any other provision of general law to the contrary notwithstanding, Sarasota County is hereby included within the Manatee County Community College District. The provisions of this section shall not be deemed to affect the membership of the Board of Trustees of the Manatee County Community College District, which shall *be 7* ~~remain 5~~ members *and shall be appointed pursuant to rule of the State Board of Education.* ~~One member shall be a resident of Sarasota County, and 4 members shall be residents of Manatee County.~~

Section 31. Subsection (3) is added to section 240.327, Florida Statutes, to read:

240.327 Planning and construction of community college facilities; property acquisition.—

(3) No facility may be acquired or constructed by a community college or its direct-support organization if such facility requires general revenue funds for operation or maintenance upon project completion or in subsequent years of operation, unless prior approval is received from the Legislature.

Section 32. Paragraph (a) of subsection (1) of section 240.331, Florida Statutes, is amended to read:

240.331 Direct-support organizations; use of property; audit; status.—

(1) DEFINITIONS.—For the purposes of this section:

(a) "Community college direct-support organization" means an organization which is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.

2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a community college in this state. *The direct-support organization may, at the request of the district board of trustees, provide residency opportunities on or near the college campus for students. State funds may not be used to construct, maintain, or operate such facilities.*

3. An organization which the board of trustees, after review, has certified to be operating in a manner consistent with the goals of the community college and in the best interest of the state. Any organization which is denied certification by the board of trustees shall not use the name of the community college which it serves.

Section 33. This act shall take effect upon becoming a law.

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

Amendment 1A—On page 6, line 15, strike "12" and insert: 45

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

Amendment 1B—On page 51, between lines 16 and 17, insert:

Section 33. Subsection (8) is added to s. 240.4068, F.S., and present subsection (8) is renumbered as subsection (9) to read:

240.4068 "Chappie" James Most Promising Teacher Scholarship Loan Program.—

(8) Subject to available funds, an additional number of scholarship loans shall be reserved annually for nonpublic secondary schools in the state listed with the Department of Education and accredited by the Southern Association of Colleges and Schools or any other private statewide accrediting agency which makes public its standards, procedures, and member schools. The nonpublic secondary schools shall be in compliance with regulations of the Office for Civil Rights. The number of such scholarship loans shall represent the ratio of the number of nonpublic to public secondary school seniors in Florida multiplied by the number of public secondary schools in the state. The principal and a committee of teachers from each eligible nonpublic secondary school may nominate one candidate to receive a scholarship loan. Selection of recipients shall be made by a committee appointed by the Commissioner of Education and comprised of representatives from nonpublic secondary schools and the Department of Education. The committee shall continue the selection process until all awards have been made and accepted.

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

Amendment 1C—On page 20, line 17, after "reverts" insert: *to the foundation for remittance to the donor*

Amendment 1D—On page 51, line 9, strike "State" and insert: Community College Program Fund and Public Education Capital Outlay

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

Amendment 1E—On page 51, between lines 16 and 17, insert:

Section 33. Subsection (4) of section 240.137, Florida Statutes, is amended to read:

240.137 Linkage institutes between postsecondary institutions of Florida and foreign countries.—

(4) The following institutes are created as provided below.

(i) Florida - Soviet Union Institute (University of Central Florida and Lake Sumter Community College)

(Renumber subsequent section.)

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

Amendment 1F—On page 51, between lines 16 and 17, insert:

Section 33. Subsection (4) of section 240.137, Florida Statutes, is amended to read:

240.137 Linkage institutes between postsecondary institutions of Florida and foreign countries.—

(4) The following institutes are created as provided below:

(i) Florida - West Africa Institute (University of North Florida, Florida Agricultural and Mechanical University and Florida Community College at Jacksonville

(Renumber subsequent section.)

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

Amendment 1G—On page 51, between lines 16 and 17, insert:

Section 33. Rules promulgated by the Florida High School Activities Association shall be subject to review and approval by the State Board of Education.

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

Amendment 1H—On page 50, line 10, strike "7" and insert: 9

Amendment 1I—On page 51, between lines 16 and 17, insert:

Section 33. Paragraph (d) of subsection (1) and subsection (2) of section 235.195, Florida Statutes, are amended, and subsection (4) is added to said section, to read:

235.195 Cooperative development and use of facilities by two or more boards.—

(1) Two or more boards, including district school boards, community college boards of trustees, the Board of Trustees for the Florida School for the Deaf and the Blind, and the Board of Regents, desiring to cooperatively establish a common educational facility to accommodate students shall:

(d) Submit requests for funding of joint-use facilities projects involving state universities and community colleges for approval by the Board of Regents or the State Board of Community Colleges, as appropriate. The respective boards shall determine the priority for funding these projects in relation to the priority of all other capital outlay projects under their consideration. To be eligible for funding from the Public Education Capital Outlay and Debt Service Trust Fund under the provisions of this section, projects involving both state universities and community colleges *shall* ~~should~~ appear on ~~either~~ the Board of Regents *and* ~~or~~ the State Board of Community Colleges 3-year capital outlay priority list required by s. 235.435(4) ~~or on both lists~~. Projects involving a state university, community college, and a public school, and in which the larger share of the proposed facility is for the use of the state university or the community college, *shall* ~~should~~ appear on the Board of Regents *and* ~~or~~ State Board of Community Colleges 3-year capital outlay priority list~~, as appropriate. The provisions of this subsection requiring the determinations of priorities and eligibility shall not be applicable to projects that have been funded by the Legislature, in whole or in part, prior to May 1, 1985.~~

(2) The commissioner shall cause the requested educational plant survey to be conducted within 90 days after receiving the joint resolution and substantiating data and shall evaluate the findings of the survey in terms of the benefits to be obtained, the programs to be offered, and the estimated cost of the proposed plant. Upon completion of the educational plant survey, the participating boards may include the recommended projects in their plan as provided in s. 235.16. Upon approval of the project by the commissioner, he shall include *up to 25 percent of the total cost of* the project in the legislative capital outlay budget request as provided in s. 235.41 for educational plants. ~~as follows:~~

~~(a) For those facilities to be constructed by educational institutions offering differing levels of instruction on a site remote from any existing public educational campus or center, state matching funds from the Public Education Capital Outlay and Debt Service Trust Fund shall be provided in the same percent of the total cost as the Office of Educational Facilities determines that portion of the proposed facility to be for actual joint use of the participating institutions;~~

~~(b) For those facilities to be constructed by educational institutions offering differing levels of instruction on an existing public educational campus or center where significant existing ancillary services are to be used on a joint basis, state matching funds from the Public Education Capital Outlay and Debt Service Trust Fund shall be provided for up to 50 percent of the total cost of the proposed facility; and~~

~~(c) For those facilities to be constructed by educational institutions offering instruction at the same level, such as multicounty high schools, state matching funds from the Public Education Capital Outlay and Debt Service Trust Fund shall be provided in the same percent as that portion of the proposed facility is determined by the Office of Educational Facilities to be for actual joint use of the participating institutions, up to a maximum of 50 percent of the total cost of the proposed facility.~~

The participating boards must include in their joint resolution a commitment to finance the remaining funds *necessary to complete the planning, construction, and equipping of* ~~to construct~~ the facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(4) A school board, community college, or state university may not receive funding for more than one approved joint-use facility in any 5-year period, effective August 1, 1990; however, any project approved before August 1, 1990, pursuant to this section shall not be affected. The first year of the 5-year period shall be the first year a board receives an appropriation.

Section 34. Subsections (1) and (2) of section 235.196, Florida Statutes, are amended to read:

235.196 Community educational facilities.—

(1) Each district school board, the State Board of Community Colleges on behalf of a community college board of trustees, or the Board of Regents on behalf of a state university may submit, prior to *August* ~~November~~ 1 of each year, a request to the commissioner for funds from the trust fund to construct a community educational facility. No district board or institution may apply *and receive funding* for more than one facility *in any 5-year period* ~~per year~~. Such request shall contain the following provisions:

(a) A detailed statement of the site, the site development necessary for new construction or the accomplishment of the project, and the facility to be constructed. The facility shall be located on a site owned by the education agencies or on a site leased to the education agencies for a period of not less than 40 years or the life expectancy of the proposed facility, whichever is longer.

(b) A detailed description and analysis of the educational programs to be offered and the benefits that will accrue to the students through their regularly scheduled instructional program upon completion of the facility.

(c) A detailed description of the community use of the facility, the benefits to be derived by the community, and the relationship between the educational use and the community use of the facility.

(d) The estimated number of full-time students whose regularly scheduled daily instructional program will utilize the facility and the estimated number of community residents who are to utilize the facility on a regular basis.

(e) The estimated cost of the facility and site development. If a site must be acquired, the estimated cost of the site shall be provided.

(f) A resolution or other appropriate indication of intent to participate in the funding and utilization of the educational facility from a noneducational governmental agency~~, including community, public, or educational broadcasting stations~~. Such indication shall include a commitment by such governmental agency to provide at least one-half of the cost of the site, should a site need to be acquired, of the site development, and of the facility. The purchase price of a site may be included in meeting the matching requirements of the noneducational governmental agency or the educational governmental agency if the site was recently acquired for the purpose of developing a community educational facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(g) The designation as to which agency is to assume responsibility for the operation, maintenance, and control of the proposed community educational facility.

(h) Documentation by the educational agency that a long-term lease for the use of the community educational facility for a period of not less than 40 years or the life expectancy of the permanent facility constructed thereon, whichever is longer, has been obtained from the noneducational governmental agency if the facility is to be constructed on land owned by the noneducational governmental agency. If a community educational facility is to be constructed on land owned by the educational agency, then documentation shall be provided which shows that the noneducational governmental agency has obtained a long-term lease for the use of the community educational facility for a period of not less than 40 years or the life expectancy of the permanent facility constructed thereon, whichever is longer.

(i) A description of the facility to be constructed. This should be in the form of a board-adopted and board-approved facility list indicating all spaces and the associated net and gross square feet. All facilities shall be designed and constructed in accordance with Chapter 6A-2, Florida Administrative Code, for educational facilities.

(2) Each district school board, the State Board of Community Colleges on behalf of each community college board of trustees, or the Board of Regents on behalf of each state university may submit a request to the commissioner for funds from the trust fund to remodel or renovate a community educational facility *previously constructed from funds authorized by this section.* Such request shall contain the following provisions:

(a) A detailed statement, including floor plans, of the community educational facility to be remodeled or renovated on property owned by the educational agency listed above. Such statement shall include an analysis of the relationship of current educational and community use of the facility and any anticipated changes in the utilization of the facility after completion of the remodeling or renovation.

(b) The number of students and community residents who are currently utilizing the facility and the estimated number of students and community residents to utilize the facility after completion of the remodeling or renovation.

(c) The estimated cost of the remodeling or renovation.

(d) A resolution or other appropriate indication of intent to participate in the funding and utilization of the educational facility to be remodeled or renovated from a noneducational governmental agency, ~~including community, public, and educational broadcasting stations~~. Such indication shall include a commitment by such governmental agency to provide at least one-half of the cost of the remodeling or renovation of the educational facility. Public Education Capital Outlay and Debt Service Trust Fund moneys may not be expended on any project unless specifically authorized by the Legislature.

Section 35. Subsection (23) is added to section 235.011, Florida Statutes, to read:

235.011 Definitions.—Notwithstanding the provisions of s. 228.041, the following terms shall be defined as follows for the purpose of this chapter:

(23) "Satellite facility" means the buildings and equipment, structures, and special educational use areas that are built, installed, or established by private business or industry in accordance with 6A2 Florida Administrative Code to serve primarily the students of its employees and which is staffed professionally by the district school board.

Section 36. Subsection (1) of section 235.014, Florida Statutes, is amended to read:

235.014 Functions of the office.—The functions of the office shall include, but not be limited to, the following; it shall:

(1) Establish minimum and maximum square footage requirements for different functions and areas and the procedures for determining the gross square footage for each educational facility to be funded in whole or in part by the state, including public broadcasting stations but excluding postsecondary special purpose laboratory space. *The gross square footage determination standards may be exceeded when using local operating funds. The office shall encourage multiple use of facilities and spaces in educational plants.*

Section 37. Section 235.15, Florida Statutes, is amended to read:

235.15 Educational plant survey required.—At least every 5 years, each board, including the Board of Regents, shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus. Each survey shall be conducted by the Department of Education or an agency approved by the commissioner. Surveys conducted by agencies other than the Department of Education shall be reviewed and approved by the commissioner. The survey report shall include at least an inventory of existing educational and ancillary plants; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants, including the general location of each; *the utilization of school plants based on an extended school day or year-round operation;* and such other information as may be required by the rules of the State Board of Education. An official copy of each survey report shall be filed by the board with the office. This report may be amended, if conditions warrant, at the request of the board or commissioner. *Relocatables shall be included in the school district inventory of facilities, but shall only be rated at one-half of actual student capacity for purposes of the inventory and future needs determination.*

Section 38. Section 235.198, Florida Statutes, is created to read:

235.198 Cooperative development and use of satellite facilities by private industry and school boards.—

(1) Each district school board may submit, prior to August 1 of each year, a request to the commissioner for funds from the Public Education Capital Outlay and Debt Service Trust Fund to construct, remodel, or renovate an educational facility within the industrial environment. A school board may not apply for more than one facility per year. Such request shall contain the following provisions:

(a) A detailed description of the satellite site, the site development necessary for new construction, remodeling, or renovation for the accomplishment of the project, and the facility to be constructed. The facility shall be located on a site owned by the business and leased to the school board at no cost for a period of not less than 40 years or the life expectancy of the proposed facility, whichever is longer. However, the minimum agreement shall be for a period of at least 5 years. The amounts provided by the state and the school board shall be considered full consideration for the lease. If the lease agreement is terminated early, the business shall reimburse the school board an amount determined by multiplying the amounts contributed by the school board and the state by a fraction the numerator of which is the number of months remaining in the original agreement and the denominator of which is the total number of months of the agreement.

(b) A detailed description and analysis of the educational programs to be offered and the benefits that will accrue to the students through the instructional programs upon completion of the facility.

(c) The estimated number of full-time students whose regularly scheduled daily instructional program will utilize the facility.

(d) The estimated cost of the facility and site development not to exceed the Office of Educational Facilities' average cost of new construction adjusted to the respective county cost index. If a site must be acquired, the estimated cost of the site shall be provided.

(e) A resolution or other appropriate indication of intent to participate in the funding and utilization of the educational facility from private industry. Such indication shall include a commitment by private industry to provide at least one-half of the cost of the facility. The school board shall provide one-fourth of the cost of the facility and, if approved, the state shall provide one-fourth of the cost of the facility. Funds from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project unless specifically authorized by the Legislature.

(f) The designation as to which agency is to assume responsibility for the operation, maintenance, and control of the proposed facility.

(g) Documentation by the school board that a long-term lease for the use of the educational facility for a period of not less than 40 years or the life expectancy of the permanent facility constructed thereon, whichever is longer, has been obtained from private industry.

(2) The commissioner shall appoint a review committee to make recommendations and prioritize requests. If the project is approved by the commissioner, the commissioner shall include up to one-fourth of the cost of the project in the legislative capital outlay budget request, as provided in s. 235.41, for the funding of capital outlay projects involving both educational and private industry. The commissioner shall prioritize any such projects for each fiscal year and, notwithstanding the provisions of s. 235.435(3)(c), limit the recommended state funding amount not to exceed 5 percent off the top of the total funds recommended pursuant to s. 235.435(2) and (3).

Section 39. Section 235.211, Florida Statutes, is amended to read:

235.211 Educational facilities construction techniques and financing mechanisms.—Pursuant to rules of the state board, the office shall require boards to employ procedures for the design and construction of new facilities, or major additions to existing facilities, that will include, but not be limited to, the latest developments in construction, in order to ensure that educational facilities are constructed rapidly and economically. *In accordance with the provisions of s. 481.229, the services of an architect shall be used for the development of plans for the erection, enlargement, or alteration of any educational facility. Boards are encouraged to consider the reuse of existing construction documents where such reuse is feasible and practical. Notwithstanding the provisions of s. 287.055, school boards, community college district boards of trustees, and the Board of Regents shall not be required to use a competitive selection process to reuse existing construction documents originally contracted for with state or local school district funds. However, such reuse shall not be without notice to, and permission from, the architect of record whose plans are being reused. These plans shall be reviewed by the office for compliance with the State Uniform Building Code for Public Educational Facilities Construction.* The following concepts may be included in the requirements of the office:

(1) SYSTEMS BUILDING PROCESS.—An approach to construction that combines the organization and programming, planning, design, financing, manufacturing, construction, and evaluation of buildings under single or highly coordinated management into an efficient total process. A total building system is an interdependent group of building subsystems forming a unified whole. The systems building process requires the standardization and multiple reuse of building subsystems for maximum compatibility and interfaceability of different structures and facilities.

(2) FAST-TRACK CONSTRUCTION SCHEDULING.—A method which involves the bidding and awarding of certain building subsystems after approval of preliminary design and before final document completion. Fast-track construction reduces construction time by overlapping design development and construction of various subsystems. It can improve cost and price control and eliminates extensive design development time by planners and designers.

(3) CONSTRUCTION MANAGEMENT.—A process whereby a single or highly coordinated authority is responsible for all scheduling and coordination in both design and construction phases and is generally responsible for the successful, timely, and economical completion of the construction project.

(4) TURNKEY BIDDING.—A method whereby the contractor agrees to complete construction to the user's specifications and requirements at a previously agreed cost.

(5) DESIGN AND BUILD BIDDING.—A procedure which requires that an architect, contractor, or engineer bid the entire design and construction of a project and which requires that the owner hire a single source for the project completion and be responsible for the development of performance specifications and technical criteria.

(6) USE OF COMPONENTS.—The use of modular, prefabricated, and standardized components.

Notwithstanding anything above, a board shall be authorized to utilize its own procedures, designs, construction techniques, and materials upon a showing to the office that such proposal will result in equivalent educational facilities without an increase in cost or a delay in construction.

Section 40. Paragraph (b) of subsection (5) of section 235.26, Florida Statutes, is amended to read:

235.26 State Uniform Building Code for Public Educational Facilities Construction.—The State Board of Education shall adopt a uniform statewide building code for planning and construction of public educational and ancillary plants, except for Board of Regents facilities. The code shall be entitled the State Uniform Building Code for Public Educational Facilities Construction. Included in this code shall be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R., Parts 59 and 60, established by the Federal Emergency Management Agency, effective October 1, 1986. Wherever the words "Uniform Building Code" appear, they shall mean the "State Uniform Building Code for Public Educational Facilities Construction." It shall not be the intent of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor shall it specify or prohibit materials by brand names. The code shall be flexible enough to cover all phases of construction which will afford reasonable protection for public safety, health, and general welfare. The office may secure the service of other state agencies or such other assistance as it may find desirable in the revision of the code.

(5) OFFICE APPROVAL.—

(b) In reviewing plans for approval, the office shall take into consideration:

1. The need for the new facility.

2. The educational and ancillary plant planning.

3. The architectural and engineering planning.

4. The location on the site.

5. Plans for future expansion.

6. The type of construction.

7. Sanitary provisions.

8. Conformity to Uniform Building Code standards.

9. The structural design and strength of materials proposed to be used.

10. The mechanical design of any heating, air-conditioning, plumbing, or ventilating system. *Typical heating, ventilating, and air conditioning systems preapproved by the office for specific applications may be used in the design of educational facilities.*

11. The electrical design of educational plants. *Typical lighting configurations preapproved by the office for specific applications may be used in the design of educational facilities.*

12. The energy efficiency and conservation of the design.

13. Life-cycle cost considerations.

14. The design to accommodate physically handicapped persons.

15. The ratio of net to gross square footage.

16. The proposed construction cost per gross square foot.

Section 41. Paragraph (a) of subsection (2) and subsections (3) and (4) of section 235.435, Florida Statutes, are amended to read:

235.435 Funds for comprehensive educational plant needs.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(2)(a) The department shall establish, as a part of the Public Education Capital Outlay and Debt Service Trust Fund, a separate account, in an amount determined by the Legislature, to be known as the "Special Facility Construction Account." The Special Facility Construction Account shall be used to provide necessary construction funds to school districts which have urgent construction needs but which lack sufficient resources at present, and cannot reasonably anticipate sufficient resources within the period of the next 3 years, for these purposes from currently authorized sources of capital outlay revenue. A school district requesting funding from the Special Facility Construction Account shall submit one specific construction project, not to exceed one complete educational plant, to the Special Facility Construction Committee. No district shall receive funding for more than one approved project in any 5-year period. The first year of the 5-year period *shall be* ~~is~~ the first year a district receives *an* ~~a construction~~ appropriation. The request must meet the following criteria to be considered by the committee:

1. The construction project must be recommended in the most recent survey or surveys by the district under the rules of the State Board of Education.

2. The construction project must appear on the district's approved project priority list under the rules of the State Board of Education.

3. The district must have selected and had approved a site for the construction project in compliance with s. 235.19 and the rules of the State Board of Education.

4. The district *shall* ~~must~~ have on file with the office approved educational specifications and a school board adopted facility list developed not to exceed the normal net square feet occupancy requirements under the rules of the State Board of Education.

5. There *shall* ~~must~~ be an agreement signed by the district board stating that it will advertise for bids within 30 days of receipt of its encumbrance authorization from the office.

6. The district *shall* ~~must~~, at the time of the request *and for a continuing period of 3 years, levy the maximum millage* ~~be levying 1.5 mills~~ against their nonexempt assessed property value as *provided* ~~allowed~~ in s. 236.25*(2)*.

7. If a contract has not been signed 90 days after the advertising of bids, the funding for the specific project shall revert to the Special Facility New Construction Account to be reallocated to other projects on the list. However, an additional 90 days may be granted by the commissioner.

8. The office *shall* ~~must~~ certify the inability of the district to fund the survey-recommended project over a continuous 3-year period using projected capital outlay revenue derived from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

9. The district shall have on file with the office an adopted resolution acknowledging its 3-year commitment of all unencumbered and future revenue acquired from s. 9(d), Art. XII of the State Constitution, as amended, paragraph (3)(a) of this section, and s. 236.25(2).

10. The office shall certify that final phase III plans, free of all mandatory requirements, were approved prior to *August* ~~November~~ 1.

(3)(a) Each district school board shall receive an amount from the Public Education Capital Outlay and Debt Service Trust Fund to be calculated by computing the capital outlay full-time equivalent membership as determined by the office. The capital outlay full-time equivalent membership shall be determined for kindergarten through the 12th grade and for vocational-technical centers by averaging the unweighted full-time equivalent student membership for the second and third surveys and comparing the results on a school-by-school basis with the Florida Inventory for School Houses. The capital outlay full-time equivalent membership by grade level organization shall be used in making the following calculations: The capital outlay full-time equivalent membership by grade level organization for the 1981-1982 fiscal year shall be computed as the base year. The capital outlay full-time equivalent membership by grade level organization for the 1984-1985 fiscal year shall be computed with the positive increase over the base year constituting growth. From the total amount appropriated by the Legislature pursuant to this subsection, 40 percent shall be allocated among the base capital outlay full-time equivalent membership and 60 percent among the growth capital outlay full-time equivalent membership. The allocation within each of these groups shall be prorated to the districts based upon each district's percentage of base and growth capital outlay full-time membership. The most recent 4-year capital outlay full-time equivalent membership data shall be used in each subsequent year's calculation for the allocation of funds pursuant to this subsection. If the growth capital outlay full-time equivalent membership for a district declines in any year used in their calculation after the initial allocation pursuant to this subsection, no allocation for growth capital outlay full-time equivalent membership shall be made for any subsequent year until the number of capital outlay full-time equivalent membership has exceeded the number for which an allocation has already been made. If a change, correction, or recomputation of data during any year results in a reduction or increase of the calculated amount previously allocated to a district, the allocation to that district shall be adjusted correspondingly. If such recomputation results in an increase or decrease of the calculated amount, such additional or reduced amounts shall be added to or reduced from the district's future appropriations. However, no change, correction, or recomputation of data shall be made subsequent to 2 years following the initial annual allocation.

(b) Funds accruing to a district school board from the provisions of this section shall be expended on needed projects as shown by survey or surveys under the rules of the State Board of Education.

(c) A school board may lease relocatable educational facilities for up to 3 years using local capital outlay millage and nonbonded PECO funds.

(d) ~~(c)~~ Funds distributed to the district school boards shall only be allocated based on the provisions of paragraphs (1)(a) and (2)(a) and paragraph (a) of this subsection. No individual school district projects shall be funded off the top of funds allocated to district school boards.

(4)(a) The boards of trustees of the community colleges and the Board of Regents of the State University System shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 45 days prior to the legislative session. The State Board of Community Colleges shall submit a 3-year priority list for the entire State Community College System. The Board of Regents shall submit a 3-year priority list for the entire State University System. The lists shall reflect decisions by the boards concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended pursuant to s. 235.15 or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the Chancellor for university projects or by the Office of Educational Facilities for community college projects. The funds requested for a new construction project in the first year of the 3-year priority list shall be in conformance with the scope of the project as defined in the educational specifications. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature shall be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

(b) The boards of trustees of the community colleges and the Board of Regents of the State University System may lease relocatable educational facilities for up to 3 years using nonbonded PECO funds.

(c) ~~(b)~~ The boards of trustees of the community colleges and the Board of Regents shall receive funds for remodeling, renovation, maintenance and repairs, and site improvement for existing satisfactory facilities pursuant to subsection (1).

Section 42. Paragraph (f) of subsection (2) of section 236.25, Florida Statutes, is amended and paragraph (h) is added to said subsection to read:

236.25 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 2 mills against the nonexempt assessed valuation for school purposes to fund:

(f) Payment of loans approved pursuant to *ss.* ~~s.~~ 237.161 *and* ~~or s.~~ 237.162.

(h) Payment of costs of leasing relocatable educational facilities for up to 3 years.

Violations of these expenditure provisions shall result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

Section 43. Paragraph (a) of subsection (9) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(9)(a) In addition to the notice required in subsection (3), a district school board shall publish a second notice of intent to levy additional taxes under s. 236.25(2). Such notice shall specify the projects or number of school buses anticipated to be funded by such additional taxes and shall be published in the size, within the time periods, adjacent to, and in substantial conformity with the advertisement required under subsection (3). The projects shall be listed in priority within each category as follows: construction and remodeling; maintenance, renovation, and repair; bus purchases; new and replacement equipment; payments for educational facilities and sites due under a lease-purchase agreement; payments of loans approved pursuant to ss. 237.161 and 237.162; ~~and~~ payment of costs of compliance with environmental statutes and regulations*; and payment of costs of leasing relocatable educational facilities for up to 3 years.* The additional notice shall be in the following form, except that the second sentence of the second paragraph shall be deleted if the district is advertising pursuant to paragraph (3)(e):

NOTICE OF TAX FOR SCHOOL
CAPITAL OUTLAY

The . . . (name of school district) . . . will soon consider a measure to impose a . . . (number) . . . mill property tax for the capital outlay projects listed herein.

This tax is in addition to the school board's proposed tax of . . . (number) . . . mills for operating expenses and is proposed solely at the discretion of the school board. THE COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.

The capital outlay tax will generate approximately $. . . (amount) . . ., to be used for the following projects:

. . . (list of capital outlay projects) . . .

All concerned citizens are invited to a public hearing to be held on . . . (date and time) . . . at . . . (meeting place) . . ..

A DECISION on the proposed CAPITAL OUTLAY TAXES will be made at this hearing.

Section 44. Section 235.198, Florida Statutes, is repealed effective July 1, 1995, and shall be reviewed by the Legislature prior to that date.

Section 45. Notwithstanding section 236.25(2), Florida Statutes, school districts are not subject to an equal dollar reduction in Florida Education Finance Program funds for violations of former sections 235.435(1)(c) and 236.25(2)(b), Florida Statutes, 1988 Supplement, which violations occurred prior to July 1, 1989, if the Department of Education did not provide an equal dollar reduction of Florida Education Finance Program Funds, before July 1, 1989, for such violations.

(Renumber subsequent section.)

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

Amendment 1J—On page 51, between lines 16 and 17, insert:

Section 33. Paragraph (o) of subsection (2) of section 229.053, F.S., is amended to read:

229.053 General powers of state board.—

(2) The board has the following duties:

(o) To contract with independent institutions accredited by an agency holding membership in the Council on Postsecondary Accreditation for the provision of those educational programs and facilities which will meet needs unfulfilled by the state system of public postsecondary education. *With the exception of academic program contracts and student services contracts established pursuant to s. 240.147, each such contract with the state board or any entity under its general supervision shall be subject to an annual financial and performance audit. An institution subject to the audit provisions of this paragraph must bear the cost of an independent auditor if it disagrees with the results of an audit conducted by the Department of Education. Each audit shall be transmitted, upon completion, to the Commissioner of Education. Funds may not be released to an independent postsecondary institution for research grants until the institution has signed a contract with an authorized designee of the Commissioner of Education that stipulates provisions for copyright, patent, and revenue-sharing for discoveries, materials, and products which result from such research.*

(Renumber subsequent section.)

Amendment 1 as amended was adopted.

Senator Stuart moved the following amendment:

Amendment 2—In title, on page 1, line 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to postsecondary education; amending s. 240.115, F.S.; providing for the admission of a community college associate in arts graduate into certain programs at a state university pursuant to a required provision of the articulation agreement; providing for the admission of other specified community college students; requiring each state university to include an explanation of that provision of the articulation agreement in its orientation programs and student handbooks; amending ss. 240.209, 240.2097, F.S.; directing the Board of Regents to quickly disburse financial aid generated from student fees; restricting the carryforward of unexpended fees; providing duties of the Board of Regents relating to limited access programs; requiring reports; providing for the development and distribution of a systemwide counseling manual; amending s. 240.107, F.S.; increasing the number of semester hours or equivalent necessary to take the college-level communication and computation skills examination; authorizing use of student financial assistance for approved programs of study in another state or foreign country; precluding use of financial aid for certain institutions; amending s. 240.529, F.S., relating to approved teacher education programs; authorizing universities and community colleges to establish preteacher education and teacher education pilot programs; providing requirements; requiring an annual report; requiring the Commissioner of Education to make certain recommendations; authorizing community colleges to employ police officers to maintain order on campus; specifying the powers and duties of such police officers; requiring such officers to deliver persons they arrest to the local sheriff or law enforcement agency; providing that such officers must meet certain minimum training standards; requiring community colleges to maintain a surety bond on each officer it employs; requiring community colleges in cooperation with the Department of Law Enforcement to adopt rules for appointing, employing, and removing such officers and to write a policy manual specifying certain procedures for community college police; requiring each community college to prepare certain reports of statistics of crimes committed on its campus; requiring the State Board of Community Colleges to compile such reports into a single report for submission to the Commissioner of Education; amending s. 240.319, F.S.; deleting limitations on the policies of district boards of trustees relating to law enforcement activities; amending s. 240.61, F.S.; providing for the State Board of Education to select proposals for the receipt of college reach-out funds; providing criteria for selecting such proposals; authorizing independent colleges and universities to submit proposals to implement college reach-out programs and participate in the program; revising the membership of the advisory committee appointed to review proposals; amending s. 240.2601, F.S.; providing for the use of moneys from the Capital Facilities Matching Trust Fund and private donations to construct common areas connecting facilities the construction of which is paid from the fund and from private donations; requiring the return of interest income accruing to private donations to the university foundation; requiring universities to return private donations plus interest earned thereon to donors, if the construction project is canceled; amending s. 240.295, F.S.; providing for the payment of the entire construction costs of a facility at a state university by a private donor; amending s. 240.2605, F.S.; repealing a provision that limits contributions to the New College Foundation Trust Fund account for new donors; amending s. 228.086, F.S.; providing that museums of science may establish regional centers of excellence in mathematics, science, computers, and technology; revising provisions relating to the reporting and coordinating regions of the Department of Education in which centers shall be located; creating s. 240.4093, F.S.; establishing the Vocational Student Assistance Grant Fund; providing eligibility for grants; providing amount of grants; requiring institutions which receive grant moneys to submit reports to the Department of Education; creating a Vocational Student Assistance Grant Trust Fund; providing for implementation; amending s. 240.404, F.S., relating to general requirements for student eligibility for state financial aid; conforming provisions; amending s. 240.4097, F.S.; revising eligibility requirements for Florida postsecondary student assistance grants; amending s. 295.019, F.S.; revising eligibility requirements for financial aid for certain children of servicemen killed in the Persian Gulf incident; amending s. 232.2465, F.S.; authorizing the award of Florida Academic Scholars' certificates to certain students under specified circumstances; requiring such students to satisfy the course requirement by a specified time; amending s. 240.118, F.S.; requiring the State Board of Education to adopt rules which require state universities, public community colleges, and public postsecondary vocational schools to report to the Commissioner of Education with respect to the performance of certain students; requiring the State Board of Education to report to the Legislature with respect to the number of high school graduates referred for remediation through preparatory programs; providing duties of the Commissioner of Education; amending s. 229.575, F.S.; requiring the Commissioner of Education's annual report to contain certain information about high school graduates who enroll in public postsecondary educational institutions and about the high school completion rate in the state; requiring each school district's annual report to include certain information about its graduates' performance and about transfers to adult education programs and preparatory programs; requiring each school's annual report to include information about its graduates' performance and about transfers to adult education programs and preparatory programs; creating an Elderly Education Program; requiring the Department of Education to administer the program of noncredit activities; providing eligibility of grant recipients and participants; requiring the State Board of Education to adopt rules to implement the program; creating s. 229.559, F.S.; requiring each public school district to collect students' social security numbers and begin using social security numbers as standard identification numbers by the 1991-1992 school year; providing exceptions; requiring a progress report; amending s. 228.093, F.S.; providing that a student's social security number included in school records is protected from public scrutiny; amending s. 240.35, F.S.; directing community colleges to quickly disburse financial aid generated from student fees; restricting the carry-forward of unexpended fees; providing requirements for the distribution of specified financial aid funds; amending section 2 of chapter 78-94, Laws of Florida, as amended; revising the membership of the Board of Trustees of the Manatee County Community College District; directing the Auditor General to conduct program and fiscal audits of specified state financial aid programs and make recommendations; creating the Florida Student Financial Aid Task Force; providing task force membership; providing for staff support from the Department of Education; specifying the issues to be addressed by the task force; authorizing per diem and travel expenses for members; requiring the task force to submit reports; amending s. 240.327, F.S.; requiring legislative approval for the construction of community college facilities under certain conditions; amending s. 240.331, F.S.; authorizing community college direct-support organizations to construct dormitories; prohibiting the use of state funds for the construction, maintenance, and operation of such dormitories; providing an effective date.

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

Amendment 2A—In title, on page 7, line 7, after the semicolon (;) insert: amending s. 240.4068, F.S.; providing requirements for additional scholarship loans; providing for selection of recipients;

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

Amendment 2B—In title, on page 7, line 5, strike "State" and insert: Community College Program Fund and Public Education Capital Outlay funds

Senators Stuart and Girardeau offered the following amendment to Amendment 2 which was moved by Senator Stuart and adopted:

Amendment 2C—In title, on page 7, line 7, after the semicolon (;) insert: amending s. 240.137, F.S.; creating a Florida-Soviet Union linkage institute;

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

Amendment 2D—In title, on page 7, line 7, after the semicolon (;) insert: amending s. 240.137, F.S.; creating a Florida - West Africa linkage institute;

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

Amendment 2E—In title, on page 7, line 7, after the semicolon (;) insert: requiring rules promulgated by the High School Activities Association to be reviewed and approved by the State Board of Education

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

Amendment 2F—In title, on page 7, line 7, after the semicolon insert: amending s. 235.195, F.S.; requiring joint-use facilities projects involving a community college and university to appear on both 3-year capital outlay priority lists; deleting provisions relating to specified projects; revising provisions relating to the costs of projects included in the Commissioner of Education's budget request; limiting funding; amending s. 235.196, F.S.; changing the deadline for submission of a request for funds to construct a community educational facility; limiting requests and funding; requiring a description of the facility to be constructed; amending s. 235.011, F.S.; defining the term "satellite facility"; amending s. 235.014, F.S.; revising provisions relating to square footage requirements and use of educational facilities; amending s. 235.15, F.S.; revising provisions relating to the educational plant survey; creating s. 235.198, F.S.; providing for cooperative development and use of satellite facilities by private industry and school boards; providing for a request for funds; providing for prioritization and funding; amending s. 235.211, F.S.; revising provisions relating to design and construction techniques and requirements; amending s. 235.26, F.S.; revising provisions relating to approval of educational facilities plans; amending s. 235.435, F.S.; requiring a school district to levy the maximum millage for capital outlay for a specified period of time; changing a plan approval date; providing for the lease of relocatable educational facilities; amending s. 236.25, F.S.; clarifying provisions relating to the use of millage levied for capital outlay purposes; providing an additional use for millage for capital outlay purposes; amending s. 200.065, F.S.; conforming provisions; providing for review and repeal of s. 235.198, F.S.; exempting school districts from a provision that requires the reduction of moneys provided to them pursuant to the Florida Education Finance Program, under certain circumstances;

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

Amendment 2G—In title, on page 7, line 7, after the semicolon (;) insert: amending s. 229.053, F.S.; providing that anything produced or developed as a result of a contract between the State Board of Education and an independent institution shall become the property of the state; revising provision relating to State Board of Education contract with independent postsecondary institutions; providing for audits

Amendment 2 as amended was adopted.

On motion by Senator Stuart, by two-thirds vote CS for CS for HB 1325 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Mr. President	Brown	Childers, D.	Diaz-Balart
Bankhead	Bruner	Crenshaw	Dudley
Beard	Casas	Deratany	Forman
Gardner	Kirkpatrick	Peterson	Walker
Girardeau	Kiser	Plummer	Weinstein
Grant	Malchon	Souto	Weinstock
Grizzle	McPherson	Stuart	Woodson-Howard
Jennings	Meek	Thomas	
Johnson	Myers	Thurman	

Nays—None

Vote after roll call:

Yea—W. D. Childers, Langley

CS for SB 2566—A bill to be entitled An act relating to insurance; creating the Automobile Insurance Information Pilot Project within the Department of Insurance; providing intent; providing for telephone access to comparative premium cost information; providing for operation in a county selected by the department; providing for management, staffing, and acquisition of resources; providing for a public information program; providing for expiration of the project; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Woodson-Howard moved the following amendment which was adopted:

Amendment 1—On page 3, between lines 2 and 3, insert:

Section 3. Any policy of health insurance that provides coverage for massage prescribed by a physician shall also cover the services of persons licensed to practice massage pursuant to Chapter 480, Florida Statutes.

(Renumber subsequent section.)

Further consideration of **CS for SB 2566** as amended was deferred.

On motion by Senator Deratany, by unanimous consent—

CS for HB 1269—A bill to be entitled An act relating to local government financial matters; creating s. 218.39, F.S.; defining "local governmental agency"; requiring local governmental agencies, prior to approving execution of certain types of lease-purchase agreements, to hold a public hearing; requiring such agencies to adopt resolutions pertaining to the approval of the execution of such agreements; authorizing a referendum by petition on such agreements; providing for retroactive application; providing that certain meetings and records of not-for-profit corporations participating in such agreements are subject to open meetings and public records requirements; providing an exemption from public records requirements for certain records of such corporations; providing for review and repeal; specifying the agreements to which the act applies; providing an effective date.

—was taken up out of order and read the second time by title.

Senator Forman moved the following amendment which failed:

Amendment 1—On page 3, lines 14-31, and on page 4, lines 1-6, strike all of said lines and insert:

(4) If within 3 years after the approval of the execution of a lease-purchase agreement, if 10 percent of the registered electors within the area of jurisdiction of the local governmental agency petition for a referendum, then the question of whether the local governmental agency should continue funding the lease-purchase agreement shall be submitted to a vote of the registered electors of the area of jurisdiction of the local governmental agency. The referendum shall be held at the next regularly scheduled election following verification of the sufficiency of the petition. Upon a negative vote, the local governmental agency shall be prohibited from continuing payments on the lease-purchase agreement after the fiscal year in which the negative vote on the referendum occurred. A referendum on a lease-purchase agreement held pursuant to this subsection must be held only once for each lease-purchase agreement. The provisions for a referendum by petition do not apply if a referendum on the lease-purchase agreement is held prior to the effective date of this act or prior to the approval of the execution of the lease-purchase agreement.

Senator Forman moved the following amendments which were adopted:

Amendment 2—On page 4, line 29, after "order" insert: or involving bonds issued pursuant to the provisions of Article XII, section 9(c), Article VII, section 14, or Article VII, section 11 of the State Constitution

Amendment 3—On page 4, between lines 29 and 30, insert:

Section 2. Any contract for the construction of a facility, other than an educational facility for school purposes, which is entered into pursuant to a lease-purchase agreement by a political subdivision and which requires issuing certificates of participation, lease-revenue bonds, or any other form of indebtedness, must be awarded by competitive bid.

(Renumber subsequent section.)

Senator Forman moved the following amendment which failed:

Amendment 4—On page 3, lines 14-31, and on page 4, lines 1-29, strike all of said lines and insert:

(4) The meetings of any not-for-profit corporation or other entity leasing a facility to a local governmental agency pursuant to a lease-purchase agreement, which meetings pertain to the facility or the lease-purchase agreement, shall be subject to the provisions of s. 286.011. Records of the not-for-profit corporation or other entity that pertain to the facility or the lease-purchase agreement shall be public records, except that any records relating to the ownership of, or security interests in, certificates of participation, bonds, or other evidences of indebtedness are confidential and are exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(5) The provisions of this section shall apply only to lease-purchase agreements pursuant to which the local governmental agency leases real property and with respect to which the principal amount of certificates of participation, bonds, or other evidences of indebtedness is equal to or greater than $10,000,000 for each local governmental agency participating in the agreement. The provisions of this section shall not apply to lease-purchase agreements involving the acquisition or construction of correctional facilities required to be acquired or constructed by a court order.

Senator Langley moved the following amendment which was adopted:

Amendment 5—On page 4, strike line 29 and insert: a period .

Senator Deratany moved the following amendments which were adopted:

Amendment 6—On page 4, between lines 19 and 21, insert:

(6) Any contract for the construction of a facility, other than an educational facility for school purposes, which is entered into pursuant to a lease-purchase agreement by a political subdivision and which requires issuing certificates of participation, lease-revenue bonds, or any other form of indebtedness, must be awarded by competitive bid.

Amendment 7—In title, on page 1, line 19, after the semicolon (;) insert: providing for competitive bid

Senator Forman moved the following amendment which was adopted:

Amendment 8—In title, on page 1, line 20, after the semicolon (;) insert: providing that certain construction contracts requiring the issuing of bonds be awarded by competitive bid;

On motion by Senator Deratany, by two-thirds vote CS for HB 1269 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26

Mr. President	Deratany	Jennings	Souto
Beard	Diaz-Balart	Johnson	Thomas
Brown	Dudley	Kirkpatrick	Thurman
Bruner	Gardner	Langley	Weinstock
Casas	Girardeau	Meek	Woodson-Howard
Childers, D.	Gordon	Myers	
Davis	Grant	Plummer	

Nays—5

Forman	Kiser	Weinstein
Grizzle	Malchon	

MATTERS ON RECONSIDERATION

The motion by Senator Gordon that the Senate reconsider the vote by which CS for SB 2670 passed this day was taken up and the motion failed.

SPECIAL ORDER, continued

On motion by Senator Malchon, by two-thirds vote CS for HB 2987 was withdrawn from the Committee on Judiciary-Criminal.

On motion by Senator Malchon—

CS for HB 2987—A bill to be entitled An act relating to public nuisances; amending s. 893.138, F.S.; including a violation of s. 796.07, F.S., relating to lewdness, assignation, and prostitution in a provision of law permitting local administrative action to abate a public nuisance; providing that orders issued by local administrative boards may be enforced pursuant to certain procedures in the Administrative Procedure Act; providing that such boards may seek temporary and permanent injunctive relief; providing for future review and repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 2424 and read the second time by title.

Senator Malchon moved the following amendments which were adopted:

Amendment 1—On page 2, strike all of lines 9 and 11 and renumber subsequent section.

Amendment 2—In title, on page 1, lines 12 and 13, strike "providing for future review and repeal;"

On motion by Senator Malchon, by two-thirds vote CS for HB 2987 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Weinstein
Casas	Girardeau	Meek	Weinstock
Childers, D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—W. D. Childers

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 3120 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 3120—A bill to be entitled An act relating to Okaloosa County; creating the Fort Walton Beach Area Bridge Authority; authorizing the authority to plan, construct, operate, and maintain a bridge or bridges across the Choctawhatchee Bay or Santa Rosa Sound, or both, together with additions, improvements, connections, extensions, approaches, streets, roads, avenues of access, and transportation facilities appurtenant thereto; providing definitions; providing for membership of the authority and their qualifications and terms of office; providing for filling of vacancies in membership and for removal of members; prohibiting certain transactions as conflicts of interest; providing for officers of the authority; providing for meetings and specifying a quorum for action by the authority; prescribing powers of the authority, including the power of eminent domain; providing for travel expenses of authority members; providing for annual budgets of the authority; providing for notice of meetings of the authority; providing for issuance of revenue bonds and refunding bonds by the authority; providing for the negotiability of such bonds; providing covenants of the state to the bondholders and the Federal Government; providing for eligibility of bonds as legal investments and as security for public deposits; authorizing the authority to enter into a lease-purchase agreement with the Department of Transportation with

respect to the bridge system or a portion thereof, under which agreement the department may covenant to pay for all or part of the operation and maintenance of the system from sources other than revenues derived from the system, under certain circumstances; directing the department to cooperate with the authority; providing for annual audits of the authority; providing an effective date.

House Amendment 1—On page 8, lines 12-21, strike all of said lines and insert:

(16) Borrow money as provided by the State Bond Act;

(17) Employ or contract for technical experts, consultants, or other staff considered necessary and determine their qualifications, duties, and compensation, and appoint any advisory committee considered necessary;

(Renumber subsequent subsections.)

House Amendment 2—On page 11, line 22, through page 14, line 22, strike all of said lines and insert:

Section 8. Bonds of the authority, fiscal agents.—

(1) Bonds may be issued on behalf of the authority as provided by the State Bond Act.

(2) The authority may employ fiscal agents as provided by this act, or the State Board of Administration may, upon request by the authority, act as fiscal agent for the authority in the issuance of any bonds that may be issued pursuant to this act; and the State Board of Administration may, upon request by the authority, take over the management, control, administration, custody, and payment of any or all debt services of funds or assets now or hereafter available for any bonds issued pursuant to this act.

Section 9. Covenants of the state to bondholders and Federal Government.—The State of Florida does pledge to, and agree with, the Federal Government and any person, firm, or corporation, subscribing to or acquiring the bonds to be issued on behalf of the authority for the construction, acquisition,

House Amendment 3—On page 16, line 28, through page 17, line 11, strike all of said lines and insert:

(5) Any lease-purchase agreement between the authority and the Department of Transportation must provide for the expeditious repayment of any costs incurred by the department for projects of the authority. The agreement must 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.

House Amendment 4—On page 17, lines 18-20, strike all of said lines and insert:

Section 13. If by July 1 in any fiscal year the authority has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to s. 11.45, the financial records of the authority must be audited by an independent certified public accountant prior to the end of that fiscal year.

House Amendment 5—On page 1, line 25, through page 2, line 11, strike all of said lines and insert: issuance of bonds pursuant to the State Bond Act; providing covenants of the state to the bondholders and the Federal Government; providing for eligibility of bonds as legal investments and as security for public deposits; authorizing the authority to enter into a lease-purchase agreement with the Department of Transportation with respect to the bridge system or a portion thereof; directing the department to cooperate with the authority; providing an effective date.

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

SB 3120 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

Mr. President	Bruner	Crenshaw	Diaz-Balart
Beard	Casas	Davis	Dudley
Brown	Childers, D.	Deratany	Forman
Gardner	Kirkpatrick	Myers	Thurman
Girardeau	Kiser	Peterson	Weinstein
Grant	Langley	Plummer	Weinstock
Grizzle	Malchon	Souto	Woodson-Howard
Jennings	McPherson	Stuart	
Johnson	Meek	Thomas	

Nays—None

Vote after roll call:

Yea—W. D. Childers

SPECIAL ORDER, continued

CS for SB 362—A bill to be entitled An act relating to property taxes and assessments; amending s. 193.116, F.S.; deleting the requirement that a tax collector include a separate category for the municipality on the millage and tax statement, which statement is dispensed with by this act; amending s. 195.087, F.S.; providing for accounting of money received in complying with ch. 119, F.S.; amending s. 196.011, F.S.; providing for tax liens to be placed on property owned by a person or entity who has illegally or improperly received a tax exemption; increasing the penalty; amending s. 196.161, F.S.; providing for tax liens to be placed on property owned by a person who has illegally or improperly received homestead tax exemption; providing for a penalty; amending s. 197.102, F.S.; revising the definition of the term "tax certificate" for purposes of ch. 197, F.S., relating to tax collections, sales, and liens; amending s. 197.322, F.S.; deleting requirement that a tax notice be accompanied by a separate millage and tax statement when mailed by the tax collector; amending s. 197.432, F.S.; revising provisions relating to the payment of interest with respect to canceled tax certificates; changing the statute of limitation for tax certificates which are void; amending s. 197.443, F.S.; revising provisions relating to the time period for claiming a refund; amending s. 197.462, F.S.; revising provisions relating to the transfer of tax certificates held by individuals; amending s. 200.069, F.S.; updating cross-references; requiring a statement relating to non-ad valorem assessments; repealing s. 197.342, F.S.; relating to the form and content of the millage and tax statement required to accompany the notice of taxes, to eliminate provision for such a statement; providing that certain provisions relating to the interest on, processing of, and refund procedure for tax certificates are retroactive to a specified date; amending s. 192.001, F.S.; providing standards for determining substantial completion of real and tangible personal property; creating s. 192.039, F.S.; providing for assessment and taxation of certain real property on a partial-year roll; creating s. 192.0401, F.S.; providing for assessment and taxation of certain tangible personal property on a partial-year roll; amending s. 192.042, F.S.; providing an assessment day; amending s. 192.091, F.S.; providing for tax collector reimbursement; amending s. 193.052, F.S.; providing for partial-year property returns; amending s. 193.062, F.S.; providing a date for filing of certain returns; amending s. 193.114, F.S.; providing for preparation of partial-year assessment rolls; amending s. 195.027, F.S.; requiring adoption of rules with respect to partial-year returns; amending s. 196.011, F.S.; requiring certain information on applications for exemption; amending s. 197.3635, F.S.; requiring certain information to be included on tax notice; creating s. 200.0701, F.S.; requiring notice of partial-year assessment; requiring inclusion of partial-year 1990 property or 1991 rolls; providing a severability clause; providing effective dates.

—was read the second time by title.

Senator Forman moved the following amendments which were adopted:

Amendment 1—On page 3, line 14, after "Section 1." insert: Effective July 1, 1990,

Amendment 2—On page 9, line 26, after "Section 6." insert: Effective July 1, 1990,

Amendment 3—On page 13, line 5, after "Section 11." insert: Effective July 1, 1990,

Amendment 4—On page 27, strike lines 5-8 and insert:

Section 15. Except as otherwise provided herein, this act shall take effect January 1, 1991.

Amendment 5—On page 10, between lines 13 and 14, insert:

Section 7. Section 197.3631, Florida Statutes, is amended 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. *Section 197.3632 is additional authority for local governments to impose and collect non-ad valorem assessments supplemental to the home rule powers pursuant to ss. 125.01 and 166.021 and chapter 170, or any other law.* 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 8. Effective July 1, 1990, subsection (1) of section 197.3632, Florida Statutes, is amended, subsection (9) is renumbered as subsection (10), and a new subsection (9) is added to said section, 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.

(g) "Capital project assessment" means a non-ad valorem assessment levied to fund a capital project, which assessment may be payable in annual payments with interest, over a period of years.

(9)(a) A local government may elect to use the uniform method of collecting non-ad valorem assessments as authorized by this section for any capital project assessment levied pursuant to general or special law or municipal or county ordinance, whether or not such assessment was initially imposed prior to January 1, 1990, or has previously been collected by another method. Capital project assessments may be levied and collected prior to completion of the capital project.

(b)1. Except as provided in this subsection, the local government shall comply with all of the requirements set forth in subsections (1) through (8).

2. The requirements set forth in subsection (4) shall be deemed satisfied if:

a. The local government adopts or reaffirms the non-ad valorem assessment roll at a public hearing held at any time prior to certification of the non-ad valorem assessment roll pursuant to subsection (5) for the first year in which the capital project assessment is to be collected in the manner authorized by this section; and

b. The local government provides notice of the public hearing in the manner provided in paragraph (4)(b).

3. The local government shall not be required to allow prepayment as set forth in paragraph (8)(b); however, if prepayment is allowed, the errors and insolvency procedures available for use in the collection of ad valorem taxes pursuant to s. 197.492 shall be followed.

(c) Any hearing or notice required by this section may be combined with any other hearing or notice required by this section or by the general or special law or municipal or county ordinance pursuant to which a capital project assessment is levied.

(Renumber subsequent sections.)

Amendment 6—On page 13, line 11, through page 27, line 8, strike all of said lines and insert:

Section 13. This act shall take effect October 1, 1990, except that this section and section 12 shall take effect upon becoming a law.

Senator Thurman moved the following amendments which were adopted:

Amendment 7—On page 27, between lines 4 and 5, insert:

Section 27. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent section.)

Amendment 8—On page 27, strike all of lines 5-8 and insert:

Section 27. Section 55.146, Florida Statutes, is created to read:

55.146 Certain property exempt.—All property in this state of a judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan is exempt from forced sale under process of any court, and no such judgment or execution based thereon shall be a lien on such property.

Section 28. This act shall take effect October 1, 1990, except that this section, section 12, and section 27 shall take effect upon becoming a law and sections 13 through 26 shall take effect January 1, 1991.

Amendment 9—In title, on page 3, line 9, after the semicolon (;) insert: creating s. 55.146, F.S.; exempting from execution all property in this state of a judgment debtor where the judgment is in favor of any other state for failure to pay that state's income tax on benefits received from a pension or other retirement plan;

Senator Forman moved the following amendments which were adopted:

Amendment 10—In title, on page 2, line 14, through page 3, line 9, strike all of said lines and insert: date; providing

Amendment 11—In title, on page 2, line 6, after the semicolon (;) insert: amending s. 197.3631, F.S.; clarifying authority for local governments to impose and collect non-ad valorem assessments; amending s. 197.3632, F.S.; defining "capital project assessment"; authorizing use of the uniform method of collection of non-ad valorem assessments for capital project assessments and providing requirements with respect thereto;

Amendment 12—On page 7, between lines 12 and 13, insert:

Section 4. Subsection (6) of section 196.012, Florida Statutes, is amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. The term "governmental purpose" includes a direct use of property on federal lands in connection with

the Federal Government's Space Exploration Program. Real property and tangible personal property owned by the Federal Government and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. *The term "governmental, municipal, or public purpose" includes the operation or use of convention centers, arenas, exhibition halls, and stadiums and the land on which such facilities are constructed, and the tangible personal property therein, which are owned by any political subdivision of the state, or any municipality, agency, authority, or other public body corporate of the municipality and for which at least two-thirds of the funds used to construct the convention center, arena, exhibition hall, or stadium or an expansion of such facility are received either from convention development taxes pursuant to s. 212.0305(4)(b) or tourist development taxes pursuant to s. 125.0104(3)(l), or both or from the proceeds of bonds which have convention development taxes pursuant to s. 212.0305(4)(b) or tourist development taxes pursuant to s. 125.0104(3)(l), or both pledged as collateral. If any facility or any expansion so constructed or the land on which the facility or expansion are constructed or any part thereof or any personal property therein, is operated by or occupied by any private commercial corporation, association, partnership, or person pursuant to contract or lease with the governmental body that owns the facility, such contract or leasehold interest shall be deemed to serve a "governmental, municipal or public purpose" and shall be exempt.*

(Renumber subsequent sections.)

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

Yeas—36

Mr. President	Davis	Jennings	Plummer
Bankhead	Deratany	Johnson	Souto
Beard	Diaz-Balart	Kirkpatrick	Stuart
Brown	Dudley	Kiser	Thomas
Bruner	Forman	Langley	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	Meek	Weinstein
Childers, W. D.	Grant	Myers	Weinstock
Crenshaw	Grizzle	Peterson	Woodson-Howard

Nays—None

On motions by Senator Thurman, by two-thirds vote HB 2543 was withdrawn from the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Thurman—

HB 2543—A bill to be entitled An act relating to animal industry; reorganizing chapter 585, F.S.; creating s. 585.001, F.S.; providing definitions; amending and renumbering s. 585.011, F.S.; authorizing rulemaking by the Department of Agriculture and Consumer Services; providing for fees; renumbering s. 585.35, F.S.; amending and renumbering s. 585.36, F.S., relating to enforcement and duties of state attorneys; amending and renumbering s. 585.37, F.S., relating to enforcement by courts; amending and renumbering s. 585.39, F.S., relating to interference with department employees; amending and renumbering s. 585.41, F.S., relating to penalties; increasing a fine; amending s. 585.01, F.S.; providing definitions; amending s. 585.08, F.S., relating to protection against communicable disease; amending s. 585.09, F.S., relating to condemnation; amending s. 585.10, F.S., relating to payment for condemned animals; amending and renumbering s. 585.44, F.S., relating to approved brucella vaccine; amending s. 585.11, F.S., relating to cooperation with United States authorities; amending s. 585.14, F.S., and creating s. 585.145, F.S., relating to control of animal diseases; requiring health tests and certificates for movement or transfer of animals; amending s. 585.15, F.S.; providing for reportable diseases; amending s. 585.155, F.S., relating to whole-herd and calf vaccination; amending s. 585.16, F.S., relating to powers of the Division of Animal Industry with respect to transmissible diseases; amending s. 585.17, F.S., relating to care of and liability for animals with transmissible diseases; amending s. 585.18, F.S., relating to duty to report diseased animals; amending s. 585.19, F.S., relating duty of veterinarian or owner to report certain diseases; providing a penalty; amending s. 585.195, F.S.; correcting a reference; amending s. 585.20, F.S., relating to injection of pathogenic organisms into animals; amending s. 585.21, F.S., relating to manufacture and sale of biological products; amending s. 585.22, F.S., relating to public notice of general quarantines; amending s. 585.23, F.S., relating to compliance by owners of quarantined animals and premises; amending s. 585.24, F.S., relating to cattle fever tick eradication; amending s. 585.30, F.S., relating to procedure where owner refuses to dip an animal; amending s. 585.38, F.S., relating to destruction of property used in eradication of diseases; amending s. 585.40, F.S., relating to violation of quarantine; amending s. 585.432, F.S., relating to screwworm control and eradication; amending s. 585.45, F.S., relating to right to declaratory judgment; amending ss. 585.48, 585.50, 585.51, 585.52, 585.53, and 585.59, F.S., relating to feeding garbage to animals; amending ss. 585.61, 585.621, 585.64, and 585.65, F.S., relating to animal disease diagnostic laboratories; amending s. 585.671, F.S., relating to control and eradication of equine infectious anemia and equine piroplasmosis; creating s. 585.70, F.S.; providing definitions; creating s. 585.71, F.S.; providing legislative intent relating to the regulation of animal products; creating s. 585.72, F.S.; providing for adulteration; creating s. 585.73, F.S.; providing for misbranding; creating s. 585.74, F.S.; requiring a Grant of Inspection to prepare, transport, or sell animal products; creating s. 585.75, F.S.; requiring certain inspections; creating s. 585.76, F.S.; providing for antemortem inspections; providing for certain notice; creating s. 585.77, F.S.; providing for postmortem inspections; creating s. 585.78, F.S.; providing for inspection of prepared animal products; creating s. 585.79, F.S.; providing for labeling of animal products; creating s. 585.80, F.S.; providing prohibitions on the sale and transportation of animal products; providing a penalty; creating s. 585.81, F.S.; providing for unauthorized use or counterfeiting of official marks or labels; creating s. 585.82, F.S.; providing for sale and transportation of equine products; creating s. 585.83, F.S.; providing for the duty of department to provide inspectors; providing for overtime; prohibiting gifts to department employees; creating s. 585.84, F.S.; providing for suspension of inspection; creating s. 585.85, F.S.; prohibiting transportation of certain animals and animal products; providing a penalty; creating s. 585.86, F.S.; providing for proper storage of animal products; creating s. 585.87, F.S.; providing recordkeeping requirements; creating s. 585.88, F.S.; providing exemptions; renumbering s. 585.3401, F.S.; creating s. 585.90, F.S.; providing for investigations, stop sale orders, condemnation, and destruction of animal products; amending and renumbering s. 585.343, F.S., relating to custom slaughterers and processors; renumbering s. 585.3403, F.S.; amending s. 468.382, F.S.; correcting a reference; repealing ss. 585.25, 585.26, and 585.28, F.S., relating to cattle fever tick eradication; repealing s. 585.34, F.S., relating to meat inspection; repealing s. 585.341, F.S., relating to poultry inspection; repealing s. 585.47, F.S., relating to required reporting of animal diseases; repealing ss. 585.49 and 585.60, F.S., relating to definitions; repealing s. 585.61, F.S., relating to animal disease diagnostic laboratories; repealing s. 585.661, F.S., relating to appropriations; providing an effective date.

—a companion measure, was substituted for CS for SB 2744 and read the second time by title.

Senator Thurman moved the following amendment:

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

Section 1. Part I of chapter 585, Florida Statutes, entitled "General Provisions," consists of sections 585.001, 585.002, 585.003, 585.004, 585.005, 585.006, and 585.007, Florida Statutes.

Section 2. Section 585.001, Florida Statutes, is created to read:

585.001 Definitions.—In construing this chapter, where the context permits, the word, phrase, or term:

(1) "Department" means the Department of Agriculture and Consumer Services.

(2) "Division" means the Division of Animal Industry of the Department of Agriculture and Consumer Services.

Section 3. Section 585.011, Florida Statutes, is renumbered as section 585.002, Florida Statutes, and amended to read:

585.002 ~~585.011~~ Department control; continuance of powers, duties, rules, orders, etc.—

(1) This chapter shall be enforced by and under the control of the department as provided in chapter 570.

(2) The department, through the Division of Animal Industry, shall have and exercise all the powers, jurisdiction, duties, and authority *previously* ~~now~~ exercised by, or required of, the Florida Livestock Board, and

the provisions of this chapter shall be applicable to the division within the department.

(3) The department shall promulgate rules to carry out the provisions of this chapter.

(4) The department shall by rule establish a fee schedule to cover all administrative costs associated with carrying out the provisions of this chapter. Unless otherwise designated, these fees shall be deposited in the department's General Inspection Trust Fund.

Section 4. Section 585.35, Florida Statutes, is renumbered as section 585.003, Florida Statutes.

Section 5. Section 585.36, Florida Statutes, is renumbered as section 585.004, Florida Statutes, and amended to read:

585.004 ~~585.36~~ Department charged with enforcement of law; duties of state attorneys.—The department shall see that the provisions of this chapter are carried out. *The department,* ~~, and~~ may require the state attorney in any circuit or county to institute suits, civil or criminal, for the purpose of enforcing or carrying out the terms of this chapter and the rules of the department, *or* ~~and~~ preventing violations thereof. ~~, and~~ Any person or officer charged with any duty under this chapter may be compelled to perform the same by mandamus, injunction or other extraordinary remedy upon the application and in the name of the department. Injunction shall issue without bond.

Section 6. Section 585.37, Florida Statutes, is renumbered as section 585.005, Florida Statutes, and amended to read:

585.005 ~~585.37~~ Courts have power to enforce provisions by mandamus or injunction.—The circuit courts of this state shall have the power to enforce any of the provisions of this chapter, and any rule ~~or regulation~~ of the department ~~pursuant thereto~~ by mandamus, or temporary or permanent injunction, ~~either~~ or both, upon the application of the director, against any person who shall violate any provision of this chapter or any such rule ~~or regulation~~.

Section 7. Section 585.39, Florida Statutes, is renumbered as section 585.006, Florida Statutes, and amended to read:

585.006 ~~585.39~~ Interference with department employees.—Any person who forcibly assaults, resists, opposes, prevents, impedes, or interferes with *a* ~~the~~ duly authorized inspector or *representative* ~~representatives~~ of the department in the execution of *his* ~~their~~ duties *under this chapter,* shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 8. Section 585.41, Florida Statutes, is renumbered as section 585.007, Florida Statutes, and amended to read:

585.007 ~~585.41~~ Violation of rules; violation of chapter.—

(1) Any person who violates *the provisions of this chapter* or ~~fails to keep and perform~~ any rule of the department shall be subject to the imposition of an administrative fine of up to *$10,000 for each offense* ~~$500~~. Upon repeated violation, the department may seek enforcement pursuant to s. 120.69.

(2) Unless otherwise provided, any person violating the provisions of this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Part II of chapter 585, Florida Statutes, entitled "Animal Disease Inspection, Control, and Eradication," consists of sections 585.01, 585.08, 585.09, 585.10, 585.105, 585.11, 585.14, 585.145, 585.15, 585.155, 585.16, 585.17, 585.18, 585.19, 585.195, 585.20, 585.21, 585.22, 585.23, 585.24, 585.30, 585.38, 585.40, 585.432, 585.45, 585.48, 585.50, 585.51, 585.52, 585.53, 585.59, 585.61, and 585.671, Florida Statutes.

Section 10. Section 585.01, Florida Statutes, is amended to read:

585.01 Definitions.—In construing this *part* ~~chapter~~, where the context permits, the word, phrase, or term:

(1) "Approved brucella vaccine" means a Brucella abortus Strain 19 immunization product approved and licensed by the United States Department of Agriculture for injection into cattle and bison to enhance their resistance to brucellosis infection.

(2) "Beef cattle" means animals of the genus Bos of various breeds which are raised primarily for the production of meat.

(3) "Biological product" is a complex substance, preparation, or agent, derived from living organisms or animals, depending for its action on the processes effecting immunity, which is used as a vaccine or in the diagnosis and treatment of a disease. This term includes synthesized products of similar intended usage.

(4) "Carcass" means any animal which dies other than by slaughter, or any part of such animal.

(5) ~~(2)~~ "Cattle" shall include any bull, steer, ox, cow, heifer, calf, or any other animal subject to infestation by cattle fever ticks *(Boophilus annulatus, or other species).*

(6) ~~(8)~~ "Dairy cattle" means animals of the genus Bos *of various breeds which are raised primarily for the* ~~raised for the commercial~~ production of milk or milk products ~~for human consumption~~.

~~(4) "Department" means the Department of Agriculture and Consumer Services of the state.~~

(7) ~~(5)~~ "Director" means the director of the Division of Animal Industry *of the Department of Agriculture and Consumer Services. The director is also known as the State Veterinarian, the Chief Animal Health Official of the state, and the Chief Livestock Regulatory Official of the state.* ~~who may be known as the state veterinarian.~~

~~(6) "Division" means the Division of Animal Industry of the Department of Agriculture and Consumer Services.~~

(8) ~~(1)~~ "Domestic animal" shall include any equine or bovine animal, goat, sheep, swine, *domestic cat,* dog, poultry, or other domesticated beast or bird. *The term "animal," as used in this chapter, shall include wild or game animals whenever necessary to effectively control or eradicate dangerous transmissible diseases or pests which threaten the agricultural interests of the state.*

(9) "Emergency" means any situation in which the department has declared a pest or a communicable, contagious, or infectious disease of animals to be a public nuisance or any situation in which, in the opinion of the department, a pest or disease endangers or threatens the animals or citizens of the state.

(10) "Garbage" means all refuse matter, animal or vegetable, byproducts of a restaurant, kitchen, or slaughterhouse; and shall include every accumulation of animal, fruit, or vegetable matter, liquid, or otherwise. "Garbage" shall also include "swill" as commonly used; provided, however, "garbage" shall not include fruit or vegetable matter which does not contain or has not been in contact or mixed with raw meats.

(11) "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, and other hoofed animals which are raised for private use or commercial purposes.

(12) ~~(3)~~ "Owner" shall include any owner, custodian, or other person in charge of *any animal, domestic or otherwise* ~~cattle~~.

(13) "Pathogenic organisms" means microorganisms, such as bacteria, viruses, rickettsia, etc., capable of causing diseases in animals or man. "Virulent organisms" are pathogenic organisms that are extremely dangerous and are characterized by being highly contagious.

(14) "Quarantine" means a strict isolation imposed on animals, or premises or other defined geographic areas, to prevent the spread of disease or pests.

(15) ~~(7)~~ "Technical council" means the Animal Industry Technical Council.

(16) "Transmissible," "communicable," "contagious," and "infectious" all refer to diseases which are readily transferred between or among animals in a group or to susceptible animals in proximity to diseased animals. Such transference may be directly from one animal to another, by contact with objects contaminated by disease-causing agents, or by insect (vector) transmission of disease-causing agents from diseased animals into susceptible animals or man.

Section 11. Section 585.08, Florida Statutes, is amended to read:

585.08 General powers of the department; rules.—The Division of Animal Industry is authorized to:

(1) Establish, maintain, and enforce quarantine areas within the state, or the entire state. *The department may*~~, and~~ restrict, regulate, or prohibit the movement or transportation of ~~domestic animals and all other~~ animals ~~or cattle~~ found, determined, or suspected by *it* ~~the department~~ to be carriers of any contagious, infectious, or communicable disease, *or cattle fever tick (Boophilus annulatus, or other species), into, from, and within such quarantine areas, when necessary for the prevention, control, or eradication of any contagious, infectious, or communicable disease, or for cattle fever tick eradication among domestic or wild animals, or for carrying out any of the other purposes of this chapter* ~~or cattle fever ticks, into, from and within such areas, when necessary for tick eradication, or for the carrying out of any of the purposes of this chapter, and for the prevention or the control of the spread or dissemination of cattle fever ticks or any contagious, infectious, or communicable disease among domestic animals and cattle~~.

~~(2) Prescribe quarantine areas, their locations and boundaries, for the purpose of eradicating the cattle fever tick (Margaropus annulatus) and controlling and preventing the propagation and spread of the same, and to restrict, regulate, and prohibit the movement or transportation of domestic animals or cattle into, within, or out of such quarantine areas, when deemed necessary for the prevention or the control of the spread or dissemination of the cattle fever tick (Margaropus annulatus).~~

(2)~~(3)~~ Make, promulgate, amend, repeal, and enforce rules:

~~(a) For the carrying out of the provisions, purposes, and requirements of this chapter;~~

(a)~~(b)~~ Governing the introduction of ~~domestic~~ animals into or within the state, which rules, when deemed necessary by the department, may require that all ~~domestic~~ animals moved into the state be covered by an official certificate of veterinary inspection and requisite test chart approved by the *chief* livestock *regulatory official* ~~sanitary officer~~ of the state or county of origin; and

(b)~~(c)~~ Governing the disposal or destruction of carcasses of ~~domestic and other~~ animals~~,~~ which are condemned or die from or while afflicted with any contagious, infectious, or communicable disease, in such manner as to prevent the spread or continuance of *the* ~~such~~ contagion or infection.

(3)~~(4)~~ Condemn and destroy any *animal* ~~domestic animals or herds of same, or other animals~~ affected with any contagious, infectious, or communicable disease, or which *has* ~~have~~ been exposed to~~,~~ and *is* ~~are~~ liable to spread~~,~~ any contagious, infectious, or communicable disease.

(4)~~(5)~~ Condemn and destroy any barn, yard, shed, corral, or pen which, in the opinion of the department, is liable to convey ~~the said~~ infection or contagion.

Section 12. Section 585.09, Florida Statutes, is amended to read:

585.09 Procedure for condemnation of ~~domestic~~ animals and property by department.—Condemnation and destruction of ~~domestic~~ animals, barns, yards, sheds, corrals, and pens, as provided in s. 585.08, shall take place only after a fair appraisal of the value of the property. *The*~~, which~~ value shall be determined by the department and the owner; provided, however, should the department and the owner be unable to agree on *a* ~~such~~ value, the value shall then be determined by three disinterested appraisers, one to be appointed by the department, one by the owner of the property, and the third to be selected by these two. The appraised price, subject to the provisions of s. 585.10, shall be paid by the department as other expenses are paid. If the *owner* ~~owners or person in charge~~ of such ~~domestic~~ animal, barn, yard, shed, corral, or pen fails or refuses to name *an* ~~his or her~~ appraiser within 5 days after requested by the department to do so, or refuses to permit the *property* ~~same~~ to be condemned and destroyed, the department may make an order to the sheriff of the county wherein the property lies, directing him to destroy such ~~domestic~~ animal, barn, yard, shed, corral, or pen, in the manner to be prescribed *in the* ~~by such~~ order. *The*~~, which~~ order shall be *immediately* executed by *the* ~~said~~ sheriff ~~forthwith~~. Upon the destruction of the ~~said~~ property by the ~~said~~ sheriff, the department shall have the right to recover, from the owner of the property destroyed, all costs and expenses incurred by it in connection *with the destruction* ~~therewith~~.

Section 13. Section 585.10, Florida Statutes, is amended to read:

585.10 Condemned and destroyed animals; limitation on payment to owner.—The department may indemnify and reimburse the owners of all animals condemned and destroyed by order of the department in cases in which such animals have reacted to the tuberculin test or *any test approved by the United States Department of Agriculture* ~~the agglutination blood test~~ for brucellosis (Bang's disease), or in which such animals have been exposed to, and are liable to spread, tuberculosis *or* ~~and~~ brucellosis. However, when cattle are involved, such indemnity or reimbursement shall not exceed the sum of $50 for grade cattle, $100 for registered purebred cattle, and $100 for dairy cattle, except in the case of complete cattle herd liquidation, in which event such indemnity or reimbursement shall not exceed the sum of $100 for any one animal.

Section 14. Section 585.44, Florida Statutes, is renumbered as section 585.105, Florida Statutes, and amended to read:

585.105 ~~585.44~~ Purchase, distribution, and administration of *approved brucella* ~~brucellosis (Bang's disease)~~ vaccine.—

(1) The department is hereby authorized and required to purchase *approved brucella vaccine, to enhance the resistance of cattle and bison to brucellosis (Bang's disease) infection,* ~~brucellosis (Bang's disease) vaccine~~ in such units as deemed advisable at the lowest and best bid or bids, from one or more reliable manufacturers producing a high quality product.

(2) The department shall distribute through employees of the division, licensed veterinarians, and recognized and approved agents of the state and federal governments, *an approved brucella* ~~brucellosis (Bang's disease)~~ vaccine without cost ~~thereof~~ to any owner of cattle in Florida making application therefor upon blanks to be furnished by the department and approved by the administrator of *the* ~~said~~ vaccine.

(3) Whenever *the* ~~said~~ vaccine is distributed as provided in subsection (2), the administrator ~~thereof~~ shall identify each and every animal to which *the* ~~said~~ vaccine is ~~so~~ administered by means of a permanent identification. The department shall designate one or more proper means of identification to be used for this purpose. It shall be unlawful for any person to administer *the* ~~said~~ vaccine to any animal bearing such identification or to any animal known to *the* ~~said~~ administrator to have been so identified.

Section 15. Section 585.11, Florida Statutes, is amended to read:

585.11 Cooperation with United States authorities.—The department may cooperate with:

(1) The authorities of the United States in the enforcement of all acts of Congress for the control, prevention, suppression, and *eradication* ~~extirpation~~ of contagious, infectious, and communicable diseases affecting ~~domestic~~ animals, *or animal diseases which may affect humans,* ~~or cattle~~ and in connection therewith may:

(a) Appoint inspectors of the United States Department of Agriculture as temporary assistant state veterinarians or livestock inspectors; provided, they shall first consent to act without compensation or profit from the state;

(b) Accept aid or assistance from the United States in conducting ~~the~~ work *related to the control or eradication* of tuberculosis, brucellosis, *pseudorabies,* ~~and~~ hog cholera, *and any other such dangerous disease* ~~eradication or control~~, or from any of its officers, representatives, or agents, in carrying out such work.

(2) The officials of the United States Department of Agriculture in *the control or eradication of* tuberculosis, brucellosis, *pseudorabies,* and hog cholera ~~eradication or control work~~ and *with* the owners of ~~domestic~~ animals ~~or cattle~~, who accept indemnity for animals found to be diseased and slaughtered in accordance with the special Acts of Congress now in effect and appropriating funds for this purpose, or that may hereafter be available from such source.

(3) The United States Department of Agriculture in carrying out the provisions of the National Poultry Improvement Plan and the National Turkey Improvement Plan in Florida, and in connection therewith, may promulgate rules ~~and regulations~~ necessary to carry out the provisions of the National Poultry Improvement Plan and the National Turkey Improvement Plan in Florida.

Section 16. Section 585.14, Florida Statutes, is amended, and section 585.145, Florida Statutes, is created, to read:

585.14 Information concerning *animal,* ~~and control of, livestock~~ diseases.—The department shall collect, preserve, and disseminate information concerning infectious, contagious, communicable, and other diseases of ~~domestic~~ animals, their origin, locality, nature, appearance, manner of dissemination or contagion, and method of treatment required for the successful eradication and control thereof.

(1) ~~The division shall take such measures through the director as may be necessary and proper for the control, suppression, eradication, and prevention of the spread thereof and to protect domestic animals in the state therefrom. The department shall also quarantine such domestic animals as it shall find, or have reason to believe, to be infected with or exposed to any such disease.~~

585.145 Control of animal diseases.—

(1) The division shall take such measures as may be necessary and proper for the control, suppression, eradication, and prevention of the spread of contagious, infections, and communicable disease and to protect animals in the state. The department shall also quarantine such animals as it shall find, or have reason to believe, to be infected with or exposed to any such disease.

(2) No animal shall be imported into the state, moved within the state, or the ownership thereof transferred within the state without the owner, broker, or transfer or first obtaining such health tests and certificates as shall be required by rules adopted by the department. Evidence of compliance with this subsection shall accompany the owner or agent having jurisdiction of such animals imported, moved intrastate, or to which ownership is being transferred. However, unless an emergency is declared, the department may not require Florida residents to carry evidence of compliance in intrastate travel for privately owned domestic canines or domestic felines which are not offered for sale. The department may provide by rule specific exceptions to this subsection upon finding that certain importations, intrastate movements, or transfers pose no threat to affected industries in Florida.

Section 17. Section 585.15, Florida Statutes, is amended to read:

585.15 Dangerous transmissible disease or pest a public nuisance.—*The department may declare by rule that a certain pest or disease of animals is a public nuisance. When a pest or disease is thus determined to be dangerous, transmissible, or threatening to an agricultural interest of the state, it shall be known as a "reportable disease." Each reportable disease shall be included by rule on the division's dangerous transmissible disease list.* ~~The department may declare by rule that a certain pest or disease of domestic animals is a public nuisance when the department determines such pest or disease is dangerous, transmissible, or threatening to an agricultural interest of the state.~~ When necessary because of the possible impact of an animal disease on public health, the department may consult with the Department of Health and Rehabilitative Services regarding an animal disease that is transmissible to humans.

Section 18. Section 585.155, Florida Statutes, is amended to read:

585.155 Whole-herd and calf vaccination.—

(1) All female calves to be used for dairy breeding purposes born in Florida after July 1, 1977, shall be vaccinated with *an approved Brucella abortus vaccine by state or federal regulatory officials or licensed, accredited veterinarians. Heifer calves shall be vaccinated in accordance with the age requirements as defined in the Uniform Methods and Rules for Brucellosis Control and Eradication and the Code of Federal Regulations.* ~~brucella abortus vaccine under the supervision of an approved veterinarian. The age at which such calves shall be officially vaccinated shall be 2 to 6 months. Vaccination should be performed as soon as possible after 2 months of age to reduce the problem of residual titers.~~

(a) All calves so vaccinated shall be permanently identified at the time of vaccination with the official shield tattoo "V," patented by the United States Department of Agriculture, in the right ear, preceded by the numeral of the quarter of the year and followed by the last numeral of the year.

(b) Duplicate reports covering such vaccination shall be immediately furnished to the department and shall constitute the official record of vaccination.

(2) In addition to the identification of vaccinated calves as outlined in subsection (1), each calf receiving Brucella abortus vaccine shall be individually identified at the time of vaccination, if not already identified by tattoo or brand, by a tattoo in the right ear, or by brand letters or numbers, and by an official vaccination ear tag. Such identification shall include the designated state prefix, followed by the letter "V," and a number to individually identify the vaccinated animal. Such identification shall be accurately recorded on the official vaccination report. Registration tattoos or individual brand numbers may be substituted for the official ear tags.

(3) Upon approval and funding by the United States Department of Agriculture of a program of whole-herd vaccination for brucellosis, each owner of a cattle herd in this state shall enroll such herd in a program of whole-herd brucellosis vaccination. Dairy cattle herds owned by a person operating a dairy farm ~~as defined in s. 502.012~~ shall be exempt from the provisions of this subsection. Those cattle herds that are in the process of being certified ~~and qualified~~ or which are certified ~~and qualified~~ as of October 1, 1979, may also be exempted from the provisions of this subsection. In granting ~~such~~ exemptions to a certified ~~or qualified~~ cattle herd or a cattle herd that is in the process of being certified ~~or qualified~~, the department ~~of Agriculture and Consumer Services~~ shall give consideration to the establishment of areas of low brucellosis incidence which can be recognized by the United States Department of Agriculture as having Class "A" or Class "B" status under the Uniform Methods and Rules for Brucellosis Control and Eradication. The department ~~of Agriculture and Consumer Services~~ may make all necessary rules to carry out the provisions of this subsection.

(4) Only an approved vaccine produced under license of the United States Department of Agriculture shall qualify for vaccination purposes under this section.

~~(5) Any person who violates any provision of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

Section 19. Section 585.16, Florida Statutes, is amended to read:

585.16 Powers of division in connection with certain diseases.—Whenever *the department determines, pursuant to 585.15, that a pest or disease is dangerous and transmissible, or whenever the department determines it necessary or advisable to dip, examine, test, identify, treat, or destroy an animal or other property defined in s. 585.08(4), the division or its representatives and agents may* ~~any of the diseases enumerated in s. 585.15 or any disease now or hereafter proclaimed by the department to be of a dangerous or transmissible nature, shall exist anywhere within the state, or whenever it is deemed necessary or advisable to dip, examine, test, identify, treat, or destroy, the division may, or through its representatives and agents,~~ dip, examine, test, identify, treat, or destroy, any infected, exposed, suspected, or susceptible animal and any goods, products, or materials that may carry contagion, or may quarantine on or in, for or against any premises, areas, or localities within the state~~; provided that provisions of this chapter shall not apply to game animals~~.

Section 20. Section 585.17, Florida Statutes, is amended to read:

585.17 Care of ~~domestic~~ animals ~~or cattle~~ with transmissible diseases and liability therefor.—~~Any person, firm or corporation who knowingly sells or offers for sale or knowingly or willfully transports or moves, or knowingly or willfully allows or permits any domestic animal or cattle to stray or drift within the state, knowing such animal or cattle to be suffering from, afflicted with or affected with any of the diseases enumerated in s. 585.15, or who knowingly or willfully transports or moves or knowingly or willfully allows or permits any domestic animal or cattle to stray or drift from any quarantine area, or who knowingly or willfully sprays or dips any domestic animal or cattle in an effort to destroy any evidence of the cattle fever tick infestation upon said domestic animals or cattle, without first obtaining permission of the division, shall be liable in damages, in addition to the penal provisions of this chapter, to the department for the expense incurred by said department by reason thereof, or to any owner of domestic animals or cattle who might be injured thereby; provided, however, that the division may issue written permission for the movement or transportation of such animals or cattle.~~

(1) No person shall knowingly sell or offer for sale, or knowingly or willfully transport or move, or knowingly or willfully allow or permit any animal to stray or drift within the state, knowing that animal to be suffering from, afflicted with, or affected by any pest or disease that the department determines, pursuant to s. 585.15, is dangerous, transmissible, or threatening to an agricultural interest of the state, without first obtaining written permission from the division.

(2) No person shall knowingly or willfully transport or move, or knowingly or willfully allow or permit any domestic animal to stray or drift from any quarantine area, without first obtaining written permission from the division.

(3) No person shall knowingly or willfully spray or dip any animal in an effort to destroy any evidence of cattle fever tick infestation without first obtaining written permission from the division.

(4) In addition to the penalty provisions provided in this chapter, any person who violates this section shall be liable to the department for all expenses associated with its enforcement and to any owner of an animal who is injured by such violation.

Section 21. Section 585.18, Florida Statutes, is amended to read:

585.18 *Duty to report* diseased animals.—

(1) Any ~~No~~ person who has knowledge of the existence *in or among animals* of any contagious, infectious, or communicable disease *which is included on the division's dangerous transmissible disease list shall, immediately upon gaining such knowledge, report the same to the State Veterinarian* ~~in or among domestic animals~~.

(2) No person who has ~~or livestock, or who shall have~~ knowledge that any ~~such~~ animal ~~or livestock~~ is afflicted with or suffering from any such disease~~,~~ shall conceal or attempt to conceal such ~~diseased~~ animal, ~~or livestock~~ or knowledge that such ~~diseased~~ animal ~~or livestock~~ is afflicted with or suffering from any such disease, from the division *or*~~,~~ its agents and employees, or shall remove or attempt to remove such animal ~~or livestock~~ from the reach, care, or control of the division *or*~~,~~ its agents and employees.

Section 22. Section 585.19, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 585.19, F.S., for present text.)

585.19 Duty of practitioners of veterinary medicine and owners of animals to report dangerous transmissible diseases or pests; penalty.

(1) Any practitioner of veterinary medicine who knows or suspects that an animal is afflicted with or suffering from a disease or pest designated on the division's dangerous transmissible disease list shall immediately report the same to the State Veterinarian in the manner which the department shall prescribe.

(2) Any owner who knows or suspects that his animal is afflicted with or suffering from a disease or pest designated on the division's dangerous transmissible disease list shall immediately report the same to the State Veterinarian in the manner which the department shall prescribe.

(3) All reports related to a disease or pest designated on the division's dangerous transmissible disease list shall be made in the manner which the department shall by rule prescribe.

(4) Any veterinarian or owner of an animal who is convicted of willfully failing to report an animal as required in subsection (1) or subsection (2) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. Subsection (7) of section 585.195, Florida Statutes, is amended to read:

585.195 Dogs and cats transported or offered for sale; health requirements.—

(7) Any person who violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083~~, or s. 775.084~~.

Section 24. Section 585.20, Florida Statutes, is amended to read:

585.20 Injection of *pathogenic organisms* ~~germs~~ into animals.—No person *shall* ~~may~~ inject or otherwise administer to any ~~domestic~~ animal that is *food* producing or that is to be used as food for man~~,~~ any virus or other substance containing pathogenic or disease producing *organisms* ~~germs~~ of a kind that is virulent *to* ~~for~~ man or for animals, except *with the* ~~upon~~ written permission *of the State Veterinarian* ~~to do so from the division~~.

Section 25. Section 585.21, Florida Statutes, is amended to read:

585.21 Sale of biological products.—~~It is unlawful for any person to manufacture for sale, sell or offer for sale any biological product intended for diagnostic or therapeutic purposes with animals except upon written permission to do so from the division and unless such product is officially approved by the United States Department of Agriculture.~~

(1) Each person who manufactures for sale, sells, or offers for sale any biological product in the state intended for diagnostic or therapeutic purposes for animals shall first obtain the written permission of the division.

(2) Each biological product intended for diagnostic or therapeutic purposes for animals which is manufactured for sale, sold, or offered for sale in the state shall first be officially approved by the United States Department of Agriculture.

Section 26. Section 585.22, Florida Statutes, is amended to read:

585.22 Public notice of general quarantines.—*The department shall give public notice whenever it places any area of the state under general quarantine. The* ~~Whenever the department shall place any area of the state under general quarantine, it shall forthwith give public notice thereof, which~~ notice shall in general terms define the quarantine lines established. *The department shall publish the notice*~~, by causing said notice to be published~~, at least once, in a newspaper to be selected by the department within *each* ~~the~~ county wherein the ~~said~~ quarantined area lies, and *post* ~~by posting~~ a copy of *the* ~~said~~ notice at the door of the courthouse of *each* ~~said~~ county~~; provided, however, if said quarantined area lies within more than one county notice shall be published in each county affected thereby~~. The provisions of this section shall not apply to quarantines for tick eradication.

Section 27. Section 585.23, Florida Statutes, is amended to read:

585.23 Owners of *animals* ~~livestock~~ and premises under quarantine to comply with rules ~~and regulations~~.—All ~~owners, custodians, or~~ persons in charge of quarantined ~~domestic~~ animals, and all owners~~, tenants, custodians, or persons in charge, or~~ in possession of any lot, yard, pasture, field, stall, enclosure, barn, or building~~,~~ which has been quarantined, shall comply with all rules ~~and regulations~~ prescribed by the department within a reasonable time, and clean and disinfect such animals or premises, and shall destroy carriers, or cause, or means of communicating any contagious, infectious, or communicable diseases affecting such animals or infecting such premises.

Section 28. Section 585.24, Florida Statutes, is amended to read:

585.24 Cattle fever tick eradication; quarantine*; facilities; dipping; schedules.*—

(1) Whenever the department *places* ~~decides to place~~ any area under quarantine for the purpose of cattle fever tick eradication, public notice ~~thereof~~ shall be given by publishing *a* ~~said~~ notice once each week, in at least one newspaper of general circulation to be selected by the department in each county within *the* ~~said~~ quarantine area, for 2 successive weeks (two publications being sufficient), before work is to commence, and by posting copies of *the* ~~said~~ notice at the door of the courthouse in each county, at least 8 days before the commencement of work. The time within which any right of appeal, as hereinafter provided, from any order of the department placing any area under quarantine for the purpose of cattle fever tick eradication, shall begin to run, shall be from date of issuance of *the* ~~said~~ order and not the date of publication of ~~said~~ notice.

(2) The department is authorized to purchase or lease lands and to procure or construct all facilities necessary to prevent, control, or eradicate cattle fever tick.

(3) The department shall fix and give public notice in the manner provided in subsection (1) of a schedule for the systematic dipping of animals in a quarantine area.

(4) The department shall promulgate rules prescribing the regularity that an animal must be dipped.

(5) The department may by rule prescribe other methods of cattle fever tick eradication, including the pasture rotation method.

~~(2) Upon any such area being freed of the cattle fever tick, the director shall enter his findings of such facts upon a report to the department and the technical council.~~

Section 29. Section 585.30, Florida Statutes, is amended to read:

585.30 Cattle fever tick eradication; procedure where owner fails or refuses to dip.—

(1) Any *animal* ~~cattle~~, within any tick eradication area, which *is* ~~are~~ not dipped in accordance with the rules ~~and regulations~~ of the department and under the department's supervision shall be taken into *the department's* custody, dipped, and retained in its custody, at some place to be selected by the director, until redeemed or sold as hereinafter provided.

(2) The division and its agents and employees may enter into any range, premises, pen, pasture, barn, or inclosure or place where *animals* ~~cattle~~ may be found and take into custody, remove, dip, and pen any *animal* ~~cattle~~ which *has* ~~have~~ not been dipped in accordance with the requirements of this chapter~~,~~ and the rules ~~and regulations~~ of the department.~~, and~~ All expenses ~~so~~ incurred by the department *as a result of the owner's failure or refusal to dip an animal*, including expenses for penning, feeding, and dipping, shall be a lien *against the animal. If, within 30 days, these expenses are not paid and the animal is not redeemed by the owner, the division shall give written notice to the sheriff of the county where the animal is held. The notice of lien shall state the time and place the animal was taken into custody and the number of animals taken. The notice of lien shall also describe any marks or brands on each animal* ~~upon said cattle. If said expenses be not forthwith paid and the cattle redeemed by the owner, the division shall notify the sheriff of the county wherein said cattle are held, by written notice thereof, stating the time and place said cattle were taken into custody, the number thereof and any marks and brands thereon,~~ and the name of the owner if known.

(3) Upon receipt of the notice *of lien,* ~~aforesaid~~ the ~~said~~ sheriff shall ~~forthwith~~ give public notice, to whom it may concern and to the owner if known, that on a day and hour ~~to be~~ specified in *the public* ~~said~~ notice, *the animals described shall be offered for public sale and sold to the highest bidder. The public sale* ~~which~~ shall not be less than 10 days *from* nor more than 20 days ~~from and~~ after the first publication of *the public* ~~said~~ notice. *The public* ~~as hereinafter provided, he will offer for public sale and sell for cash to the highest bidder, the cattle described in said notice. Said~~ notice shall ~~also~~ state the time and place *the animal was* ~~such cattle were~~ taken into custody *and*~~,~~ the number *of animals taken. The public notice shall also describe any marks or brands on each animal. The* ~~thereof and any marks and brands thereon. Said~~ sale shall be held at the place where *the animals are situated* ~~said cattle are situate~~ or penned. *The* ~~Said~~ public notice shall be given by publishing the same in some newspaper published in the county wherein *the animals* ~~said cattle~~ are penned, if there be such newspaper, for two publications, the first of which shall be not less than 10 days prior to the date of sale, and by publishing a copy of *the* ~~said~~ notice, at least 10 days prior to sale, at the courthouse door ~~and at two dipping vats near where the cattle were taken into custody~~. A copy of *the* ~~said~~ notice shall also be served upon the owner or one of them if more than one, or their agent, in the manner provided by law for service of summons, at least 10 days before sale, if such owner or his agent, together with his address, be known to the sheriff and he resides or can be found within the state.

(4) If *any animal is not* ~~such cattle shall not be~~ redeemed before *its* ~~the~~ sale ~~thereof~~ by payment of all costs and expenses incurred by the department in ~~taking into custody,~~ feeding, penning, ~~and~~ dipping, *and taking it into custody* ~~of such cattle~~, and all sheriff's costs, then *the* ~~such~~ sheriff shall offer for sale and shall sell and deliver to the highest bidder for cash ~~all~~ such *animal* ~~cattle~~ and shall deduct from the proceeds thereof all sheriff's costs, and shall pay to the department all costs and expenses incurred in ~~taking into custody,~~ penning, feeding, ~~and~~ dipping, *and taking into custody such animal* ~~such cattle~~, and *immediately* ~~forthwith~~ pay into the fine and forfeiture fund of such county the balance of such proceeds. *The*~~, and such~~ sale and delivery *of an animal* shall vest in the purchaser an absolute title and right of possession ~~of such cattle~~, superior to all other title, liens, and claims, except any lien for unpaid taxes on such *animal* ~~cattle~~.

(5) If the former owner shall, within 12 months from and after the date of such sale, file with and establish to the satisfaction of the county commissioners of such county his claim to the net proceeds arising from *the* ~~said~~ sale, the county commissioners shall deliver to such claimant the amount of such net balance.

(6) The term "sheriff's costs," as used in this section, *means* ~~shall be taken and held to mean~~ such costs as sheriffs are allowed by law for similar services, and the term "expenses *incurred by the department* ~~of keeping and feeding~~" *means* ~~shall be taken and held to mean~~ the actual, reasonable, and necessary expenses ~~for such keeping and feeding~~ incurred *in feeding, penning, dipping, and taking an animal into custody*, to be shown by a sworn, itemized statement ~~thereof~~ filed with the clerk of the circuit court.

Section 30. Section 585.38, Florida Statutes, is amended to read:

585.38 Injuring property used in the eradication of diseases of *animals* ~~cattle~~, etc.—Any person who shall injure, destroy, or attempt to destroy any property or equipment or facilities owned by any *person* ~~individual, firm, company, corporation,~~ or county or any property or equipment or facilities owned by the department or the state. used or intended to be used in the prevention, control, suppression, or eradication of any infectious, contagious, or communicable diseases affecting ~~domestic~~ animals, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 31. Section 585.40, Florida Statutes, is amended to read:

585.40 Violation of quarantine regulations.—Whenever the department *issues a* ~~places any area under~~ quarantine, it shall be unlawful for any person, while such quarantine exists, to take, drive, or transport any *animal into or out of* ~~cattle, hogs or other domestic animals, either out of or into~~ such quarantined *premise* ~~locality~~ without permission of the *State Veterinarian.* ~~division director; Any person violating any of the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

Section 32. Section 585.432, Florida Statutes, is amended to read:

585.432 Screwworm control; eradication.—

(1) The department shall formulate a program and promulgate all rules ~~and regulations~~ necessary for the successful implementation and administration of a comprehensive program for the control and eradication of screwworms within this state. *The department may conduct the*~~, and for the conduct of~~ research and experimentation *necessary to implement this program* ~~incidental thereto~~.

(2) In the discharge of its duty under this *section,* ~~law~~ the department shall have the power:

~~(a) To establish, maintain, and enforce quarantine areas within the state, or the entire state, and restrict, regulate, or prohibit the movement of all animals found and determined by the department to be carriers of the screwworm in any state of its life cycle when necessary for screwworm eradication, or for the carrying out of any of the purposes of this law;~~

(a)~~(b)~~ To acquire by gift, lease, purchase, or otherwise, facilities for breeding sterile screwworm flies~~;~~ and to secure *the* ~~their~~ controlled distribution *of such flies.*~~;~~

(b)~~(c)~~ To employ such persons, and to make such contracts, as are necessary to carry out the purposes of this *section* ~~law~~.

Section 33. Section 585.45, Florida Statutes, is amended to read:

585.45 Right to declaratory judgment.—Any owner or custodian of any *animal* ~~cattle or other domestic animals, which shall include horses and mules,~~ which the department has required to be dipped or inspected~~,~~ shall have the right to a judicial declaration as to the validity of the order by bringing an action for declaratory judgment in the circuit court. If the order is affirmed, the cost shall be paid by the person applying for the declaration. In disposing of said cases, the court shall have the power and authority to issue subpoenas to any witness the court may deem necessary or that may be applied for by respective parties ~~to said cause~~.

Section 34. Section 585.48, Florida Statutes, is amended to read:

585.48 Policy and purpose of ss. *585.50-585.59* ~~585.49-585.53 and 585.59~~.—Because of the existing and increasing possibility of the *occurrence* ~~occurrences~~ of highly contagious, ~~and~~ infectious, *and communicable* diseases in the *animals* ~~livestock~~ of this state, which threaten *their destruction or productivity* ~~to destroy the same~~, and because certain known agents and vectors are instrumental in the spread of certain highly ~~infectious and~~ contagious, *infectious, and communicable* diseases in *animals* ~~livestock~~, it is hereby found and declared to be necessary to regulate the feeding of garbage.

Section 35. Section 585.50, Florida Statutes, is amended to read:

585.50 Garbage feeding prohibited unless sterilized.—It shall be unlawful for any person~~, firm, partnership or corporation (including~~

~~municipalities and counties)~~ to feed garbage to animals unless such garbage has been heated, cooked, treated, or processed under such temperature, pressure, process, or method, and for such a period of time, as is necessary to render the same free of any ~~infectious or~~ contagious, *infectious, or communicable* disease which might *affect* either ~~affect~~ the ~~domestic~~ animals of this state or the citizens of this state. The department is authorized to promulgate rules ~~and regulations~~ covering the method of heating, cooking, treating, or processing, and to prescribe the temperature and time for such heating, cooking, treating, and processing as may be determined by scientific research. *The requirements of ss. 585.48-585.59;* ~~provided, however, that the requirements of ss. 585.48-585.53, and 585.59,~~ shall not apply to an individual who feeds his own animals only the garbage from his own household.

Section 36. Section 585.51, Florida Statutes, is amended to read:

585.51 Permitting of feeders of garbage.—No person~~, firm, partnership, or corporation~~ shall feed garbage without first having applied for and obtained a permit from the department. Each permit shall expire as of July 1 of each year.

Section 37. Section 585.52, Florida Statutes, is amended to read:

585.52 Requirement regarding the collection, transportation, and distribution of garbage.—Every permitted feeder of garbage shall keep and furnish the department such information as it may ~~by rule and regulation~~ require regarding the collection, transportation, distribution, and processing of garbage. *Each*~~, and further such~~ permitted feeder shall ~~be required to~~ keep and maintain sanitary at all times *the* ~~his~~ vehicles used in the collection, transportation, and distribution of garbage ~~under such rules and regulations as may be required~~. The department is authorized to promulgate ~~such other~~ rules ~~and regulations~~ as may be necessary to effectuate the purpose of ss. *585.48-585.59* ~~585.48-585.53, 585.59~~.

Section 38. Section 585.53, Florida Statutes, is amended to read:

585.53 Permit revocation.—Every permitted feeder of garbage who shall violate *this chapter* ~~the laws of this state~~ or the rules ~~and regulations~~ promulgated by the department pursuant thereto shall have his permit revoked, canceled, or suspended.

Section 39. Section 585.59, Florida Statutes, is amended to read:

585.59 Penalties for violation.—*In addition to the penalties provided by this chapter, any person who is convicted of a violation of*

~~(1) Any person violating the provisions of ss. 585.48-585.53 shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(2) Any person, firm or corporation violating~~ the provisions of ss. 585.48-585.53 shall not be allowed to recover compensation from the department for the confiscation or destruction of any hogs fed uncooked garbage.

Section 40. Sections 585.61, 585.621, 585.64, and 585.65, Florida Statutes, are amended to read:

585.61 Animal disease diagnostic laboratories.—

(1) There is hereby created and established *an animal* ~~a domestic animal and poultry~~ disease diagnostic laboratory in *Dade County, Jackson County, Osceola County, Pasco County, and Suwannee County.* ~~Orange County, or in a county adjacent to Orange County, for the purposes of diagnosing diseases of domestic animals and poultry, determining the cause and methods of control and eradication of such diseases, and furnishing such information for use in this state.~~

~~(2) There is hereby created and established an animal disease diagnostic laboratory in Marion County for the purposes of diagnosing diseases of domestic animals and poultry, determining the cause and methods of control and eradication of such diseases, and furnishing such information for use in this state.~~

~~585.621 Animal disease diagnostic laboratory in Suwannee County.—~~

~~(1) There is hereby created and established an animal disease diagnostic laboratory in Suwannee County, for the purposes of diagnosing diseases of poultry and domestic animals, determining the causes and methods of control and eradication of such diseases, and furnishing such information for use in this state.~~

(2) The land used for the *Suwannee County* laboratory shall be conveyed to the state without cost by fee simple deed by the Board of County Commissioners of Suwannee County.

~~(3) The construction and operation of the laboratory shall be under the supervision and control of the Department of Agriculture and Consumer Services as provided in s. 585.64.~~

~~(4) The services of the laboratory shall be available as provided in s. 585.65.~~

~~585.64 Animal disease diagnostic laboratories; operation under supervision of department.—~~

(3) The construction and operation of all the laboratories established by *this section* ~~ss. 585.61, 585.62, and 585.621~~ shall be under the supervision and control of the department. It shall be the duty of the department to operate *these* ~~the said~~ laboratories in an efficient manner so that *any person who maintains animals* ~~persons, firms, and corporations who maintain domestic animals or poultry~~ in this state may obtain prompt reliable diagnosis of ~~domestic~~ animal ~~or poultry~~ diseases, *including any disease which may affect poultry eggs,* in this state, and recommendations for the control and eradication of such diseases, to the end that diseases of ~~domestic~~ animals ~~and poultry~~ may be reduced and controlled, and~~, if scientifically possible,~~ eradicated *when possible.* ~~The department shall from time to time adopt rules for the use of the services of the laboratories.~~

~~585.65 Availability of services of laboratories.—~~

(4) Any person *who maintains animals,* ~~firm, or corporation which maintains domestic animals or poultry~~ in the state may use the services of the laboratories under the terms of *this section* ~~ss. 585.61 and 585.62~~ and *pursuant to* ~~under~~ the rules ~~and regulations~~ for such use which are adopted from time to time by the department. The department shall require any user of its services to pay a fee of not more than $5 for any one of the services requested, except that a fee for necropsy may be imposed in an amount not to exceed $35; the fee moneys, when collected, shall be deposited in the State Treasury to the credit of the special account known as the Animal Industry Diagnostic Laboratory Account within the General Inspection Trust Fund. The fees collected shall be used to improve the diagnostic laboratory services as provided for by the Legislature in the General Appropriations Act~~, except that the first $500,000 collected under the provisions of this section in fiscal year 1984-1985 may be used for additions to, and the renovation of, the Osceola County Diagnostic Laboratory and is appropriated for that purpose~~.

Section 41. Section 585.671, Florida Statutes, is amended to read:

585.671 Control and eradication of *equine* infectious anemia and *equine* piroplasmosis.—

(1) The department shall formulate a program and promulgate all rules ~~and regulations~~ necessary for the successful implementation and administration of a comprehensive program for the control and eradication of *equine* infectious anemia and *equine* piroplasmosis within this state. *For this purpose, the department may conduct research.*~~, and for the conduct of research and experimentation incidental thereto.~~

(2) In the discharge of its duty, the department shall have the power:

(a) To employ such persons and to make such contracts as are necessary to carry out the purpose of this law.

(b) To negotiate with officials of institutions of research and to make such contracts as are necessary *to* ~~for the~~ conduct ~~of~~ research for the purpose of developing and effectuating improved methods of diagnosis, control, and eradication of *equine* infectious anemia and *equine* piroplasmosis. Toward this end it may employ such competent guidance as it deems necessary in negotiating said contracts.

Section 42. Part III of chapter 585, Florida Statutes, entitled "Animal and Animal Product Inspection and Labeling," consists of sections 585.70, 585.71, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.88, 585.89, 585.90, 585.91, and 585.92, Florida Statutes.

Section 43. Section 585.70, Florida Statutes, is created to read:

585.70 Definitions.—In construing this part, where the context permits, the word, phrase, or term:

(1) "Animal" shall include any equine, bovine, goat, sheep, swine, or poultry, or any other animal which the department may by rule authorize to be slaughtered and sold for human consumption.

(2) "Carcass" means all parts, including viscera, of any slaughtered livestock or poultry.

(3) "Establishment" means any building or structure in which animals are slaughtered or animal product is prepared, the ground upon which such building or structure is erected, and as much ground adjacent thereto as is used in conducting the business of such facility, including drains, gutters, waste disposal, and cesspools used in connection with the facility.

(4) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June 25, 1938 (52 Stat. 1040), and acts amendatory thereof or supplementary thereto.

(5) "Intrastate commerce" means transporting, buying, and selling products within the state, and, in this part, applies to meat, meat food products, poultry meat, and poultry food products and other such articles.

(6) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article, not including the package liner.

(7) "Labeling" means all labels and other written, printed, or graphic matter upon any article or any of its containers, or accompanying such article.

(8) "Meat" means the part of the muscle of any animal, other than poultry, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing.

(9) "Meat byproduct" means any part of any animal, other than poultry, capable of use as human food, other than meat, which has been derived from one or more cattle, sheep, swine, or goats. This term, as applied to products of equines, shall have a meaning comparable to that provided in this subsection with respect to cattle, sheep, swine, and goats.

(10) "Meat food product" means any product of any animal, other than poultry, capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of an animal, other than poultry, except products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry, and which are exempt from definition as a meat food product by the department under such conditions as the department may prescribe.

(11) "Poultry" means any chickens, turkeys, ducks, geese, or guineas.

(12) "Poultry byproduct" means any part or parts of poultry, other than eggs, capable of use as human food, other than poultry carcasses, which have been derived from one or more birds. This term, as applied to products of poultry, shall have a meaning comparable to that provided for the term "meat byproduct."

(13) "Poultry food product" means any product of poultry, other than eggs, capable of use as human food which is made wholly or in part from any poultry meat or other portion of the carcass of poultry, except products which contain poultry meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry, and which are exempt from definition as a poultry food product by the department under such conditions as the department may prescribe.

(14) "Poultry meat" means the carcass or parts of such carcass of any poultry.

(15) "Prepare" means slaughter, can, salt, render, bone, cut up, or otherwise manufacture or process, or package, any animal product.

(16) "Product" or "animal product" means any animal carcass, meat, meat byproduct, meat food product, poultry byproduct, poultry meat, or poultry food product, capable of use as human food, or as otherwise provided for.

Section 44. Section 585.71, Florida Statutes, is created to read:

585.71 Legislative intent.—Animal products are an important source of the state's total supply of food, which is consumed throughout the state and a large portion of which moves in intrastate commerce. It is essential to the public interest that the health and welfare of consumers be protected by ensuring that the animal products distributed to them are wholesome, are not adulterated, and are properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded animal products impair the effective regulation of animal products in intrastate commerce, are injurious to the public welfare, destroy markets for wholesome, unadulterated, and properly labeled and packaged animal products, result in monetary losses to livestock and poultry producers and processors of animal products, and threaten the health and well being of consumers. Unwholesome, adulterated, mislabeled, or deceptively packaged animal products can be sold at lower prices and compete unfairly with the wholesome, unadulterated, and properly labeled and packaged animal products, to the detriment of individual consumers and the public at large.

Section 45. Section 585.72, Florida Statutes, is created to read:

585.72 Adulteration.—An animal product shall be deemed adulterated if:

(1) It bears or contains any poisonous or deleterious substance which may render it injurious to health; provided that, when the substance is not an added substance, such product shall not be considered adulterated under this subsection if the quantity of such substance in or on such product does not ordinarily render it injurious to health.

(2) It bears or contains, by reason of administration of any substance to the live animal, any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity, a food additive, or a color additive, which may, in the judgment of the department, make such article unfit for human food if:

(a) It is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug and Cosmetic Act;

(b) It bears or contains any food additive which is unsafe within the meaning of Section 409 of the Federal Food, Drug and Cosmetic Act; or

(c) It bears or contains any color additive which is unsafe within the meaning of Section 706 of the Federal Food, Drug and Cosmetic Act.

A product which is not adulterated as defined in paragraph (a), paragraph (b), or paragraph (c) shall nevertheless be deemed adulterated if use of a pesticide chemical, food additive, or color additive in or on such product is prohibited by rule of the department in establishments at which inspection is maintained under this chapter.

(3) It consists in whole or in part of any filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human consumption.

(4) It has been prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health.

(5) It is, in whole or in part, the product of an animal which has died otherwise than by slaughter.

(6) Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

(7) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to Section 409 of the Federal Food, Drug and Cosmetic Act.

(8) Any valuable constituent has been, in whole or in part, omitted or abstracted therefrom, or if any substance has been substituted, wholly or in part, or if any damage or inferiority has been concealed in any manner, or if any substance has been added thereto in excess of allowable limits or mixed or packaged therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

(9) It is margarine containing animal fat and any of the raw material used therein consisted in whole or in part of any filthy, putrid, or decomposed substance.

Section 46. Section 585.73, Florida Statutes, is created to read:

585.73 Misbranding.—An animal product shall be deemed misbranded if:

(1) Its labeling is false or misleading in any particular.

(2) It is offered for sale under the name of another food.

(3) It is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(4) Its container is so made, formed, or filled as to be misleading.

(5) It is in a package or other container, unless the container bears a label showing:

(a) The name and place of business of the manufacturer, packer, or distributor; and

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, provided that reasonable variations may be permitted and exemptions for small packages may be established by the department.

(6) Any word, statement, or other information required by or under authority of this part to appear on the label or other labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices in the labeling, and in such terms, as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(7) It is represented as, but does not conform to standards of identity or composition of, a specified food as established by rules of the department.

(8) It is represented as a food for which a standard or standards of fill of container have been prescribed by rules of the department and it falls below the standards of fill of container applicable thereto, unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(9) It is not subject to the provisions of subsection (7), unless its label bears:

(a) The common or usual name of the food, if there is any; and

(b) When it is fabricated from two or more ingredients, the common or usual names of such ingredients, spices, flavorings, and colorings may, when authorized by the department, be designated as such without naming each; provided that, to the extent that compliance with the requirements of this paragraph is impracticable or results in deception or unfair competition, exemptions shall be established by rules promulgated by the department.

(10) It is represented as for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the department, after consultation with the United States Secretary of Agriculture, determines it to be, and by rule prescribes, as is necessary to fully inform consumers of its value for such uses.

(11) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless its label states that fact; provided that, to the extent that compliance with the requirements of this subsection is impracticable, exemptions may be established by rules promulgated by the department.

(12) It fails to bear, directly thereon or on its container, the inspection legend and, unrestricted by any other provisions of this section, such other information as the department may require to ensure that it shall not have false or misleading labeling and that the public shall be informed of the manner of handling required to maintain the article in a wholesome condition.

Section 47. Section 585.74, Florida Statutes, is created to read:

585.74 Grant of Inspection.—

(1) Any person engaged in the preparation of any animal product within the state, except those establishments operating under inspection of the United States Department of Agriculture, shall first make application to the department for a Grant of Inspection to prepare, transport, or sell animal products at any place within the limits of the state.

(2) The department, on receipt of the application described in subsection (1), shall conduct a thorough investigation of the facility to determine the adequacy of the procedures in which animals are to be slaughtered and animal products prepared, and ensure that such procedures are conducted with acceptable standards for sanitation. If the establishment meets all of the requirements of the rules of the department, a numbered Grant of Inspection shall be issued to the person making application to the department for the establishment.

(3) No Grant of Inspection shall be issued for any establishment, except where meat inspection or poultry inspection is conducted under the supervision and authority of the department.

Section 48. Section 585.75, Florida Statutes, is created to read:

585.75 Inspection of animal products.—

(1) The department shall conduct inspections of all animals, of all animal products, and of the sanitary conditions of all establishments in which animal products are prepared. Inspectors shall refuse to stamp, mark, tag, or label any animal product prepared in any establishment operating under the provision of this part, until the same shall have actually been inspected and found to be wholesome and safe for human consumption; and shall perform such other duties as are provided by this part and by rules promulgated by the department.

(2) The Grant of Inspection number shall be the establishment's official state number, and such number shall be used to identify all inspected and passed meat, meat byproducts, and meat food products or all poultry meat, poultry byproducts, and poultry food products inspected for wholesomeness that are prepared in such establishment. Such Grant of Inspection number may be suspended or revoked by the department at any time when the management of such establishment violates any statute or rule of the department affecting standard operating procedures and acceptable sanitary standards. Inspection may be withheld, in all or in part of an establishment, when deemed necessary by the department for specific violations. Such withheld inspection shall be continued until the violative condition has been abated by the management of the establishment to the full satisfaction of the department.

(3) Every meat carcass inspected and passed shall be branded with a brass stamp bearing the number of the establishment and the words "Florida Inspected and Passed" or such abbreviation as approved by the department.

(4) At all establishments within the state, there shall be inspection of animal products by the United States Department of Agriculture or the department.

Section 49. Section 585.76, Florida Statutes, is created to read:

585.76 Antemortem inspection.—

(1) ANTEMORTEM INSPECTION OF ANIMALS, EXCEPT POULTRY.—In order to safeguard the public health, the department shall conduct an antemortem inspection of all animals, except poultry, before each animal is slaughtered for food purposes.

(2) ANTEMORTEM INSPECTION OF POULTRY.—In order to safeguard the public health, the department may, when deemed necessary, conduct an antemortem inspection of all poultry before the poultry is slaughtered for food purposes.

(3) FACILITIES; NOTIFICATION.—Satisfactory facilities shall be provided for conducting such inspection and for separating any animal, including poultry, which is deemed unfit for immediate slaughter from the animals which pass inspection. If any owner or person in charge of an establishment is about to slaughter for food purposes any animal which the department believes may be affected with a dangerous disease condition, the department shall notify the owner or person in charge of the establishment to refrain from slaughtering the animal for food purposes until that animal is released and until the disposition of the animal is determined.

Section 50. Section 585.77, Florida Statutes, is created to read:

585.77 Postmortem inspection.—

(1) POSTMORTEM INSPECTION OF ANIMALS, EXCEPT POULTRY.—The department shall provide postmortem inspection of all animals, except poultry, slaughtered for food purposes in any establishment in the state operating under the provisions of this part. The head, tongue, tail, glands, viscera, and other parts and blood used in the preparation of meat, meat byproducts, or meat food products shall be retained in such manner as to preserve their identities until the postmortem examination has been completed. Carcasses and parts of such carcasses found to be sound, healthful, unadulterated, and wholesome after inspection, and otherwise fit for human food, shall be marked in the following

manner: "Florida Inspected and Passed." This mark shall include the Grant of Inspection number of the establishment.

(2) POSTMORTEM INSPECTION OF POULTRY.—The department shall provide postmortem inspection of all poultry slaughtered for food purposes in any establishment in the state operating under the provisions of this part. Carcasses and parts of such carcasses found to be sound, healthful, unadulterated, and wholesome after inspection, and otherwise fit for human food, shall be marked in the following manner: "Florida Inspected for Wholesomeness." This mark shall also include the Grant of Inspection number of the establishment.

(3) Each animal carcass or part of such carcass of any animal, except poultry, which is found upon postmortem inspection to be unsound, unhealthful, adulterated, unwholesome, or otherwise unfit for human food shall be marked conspicuously by the inspector at the time of inspection with the words "Florida Inspected and Condemned." Such carcass or part of such carcass shall be made unfit for human consumption, under the supervision of the inspector, in a manner approved by the department. The department may remove inspectors from any such establishment which fails to make unfit for human consumption any such condemned carcass or part of such carcass. When deemed necessary, inspectors shall reinspect such carcass or part of such carcass to determine whether the same has adequately been made unfit for human consumption.

(4) All poultry byproducts, poultry meat and parts of such meat, and other poultry food products found to be adulterated shall be condemned and, if no appeal is taken from such determination of condemnation, be made unfit for human food purposes under the supervision of the department. Poultry byproducts, carcasses, parts, and products which may, by reprocessing, be made wholesome need not be condemned and made unfit and may be reprocessed under the supervision of the department. If an appeal is made of such determination, the poultry byproducts, carcasses, parts, or products shall be appropriately marked and segregated pending completion of an appeal inspection. If the determination of condemnation is sustained, the poultry byproducts, carcasses, parts, and products shall be made unfit for human consumption under the supervision of the department.

Section 51. Section 585.78, Florida Statutes, is created to read:

585.78 Inspection of prepared animal products.—

(1) The provisions of this part shall apply to all animal products brought into any establishment operating under the provisions of this chapter. An inspection of the animal products shall be conducted before the products are allowed to enter into any area of the establishment wherein such products are to be prepared. The provisions of this part shall also apply to all products which, after having been issued from any establishment, shall be returned to the original owner or establishment or sent to any other establishment where such inspection is maintained. The department may limit the entry of animal products and other materials into any establishment at which inspection under this section is maintained, under such conditions as the department may prescribe by rule to ensure that allowing the entry of such into such establishment shall be consistent with the provisions of this part.

(2) For the purposes set forth in the provisions of this part, the department shall conduct an inspection of animal products prepared for intrastate commerce in any establishment operating under this chapter. All such products found to be fit for human consumption shall be marked, stamped, tagged, or labeled as "Inspected and Passed" for meat, meat byproducts, and meat food products and "Inspected for Wholesomeness" for poultry byproducts, poultry meat, and poultry food products. All such products found not to be fit for human consumption shall be marked, stamped, tagged, or labeled as "Inspected and Condemned." Such condemned products shall be treated by a method approved by the department. The department may suspend inspection at, and remove inspectors from, any establishment that fails to so condemn adulterated products or fails to so destroy condemned products. For purposes of inspection, inspectors shall have access to every part of an establishment at all times, by day or night, without regard to whether such establishment is operating.

Section 52. Section 585.79, Florida Statutes, is created to read:

585.79 Labeling of animal products.—

(1) When any meat, meat byproduct, or meat food product that has been inspected as provided by this part and marked "Florida Inspected and Passed" is placed or packed in any container or covering in any establishment where inspection under the provisions of this part is maintained, the person preparing such meat, meat byproduct, or meat food product shall attach the required label to the container or covering under the supervision of an inspector. The label shall state that the contents thereof have been "Inspected and Passed" under the provisions of this part.

(2) When any poultry byproduct, poultry meat, or poultry food product that has been inspected as provided by this part and marked "Florida Inspected for Wholesomeness" is placed or packed in any container or covering in any establishment where inspection under the provisions of this part is maintained, the person preparing such poultry byproduct, poultry meat, or poultry food product shall attach the required label to the container or covering under the supervision of an inspector. The label shall state that the contents have been "Inspected for Wholesomeness" under the provisions of this part.

(3) No inspection of animal products deposited or enclosed in a container or covering in any establishment where inspection is maintained shall be deemed to be complete until such product has been sealed or enclosed in the container or covering under the supervision of an inspector. No such animal product shall be sold or offered for sale by any person in the state under any false or deceptive name. Established trademarks which are not false or deceptive, and which are approved by the department are permitted.

(4) Whenever the department determines such action is necessary for the protection of the public, it may prescribe:

(a) The styles and sizes of type to be used with respect to information required to be incorporated on labeling to avoid false or misleading labeling in marking or labeling any animal product subject to this part; and

(b) Definitions and standards of identity or composition of animal products subject to this part and standards of fill of containers for such products consistent with any such standards established under the Federal Food, Drug and Cosmetic Act. If the department has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use with respect to any product subject to this part is false or misleading in any particular, the department may direct that such use be withheld, unless the marking, labeling, or container is modified in such manner as the department may prescribe, so that it will not be false or misleading.

Section 53. Section 585.80, Florida Statutes, is created to read:

585.80 Prohibition on sale and transportation of animal products; penalty.—No person shall, with respect to any animal or any animal product:

(1) Slaughter any such animal or prepare any animal product which is capable of use as human food, at any establishment preparing animal products for intrastate commerce, except in compliance with the requirements of this part.

(2) Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any animal product which is capable of use as human food and which is adulterated or misbranded at the time of such sale, transportation, offering for sale or transportation, or receipt for transportation; or any animal product required to be inspected under this part, unless it has been so inspected and passed.

(3) Perform any act while animal products are being transported in intrastate commerce, or held for sale after such transportation, which has the effect of causing such products to become adulterated or misbranded.

(4) Any person who is convicted of a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 54. Section 585.81, Florida Statutes, is created to read:

585.81 Unauthorized use or counterfeiting of official marks or labels.—

(1) No person shall cast, print, lithograph, or otherwise make any device containing any official mark of inspection or simulation thereof, or any label bearing any such mark or simulation, or any form or simulation thereof, except as authorized by the department.

(2) No person shall:

(a) Forge any official device, mark, or label.

(b) Without authorization from the department, use any official device, mark, or label, or simulation thereof, or alter, detach, deface, or destroy any official device, mark, or label.

(c) Fail to use, detach, deface, or destroy any official device, mark, or label.

(d) Possess any official or counterfeit marking, stamping, or labeling device intended for use with or on any carcass or part, or product thereof.

(e) Represent that a product has been "Inspected and Passed" or "Inspected for Wholesomeness" or exempted, under this part when, in fact, it has, respectively, not been so "Inspected and Passed" or "Inspected for Wholesomeness" or exempted.

Section 55. Section 585.82, Florida Statutes, is created to read:

585.82 Sale and transportation of equine products.—No person shall sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any carcasses of horses or mules, or other equines, or parts of such carcasses, or the meat, meat byproducts, or meat food products thereof, unless they are plainly and conspicuously marked or labeled or otherwise identified as required by rules prescribed by the department to show the kinds of animals from which they were derived. When required by the department, with respect to establishments at which inspection is maintained under this part, such animals and their carcasses, parts of such carcasses, meat, meat byproducts, and meat products shall be prepared in establishments separate from those in which cattle, sheep, swine, or goats are slaughtered or their carcasses, parts of carcasses, meat, meat byproducts, or meat products are prepared.

Section 56. Section 585.83, Florida Statutes, is created to read:

585.83 Duty of department to provide inspectors; overtime; gifts.—

(1) The department shall provide inspection at each establishment within the state which is covered by the provisions of this part, at all times when such establishment is operating.

(2) Should any animal preparation, including slaughtering, be conducted at an establishment during hours considered overtime for state employees, or on legal holidays, then the owner or operator of such establishment shall, by contract or agreement, reimburse the department for the additional or overtime costs of salaries and expenses of the inspectors working during such overtime periods.

(3) It is unlawful for any representative of an establishment to give or offer to give, directly or indirectly, to any employee of the department, anything of value, monetary or otherwise, with intent to influence such employee in the discharge of his duties under the provisions of this part.

Section 57. Section 585.84, Florida Statutes, is created to read:

585.84 Suspension of inspection.—Every establishment in the state where animals are slaughtered or where animal products are prepared for intrastate commerce for human consumption shall be maintained and operated in a clean and sanitary manner and inspection shall be conducted in accordance with the provisions of this part and the rules of the department. In the event that an establishment is not so maintained and operated, wherein animal products may become adulterated, the department may suspend inspection in any establishment operating under the provisions of the part.

Section 58. Section 585.85, Florida Statutes, is created to read:

585.85 Prohibited transportation of certain animals and animal products.—No person shall engage in the business of buying, selling, transporting, or receiving for transportation in intrastate commerce any dead, dying, disabled, or diseased animal, any product of an animal that died otherwise than by slaughter, or any inedible animal product that is capable of use as human food unless such animal product has been visibly denatured by an approved method such as dye, except in accordance with such rules as the department may prescribe to ensure that such animal product shall be prevented from being used for human food purposes. Any person who is convicted of a violation of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 59. Section 585.86, Florida Statutes, is created to read:

585.86 Proper storage of animal products.—The department shall prescribe conditions under which animal products intended for use as human food shall be stored or otherwise handled by any person engaged in the business of buying, selling, freezing, storing, or transporting animal products in or for intrastate commerce, whenever the department deems such action necessary to ensure that such products shall be wholesome and safe for human consumption and properly labeled. However, such rules shall not apply to the storage or handling at any retail store or other establishment as prescribed in rules of the department.

Section 60. Section 585.87, Florida Statutes, is created to read:

585.87 Duty to keep records.—

(1) The following classes of persons shall keep such records as shall fully and correctly disclose all transactions involved in their businesses. All persons subject to such requirements shall, at all reasonable times, upon notice by a duly authorized representative of the department, afford such representative access to their places of business and opportunity to examine the facilities and inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value for such sample:

(a) Any person that engages in the business, in or for intrastate commerce, of slaughtering any animal, or preparing or labeling any animal product.

(b) Any person that engages in the business of buying or selling, as a meat broker, poultry broker, wholesaler, or otherwise, transporting in intrastate commerce, or storing, in or for intrastate commerce, any animal product.

(c) Any person that engages in business, in or for intrastate commerce, as a renderer, or engages in the business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased animal, or parts of the carcass of any animal that died otherwise than by slaughter.

(2) Any record required to be maintained by this section shall be maintained for such period of time as prescribed by rules of the department.

Section 61. Section 585.88, Florida Statutes, is created to read:

585.88 Exemptions.—

(1) The provision of this part requiring inspection of the slaughter of animals and the preparation of animal products at establishments conducting such operations for intrastate commerce shall not apply to:

(a) The slaughtering by any person of animals which he has raised, and his preparation and transportation of the product of such animals for his exclusive use, as well as for the use of the members of his household and nonpaying guests and employees.

(b) The custom slaughter by any person of animals delivered by the owner, and the preparation by the slaughterer and transportation of the product of such animals, for the exclusive use of the owner and members of his household and nonpaying guests and employees.

(c) The custom preparation by any person of animal products derived from the slaughter by any person of animals which he has raised, or from game animals, delivered by the owner for such custom preparation, and transportation of such custom-prepared products, exclusively for use by the owner and members of his household and nonpaying guests and employees. All such custom slaughtering or custom processing as provided for in paragraph (b) or this paragraph shall operate under department supervision pursuant to s. 585.91. The operations at any officially inspected or custom establishment shall be exempt from the inspection requirements which the department is hereby authorized to promulgate to ensure that any animal products, wherever handled on a custom basis, or any containers or packages containing such products, are separated at all times from products prepared for sale, and that all such products prepared on a custom basis, or any containers or packages containing such products, are plainly marked "Not For Sale" immediately after being prepared, and kept so identified until delivered to the owner.

(d) Operations of types traditionally and usually conducted at retail stores and restaurants, when conducted at any retail store or restaurant, or similar retail-type establishment, for sale in normal retail quantities or service of such products to consumers at such establishments. For the purpose of this paragraph, operations conducted at a restaurant central

kitchen facility shall be considered as being conducted at a restaurant, if the restaurant central kitchen prepares products that are ready to eat when they leave such facility and are served in meals or as entrees only to customers at restaurants owned or operated by the same person owning or operating the central kitchen facility.

(2) The department may refuse, withdraw, or modify an exemption under this section in its discretion whenever the department determines that such action is necessary to effectuate the purposes of this part.

(3) The adulteration and misbranding provisions of this part, other than the requirements of the inspection legend, shall apply to products which are exempted from inspection or not required to be inspected under this section.

Section 62. Section 585.3401, Florida Statutes, is renumbered as section 585.89, Florida Statutes.

Section 63. Section 585.90, Florida Statutes, is created to read:

585.90 Investigations, stop-sale orders, condemnation, and destruction of meat, meat byproducts, meat food products, poultry byproducts, poultry meat, and poultry food products.—For the purpose of carrying out the provisions of this chapter, the department:

(1) Shall have free access at all reasonable hours to investigate and determine whether any animal product or any establishment used to prepare, store, or offer for sale any animal product or any vehicle used to transport or hold any animal product is in compliance with the provisions of this chapter and rules of the department.

(2) May issue and enforce a stop-sale order for any animal product which the department finds is in violation of any of the provisions of this chapter or rules of the department. A stop-sale order prohibits the further sale or distribution of the product until the department is satisfied that compliance with this chapter, or rules of the department, has been effected and has issued a written release notice to the owner or custodian of the product.

(3) May condemn or destroy any animal product which is misbranded, adulterated, or unwholesome.

Section 64. Section 585.343, Florida Statutes, is renumbered as section 585.91, Florida Statutes, and amended to read:

585.91 ~~585.343~~ Regulation of custom slaughterers and processors; permits.—

(1) Custom slaughterers or processors shall operate under department supervision. Each such custom slaughtering or processing establishment shall be maintained in a proper sanitary condition *wherein animal products* ~~whereby meat or meat food products~~ shall be produced in a wholesome manner, as required *by* ~~in~~ the regulations of the United States Department of Agriculture adopted as ~~the~~ *rules* ~~regulations~~ of the ~~Florida~~ department ~~of Agriculture and Consumer Services~~.

(2) Any person~~, firm, or corporation~~ operating under the provisions of this section shall obtain a custom slaughtering or processing establishment permit from the department before engaging in the business of slaughtering *animals or the preparation of animal*~~, manufacturing, or processing of meat or meat food~~ products. Said permit shall be issued upon application to the department on forms furnished by the department and upon conditions prescribed by ~~the rules of~~ the department. The department may suspend any permit issued under this section upon violation of any *applicable* ~~sanitary~~ rule ~~regulation~~ by the establishment. The *holder* ~~owner~~ of the permit so suspended may at any time apply for the reinstatement of such permit, and the department shall immediately reinstate such permit if it is found upon inspection that adequate measures have been taken to comply with *the rules of the department* ~~and maintain the sanitary conditions of the establishment in compliance with regulations~~.

Section 65. Section 585 3403, Florida Statutes, is renumbered as section 585.92, Florida Statutes.

Section 66. Subsection (6) of section 468.382, Florida Statutes, is *amended to read:*

468.382 Definitions.—As used in this act, the term:

(6) "Livestock" means any animal included in the definition ~~of "domestic animal" by s. 585.01(1) or in the definition~~ of "livestock" by *s. 585.01(11) or* s. 588.13(1).

Section 67. Subsection (4) of section 468.383, Florida Statutes, is amended to read:

468.383 Exemptions.—This act does not apply to the following:

(4) Auctions of livestock if conducted by *a person* ~~an auctioneer~~ who specializes in the sale of livestock and the auction is conducted under the supervision of a livestock trade association, ~~or~~ a governmental agency, *or an owner of the livestock. The act does not apply to the auction of agricultural products as defined in s. 618.01(1) or the equipment or tools used to produce or market such products, if the auction is conducted at a farm or ranch where the products are produced or where the equipment and tools are used or at an auction facility that sells primarily agricultural products.*

Section 68. Sections 585.25, 585.26, 585.28, 585.34, 585.341, 585.401, 585.47, 585.49, 585.60, 585.62, and 585.661, Florida Statutes, are hereby repealed.

Section 69. Except as otherwise provided, this act shall take effect October 1, 1990.

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

Amendment 1A—On page 58, between lines 24 and 25, insert:

Section 69. Section 316.0825, Florida Statutes, is amended to read:

316.0825 Vehicle approaching an animal.—Every person operating a motor vehicle shall use reasonable care when approaching or passing a person who is riding or leading an animal upon a roadway or the shoulder thereof, *and shall not intentionally startle or injure such animal.*

(Renumber subsequent section.)

Amendment 1 as amended was adopted.

Senator Thurman moved the following amendment:

Amendment 2—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to animal industry; reorganizing chapter 585, F.S.; creating s. 585 001, F.S.; providing definitions; amending and renumbering s. 585.011, F.S.; authorizing rulemaking by the Department of Agriculture and Consumer Services; providing for fees; renumbering s. 585.35, F.S.; amending and renumbering s. 585 36, F.S., relating to enforcement and duties of state attorneys; amending and renumbering s. 585.37, F.S., relating to enforcement by courts; amending and renumbering s. 585.39, F.S., relating to interference with department employees; amending and renumbering s. 585.41, F.S., relating to penalties; increasing a fine; amending s. 585.01, F.S.; providing definitions; amending s. 585.08, F.S., relating to protection against communicable disease; amending s. 585.09, F.S., relating to condemnation; amending s. 585.10, F.S., relating to payment for condemned animals; amending and renumbering s. 585.44, F.S., relating to approved brucella vaccine; amending s. 585.11, F.S., relating to cooperation with United States authorities; amending s. 585.14, F.S., and creating s. 585.145, F.S., relating to control of animal diseases; requiring health tests and certificates for movement or transfer of animals; amending s. 585.15, F.S.; providing for reportable diseases; amending s. 585.155, F.S., relating to whole-herd and calf vaccination; amending s. 585.16, F.S., relating to powers of the Division of Animal Industry with respect to transmissible diseases; amending s. 585.17, F.S., relating to care of and liability for animals with transmissible diseases; amending s. 585.18, F.S., relating to duty to report diseased animals; amending s. 585.19, F.S., relating duty of veterinarian or owner to report certain diseases; providing a penalty; amending s. 585.195, F.S.; correcting a reference; amending s. 585.20, F.S., relating to injection of pathogenic organisms into animals; amending s. 585.21, F.S., relating to manufacture and sale of biological products; amending s. 585.22, F.S., relating to public notice of general quarantines; amending s. 585.23, F.S., relating to compliance by owners of quarantined animals and premises; amending s. 585.24, F.S., relating to cattle fever tick eradication; amending s. 585.30, F.S., relating to procedure where owner refuses to dip an animal; amending s. 585.38, F.S., relating to destruction of property used in eradication of diseases; amending s. 585.40, F.S., relating to violation of quarantine; amending s.

585.432, F.S., relating to screwworm control and eradication; amending s. 585.45, F.S., relating to right to declaratory judgment; amending ss. 585.48, 585.50, 585.51, 585.52, 585.53, and 585.59, F.S., relating to feeding garbage to animals; amending ss. 585.61, 585.621, 585.64, and 585.65, F.S., relating to animal disease diagnostic laboratories; amending s. 585.671, F.S., relating to control and eradication of equine infectious anemia and equine piroplasmosis; creating s. 585.70, F.S.; providing definitions; creating s. 585.71, F.S.; providing legislative intent relating to the regulation of animal products; creating s. 585.72, F.S.; providing for adulteration; creating s. 585.73, F.S.; providing for misbranding; creating s. 585.74, F.S.; requiring a Grant of Inspection to prepare, transport, or sell animal products; creating s. 585.75, F.S.; requiring certain inspections; creating s. 585.76, F.S.; providing for antemortem inspections; providing for certain notice; creating s. 585.77, F.S.; providing for postmortem inspections; creating s. 585.78, F.S.; providing for inspection of prepared animal products; creating s. 585.79, F.S.; providing for labeling of animal products; creating s. 585.80, F.S.; providing prohibitions on the sale and transportation of animal products; providing a penalty; creating s. 585.81, F.S.; providing for unauthorized use or counterfeiting of official marks or labels; creating s. 585.82, F.S.; providing for sale and transportation of equine products; creating s. 585.83, F.S.; providing for the duty of department to provide inspectors; providing for overtime; prohibiting gifts to department employees; creating s. 585.84, F.S.; providing for suspension of inspection; creating s. 585.85, F.S.; prohibiting transportation of certain animals and animal products; providing a penalty; creating s. 585.86, F.S.; providing for proper storage of animal products; creating s. 585.87, F.S.; providing recordkeeping requirements; creating s. 585.88, F.S.; providing exemptions; renumbering s. 585.3401, F.S.; creating s. 585.90, F.S.; providing for investigations, stop sale orders, condemnation, and destruction of animal products; amending and renumbering s. 585.343, F.S., relating to custom slaughterers and processors; renumbering s. 585.3403, F.S.; amending s. 468.382, F.S.; correcting a reference; amending s. 468.383, F.S.; revising a provision that exempts auctions of livestock from pt. VI, ch. 468, F.S., relating to auctioneers; exempting auctions of agricultural products, equipment, and tools from such part under certain circumstances; repealing ss. 585.25, 585.26, and 585.28, F.S., relating to cattle fever tick eradication; repealing s. 585.34, F.S., relating to meat inspection; repealing s. 585.341, F.S., relating to poultry inspection; repealing s. 585.401, F.S., relating to "Emergency" defined; repealing s. 585.47, F.S., relating to required reporting of animal diseases; repealing ss. 585.49 and 585.60, F.S., relating to definitions; repealing s. 585.62, F.S., relating to animal disease diagnostic laboratories; repealing s. 585.661, F.S., relating to appropriations; providing an effective date.

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

Amendment 2A—On page 5, line 15, after the semicolon (;) insert: amending s. 316.0825, F.S.; prohibiting persons driving a vehicle from intentionally startling or injuring certain animals;

Amendment 2 as amended was adopted.

On motion by Senator Thurman, by two-thirds vote HB 2543 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Mr. President	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Weinstein
Casas	Girardeau	McPherson	Weinstock
Childers, D.	Gordon	Meek	Woodson-Howard
Crenshaw	Grant	Myers	
Davis	Grizzle	Peterson	
Deratany	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—W. D. Childers

SB 2572—A bill to be entitled An act relating to fire prevention and control; amending s. 633.01, F.S.; repealing a provision that requires the State Fire Marshal to regulate the storage, sale, and use of certain explosive and flammable materials; repealing a provision that requires the State Fire Marshal and the Department of Education to jointly prepare rules for safety inspections of district school facilities and community college facilities; amending s. 633.022, F.S.; providing that uniform firesafety standards apply only to public lodging establishments that are transient; amending s. 633.061, F.S.; specifying procedures for reexamining persons who do not pass an examination that must be passed in order to be issued or to renew a license or permit to conduct certain businesses relating to fire extinguishers or preengineered fire extinguishing systems; providing penalties for false impersonation of the State Fire Marshal, an agent of the Division of State Fire Marshal of the Department of Insurance, a firefighter, or a fire safety inspector; amending s. 633.351, F.S.; revising standards for decertification of firefighters; providing for continuing education requirements for certain inactive firefighters to maintain certification; amending s. 633.445, F.S.; revising a reference to the Fire College Revolving Trust Fund; amending s. 633.45, F.S.; requiring the division to specify standards for the evaluation of institutions, instructors, and facilities for training firefighters and firefighter recruits; providing continuing education requirements for such instructors; amending s. 633.521, F.S.; revising procedures for the administration of the examination that a person must pass in order to be issued a certificate of competency as a contractor engaged in a business related to fire extinguishers or preengineered fire extinguishing systems; providing an effective date.

—was read the second time by title.

Three amendments were adopted to SB 2572 to conform the bill to CS for HB 2293.

Pending further consideration of SB 2572 as amended, on motion by Senator Thurman, by two-thirds vote CS for HB 2293 was withdrawn from the Committees on Insurance, Judiciary-Criminal and Appropriations.

On motion by Senator Thurman—

CS for HB 2293—A bill to be entitled An act relating to fire prevention and control; amending s. 633.01, F.S.; repealing a provision that requires the State Fire Marshal to regulate the storage, sale, and use of certain explosive and flammable materials; repealing a provision that requires the State Fire Marshal and the Department of Education to jointly prepare rules for safety inspections of district school facilities and community college facilities; amending s. 633.022, F.S.; providing that uniform firesafety standards apply only to public lodging establishments that are transient; amending s. 633.061, F.S.; specifying procedures for reexamining persons who do not pass an examination that must be passed in order to be issued or to renew a license or permit to conduct certain businesses relating to fire extinguishers or preengineered fire extinguishing systems; amending s. 633.085, F.S.; providing an exception to the requirement of payment for the cost of inspections of state buildings and premises; providing penalties for false impersonation of the State Fire Marshal, an agent of the Division of State Fire Marshal of the Department of Insurance, a firefighter, or a fire safety inspector; amending s. 633.351, F.S.; revising standards for decertification of firefighters; providing for continuing education requirements for certain inactive firefighters to maintain certification; amending s. 633.445, F.S.; revising a reference to the Fire College Revolving Trust Fund; amending s. 633.45, F.S.; requiring the division to specify standards for the evaluation of institutions, instructors, and facilities for training firefighters and firefighter recruits; providing continuing education requirements for such instructors; amending s. 633.521, F.S.; revising procedures for the administration of the examination that a person must pass in order to be issued a certificate of competency as a contractor engaged in a business related to fire extinguishers or preengineered fire extinguishing systems; providing an effective date.

—a companion measure, was substituted for SB 2572 and read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for HB 2293 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Davis	Johnson	Souto
Bankhead	Deratany	Kirkpatrick	Stuart
Beard	Diaz-Balart	Kiser	Thomas
Brown	Dudley	Langley	Thurman
Bruner	Forman	Malchon	Walker
Casas	Gardner	Meek	Weinstein
Childers, D.	Girardeau	Myers	Weinstock
Childers, W. D.	Grant	Peterson	Woodson-Howard
Crenshaw	Grizzle	Plummer	

Nays—None

Reconsideration

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

CS for HB's 1437 and 1809—A bill to be entitled An act relating to the 911 emergency telephone system; creating a task force committee on "911"; providing for membership, organization, and meetings; providing for a review and evaluation of the "911" emergency telephone system in the state; providing for operations review and evaluation; providing for an interim and final report; providing for termination of the committee; amending s. 365.171, F.S.; increasing the time period over which the payment of the nonrecurring charge for the "911" service may be made at the request of the subscribing county; revising language with respect to confidentiality of records; prohibiting false "911" calls; providing a penalty; providing an appropriation; providing an effective date.

—passed as amended this day.

On motion by Senator Walker, by two-thirds vote the Senate reconsidered the vote by which CS for HB's 1437 and 1809 was read the third time.

On motion by Senator Walker, the Senate reconsidered the vote by which Amendments 2 and 4 were adopted. By permission, Amendments 2 and 4 were withdrawn.

On motion by Senator Walker, by two-thirds vote CS for HB's 1437 and 1809 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Davis	Johnson	Souto
Bankhead	Deratany	Kirkpatrick	Stuart
Beard	Diaz-Balart	Langley	Thomas
Brown	Dudley	Malchon	Thurman
Bruner	Forman	McPherson	Walker
Casas	Gardner	Meek	Weinstein
Childers, D.	Girardeau	Myers	Weinstock
Childers, W. D.	Grizzle	Peterson	Woodson-Howard
Crenshaw	Jennings	Plummer	

Nays—None

Consideration of **Senate Bills 784, 384** and **2016** was deferred.

On motions by Senator Myers, by two-thirds vote HB 231 was withdrawn from the Committees on Rules and Calendar and Appropriations.

On motion by Senator Myers, by unanimous consent—

HB 231—A bill to be entitled An act relating to the Legislature; amending s. 11.12, F.S.; providing for an increase in travel expenses that may be paid to legislators' employees; providing an effective date.

—a companion measure, was substituted for SB 1500 and read the second time by title. On motion by Senator Myers, by two-thirds vote HB 231 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Mr. President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Stuart
Beard	Forman	Langley	Thomas
Brown	Gardner	Malchon	Thurman
Bruner	Girardeau	McPherson	Walker
Casas	Gordon	Meek	Weinstein
Childers, D.	Grizzle	Myers	Weinstock
Childers, W. D.	Jennings	Peterson	Woodson-Howard
Crenshaw	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Davis, Deratany

The Senate resumed consideration of—

CS for SB 2566—A bill to be entitled An act relating to insurance; creating the Automobile Insurance Information Pilot Project within the Department of Insurance; providing intent; providing for telephone access to comparative premium cost information; providing for operation in a county selected by the department; providing for management, staffing, and acquisition of resources; providing for a public information program; providing for expiration of the project; providing appropriations; providing an effective date.

—as amended.

On motion by Senator Plummer, the Senate reconsidered the vote by which Amendment 1 was adopted.

Senator Scott presiding

Amendment 1 was adopted.

Senator Plummer moved the following amendment:

Amendment 2—On page 2, between lines 25 and 26, insert:

Section 3. Section 627.7295, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.7295, F.S., for present text.)

627.7295 Motor vehicle insurance contracts.—

(1) For the purpose of this section, "policy" shall mean a motor vehicle insurance policy which provides personal injury protection and property damage liability coverage. Notwithstanding the provisions of section 627.420, for the purposes of this section "policy" shall include a binder.

(2) No policy shall be issued for a term of less than six months unless:

(a) Issued to achieve common expiration dates; or

(b) Issued to complete the unexpired portion of a previous policy period.

(3) Except as provided in s. 627.7282, no policy may be cancelled by the insured during the first two months immediately following the effective date of the policy except:

(a) Upon total destruction of the insured motor vehicle;

(b) Upon transfer of ownership of the insured motor vehicle; or

(c) After purchase of another policy covering the motor vehicle which was covered under the policy being cancelled.

(4) The insurer may cancel the policy in accordance with this code except that, notwithstanding s. 627.728, an insurer shall not cancel a new policy during the first two months immediately following the effective date of the policy for non-payment of premium unless the reason for the cancellation is the issuance of a check for the premium which is dishonored for any reason.

(5) A licensed general lines agent may charge a per-policy fee not to exceed $10.00 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy provided the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and further provided that no other insurance is sold or issued in conjunction with or collateral to the policy. This per-policy fee shall not be construed as premium. The per-policy fee shall be a one time fee to the policyholder and shall not be applied to any renewal business of that policyholder.

(Renumber subsequent sections.)

Further consideration of **CS for SB 2566** with pending **Amendment 2** was deferred.

On motions by Senator Johnson, by two-thirds vote CS for HB 3741 was withdrawn from the Committees on Ethics and Elections; Rules and Calendar; and Appropriations.

On motion by Senator Johnson—

CS for HB 3741—A bill to be entitled An act relating to elections; amending ss. 106.04, 106.07, and 106.29, F.S.; requiring certain candidates and committees to file the original and a copy of each campaign finance report with the Department of State; prohibiting a separate fine from being assessed for failure to file copies; amending s. 106.18, F.S.; provid-

ing that no candidate shall be prevented from receiving a certificate of election for failure to file a copy of a report; amending s. 106.04, F.S.; clarifying that committees of continuous existence may contribute to political parties; amending s. 106.24, F.S.; providing that the Florida Elections Commission shall not be subject to control by the Department of State; limiting the number of terms members may serve; providing for meetings; providing for administrative support by the Division of Elections and for employment of staff; providing for development of a budget request; amending ss. 106.25 and 106.26, F.S.; providing powers of the division to investigate violations of chapter 106 with or without sworn complaint; providing for preliminary investigations and for procedures if probable cause or no probable cause is found; providing that dismissal of a case by the division may be appealed to the commission; amending s. 106.265, F.S., which authorizes the commission to impose civil penalties upon violators and bring actions to enforce such penalties, to include political parties; amending s. 106.27, F.S., which authorizes the commission to bring civil actions for relief, to include committees of continuous existence and political parties; repealing s. 106.08(8), F.S., which prohibits candidates for legislative or statewide office from accepting or soliciting campaign contributions during legislative sessions; repealing s. 106.22(9), F.S., which directs the Division of Elections to provide staffing and facilities for the commission; providing an appropriation; saving ss. 106.24, 106.25, 106.26, 106.265, 106.27, 106.28, and 106.29, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 1458 and read the second time by title.

Senator Brown moved the following amendment:

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

Section 1. Subsections (1), (4), and (5) of section 106.04, Florida Statutes, and paragraph (a) of subsection (8) of said section are amended to read:

106.04 Committees of continuous existence.—

(1) In order to qualify as a committee of continuous existence for the purposes of this chapter, a group, organization, association, or other such entity which is involved in making contributions to candidates, *political committees, or political parties,* shall meet the following criteria:

(a) It shall be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and

(b) At least 25 percent of the income of such organization must be derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws.

(4)*(a)* Each committee of continuous existence shall file an annual report with the Division of Elections during the month of January of each year. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2).

(b) ~~In addition to such annual report,~~ Each committee *of continuous existence* shall file regular reports with the Division of Elections at the same times and subject to the same filing conditions as are established by s. 106.07(1) and (2)(a) for candidates' reports. Any committee of continuous existence failing to so file a report on the designated due date shall be subject to the provisions of subsection (8). *All committees of continuous existence shall file the original and one copy of their reports with the Division of Elections. In addition,* a duplicate copy of each report shall be filed with the supervisor of elections in the county in which the committee maintains its books and records, except that if the filing officer to whom the committee is required to report is located in the same county as the supervisor no such duplicate report is required to be filed with the supervisor. Reports shall be on forms provided by the division and shall contain the following information:

1.~~(a)~~ The full name, address, and occupation of each person who has made one or more contributions to the committee during the reporting period, together with the amounts and dates of such contributions. However, if the contribution is $100 or less, the occupation of the contributor need not be listed, and only the name and address are necessary. However, for any contributions which represent the payment of dues by members in a fixed amount pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.

2.~~(b)~~ The name and address of each political committee or committee of continuous existence from which the reporting committee received, or *the name and address of each political committee, committee of continuous existence, or political party* to which it made, any transfer of funds, together with the amounts and dates of all transfers.

3.~~(c)~~ Any other receipt of funds not listed pursuant to *subparagraph 1. or subparagraph 2.* ~~paragraph (a) or paragraph (b)~~, including the sources and amounts of all such funds.

4.~~(d)~~ The name *and*~~,~~ address *of*, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.

(c) The treasurer of each committee shall certify as to the correctness of each report and shall bear the responsibility for its accuracy and veracity. Any treasurer who willfully certifies to the correctness of a report while knowing that such report is incorrect, false, or incomplete *commits* ~~is guilty of~~ a *misdemeanor* ~~felony~~ of the *first* ~~third~~ degree, punishable as provided in s. 775.082~~,~~ *or* s. 775.083~~, or s. 775.084~~.

(8)(a) Any committee of continuous existence failing to file a report on the designated due date shall be subject to a fine. The fine shall be $50 per day for each late day, not to exceed 25 percent of the total receipts for the period covered by the late report. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the Election Campaign Financing Trust Fund. *No separate fine shall be assessed for failure to file a copy of any report required by this section.*

Section 2. Subsection (1), paragraph (a) of subsection (2), and subsections (3), (5), (8), and (9) of section 106.07, Florida Statutes, are amended to read:

106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee.

~~(a)~~ Reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday.

(a) Following the last day of qualifying for office, the reports shall be filed on the 4th, 18th, and 32nd days immediately preceding the first and second primaries and on the 4th and 18th days immediately preceding the general election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Notwithstanding the provisions of paragraph (a), any unopposed candidate need only file a report within 90 days after the date such candidate became unopposed. Such report shall contain all previously unreported contributions and expenditures as required by this section and shall reflect disposition of funds as required by s. 106.141.

(c)1. When a special election is called to fill a vacancy in office, all political committees and committees of continuous existence making contributions or expenditures to influence the results of such special election shall file campaign treasurers' reports with the filing officer on the dates set by the Department of State pursuant to s. 100.111.

2. When an election is called for an issue to appear on the ballot at a time when no candidates are scheduled to appear on the ballot, all political committees making contributions or expenditures in support of or in opposition to such issue shall file reports on the 18th, and 4th days prior to such election.

(d)~~(c)~~ The *filing officer* ~~division~~ shall provide each candidate with a schedule designating the beginning and end of reporting periods as well as the corresponding designated due dates.

(2)(a) All reports required of a candidate by this section shall be filed with the officer before whom the candidate is required by law to qualify. *All candidates who file with the Department of State shall file the origi-*

nal and one copy of their reports. In addition, a ~~duplicate~~ copy of each report for candidates for other than statewide office who qualify with the Department of State shall be filed with the supervisor of elections in the county where the candidate resides. Reports shall be filed not later than 5 p.m. of the day designated; however, any report postmarked by the U.S. Postal Service no later than midnight of the day designated shall be deemed to have been filed in a timely manner. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, shall be proof of mailing in a timely manner. Reports shall contain information of all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election shall contain information of all previously unreported contributions received and expenditures made as of the day preceding that designated due date. All such reports shall be open to public inspection.

(3) Reports required of a political committee shall be filed with the agency or officer before whom such committee registers pursuant to s. 106.03(3) *and shall be subject to the same filing conditions as established for candidates' reports. Only committees that file with the Department of State shall file the original and one copy of their reports.* Incomplete reports by political committees shall be treated in the manner provided for incomplete reports by candidates in subsection (2).

(5) The candidate and his campaign treasurer, in the case of a candidate, or the political committee chairman and campaign treasurer of the committee, in the case of a political committee, shall certify as to the correctness of each report; and each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer, candidate, or political committee chairman who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 *or*, s. 775.083~~, or s. 775.084~~.

~~(8) The provisions of this section to the contrary notwithstanding, any political committee which deposits all contributions received in a national depository from which the political committee receives funds to contribute to state and local candidates may file a copy of the list of contributions required by the Federal Campaign Communications Act of 1971 (Pub. L. No. 92-225) with the Department of State in lieu of any report required in this section. However, any contribution or expenditure not required to be reported by the committee under such federal law shall be reported to the division in accordance with the provisions of this chapter.~~

(8)~~(9)~~(a) Any candidate or political committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day, and, in the case of a candidate, such fine shall be paid only from personal funds of the candidate. The fine shall be assessed by the filing officer and the moneys collected shall be deposited:

1. In the Election Campaign Financing Trust Fund, in the case of a candidate for state office or a political committee that registers with the Division of Elections; or

2. In the general revenue fund of the political subdivision, in the case of a candidate for an office of a political subdivision or a political committee that registers with an officer of a political subdivision.

No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chairman of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be $50 per day for each late day, not to exceed 25 percent of the total receipts for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chairman. The filing officer shall determine the amount of the fine due based on when the report is actually received by such officer. Such fine shall be paid to the filing officer within 15 days of receipt of notice of the payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from personal funds of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

(c) Any candidate or chairman of a political committee may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. Any such request shall be made within 15 days of the notice of payment due. In such case, the candidate or chairman of the political committee shall, within the 15-day period, notify the filing officer in writing of his intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by a candidate or political committee, the failure of a candidate or political committee to file a report after notice, or the failure to pay the fine imposed.

(e) The filing officer shall waive the fine for first-time offenders who had no activity during the reporting period. The Division of Elections shall adopt rules to carry out the provisions of this paragraph.

Section 3. Subsection (3) of section 106.18, Florida Statutes, is amended to read:

106.18 When a candidate's name to be omitted from ballot.—

(3) No certificate of election shall be granted to any candidate until all preelection reports required by s. 106.07 have been filed in accordance with the provisions of such section. *However, no candidate shall be prevented from receiving a certificate of election for failure to file any copy of a report required by this chapter.*

Section 4. Section 106.24, Florida Statutes, is amended to read:

106.24 Florida Elections Commission; membership; powers; duties.—

(1) There is created within the Department of State a Florida Elections Commission, hereinafter referred to as the commission. *The commission shall not be subject to control, supervision, or direction by the Department of State in the performance of its duties.* It shall be composed of seven members, including a chairman, all of whom shall be appointed by the Governor with the approval of three members of the Cabinet and subject to confirmation by the Senate. Members of the commission appointed by the Governor shall serve for 4-year terms~~, except that, of the original appointees, three members shall be appointed for terms of 2 years each and their successors shall be appointed for full 4-year terms~~. The chairman of the commission shall be designated by the Governor. Vacancies on the commission shall be filled for the unexpired terms in the manner of the original appointment to the vacated position. Members of the commission may *not serve more than two terms* ~~be reappointed to succeed themselves~~. Members of the commission shall be paid travel and per diem as provided in s. 112.061 while in performance of their duties and in traveling to, from, and upon same. Of the seven members of the commission, no more than four members shall be from the same political party at any one time.

(2) No member of the commission shall be a member of any county, state, or national committee of a political party; be an officer in any partisan political club or organization; or hold, or be a candidate for, any other public office. No person shall be appointed as a member of the commission who has held an elective public office or office in a political party within the year immediately preceding his appointment.

(3) The commission shall convene at the call of its chairman or at the *request of a majority of the members of the commission* ~~call of the Department of State~~. The presence of four members is required to constitute a quorum, and the affirmative vote of the majority of the members present is required for any action or recommendation by the commission. The commission may meet in any city of the state.

(4) The Division of Elections shall provide *administrative support and services to* ~~the necessary staff and facilities for~~ the commission to carry out its duties pursuant to this chapter. *The division shall employ such staff as is necessary to adequately perform the functions of the commission, within budgetary limitations.*

(5) There is hereby established in the State Treasury an Elections Commission Trust Fund to be utilized by the Divison of Elections and the Florida Elections Commission in order to carry out their duties pursuant to ss. 106.24-106.28.

(6) The department, in consultation with the commission, shall develop a budget request biennially which shall be submitted by the department to the Governor for transmittal to the Legislature.

Section 5. Section 106.25, Florida Statutes, is amended to read:

106.25 Reports of alleged violations to Department of State; disposition of findings.—

(1) Jurisdiction to investigate and determine violations of this chapter is vested in the Division of Elections and the Florida Elections Commission; however, nothing in this section limits the jurisdiction of any other officers or agencies of government empowered by law to investigate, act upon, or dispose of alleged violations of this code.

(2) The Division of Elections shall investigate and report to the Florida Elections Commission all violations of this chapter *with or without having received a sworn complaint, and may conduct random audits and investigations with respect to reports and statements filed under this chapter and with respect to alleged failure to file any reports and statements required under this chapter. However,* any person, *other than the division,* having information of any violation of this chapter shall file a sworn complaint with the Division of Elections. Such sworn complaint shall state whether a complaint of the same violation has been made to any state attorney.

(3) For the purposes of Florida Elections Commission jurisdiction, a violation shall mean the willful performance of an act prohibited by this chapter or the willful failure to perform an act required by this chapter.

(4) The *Division of Elections shall undertake a preliminary investigation to determine if the facts alleged in a sworn complaint or a matter initiated by the division constitute probable cause to believe that a violation has occurred. Upon completion of the preliminary investigation the division shall, by written report, find probable cause or no probable cause to believe this chapter or s. 104.271 has been violated.*

(a) If no probable cause is found, the division may dismiss the case and the case shall become a matter of public record, except as otherwise provided in this section, together with a written statement of the findings of the preliminary investigation and a summary of the facts which the division shall send to the complainant and the alleged violator.

(b) If probable cause is found, the division shall so notify the complainant and the alleged violator in writing and shall refer the case to the commission. All documents made or received in the disposition of the complaint shall become public records upon a finding by the commission.

In a case where probable cause is found by the commission, ~~division shall, by written report filed with the commission, find an apparent violation or no apparent violation of this chapter, whereupon~~ the commission shall make a preliminary determination to consider the matter or to refer the matter to the state attorney for the judicial circuit in which the alleged violation occurred.

(5)~~(a)~~ It is the duty of a state attorney receiving a complaint referred by the commission to investigate the complaint promptly and thoroughly; to undertake such criminal or civil actions as are justified by law; and to report to the commission the results of such investigation, the action taken, and the disposition thereof.

~~(b)~~ The failure or refusal of a state attorney to prosecute or to initiate action upon a complaint or a referral by the commission shall not bar further action by the commission under this chapter.

(6)~~(5)(a) Except as provided in paragraph (b),~~ Every sworn complaint filed pursuant to this chapter with the Division of Elections or the Florida Elections Commission, every division investigation and investigative report or other paper of the division or commission with respect to a violation of this chapter, and every proceeding of the commission with respect to a violation of this chapter is confidential, is exempt from the provisions of s. 119.07(1) and chapter 286, and is exempt from publication in the Florida Administrative Weekly of any notice or agenda with respect to any proceeding relating to such violation *except under the following circumstances:*

(a) As provided in subsection (5);

(b) Upon a determination of probable cause or no probable cause by the commission;

(c) After a finding of no probable cause is made by the division and the case is not appealed; or

(d) For proceedings conducted with respect to appeals of fines levied by filing officers for the late filing of reports required by this chapter.

However, ~~Unless~~ confidentiality *may be* ~~is~~ waived in writing by the person against whom the complaint has been filed *or the investigation has been initiated.* ~~Upon the entry of an order by the commission disposing of a case before it, the entire proceedings and records relating to such case become a public record, except that~~ If *a finding of probable cause in* ~~an order disposing of~~ a case is entered within 30 days prior to the date of the election with respect to which the alleged violation occurred, such *finding* ~~order~~ and the proceedings and records relating to such case shall not become public until noon of the day following such election. When two or more persons are being investigated by the *division* ~~commission~~ with respect to an alleged violation of this chapter, the *division or the* commission may not publicly enter *a finding of probable cause or no probable cause in* ~~an order disposing of the findings of~~ the case until *a finding of probable cause or no probable cause for* ~~the disposition of~~ the entire case has been determined. However, once the confidentiality of any case has been breached, the person or persons under investigation have the right to waive the confidentiality of the case, thereby opening up the proceedings and records to the public. Any person who discloses any information or matter made confidential by the provisions of this subsection *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

~~(b) Proceedings conducted with respect to appeals of fines levied by filing officers for the late filing of reports required by this chapter shall be exempt from the confidentiality provisions of paragraph (a).~~

(7) Dismissal of a case by the division, based on a finding of no probable cause, may be appealed to the commission by the complainant. Any complainant intending to appeal such dismissal must, within 30 days after the dismissal, file a request for a hearing before the commission with the division.

(8)~~(6)~~ Any person who files a complaint pursuant to this section while knowing that the allegations contained in such complaint are false or without merit *commits* ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 6. Subsection (1) of section 106.26, Florida Statutes, is amended to read:

106.26 Powers of commission; rights and responsibilities of parties; findings by commission.—

(1) The commission shall, pursuant to rules adopted and published in accordance with chapter 120, consider all matters reported to it by the Division of Elections or otherwise coming to its attention, *including appeals of division dismissals of cases based on no probable cause.* In order to carry out its duties, the commission may, whenever required, issue subpoenas and other necessary process to compel the attendance of witnesses before it. The chairman thereof shall issue said process on behalf of the commission. The chairman or any other member of the commission may administer all oaths and affirmations in the manner prescribed by law to witnesses who shall appear before the commission for the purpose of testifying in any matter about which the commission may desire evidence. The commission, whenever required, may also compel by subpoena the production of any books, letters, or other documentary evidence it may desire to examine in reference to any matter before it. The sheriffs in the several counties shall make such service and execute all process or orders when required by the commission. Sheriffs shall be paid for these services by the commission as provided for in s. 30.231. Any person who is served with a subpoena to attend a hearing of the commission also shall be served with a general statement informing him of the subject matter of the commission's investigation or inquiry and a notice that he may be accompanied at the hearing by counsel of his own choosing.

Section 7. Subsections (1) and (2) of section 106.265, Florida Statutes, are amended to read:

106.265 Civil penalties.—

(1) The commission is authorized upon finding of violation of this chapter to impose civil penalties in the form of fines not to exceed $1,000 per count. In determining the amount of such civil penalties, the commission shall consider, among other mitigating and aggravating circumstances:

(a) The gravity of the act or omission;

(b) Any previous history of similar acts or omissions;

(c) The appropriateness of such penalty to the financial resources of the person, political committee, ~~or~~ committee of continuous existence, *or political party*; and

(d) Whether the person, political committee, ~~or~~ committee of continuous existence, *or political party* has shown good faith in attempting to comply with the provisions of this chapter.

(2) If any person, political committee, ~~or~~ committee of continuous existence, *or political party* fails or refuses to pay to the commission any civil penalties assessed pursuant to the provisions of this section, the commission may bring an action in any circuit court of this state to enforce such penalty.

Section 8. Subsection (2) of section 106.27, Florida Statutes, is amended to read:

106.27 Determinations by commission; legal disposition.—

(2) Civil actions may be brought *by the commission* for relief, including permanent or temporary injunctions, restraining orders, or any other appropriate order for the imposition of civil penalties provided by this chapter. Such civil actions shall be brought *by the commission* in the appropriate court of competent jurisdiction, and the venue shall be in the county in which the alleged violation occurred or in which the alleged violator or violators are found, reside, or transact business. Upon a proper showing that such person, ~~or~~ political committee, *committee of continuous existence, or political party* has engaged, or is about to engage, in prohibited acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court, and the civil fines provided by this chapter may be imposed.

Section 9. Subsection (8) of section 106.08, Florida Statutes, as created by chapter 89-256, Laws of Florida, and subsection (9) of section 106.22, Florida Statutes, are hereby repealed.

Section 10. Subsection (1) of section 106.29, Florida Statutes, is amended to read:

106.29 Reports by political parties.—

(1) The state executive committee and each county executive committee of each political party regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding the first primary election, the second primary election, and the general election. Each state executive committee shall file *the original and one copy of* its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any political party failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late reports. *No separate fine shall be assessed for failure to file a copy of any report required by this section.*

Section 11. Section 106.36, Florida Statutes, is amended to read:

106.36 Penalties; fines.—In addition to any other penalties which may be applicable under the election code, any candidate who receives contributions from the Election Campaign Financing Trust Fund and who exceeds the applicable expenditure limit or falsely reports qualifying matching contributions and thereby receives contributions from the Election Campaign Financing Trust Fund to which he was not entitled shall be fined an amount equal to three times the amount at issue, *which shall be deposited in the Election Campaign Financing Trust Fund.*

Section 12. The Division of Elections is hereby authorized 6 positions to carry out the responsibilities of the Florida Elections Commission.

Section 13. The sum of $324,146 is appropriated for fiscal year 1990-1991 from the Elections Commission Trust Fund to the Division of Elections to carry out the responsibilities of the Florida Elections Commission.

Section 14. Notwithstanding the provisions of section 11.611, Florida Statutes, or chapter 82-46 or chapter 83-265, Laws of Florida, sections 106.24, 106.25, 106.26, 106.265, 106.27, 106.28, and 106.29, Florida Statutes, shall not stand repealed on October 1, 1990, but said sections, as amended by this act, are hereby revived and readopted.

Section 15. Sections 106.24, 106.25, 106.26, 106.265, and 106.27, Florida Statutes, are repealed effective October 1, 2000, and shall be reviewed by the Legislature prior to that date pursuant to section 11.611, Florida Statutes.

Section 16. This act shall take effect July 1, 1990, or upon becoming a law, whichever occurs later.

Further consideration of **CS for HB 3741** with pending **Amendment 1** was deferred.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Gardner, by two-thirds vote Senate Bills 1006, 1008, 1854 and 2178 were withdrawn from the committees of reference and further consideration.

On motions by Senator Margolis, by two-thirds vote HB 3761, Senate Bills 1752 and 1468 were withdrawn from the Committee on Appropriations.

On motion by Senator Deratany, by two-thirds vote HB 3657 was withdrawn from the Committee on Finance, Taxation and Claims.

RECESS

On motion by Senator Weinstein, the Senate recessed at 6:28 p.m. to reconvene at 7:15 p.m.

CALL TO ORDER

The Senate was called to order by the President at 7:57 p.m. A quorum present—37:

Mr. President	Dudley	Langley	Stuart
Bankhead	Forman	Malchon	Thomas
Beard	Gardner	Margolis	Thurman
Brown	Girardeau	McPherson	Walker
Bruner	Gordon	Meek	Weinstein
Casas	Grant	Myers	Weinstock
Childers, D.	Grizzle	Peterson	Woodson-Howard
Childers, W. D.	Jennings	Plummer	
Davis	Johnson	Scott	
Diaz-Balart	Kiser	Souto	

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 2764—A bill to be entitled An act relating to insurers; amending s. 624.316, F.S.; providing for submission of requests for reduction in costs of examination; amending s. 625.172, F.S.; providing for replacement of assets; providing for suspension of a certificate of authority; amending s. 628.461, F.S.; providing exemptions from filing requirements; amending s. 628.4615, F.S.; narrowing applicability of provisions relating to acquisition of controlling stock in allied lines insurers; repealing s. 628.291(3), F.S., relating to notice of reciprocity; amending s. 631.251, F.S.; specifying conditions for offsets for reinsurance agreements in insurer liquidation proceeding; amending s. 631.281, F.S.; fixing a date for certain offsets in insurer liquidation proceedings; creating s. 624.4075, F.S.; specifying surplus as to policyholders requirements for certain applications to convert a license of a captive insurer to a certificate of authority of a domestic insurer to transact property and casualty insurance; amending s. 641.2017, F.S.; authorizing health maintenance organizations to enter into specified contracts; reenacting ss. 48.151(3), 624.11(2), 631.051(7), 634.252, 634.3073, 634.4085, 637.153, 637.422, 638.052, 639.106, 641.125, 641.255, 641.416, 642.032(5), 651.024, 651.105(1), F.S., relating to service of process on statutory agents, risk retention groups, rehabilitation of domestic insurers, motor vehicle service agreement companies, home warranty associations, service warranty associations, optometric service plans, dental service plans, ambulance service associations, preneed funeral contracts, health care service plans, health maintenance organizations, prepaid health clinics, legal expense insurance corporations, and continuing care facilities and contracts, to

incorporate the amendments to ss. 624.316, 628.461, 628.4615, F.S., in references thereto; providing an effective date.

On motion by Senator Margolis, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** was withdrawn.

On motion by Senator Margolis, by two-thirds vote CS for SB 2764 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31

Beard	Forman	Kiser	Souto
Brown	Gardner	Langley	Stuart
Bruner	Girardeau	Malchon	Thomas
Casas	Gordon	Margolis	Thurman
Childers, D.	Grant	McPherson	Weinstein
Davis	Grizzle	Meek	Weinstock
Diaz-Balart	Jennings	Myers	Woodson-Howard
Dudley	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Deratany, Kirkpatrick

SB 784—A bill to be entitled An act relating to specialized state educational institutions; creating s. 242.64, F.S.; providing for an annual appropriation to Southeastern University of Health Sciences; providing requirements for receipt of funds; providing for payment and expenditure of funds; repealing s. 240.519, F.S., relating to establishment of a school of optometry; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Margolis and adopted:

Amendment 1—On page 1, line 20, after "Sciences." insert: Payments of moneys from such appropriation shall be made semiannually at the beginning of the first and third quarters.

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

Amendment 2—On page 3, lines 11 and 12, strike the language beginning with "also" on line 11 through the period (.) on line 12 and insert: be required to actively recruit and enroll minorities.

On motion by Senator Margolis, by two-thirds vote SB 784 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34

Mr. President	Dudley	Langley	Stuart
Beard	Forman	Malchon	Thomas
Brown	Gardner	Margolis	Thurman
Bruner	Girardeau	McPherson	Walker
Casas	Gordon	Myers	Weinstein
Childers, D.	Jennings	Peterson	Weinstock
Davis	Johnson	Plummer	Woodson-Howard
Deratany	Kirkpatrick	Scott	
Diaz-Balart	Kiser	Souto	

Nays—2

Grizzle	Meek

Vote after roll call:

Yea—Crenshaw

The Senate resumed consideration of—

CS for SB 2566—A bill to be entitled An act relating to insurance; creating the Automobile Insurance Information Pilot Project within the Department of Insurance; providing intent; providing for telephone access to comparative premium cost information; providing for operation in a county selected by the department; providing for management, staffing, and acquisition of resources; providing for a public information program; providing for expiration of the project; providing appropriations; providing an effective date.

—with pending **Amendment 2** which was adopted.

Senator Woodson-Howard moved the following amendment which was adopted:

Amendment 3—In title, on page 1, line 12, after the semicolon (;) insert: requiring that health insurance policies which provide benefits for certain therapeutic services also cover the services of persons licensed to practice massage;

Senator Plummer moved the following amendment which was adopted:

Amendment 4—In title, on page 1, line 12, after the semicolon (;) insert: amending s. 627.7295, F.S.; providing clarification of terminology used; revising circumstances that limit the term of coverage for motor vehicle insurance contracts; clarifying rights of insurer to cancel policy coverage; providing for a per-policy fee to cover costs of the selling agent.

On motion by Senator Plummer, by two-thirds vote CS for SB 2566 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Bankhead	Deratany	Johnson	Plummer
Beard	Diaz-Balart	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motions by Senator Brown, by two-thirds vote CS for HB 2403 was withdrawn from the Committees on Ethics and Elections and Appropriations.

On motion by Senator Brown—

CS for HB 2403—A bill to be entitled An act relating to elections; amending s. 97.012, F.S.; providing responsibilties of the chief election officer; amending s. 97.021, F.S.; providing definitions; amending ss. 98.081, 98.101, 98.412, and 98.461, F.S.; providing that certain voter registration records may be retained on certain media, such media maintained in the custody of the supervisor of elections, and the original records destroyed pursuant to the schedule approved by the Department of State; amending s. 92.295, F.S.; relating to copies of voter registration records as evidence, to conform; amending s. 99.061, F.S.; revising the qualifying period for write-in candidates; revising the qualifying dates for federal candidates in certain years; amending s. 99.095, F.S.; revising provisions relating to qualifying for nomination by the alternative method; changing oath and petition filing dates; amending s. 99.0955, F.S.; revising the dates for certain independent candidates to submit petitions; amending s. 99.096, F.S.; revising the dates for minor party candidates to submit petitions; amending s. 99.097, F.S. revising provisions relating to petition verification; amending s. 100.111, F.S.; requiring the Department of State to set dates for qualifying by petition in special elections; providing for the required number of signatures; amending s. 100.141, F.S.; revising the notice for special elections, to conform; amending s. 100.361, F.S.; making municipal recall provisions applicable to all municipalities and charter counties; amending s. 101.015, F.S.; providing for provisional approval of electronic and electromechanical voting systems; amending s. 101.5614, F.S.; to conform; amending s. 101.6102, F.S.; providing that mail ballot elections may be used in special districts covering more than one county; removing the prohibition against the use of mail ballots for a referendum to approve the levy of taxes or the issuance of bonds; amending s. 101.64, F.S.; revising the voter's certificate on absentee ballots, to conform; amending s. 104.051, F.S.; providing a penalty for any supervisor of elections, deputy supervisor of elections, or elections employee who attempts to influence or interfere with an elector voting; amending s. 104.061, F.S.; relating to corruptly influencing voting; amending s. 105.035, F.S.; changing oath and petition filing dates for cer-

tain judicial officers qualifying by the alternative method; amending s. 106.011, F.S.; revising definitions; amending s. 106.021, F.S.; requiring candidates for certain offices to file the names and addresses of their campaign treasurers with the supervisor of elections in the county of their residence; changing terminology; creating s. 106.023, F.S.; requiring candidates to file an additional statement; amending s. 106.03, F.S.; eliminating a filing exemption; amending s. 106.04, F.S.; providing that a committee of continuous existence need not file a copy of its charter or bylaws with its annual report under certain conditions; reducing a penalty for incorrect, false, or incomplete reports; providing for promulgation of rules on revocation of certification and on certain fine waivers; increasing the period to pay or appeal a fine for a late report; providing requirements for determining the number of late days for the purpose of assessing fines for late reports; requiring committees of continuous existence to file a copy of each campaign report with the Department of State; prohibiting separate fine from being assessed for failure to file copies; amending s. 106.05, F.S.; revising the name of a campaign account; amending s. 106.06, F.S.; conforming terminology; amending s. 106.07, F.S. modifying provisions relating to campaign reports; requiring certain candidates to file the original and a copy of each campaign finance report with the Department of State; prohibiting a separate fine from being assessed for failure to file copies; revising the dates on which campaign treasurers' reports are due; providing additional circumstances under which reports are required to be filed; eliminating a filing exemption; increasing the period to pay or appeal a fine for a late report; providing requirements for determining the number of late days for the purpose of assessing fines for late reports; providing for the promulgation of rules on certain fine waivers; amending s. 106.075, F.S.; requiring reports of certain loans to be made to the filing officer; amending s. 106.08, F.S.; providing an exemption to certain limitations on contributions; amending s. 106.141, F.S.; relating to disposition of surplus funds; providing for withdrawal of funds subject to a withdrawal penalty; requiring certain candidates to reimburse the state or local governmental entity for certain fees prior to disposal of surplus funds; amending s. 106.143, F.S.; providing requirements for certain political advertisements; exempting certain items from requirements relating to political advertisements; creating s. 106.1437, F.S.; providing requirements for certain advertisements; amending s. 106.18, F.S.; providing that no candidate shall be prevented from receiving a certificate of election for failure to file a copy of a report; amending s. 106.24, F.S.; establishing procedures for hearings before the Florida Elections Commission; providing for rules; amending s. 106.29, F.S.; requiring state executive committees of political parties to file the original and a copy of each campaign finance report with the Department of State; amending s. 106.33, F.S.; providing clarification regarding election campaign financing matching contributions from individuals; amending s. 106.34, F.S.; providing for adjustments to the expenditure limits for matching funds; amending s. 106.35, F.S.; providing a technical change; amending s. 166.031, F.S.; requiring each municipality by charter or ordinance to provide certain procedures relating to vacancies in office or on the ballot; amending s. 256.011, F.S.; authorizing a picture or representation of the flag of the United States to be displayed at polling places in lieu of the flag; providing a minimum size for a picture or representation thereof; requiring the supervisor of elections to provide the flag or the picture or representation thereof; amending s. 582.18, F.S.; relating to soil and water conservation districts, to conform; repealing s. 99.032, F.S.; relating to qualification of candidates for county commission; repealing s. 101.31, F.S.; relating to experimental use of voting systems; repealing s. 106.08(8), F.S.; relating to receipt of certain contributions; providing effective dates.

—a companion measure, was substituted for CS for CS for SB 1150 and read the second time by title. On motion by Senator Brown, by two-thirds vote CS for HB 2403 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Mr. President	Deratany	Johnson	Plummer
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	Margolis	Thurman
Childers, D.	Gordon	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

SB 2016—A bill to be entitled An act relating to health care; amending s. 390.011, F.S.; modifying the definition of abortion clinic; amending s. 390.012, F.S.; requiring verification by the Department of Health and Rehabilitative Services and the Department of Professional Regulation of physician licensure status; amending s. 390.016, F.S.; requiring additional information on abortion clinic applications for relicensure; providing for confidentiality of physician names; providing penalties; amending s. 390.019, F.S.; providing authority to the Department of Health and Rehabilitative Services for access to certain records in abortion clinics; providing for confidentiality of records; providing penalties; establishing the duty of physicians to supervise the post-operative care of patients after surgical procedures; providing liability for damages resulting from a failure to exercise such supervision; providing an effective date.

—was read the second time by title. On motion by Senator Grizzle, by two-thirds vote SB 2016 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Deratany	Kirkpatrick	Souto
Bankhead	Diaz-Balart	Kiser	Stuart
Beard	Dudley	Langley	Thomas
Brown	Forman	Malchon	Thurman
Bruner	Gardner	Margolis	Walker
Casas	Girardeau	Meek	Weinstein
Childers, D.	Grant	Myers	Woodson-Howard
Childers, W. D.	Grizzle	Peterson	
Crenshaw	Jennings	Plummer	
Davis	Johnson	Scott	

Nays—2

Gordon	Weinstock

CS for SB 352—A bill to be entitled An act relating to campaign financing; amending ss. 106.04, 106.07, F.S., which require the filing of specified reports by committees of continuous existence and campaign treasurers; providing requirements for determining the number of late days for the purpose of assessing fines for late reports; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote CS for SB 352 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Deratany	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Myers	Weinstock
Childers, W. D.	Grant	Peterson	Woodson-Howard
Crenshaw	Grizzle	Plummer	
Davis	Jennings	Scott	

Nays—None

SB 2836—A bill to be entitled An act relating to unemployment compensation; amending s. 443.111, F.S.; increasing the individual maximum weekly benefit amount; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Weinstein and adopted:

Amendment 1—On page 1, line 19, strike "1987" and insert: 1990

On motion by Senator Weinstein, by two-thirds vote SB 2836 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Brown	Childers, D.	Davis
Bankhead	Bruner	Childers, W. D.	Deratany
Beard	Casas	Crenshaw	Diaz-Balart

Dudley	Jennings	Myers	Thurman
Forman	Johnson	Peterson	Walker
Gardner	Kirkpatrick	Plummer	Weinstein
Girardeau	Kiser	Scott	Weinstock
Gordon	Malchon	Souto	Woodson-Howard
Grant	McPherson	Stuart	
Grizzle	Meek	Thomas	

Nays—None

On motion by Senator Malchon, by two-thirds vote HB 3629 was withdrawn from the Committee on Health Care.

On motion by Senator Malchon, by two-thirds vote—

HB 3629—A bill to be entitled An act relating to pregnancy termination reports; amending s. 390.002, F.S.; saving the exemption from public records requirements for such records from repeal and revising said exemption; providing for future review and repeal; providing a penalty; providing an effective date.

—a companion measure, was substituted for SB 384 and read the second time by title.

Senator Malchon moved the following amendment which was adopted:

Amendment 1—On page 1, lines 16-24, strike all of said lines and insert:

(1) The director of any medical facility in which *any* ~~a~~ pregnancy is terminated shall *submit a monthly report which contains* ~~maintain a record of such procedures. The record shall include~~ the *number of procedures* ~~date the procedure was~~ performed, the reason for same, and the period of gestation at the time *such procedures were* ~~the procedure was~~ performed. ~~A copy of such record shall be filed with~~ *to* the Department of Health and Rehabilitative Services. *The department* ~~, which~~ shall be responsible for keeping such *reports* ~~records~~ in a central place from which statistical data and analysis can be made.

On motion by Senator Malchon, by two-thirds vote HB 3629 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Mr. President	Deratany	Kirkpatrick	Stuart
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Langley	Thurman
Brown	Forman	Malchon	Walker
Bruner	Gardner	McPherson	Weinstein
Casas	Girardeau	Meek	Weinstock
Childers, D.	Grant	Myers	Woodson-Howard
Childers, W. D.	Grizzle	Peterson	
Crenshaw	Jennings	Scott	
Davis	Johnson	Souto	

Nays—1

Gordon

Motions

On motion by Senator Deratany, the rules were waived and by two-thirds vote CS for SB 1436 was placed next on the special order calendar.

On motions by Senator Deratany, by two-thirds vote CS for CS for HB 3489 was withdrawn from the Committees on Insurance; and Finance, Taxation and Claims.

On motion by Senator Deratany, by unanimous consent—

CS for CS for HB 3489—A bill to be entitled An act relating to the State Comprehensive Health Association Act; amending s. 627.648, F.S.; providing a short title; amending s. 627.6482, F.S.; providing definitions; amending s. 627.6484, F.S.; deleting obsolete language; requiring use of the market assistance plan in the application process; amending s. 627.6486, F.S.; requiring the board or administrator to collect data to verify residency; revising certain eligibility requirements; amending s. 627.6488, F.S.; changing the name of the association to the Florida Comprehensive Health Association; specifying membership of the board of directors; providing for appointment; authorizing the board to employ or retain certain persons; requiring meetings to be open; requiring collection of assessments; requiring the board to implement cost containment measures; allowing the board to design, implement, and contract with preferred provider organizations and health maintenance organizations; requiring the board to make an annual report; requiring audited financial statements; amending s. 627.649, F.S.; providing for an administrator, rather than an administering insurer; amending s. 627.6492, F.S.; revising computation of assessments; amending s. 627.6494, F.S.; providing circumstances under which an insurer may not be assessed; deleting the assessment cap; amending s. 627.6496, F.S.; correcting a reference; amending s. 627.6498, F.S.; establishing a benefit plan patterned after the state group health insurance program; revising the maximum chargeable premium to policyholders; providing that a determination that an assessment is unlawful or prohibited reinstate the previous method of assessment for deficits; saving ss. 627.648-627.6498, F.S., from Sunset repeal; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for CS for SB 1436 and read the second time by title.

Senator Langley moved the following amendment which failed:

Amendment 1—On page 15, line 30, through page 19, line 28, strike all of said lines and insert:

Section 7. Section 627.6492, Florida Statutes, is amended to read:

627.6492 Participation of insurers.—

(1) Each insurer shall annually be assessed by the board a portion of operating losses of the plan for the preceding calendar year; such portion will be determined by multiplying such operating losses by a fraction, the numerator of which equals the insurer's earned premium and subscriber contract charges *or fees* pertaining to direct writings of health insurance in the state during the calendar year preceding that for which the assessment is levied, *except that the portion of the numerator attributed to an insurer writing a minimum premium plan or stop-loss coverage shall not include the cost of claims paid by a health maintenance organization, prepaid health clinic, multiple-employer welfare arrangement, or fraternal benefit society covered by such insurer.* ~~and~~ The denominator *shall equal* ~~of which equals~~ the total of all such premiums and subscriber contract charges *or fees* earned by participating insurers in the state during such calendar year*; except that the portion of the denominator attributed to an insurer writing a minimum premium plan or stop-loss coverage shall not include the cost of claims paid by a health maintenance organization, prepaid health clinic, multiple-employer welfare arrangement, or fraternal benefit society covered by such insurer.* The computation of assessments shall be made with a reasonable degree of accuracy, with the recognition that exact determinations may not always be possible.

(2) If assessments and other receipts by the association, board, or *administrator* ~~administering insurer~~ exceed the actual losses and administrative expenses of the plan, the excess shall be held at interest and used by the board to offset future losses or to reduce plan premiums. As used in this subsection, the term "future losses" includes reserves for claims incurred but not reported.

(3)(a) Each insurer's proportion of participation in the plan shall be determined annually by the association based on annual statements and other reports deemed necessary by the association and filed with it by the insurer.

(b) Any deficit incurred under the plan shall be recouped by assessments apportioned among participating insurers by the board in the manner provided in subsection (1); and the insurers may recover the net loss, if any, in the normal course of their respective businesses without time limitation.

(c) In the event that the Legislature appropriates funds to be used in funding the deficit of the Florida Comprehensive Health Association, such funds shall be used prior to assessing insurers pursuant to this section.

Section 8. Section 627.6494, Florida Statutes, is amended to read:

627.6494 Assessments; deferment, limitation.—

(1) Notwithstanding the provisions of s. 624.509, premiums for coverage issued or reinsured through the association shall, as to the association and participating insurers, be exempt from premium taxation.

(2) The association may abate or defer, in whole or in part, the assessment of a participating insurer if, in the opinion of the board, payment

of the assessment would endanger the ability of the participating insurer to fulfill its contractual obligations. In the event that an assessment against a participating insurer is abated or deferred, in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other participating insurers in a manner consistent with the basis for assessments set forth in s. 627.6492; and the insurer receiving such abatement or deferment shall remain liable to the association for the deficiency for 4 years. *The association shall not assess a participating insurer who is a multiple-employer welfare arrangement which does not have a fund balance at the end of its most recent fiscal year in an amount equal to or greater than one-tenth of premiums received during the fiscal year.*

(3) The total of all assessments upon a participating insurer shall not for any one calendar year exceed 1 percent of such insurer's ~~health~~ insurance premiums *and insurance contract charges or fees* earned in this state during the calendar year preceding the year for which the assessments were levied.

~~(4) Notwithstanding any provision to the contrary, no participating insurer may be assessed for any one calendar year an amount greater than the amount which it paid to this state in the year preceding that for which the assessments are being levied as premium tax and corporate income tax on the business to which this part applies or 0.01 percent of the total earned premiums on such business in this state, whichever is greater.~~

On motion by Senator Deratany, by two-thirds vote CS for CS for HB 3489 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz-Balart	Kirkpatrick	Souto
Bankhead	Dudley	Kiser	Stuart
Beard	Forman	Langley	Thomas
Brown	Gardner	Malchon	Thurman
Bruner	Girardeau	Margolis	Walker
Casas	Gordon	McPherson	Weinstein
Childers, D.	Grant	Meek	Weinstock
Childers, W. D.	Grizzle	Myers	Woodson-Howard
Crenshaw	Jennings	Peterson	
Deratany	Johnson	Scott	

Nays—None

The Senate resumed consideration of—

CS for HB 3741—A bill to be entitled An act relating to elections; amending ss. 106.04, 106.07, and 106.29, F.S.; requiring certain candidates and committees to file the original and a copy of each campaign finance report with the Department of State; prohibiting a separate fine from being assessed for failure to file copies; amending s. 106.18, F.S.; providing that no candidate shall be prevented from receiving a certificate of election for failure to file a copy of a report; amending s. 106.04, F.S.; clarifying that committees of continuous existence may contribute to political parties; amending s. 106.24, F.S.; providing that the Florida Elections Commission shall not be subject to control by the Department of State; limiting the number of terms members may serve; providing for meetings; providing for administrative support by the Division of Elections and for employment of staff; providing for development of a budget request; amending ss. 106.25 and 106.26, F.S.; providing powers of the division to investigate violations of chapter 106 with or without sworn complaint; providing for preliminary investigations and for procedures if probable cause or no probable cause is found; providing that dismissal of a case by the division may be appealed to the commission; amending s. 106.265, F.S., which authorizes the commission to impose civil penalties upon violators and bring actions to enforce such penalties, to include political parties; amending s. 106.27, F.S., which authorizes the commission to bring civil actions for relief, to include committees of continuous existence and political parties; repealing s. 106.08(8), F.S., which prohibits candidates for legislative or statewide office from accepting or soliciting campaign contributions during legislative sessions; repealing s. 106.22(9), F.S., which directs the Division of Elections to provide staffing and facilities for the commission; providing an appropriation; saving ss. 106.24, 106.25, 106.26, 106.265, 106.27, 106.28, and 106.29, F.S., from Sundown repeal; providing for future review and repeal; providing an effective date.

—with pending **Amendment 1** which was adopted.

Senator Brown moved the following amendment which was adopted:

Amendment 2—In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to elections; amending s. 106.04, F.S.; allowing committees of continuous existence to make contributions to political committees or political parties; requiring committees of continuous existence to file the original and one copy of their reports with the Division of Elections; changing the penalty for certain violations; amending s. 106.07, F.S.; providing for reports when a special election is called; requiring candidates and political committees to file the original and one copy of their reports with the Department of State; deleting certain reporting requirements; amending s. 106.18, F.S.; providing that no candidate shall be prevented from receiving a certificate of election for failure to file a copy of a report; amending s. 106.24, F.S.; providing that the Florida Elections Commission is not subject to the control, supervision, or direction of the Department of State; limiting the number of terms members may serve; providing for meetings; providing for administrative support, staffing, and budgets of the commission; amending s. 106.25, F.S.; describing procedures for investigations and determinations; allowing the Division of Elections to dismiss cases where no probable cause is found; authorizing public records once a probable cause determination is made; allowing for appeals of cases dismissed by the Division of Elections; amending s. 106.26, F.S; authorizing the Florida Elections Commission to consider appeals of cases the Division of Elections has dismissed; amending s. 106.265, F.S.; authorizing the commission to impose civil penalties on political parties guilty of violating the campaign financing law; amending s. 106.27, F.S.; subjecting committees of continuous existence and political parties to civil actions, injunctions, and restraining orders; authorizing the commission to bring civil actions; repealing s. 106.08(8), F.S., which prohibits candidates for legislative or statewide office from accepting or soliciting campaign contributions during legislative sessions; repealing s. 106.22(9), F.S., which directs the Division of Elections to provide staffing and facilities for the commission; amending s. 106.29, F.S.; requiring political parties to file the original and one copy of their reports with the Division of Elections; amending s. 106.36, F.S.; clarifying where certain fines are to be deposited; authorizing positions for the Division of Elections; providing an appropriation; reviving and readopting ss. 106.24, 106.25, 106.26, 106.265, 106.27, 106.28, 106.29, F.S., not withstanding their scheduled repeal under the Sundown Act; providing for future repeal and review of ss. 106.24, 106.25, 106.26, 106.265, and 106.27, F.S., pursuant to the Sundown Act; providing an effective date.

On motion by Senator Brown, by two-thirds vote CS for HB 3741 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Mr. President	Deratany	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Stuart
Brown	Forman	Langley	Thomas
Bruner	Gardner	Malchon	Thurman
Casas	Girardeau	Margolis	Walker
Childers, D.	Gordon	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	

Nays—None

CS for CS for SB 3006—A bill to be entitled An act relating to education; creating the Florida Instructional Technology Grant Act; providing legislative findings; creating the Instructional Technology Grant Program; providing for allocation of funds; providing requirements for approval; requiring adoption of forms; providing for a grant review panel; providing for future repeal and review of such grant review panel pursuant to s. 11.611, F.S., the Sundown Act; providing for use of funds; providing for Department of Education assistance; requiring annual reports; amending s. 231.613, F.S.; including computer literacy as a subject area at teacher inservice training institutes; amending s. 229.575, F.S.; revising provisions relating to the commissioner's annual report on the status of the state system of education; providing that such report must be filed with the State Board of Education by a specified date each year; requir-

ing the State Board of Education and the Department of Health and Rehabilitative Services to jointly establish full-service schools to serve students from schools that have a high population of students in need of medical and social services; requiring each local private industry council created pursuant to the Job Training Partnership Act to provide dropout prevention services to participants under the act and to others under specified conditions; creating the Small School Task Force consisting of members appointed by the Governor to conduct research to determine the optimum public school size; requiring the task force to report its finding to the Governor, the Legislature, and the State Board of Education; providing for the abolition of the task force; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendment:

Amendment 1—On page 2, line 12, strike everything after the enacting clause and insert:

Section 1. The Florida instructional technology challenge grant program.—

(1) The Legislature finds that proper use of state-of-the-art instructional technology in the classroom has a beneficial impact on student achievement which significantly increases the potential for educational success. The Legislature also finds that for today's students to be able to compete within the economic realities of tomorrow's world, they need to be technologically sophisticated and capable of using conceptual, critical, and applied learning skills. Instructional technology plays an integral part in school-restructuring efforts intended to incorporate these principles. It is the intent of the Legislature to establish a partnership between the state and the school districts through a matching grant program to promote such restructuring efforts by introducing instructional technology in the classroom.

(2) Eighty percent of the moneys appropriated for this program must be distributed by the Commissioner of Education to the school districts on the basis of proposals submitted by the school districts for projects that provide for matching such moneys with moneys from the school districts. These moneys must be used to replace existing instructional technology programs with state-of-the-art instructional technology programs. The ratio of moneys for each project must be 50 percent from the school district and 50 percent from state funds.

(3) The remaining 20 percent of available funds must be applied as follows:

(a) At least 10 percent must be applied for teacher training and other related training, to be matched with moneys from the school districts.

(b) No more than 5 percent may be applied to fund research and development of new instructional technologies and the implementation thereof in the classroom.

(c) No more than 5 percent may be applied to fund new or innovative uses for existing instructional technology or uses for new instructional technology.

(4) A project proposal must include:

(a) Identification of the school which is to receive the grant.

(b) An outline of proposed project activities.

(c) A description of how the proposed project will integrate instructional technology with regular classroom teaching.

(d) A description of the program to be replaced and how its replacement will demonstrably affect student achievement and incorporate hands-on learning experiences.

(e) A description of how the program incorporates state-of-the-art instructional technology that is directed to developing problem-solving skills, the understanding of abstract concepts, and high-level, critical thinking and applied learning skills.

(f) A provision for all teachers involved in the program to be provided training to obtain the maximum effectiveness of the system.

(g) A description of how the program will affect and be incorporated into the overall implementation of instructional technology in the school district during the next 5 years.

(h) A budget request describing the proposed expenditure of funds.

(i) A description of the anticipated project outcomes.

(j) Procedures for assessing the success of the project in achieving stated objectives.

(k) Provision for reporting project results to the Department of Education and to a regional or state conference of program participants.

The State Board of Education shall develop forms for grant applications.

(5) Preference must be given to grant applications for projects that are to be implemented in elementary schools and that use advanced technology to provide for learning at the student's pace.

(6) Proposals must be funded by the Commissioner of Education, based on the recommendations of a seven-member grant application review panel appointed by the commissioner, consisting of two teachers, two business people, a school administrator, and two other persons.

(7) Grant funds used by the Commissioner of Education for research and development must also be used to administer the program; to establish a clearinghouse to identify, evaluate, and disseminate information regarding developments in the private and public sectors of instructional technology, including both software and hardware technology; and to disseminate information regarding successful state-of-the-art systems, including an annual catalog of exemplary programs and products.

(8) The department shall assist grant recipients in using state central-purchasing resources to obtain the maximum benefit for the least cost.

(9) Beginning January 1, 1991, the Commissioner of Education shall make an annual report to the Legislature no sooner than 60 days prior to the beginning of the regular session. The report must include:

(a) A summary of the status of the instructional technology challenge grant program.

(b) Recommendations to improve the efficiency and promote the utilization of instructional technology.

(10) This section must be implemented in the 1990-1991 school year and carried out each year thereafter only to the extent specifically funded and authorized in the General Appropriations Act.

Section 2. Subsection (1) of section 229.575, Florida Statutes, is amended to read:

229.575 Reporting procedures.—

(1) COMMISSIONER'S REPORT.—The commissioner shall annually report the status of the state system of public education. All reports *must* ~~shall~~ be received by the school districts prior to their release to the general public. Such reports *must* ~~shall~~ contain:

(a) Information about how well district instructional programs enable students to meet the ~~minimum~~ performance standards.

(b) Comparative numerical rankings and other appropriate analyses of this state with other states based on the nationally normed testing program specified in s. 233.011(4).

(c) Comparative numerical rankings and other appropriate analyses of districts, ~~and~~ regions, *and schools* within the state based on the nationally normed testing program specified in s. 233.011(4) and student performance pursuant to ss. 232.2454(1) and 229.565(1) and (2).

(d) Results of educational program evaluations.

(e) Information about the needs of education *within each district. Such information must be included in a separate section in the annual commissioner's report and must include a demographic-and-service-need profile of the children in grades K through 5, 6 through 8, and 9 through 12 by school, to support reported district education needs in grades K through 12. This information must be completed by the commissioner in time to be included in the 1992 annual commissioner's report.*

(f) Areas of immediate and long-range concern to state and district education decision makers. *Such areas include program and policy recommendations to improve the readiness of children to start school; to improve the high school graduation rate; to improve student demonstra-*

tion of competency in various subjects, especially math and science; to increase adult literacy and improve school environment and discipline, as related to drugs and violence.

(g) Recommendations for action*; including action to improve areas of concern specified in paragraph (f).*

(h) Information on policy decisions.

(i) Any other information and analyses which explain or clarify the status of the state system of public education. *Such information must include specification of operating costs, which costs must be reported to the Governor and the State Board of Education annually based upon the cost per student.*

(j) The comparisons required by s. 229.57.

The commissioner's annual report shall be presented to the *Governor, the State Board of Education, and the* Legislature prior to *November 1 of each year* ~~the convening of each regular session~~ and shall be made available to the general public and the citizens of this state through all appropriate means. *This report must be forwarded to the Governor and the State Board of Education at the time the annual commissioner's report is published. The Governor and the State Board of Education must be provided information provided in paragraphs (b), (c), (e), (f), and (g) for all K through 12 children from all 67 school districts in aggregate and by each district and each school, and they shall use such information in approving the State Board of Education legislative budget request.*

Section 3. Full-service schools.—

(1) The State Board of Education and the Department of Health and Rehabilitative Services shall jointly establish full-service schools to serve students from schools that have a student population that has a high risk of needing medical and social services, based on the results of the demographic evaluations. The full-service schools must integrate the services of the Department of Health and Rehabilitative Services that are critical to the continuity-of-care process. The Department of Health and Rehabilitative Services shall provide services to these high-risk students through facilities established within the grounds of the school. The Department of Health and Rehabilitative Services professionals shall carry out their specialized services as an extension of the educational environment. Such services may include, without limitation, nutritional services, basic medical services, aid to dependent children, parenting skills, counseling for abused children, and adult education.

(2) The Department of Health and Rehabilitative Services shall designate an executive staff director to coordinate the full-service schools program and to act as liaison with the Department of Education to coordinate the provision of health and rehabilitative services in educational facilities.

(3) The full-service schools program must be implemented beginning with the 1990-1991 school year and must be fully implemented by the 1995-1996 school year.

Section 4. Job Training Partnership Act family incentive plan.—

(1) The purpose of this section is to provide an incentive program to parents and children who are participants in services provided under the Job Training Partnership Act.

(2) Each local private industry council shall develop and establish a program to provide a dropout incentive award plan to eligible families who are enrolled in a program provided under the Job Training Partnership Act.

(3) Moneys must be allocated to this program from the funds received by each local private industry council from the federal Job Training Partnership Act.

(4) A parent of a family who is a participant in the services provided under the Job Training Partnership Act and the children of such parent between the ages of 16 and 21 who are in school and making progress towards the completion of high school or general education development diplomas and who are participants in the services provided under the Job Training Partnership Act are eligible to participate in the award plan. A parent participating in this program must be provided an award upon the completion of training and 6 months of continual, unsubsidized employment. A child participating in this program must be provided an award upon the completion of each semester enrolled in school in which he makes progress towards the completion of a high school or general education development diploma. A child participant in this program must also be provided the opportunity to participate in the youth program provided through the Job Training Partnership Act.

(5) Each award must be determined by the local private industry council.

Section 5. Small School Task Force.—

(1) There is established the Small School Task Force for the purpose of examining the issue of optimum public school size, including schools-within-schools, as well as separate school facilities.

(2) The Small School Task Force must be composed of seven members appointed by the Governor. A chairperson must be selected by the Governor from among the seven members. Each member shall serve without compensation, but must be reimbursed for per diem and travel expenses in accordance with section 112.061, Florida Statutes.

(3) The Small School Task Force shall report to the Governor, the State Board of Education, and the Legislature on public school size as related to student achievement and opportunity; student, parent, and teacher choice; parent involvement; community support; teacher and school staff satisfaction; student and parent satisfaction; and cost efficiency and effectiveness.

(4) The Small School Task Force shall examine the various grade levels and the optimal school size and structure as related to those grade levels.

(5) The Small School Task Force shall also examine the issue of management and administrative structure as related to small schools and schools-within-schools and shall include such recommendations in the report.

(6) The Small School Task Force shall seek input and information from lay citizens, professional educator groups, teachers, students, parents, school administrators, and professional consultants on the topic of school size and school structure.

(7) The final report of the Small School Task Force must be presented to the Governor, the State Board of Education, and the Legislature no later than January 15, 1991. Preliminary reports of task force findings and activities must be filed with the Governor and the State Board of Education at two intervals. The first preliminary report must be filed no later than October 15, 1990, and the second preliminary report must be filed no later than December 15, 1990.

(8) The task force is abolished January 16, 1991.

Section 6. Continuous Progress Primary Program; pilot projects.—

(1) In order to provide a primary program that is as uniquely beneficial for each student as possible, the Department of Education may approve proposals for the conduct of pilot projects for continuous progress primary programs in up to six school districts. A pilot project for a continuous progress primary program must provide for a 4-year program for students who are 5 to 9 years old and who are admitted to school according to the provisions of sections 232.01 and 232.04, Florida Statutes, and must be of 6 years' duration, 1 year of which is dedicated to planning the program, 4 years of which are dedicated for a group of students to complete the 4-year primary pilot program, and 1 year of which is dedicated to evaluation of the program. A pilot project within a school district may be implemented within one or more schools of the district or within parts of one or more schools of the district.

(2) In order to be selected to conduct a pilot project pursuant to this section, a school district must submit its proposal for the project to the Department of Education by December 1, 1990. Each proposal for a pilot project must state the purpose of the program, the goals for student achievement and the ways that goals will be measured under the program, and the school district's plan for evaluation of the program. After reviewing the proposals, the department shall authorize at least one pilot project but not more than six pilot projects. The department shall select as pilot projects those programs that will provide comprehensive data on ways in which primary education might be improved so as to enable every student to achieve his best.

(3) A continuous progress primary program approved pursuant to this section is considered a primary education program for purposes of section 230.2312, Florida Statutes, and accordingly must receive funding

pursuant to that section. However, a continuous progress primary program may be exempted from the school district's pupil progression plan.

(4) In purchasing instructional materials for a continuous progress primary program pilot project, a school district is exempt from section 233.34, Florida Statutes.

Section 7. This act shall take effect upon becoming a law.

(Renumber subsequent sections.)

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

Amendment 1A—On page 11, between lines 9 and 10, insert:

Section 7. Subsection (4) of section 61.046, Florida Statutes, is amended to read:

61.046 Definitions.—As used in this chapter:

(4) "Income" means any form of payment to an individual, regardless of source, including, but not limited to: wages, salary, commissions and bonuses, compensation as an independent contractor, worker's compensation, disability benefits, annuity and retirement benefits, pensions, dividends, interest, royalties, trusts, and any other payments, made by any person, private entity, federal or state government, or any unit of local government. Veterans Administration disability benefits and unemployment compensation, as defined in chapter 443, are excluded from this definition of income *except for purposes of establishing an amount of support.*

Section 8. Section 61.11, Florida Statutes, is amended to read:

61.11 *Writs* ~~Effect of judgment of alimony.—A judgment of alimony granted under s. 61.08 or s. 61.09 releases the party receiving the alimony from the control of the other party, and the party receiving the alimony may use his alimony and acquire, use, and dispose of other property uncontrolled by the other party.~~ When either party is about to remove himself or his property out of the state, or fraudulently convey or conceal it, the court may award a ne exeat or injunction against him or his property and make such orders as will secure alimony *or support* to the party who should receive it.

Section 9. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Custody and support of children; visitation rights; power of court in making orders.—

(2)

(b)1. The court shall determine all matters relating to custody of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities of childrearing. After considering all relevant facts, the father of the child shall be given the same consideration as the mother in determining the primary residence of a child irrespective of the age *or sex* of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. The court shall consider evidence of spouse abuse as evidence of detriment to the child. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility. If the court finds that spouse abuse has occurred between the parties, it may award sole parental responsibility to the abused spouse and make such arrangements for visitation as will best protect the child and abused spouse from further harm.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include primary residence, education, medical and dental care, and any other responsibilities which the court finds unique to a particular family.

b. The court shall order "sole parental responsibility, with or without visitation rights, to the other parent when it is in the best interests of" the minor child.

c. The court may award the grandparents visitation rights of a minor child if it is in the child's best interest. Grandparents shall have legal standing to seek judicial enforcement of such an award. Nothing in this section shall require that grandparents be made parties or given notice of dissolution pleadings or proceedings, nor shall grandparents have legal standing as "contestants" as defined in s. 61.1306. No court shall order that a child be kept within the state or jurisdiction of the court solely for the purpose of permitting visitation by the grandparents.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, shall not be denied to a parent because such parent is not the child's primary residential parent.

Section 10. Paragraph (b) of subsection (1) and paragraph (e) of subsection (2) of section 61.1301, Florida Statutes, are amended to read:

61.1301 Income deduction orders.—

(1) ISSUANCE IN CONJUNCTION WITH AN ALIMONY OR CHILD SUPPORT ORDER OR MODIFICATION.—

(b) The income deduction order shall:

1. Direct a payor to deduct from all income due and payable to an obligor the amount required by the court to meet the obligor's support obligation;

2. State the amount of arrearage owed, if any, and direct a payor to withhold an additional 20 percent or more of the periodic amount specified in the support order, until full payment is made of any arrearage; ~~and~~

3. Direct a payor not to deduct in excess of the amounts allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b), as amended;

4. Direct whether a payor shall deduct all, a specified portion, or no income which is paid in the form of a bonus or other similar one-time payment, up to the amount of arrearage reported in the income deduction notice or the remaining balance thereof, and forward the payment to the governmental depository. For purposes of this subparagraph, "bonus" means a payment in addition to an obligor's usual compensation and which is in addition to any amounts contracted for or otherwise legally due and shall not include any commission payments due an obligor; *and*.

5. Direct a payor to provide to the court depository the date on which each deduction is made.

(2) ENFORCEMENT OF INCOME DEDUCTION ORDERS.—

(e) The notice to payor shall contain only information necessary for the payor to comply with the income deduction order. The notice shall:

1. Require the payor to deduct from the obligor's income the amount specified in the income deduction order, and in the case of a delinquency the amount specified in the notice of delinquency, and to pay that amount to the obligee or to the depository, as appropriate. The amount actually deducted plus all administrative charges shall not be in excess of the amount allowed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b);

2. Instruct the payor to implement the income deduction order no later than the first payment date which occurs more than 14 days after the date the income deduction order was served on the payor;

3. Instruct the payor to forward, within 2 days after *the* ~~each~~ date the obligor is entitled to payment from the payor, to the obligee or to the depository the amount deducted from the obligor's income, ~~and~~ a statement as to whether the amount totally or partially satisfies the periodic amount specified in the income deduction order *and the specific date*

each deduction is made. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of the obligee;

4. Specify that if a payor fails to deduct the proper amount from the obligor's income, the payor is liable for the amount the payor should have deducted, plus costs, interest, and reasonable attorney's fees;

5. Provide that the payor may collect up to $5 against the obligor's income to reimburse the payor for administrative costs for the first income deduction and up to $1 for each deduction thereafter;

6. State that the income deduction order and the notice to payor, and in the case of a delinquency the notice of delinquency, are binding on the payor until further notice by the obligee, IV-D agency, or the court or until the payor no longer provides income to the obligor;

7. Instruct the payor that, when he no longer provides income to the obligor, he shall notify the obligee and shall also provide the obligor's last known address and the name and address of the obligor's new payor, if known; and that, if the payor violates this provision, the payor is subject to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. If the IV-D agency is enforcing the order, the payor shall make these notifications to the agency instead of to the obligee. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order;

8. State that the payor shall not discharge, refuse to employ, or take disciplinary action against an obligor because of an income deduction order and shall state that a violation of this provision subjects the payor to a civil penalty not to exceed $250 for the first violation or $500 for any subsequent violation. Penalties shall be paid to the obligee or the IV-D agency, whichever is enforcing the income deduction order, if any support is owing. If no support is owing, the penalty shall be paid to the obligor;

9. State that an obligor may bring a civil action in the courts of this state against a payor who refuses to employ, discharges, or otherwise disciplines an obligor because of an income deduction order. The obligor is entitled to reinstatement and all wages and benefits lost, plus reasonable attorney's fees and costs incurred;

10. Inform the payor that the income deduction order has priority over all other legal processes under state law pertaining to the same income and that payment, as required by the income deduction order, is a complete defense by the payor against any claims of the obligor or his creditors as to the sum paid;

11. Inform the payor that, when he receives income deduction orders requiring that the income of two or more obligors be deducted and sent to the same depository, he may combine the amounts that are to be paid to the depository in a single payment as long as he identifies that portion of the payment attributable to each obligor; and

12. Inform the payor that if the payor receives more than one income deduction order against the same obligor, he shall contact the court for further instructions. Upon being so contacted, the court shall allocate amounts available for income deduction giving priority to current child support obligations up to the limits imposed under s. 303(b) of the Consumer Credit Protection Act, 15 U.S.C. s. 1673(b).

Section 11. Section 61.16, Florida Statutes, is amended to read:

61.16 Attorney's fees, suit money, and costs.—The court may from time to time, after considering the financial resources of both parties, order a party to pay a reasonable amount for attorney's fees, suit money, and the cost to the other party of maintaining or defending any proceeding under this chapter, including enforcement and modification proceedings. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name. *In Title IV-D cases, attorney's fees, suit money, and costs, including filing fees, recording fees, mediation costs, and other expenses incurred by the clerk of the circuit court, shall only be assessed against the obligor.*

Section 12. Subsection (5) of section 61.181, Florida Statutes, is amended, subsection (6) is renumbered as subsection (8), and new subsections (6) and (7) are added to said section, 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 check drawn on the account of a payor or obligor, unless the payor or obligor has previously remitted a check which was returned to the depository due to lack of sufficient funds in the account. If the payor or obligor has had a check returned for this reason, the depository shall accept payment by cash, cashier's check, or money order, or may accept a check upon deposit by the payor or obligor of an amount equal to 1 month's payment. Upon payment by cash, cashier's check, or money order, the depository shall disburse the proceeds to the obligee within 2 working days. *Payments drawn by personal check on an account in this state of a payor or obligor or a governmental check whether within this state or out-of-state shall be disbursed within 5 working days. Payments drawn by check on an out-of-state nongovernmental account shall be disbursed within 7 working days.* ~~Payments drawn by check on the account of a payor or obligor shall be disbursed within 4 working days.~~ 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.

(6) The depository may require a payor or obligor to complete an information form, which shall request the following:

(a) Full name, address, and home phone number of payor.

(b) Payor's driver's license number.

(c) Payor's social security number.

(d) Name, address, and business phone number of payor's employer.

(e) Payor's date of birth.

(f) Payor's weight and height.

(g) Such other information as may be required by the State Attorney if prosecution for an insufficient check becomes necessary.

If the depository requests such information, and a payor does not comply, the depository may refuse to accept personal checks.

Section 13. Subsection (1) of section 61.183, Florida Statutes, is amended to read:

61.183 Mediation of certain contested issues.—

(1) In any proceeding in which the issues of parental responsibility, primary residence, visitation, or support of a child are contested, the court may refer the parties to mediation in accordance with rules promulgated by the Supreme Court. *In Title IV-D cases, any costs, including filing fees, recording fees, mediation costs, and other expenses incurred by the clerk of the circuit court, shall be assessed to and recoverable from the obligor only.*

Section 14. Subsection (1) of section 68.02, Florida Statutes, is amended to read:

68.02 Ne exeat.—

(1) WHEN TO ISSUE.—No writ of ne exeat shall be granted until a verified complaint is filed demanding the writ. It may issue in any case when chancery has concurrent jurisdiction, *including support as defined in s. 409.2554,* with common law and the issuance is just.

Section 15. Subsection (20) is added to section 88.031, Florida Statutes, to read:

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

(20) "Support" includes:

(a) Support for a child, or child and spouse, or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under Title IV-D of the Social Security Act; or

(b) Support for a child who is placed under the custody of someone

other than the parent pursuant to s. 39.41.

Section 16. Section 88.0515, Florida Statutes, is created to read:

88.0515 Alimony and child support; additional method for enforcing orders and judgments; costs; expenses.—

(1) An order or judgment for the payment of alimony or support entered by any court of this state may be enforced by another circuit court in this state in the following manner:

(a) The person to whom such alimony or support is payable or for whose benefit it is payable may procure a certified copy of the order or judgment and file it with a complaint for enforcement or modification in the circuit court for the county in which the person resides or in the county where the person charged with the payment of the alimony or support resides or is found.

(b) If the pleadings seek a change in the amount of the alimony or support, the court has jurisdiction to adjudicate the application and change the order or judgment. In such an event, the clerk of the circuit court in which the order is entered changing the original order or judgment shall transmit a certified copy thereof to the court of original jurisdiction, and the new order shall be recorded and filed in the original action and become a part thereof. If the pleadings ask for a modification of the order or judgment, the court may determine that the action should be tried by the court entering the original order or judgment and shall then transfer the action to that court for determination as a part of the original action.

(2) The court has jurisdiction to award costs and expenses as are equitable, including the cost of certifying and recording the judgment entered in the action in the court of original jurisdiction and reasonable attorney's fees.

(3) The entry of a judgment for arrearages for support, alimony, or fees and costs does not preclude a subsequent contempt proceeding or certification of a Title IV-D case for intercept, by the United States Internal Revenue Service, for failure of an obligor to pay support, alimony, fees, or costs for which the judgment was entered. In Title IV-D cases, any costs assessed shall be assessed to and recoverable from the obligor only.

Section 17. Section 88.331, Florida Statutes, is amended to read:

88.331 Registration.—

(1) The obligee may register the foreign support order in a circuit court of this state in the manner, with the effect, and for the purposes herein provided.

(2) Registration of a Title IV-D case under these provisions shall allow the court the jurisdiction to settle only those issues of support allowed under Title IV-D of the Social Security Act, and no other collateral issues.

Section 18. Subsection (2) of section 213.053, Florida Statutes, is amended, and subsection (10) is added to said section, to read:

213.053 Confidentiality and information sharing.—

(2) Notwithstanding s. 119.14, except as provided in subsections (3), (4), (5), (6), (7), (8), ~~and~~ (9), *and (10),* all information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and including letters of technical advice, is confidential except for official purposes and is exempt from the requirements of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), ~~or~~ subsection (9), *or subsection (10),* is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(10) The department may disclose location information derived from individuals, sole proprietorships' and partnerships' returns, accounts, or declarations to the Title IV-D Child Support Enforcement program to assist in location of responsible parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act. Information contained in the returns, accounts, or declarations for taxes administered under chapters 199, 206, 220, 221, and 336 and part II of chapter 212 shall be excluded from such disclosure, unless the department and the Internal Revenue Service mutually agree to the said disclosure on a case-by-case basis.

Section 19. Paragraph (a) of subsection (10) and subsection (11) of section 409.2554, Florida Statutes, are amended, and subsection (12) is added to said section, to read:

409.2554 Definitions.—As used in ss. 409.2551-409.2597, the term:

(10) "Support" means:

(a) Support for a child, *or child* and spouse, or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under Title IV-D of the Social Security Act; or

(11) "Administrative costs" means any costs, including attorney's fees, *clerk's filing fees, recording fees and other expenses incurred by the clerk of the circuit court, or mediation costs,* incurred by the IV-D agency in its effort to administer the IV-D program. The administrative costs which must be collected by the department shall be assessed on a case-by-case basis based upon a method for determining costs approved by the Federal Government. The administrative costs shall be assessed periodically by the department. The methodology for determining administrative costs shall be made available to the judge or any party who requests it. Only those amounts ordered independent of current support, arrears, or past *period child support* ~~public assistance~~ obligation shall be considered and applied toward administrative costs.

(12) "Child support services" includes any civil, criminal, or administrative action taken by the Title IV-D program to determine paternity, establish, modify, enforce, or collect support.

Section 20. Subsection (1) and paragraph (b) of subsection (2) of section 409.2561, Florida Statutes, are amended to read:

409.2561 Public assistance payments; reimbursement of obligation to department; assignment of rights; subrogation; medical and health insurance information.—

(1) Any payment of public assistance money made to, or for the benefit of, any dependent child creates an obligation in an amount equal to the amount of public assistance paid. If there has been a prior court order or final judgment of dissolution of marriage establishing an obligation of support, the obligation is limited to the amount provided by such court order or decree. The obligor shall discharge the *past period child support* ~~reimbursement~~ obligation. If the obligor fails to discharge the *past period child support* ~~reimbursement~~ obligation, the department may apply for a contempt order to enforce *an order* ~~reimbursement~~ for *the past period child* support furnished. The extraordinary remedy of contempt is applicable in child support enforcement cases because of the public necessity for ensuring that dependent children be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through the public assistance program. If there is no prior court order establishing an obligation of support, the court shall establish the liability of the obligor, if any, for *past period child support* ~~reimbursement of public assistance moneys~~ paid. Priority shall be given to establishing continuing reasonable support for the dependent child. The department may apply for modification of a court order on the same grounds as either party to the cause and shall have the right to settle and compromise actions brought pursuant to law.

(2)

(b) The recipient appoints the department as his attorney in fact to act in his name, place, and stead to perform specific acts relating to support, including, but not limited to:

1 Endorsing any draft, check, money order, or other negotiable instrument representing support payments which are received on behalf of the dependent child as *past period child support* ~~reimbursement~~ for the public assistance moneys previously or currently paid;

2. Compromising claims;

3. Pursuing civil and criminal enforcement of support obligations; and

4. Executing verified complaints for the purpose of instituting an action for the determination of paternity of a child born, or to be born, out of wedlock.

Section 21. Subsections (1), (2), (5), and (6) of section 409.2564, Florida Statutes, are amended to read:

409.2564 Actions for support.—

(1) In each case in which regular ~~child~~ support payments are not being made as provided herein, the department shall institute, within 30 days after determination of the obligor's reasonable ability to pay, action as is necessary to secure the obligor's payment of current support and any arrearage which may have accrued under an existing order of support. The department shall notify the program attorney in the judicial circuit in which the recipient resides setting forth the facts in the case, including the *obligor's* ~~debtor's~~ address, if known, and the public assistance case number. Whenever applicable, the procedures established under the provisions of chapter 88, Uniform Reciprocal Enforcement of Support, and chapter 61, Dissolution of Marriage; Support; Custody, and chapter 39, Proceedings Relating to Juveniles, may govern actions instituted under the provisions of this act, except that actions for support under chapter 39 brought pursuant to this act shall not require any additional investigation or supervision by the department.

(2) The order for support entered pursuant to an action instituted by the department under the provisions of subsection (1) shall require that the support payments be made periodically to the department through the depository. Upon receipt of a payment made by the obligor pursuant to any order of the court, the depository shall transmit the payment to the department within 2 working days, *except those payments made by personal check which shall be disbursed in accordance with s. 61.181.* Upon request, the depository shall furnish to the department a certified statement of all payments made by the obligor. Such statement shall be provided by the depository at no cost to the department.

(5) Whenever the IV-D agency has undertaken an action to determine paternity, to establish an obligation of support, or to enforce *or modify* an obligation of support, the IV-D agency shall be a party to the action only for those purposes allowed under Title IV-D of the Social Security Act. The program attorney shall be the attorney of record solely for the purposes of ~~child~~ support enforcement as authorized under Title IV-D and may prosecute only those activities which are eligible for federal financial participation under Title IV-D. *An attorney-client relationship only exists between the department and the legal services providers in all Title IV-D cases. The attorney shall advise the obligee in IV-D cases that disclosures to the attorney are not protected by the attorney-client privilege.*

(6) The department and its officers, employees, and agents and all persons and agencies acting pursuant to contract with the department are immune from liability in tort for actions taken to establish or enforce ~~child~~ support obligations if such actions are taken in good faith, with apparent legal authority, without malicious purpose, and in a manner not exhibiting wanton and willful disregard of rights or property of another.

Section 22. Section 409.2567, Florida Statutes, is amended to read:

409.2567 Services to individuals not otherwise eligible.—All support and paternity determination services provided by the department shall be made available on behalf of all dependent children. Services shall be provided upon acceptance of public assistance or upon proper application filed with the department. The state shall pay an application fee of 1 cent for each applicant who is not a public assistance recipient. The department shall adopt rules to provide for the recovery of administrative costs, including the application fee, from the obligor. The obligor is responsible for all administrative costs, *including clerk's filing fees, recording fees, and other expenses incurred by the clerk of the circuit court, attorney's fees, and mediation costs.* The court shall order payment of administrative costs without requiring the department to have a member of the bar testify or submit an affidavit as to the reasonableness of the costs. *An attorney-client relationship only exists between the department and the legal services providers in Title IV-D cases. The attorney shall advise the obligee in IV-D cases that disclosures to the attorney are not protected by the attorney-client privilege.*

Section 23. Subsection (1) of section 409.2571, Florida Statutes, is amended to read:

409.2571 Court and witness fees; bond.—

(1) The department or an authorized agent thereof shall be entitled to the necessary services of the clerk, ~~and~~ court reporter, *and county comptroller* in any proceedings under the IV-D program, including contempt proceedings; and no fees for such court reporter, ~~or~~ clerk, *or comptroller* services shall be charged against the department. No bond shall be required of the department for any action taken pursuant to the IV-D program, except by order of the court. Nothing herein shall prevent the depository from charging and collecting fees for services rendered.

Section 24. Section 409.2577, Florida Statutes, is amended to read:

409.2577 Parent locator service.—The department shall establish a parent locator service to assist in locating parents who have deserted their children and other persons liable for support of dependent children. The department shall use all sources of information available, including the Federal Parent Locator Service, and may request and shall receive information from the records of any person or the state or any of its political subdivisions or any officer thereof. The person or the state or any of its political subdivisions or any officer thereof shall make available to the department any information relating to location, salary, insurance, social security, income tax, and employment history, *notwithstanding any other statutory exemption of confidentiality except as provided in s. 119.07(3)(k).* Additionally, the department is authorized to collect any additional information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support for a dependent child. The department may make such information available only to public officials and agencies of this state; political subdivisions of this state; the custodial parent, legal guardian, attorney, or agent of the child; and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the *sole* purpose of *establishing, modifying, or* enforcing their liability for support.

Section 25. Section 409.2584, Florida Statutes, is amended to read:

409.2584 Interest on obligations due; waiver.—The department may collect interest *at the rate established in s. 55.03* ~~of 10 percent per year~~ on all support obligations due and owing to the department; however, the department is not required to maintain interest balance due accounts, and said interest may be waived by the department if the waiver would facilitate the collection of the obligation.

Section 26. Section 409.2595, Florida Statutes, is created to read:

409.2595 Contractual arrangements.—

(1) The department may enter into cooperative agreements with courts and law enforcement officials to carry out certain functions which are eligible for federal financial participation under Title IV-D of the Social Security Act. Cooperative agreements signed by the Title IV-D agency shall meet all the requirements of federal law.

(2) The department may enter into contractual agreements for services eligible for federal financial participation under Title IV-D of the Social Security Act. Contractual agreements apply only to the services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations, consultations, maintenance, accounting, security, management systems, management consulting, education training programs, research and development studies, or reports on the findings of consultants engaged thereunder.

(3) The department may enter into legal services contractual arrangements in carrying out the administration of the Title IV-D program. The contracting means shall be done in a manner which is the most efficient and cost effective in the administration of the Title IV-D program. The types of contracting may include, but are not limited to, hourly rate, function base, incentive base, hourly rate plus bonus base, and functional plus bonus base, or any combination thereof, which is in the best interest of the department.

Section 27. Section 409.2596, Florida Statutes, is created to read:

409.2596 Electronic records; admissibility in evidence.—The department may generate copies of records maintained as electronic data. Any such copies shall have the same force and effect as the originals thereof, and shall be treated as originals for the purpose of their admissibility in evidence.

Section 28. Section 409.2598, Florida Statutes, is created to read:

409.2598 Denial of new or renewal license; certifications.—All departmental entities which issue new or renewal licenses or certifications, shall notify the Title IV-D, child support enforcement program within the department upon receipt of an application for a new or renewal license or

certification. All applicants for a new or renewal license or certification will be screened to assure compliance with any support obligation. The screening process and purpose of this section is to promote the public policy of this state as established in s. 409.2551. If a support delinquency exists, the Title IV-D agency shall certify the delinquency.

(1) The Title IV-D agency shall give notice to any applicant of a new or renewal license or certification or the holder of a current license or certification when a delinquency exists in the support obligation. The notice shall specify that the applicant or current license or certificateholder has 15 days to pay off the delinquency or reach an acceptable agreement with the Title IV-D agency. The notice shall specify that if an agreement cannot be reached that the license or certification could be suspended pursuant to a court order.

(2) If a delinquency exists and the applicant or current licensee or certificateholder fails to pay the delinquency or reach an agreeable payment arrangement within 15 days following notice of the delinquency, the Title IV-D agency shall petition the Florida court that entered the support order, or the Florida court that is enforcing the support order to suspend the license of the obligor. The court may find that it would be inappropriate to suspend a license or certification if any of the following circumstances exist:

(a) Suspension would result in irreparable harm to the licensee or certificateholder or employees of the licensee or certificateholder without accomplishing the objective of collecting the arrearage or ongoing support obligation. In such case the court may delay a suspension order for 30 days.

(b) An income deduction order pursuant to s. 61.1301, would be more appropriate for the collection of the arrearage or ongoing support obligation.

(c) The immediate posting of a cash bond by the applicant or current licensee or certificateholder equivalent to 3 months of support obligations would be the most effective method of collecting the arrearage or ongoing obligation of support from the obligor.

The obligor may contest the petition for suspension on the ground of mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor. If the obligor fails in the defense of a petition for suspension, the Florida court that entered the support order, or the Florida court that is enforcing the support order shall enter an order to suspend the license or certification of the obligor. The Florida court shall order the obligor to surrender the license or certification to the IV-D agency, which will return the license or certification and a copy of the order of suspension to the appropriate entity in the department.

(3) If a license or certification is suspended by a Florida court and a subsequent agreement is reached with the Title IV-D agency to pay off the delinquency, the license or certification shall be reinstated upon notice from the Title IV-D agency to the entity in the department that the licensee or certificateholder has complied with the terms of the court order.

Section 29. Subsection (10) is added to section 455.203, Florida Statutes, to read:

455.203 Department of Professional Regulation; powers and duties.—The Department of Professional Regulation shall:

(10) Cause all applicants for a new license or a renewal of a license to be screened by the Title IV-D child support agency to assure compliance with a support obligation by applicants. The screening process and purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. Upon application for a new license or renewal of a license, an applicant will be screened to determine if a support delinquency exists. If a support delinquency exists, the Title IV-D agency shall certify the delinquency.

(a) The Title IV-D agency shall give notice to any applicant of a new or renewal license or the holder of a current license when a delinquency exists in the support obligation. The notice shall specify that the applicant or current licenseholder has 15 days to pay off the delinquency or reach an acceptable agreement with the Title IV-D agency. The notice shall specify that if an agreement cannot be reached that the license could be suspended pursuant to a court order.

(b) If a delinquency exists and the applicant or current licenseholder fails to pay the delinquency or reach an agreeable payment arrangement within 15 days following notice of the delinquency, the Title IV-D agency shall petition the Florida court that entered the support order, or the Florida court that is enforcing the support order to suspend the license of the obligor. The court may find that it would be inappropriate to suspend a license if any of the following circumstances exist:

1. Suspension would result in irreparable harm to the licensee or employees of the licensee without accomplishing the objective of collecting the arrearage or ongoing support obligation. In such case the court may delay a suspension order for 30 days.

2. An income deduction order pursuant to s. 61.1301, would be more appropriate for the collection of the arrearage or ongoing support obligation.

3. The immediate posting of a cash bond by the applicant or current licenseholder equivalent to 3 months of support obligations would be the most effective method of collecting the arrearage or ongoing obligation of support from the obligor.

The obligor may contest the petition for suspension on the ground of mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor. If the obligor fails in the defense of a petition for suspension, the Florida court that entered the support order, or the Florida court that is enforcing the support order shall enter an order to suspend the license of the obligor. The Florida court shall order the obligor to surrender the license to the Title IV-D agency, which will return the license and a copy of the order of suspension to the department.

(c) If a license is suspended by a Florida court and a subsequent agreement is reached with the Title IV-D agency to pay off the delinquency, the license shall be reinstated upon notice from the Title IV-D agency to the department that the licensee has complied with the terms of the court order.

(d) The department shall not be held liable for any suspension resulting from a support delinquency in the discharge of its duties under this act.

Section 30. Section 559.79, Florida Statutes, is amended to read:

559.79 Applications for license or renewal.—

(1) Each application for a license issued by the Department of Business Regulation shall include a statement showing the name, ~~and~~ address, *and social security number* of each person who owns 10 percent or more of the outstanding stock or equity interest in the licensed activity and the name, ~~and~~ address, *and social security number* of each officer, director, chief executive, or other person who, in accordance with the rules of the issuing agency, is determined to be able directly or indirectly to control the operation of the business of the licensed entity, and each application for renewal of such a license shall set out any changes in the required names and addresses which have occurred since the license was issued or last renewed.

(2) Each application for a license or renewal of a license issued by the Department of Business Regulation shall be signed under oath or affirmation by the applicant, or owner or chief executive of the applicant, without the need for witnesses unless otherwise required by law.

(3) All applicants for a new license or renewal of a license shall be screened by the Title IV-D child support agency to assure compliance with a support obligation by applicants. The screening process and purpose of this subsection is to promote the public policy of this state as established in s. 409.2551. Upon applying for a new license or renewal of license, an applicant will be screened to determine if a support delinquency exists. If a support delinquency exists, the Title IV-D agency shall certify the delinquency.

(a) The Title IV-D agency shall give notice to any applicant of a new or renewal license or the holder of a current license when a delinquency exists in the support obligation. The notice shall specify that the applicant or current licenseholder has 15 days to pay off the delinquency or reach an acceptable agreement with the Title IV-D agency. The notice shall specify that if an agreement cannot be reached that the license could be suspended pursuant to a court order.

(b) If a delinquency exists and the applicant or current licenseholder

fails to pay the delinquency or reach an agreeable payment arrangement within 15 days following notice of the delinquency, the Title IV-D agency shall petition the Florida court that entered the support order, or the Florida court that is enforcing the support order to suspend the license of the obligor. The court may find that it would be inappropriate to suspend a license if any of the following circumstances exist:

1. Suspension would result in irreparable harm to the licensee or employees of the licensee without accomplishing the objective of collecting the arrearage or ongoing support obligation. In such case the court may delay a suspension order for 30 days.

2. An income deduction order pursuant to s. 61.1301, would be more appropriate for the collection of the arrearage or ongoing support obligation.

3. The immediate posting of a cash bond by the applicant or current licenseholder equivalent to 3 months of support obligations would be the most effective method of collecting the arrearage or ongoing obligation of support from the obligor.

The obligor may contest the petition for suspension on the ground of mistake of fact regarding an error in whether a delinquency exists, in the amount of the delinquency, or in the identity of the obligor. If the obligor fails in the defense of a petition for suspension, the Florida court that entered the support order, or the Florida court that is enforcing the support order shall enter an order to suspend the license of the obligor. The Florida court shall order the obligor to surrender the license to the Title IV-D agency, which will return the license and a copy of the order of suspension to the department.

(c) If a license is suspended by a Florida court and a subsequent agreement is reached with the Title IV-D agency to pay off the delinquency, the license shall be reinstated upon notice from the Title IV-D agency to the department that the licensee has complied with the terms of the court order.

(d) The department shall not be held liable for any suspension resulting from a support delinquency in the discharge of its duties under this act.

Section 31. The Legislature hereby requests the Florida Supreme Court to adopt an amendment to the Rules Regulating The Florida Bar which would provide for the discipline of attorneys who fail to pay their court ordered child support obligations.

Section 32. Section 742.08, Florida Statutes, is amended to read:

742.08 Default of support payments.—Upon default in payment of any moneys ordered by the court to be paid, the court may enter a judgment for the amount in default, *plus interest, administrative costs, filing fees, and other expenses incurred by the clerk of the circuit court* which shall be a lien upon all property of the defendant both real and personal. Willful failure to comply with an order of the court shall be deemed a contempt of the court entering the order and shall be punished as such. The court may require bond of the defendant for the faithful performance of his obligation under the order of the court in such amount and upon such conditions as the court shall direct.

Section 33. Section 742.10, Florida Statutes, is amended to read:

742.10 Establishment of paternity for children born out of wedlock.—This chapter provides the primary jurisdiction and procedures for the determination of paternity for children born out of wedlock. When the establishment of paternity has been raised and determined within an adjudicatory hearing brought under the statutes governing inheritance, dependency under workers' compensation or similar compensation programs, or vital statistics, *or when an affidavit acknowledging paternity or a stipulation of paternity is executed,* it shall constitute the establishment of paternity for purposes of this chapter. If no adjudicatory proceeding was held, a determination of paternity shall create a rebuttable presumption, as defined by s. 90.304, of paternity.

(Renumber subsequent section.)

Amendment 1B—On page 11, between lines 9 and 10, insert:

Section 9. Cooperative funding of vocational educational facilities.—

(1) The Commissioner of Education may request moneys from the Public Educational Capital Outlay and Debt Service Trust Fund for a district school board, in cooperation with a governmental agency that does not regulate education, to plan, construct, and equip a vocational education facility within the school district. A district school board and governmental agency that does not regulate education may jointly submit, prior to August 1 of any year, an application to the Commissioner of Education for moneys from the trust fund to construct the facility, if the regional coordinating council has determined that construction of such facility is critical to economic development in the school district and necessary to meet workforce needs in the school district. To submit an application, the district school board must:

(a) Submit to the commissioner a copy of a joint resolution adopted by the district and a governmental agency indicating their commitment to fund the planning, construction, and equipping of the proposed facility and designating the location of the proposed facility;

(b) Levy the maximum millage against the nonexempt assessed property value of real property within the district, as provided in section 236.25(2), Florida Statutes;

(c) Certify to the Division of Vocational, Adult, and Community Education that the proposed project has been recommended by the regional coordinating council;

(d) Certify to the Division of Vocational, Adult, and Community Education that the project has been recommended by the Office of Education Facilities, based on a survey;

(e) Certify to the Division of Vocational, Adult, and Community Education that the district school board adopted the educational specifications of the facility and that the specifications have been approved by, and are on file with, the Office of Educational Facilities;

(f) Certify to the Division of Vocational, Adult, and Community Education that final phase III construction documents for the facility have been approved by the Office of Educational Facilities; and

(g) Sign an agreement to advertise for bids for the construction of the facility within 30 days after receiving an encumbrance authorization from the Office of Educational Facilities.

(2) A school facility is not eligible to receive money for the construction of a facility if a construction contract has not been entered into within 120 days after the advertising of the bids, unless the school board of that district provides to the Division of Vocational, Adult, and Community Education and the Office of Educational Facilities a reasonable explanation for the delay. Upon request, the commissioner may extend the period by 90 days.

(3) The Office of Educational Facilities shall determine the total cost of the facility pursuant to state board rules for determining new construction costs.

(4) There is created the Vocational Education Construction Committee, comprised of three members appointed from the Department of Education by the Commissioner of Education, one member appointed from the Department of Commerce by the Secretary of Commerce, one member appointed from the Department of Labor and Employment Security by the Secretary of Labor and Employment Security, and one member appointed from the Executive Office of the Governor by the Governor. The committee shall review and evaluate applications for moneys filed by the districts and governmental agencies and shall rank them in order of the priority of the need for each such facility statewide. The committee shall annually submit the list to the Commissioner of Education for inclusion in the annual legislative capital outlay budget request, at least 45 days prior to the regular legislative session.

(5) Upon approval of the project, the Commissioner of Education shall include no greater than 33.3 percent of the total cost of the project within the legislative capital outlay budget request as provided in section 235.41, Florida Statutes, for educational plants. The participating board and the governmental agency must have included in their joint resolution a commitment to provide additional moneys necessary to complete the planning, construction, and equipping of the facility. Moneys from the Public Education Capital Outlay and Debt Service Trust Fund may not be expended on any project proposed pursuant to this section unless the project is specifically authorized by the Legislature.

(Renumber subsequent sections.)

Amendment 1C—On page 29, line 10, insert:

Section 34. Paragraphs (c), (d), and (e) of subsection (2) of section 212.055, Florida Statutes, 1988 Supplement, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(c) Pursuant to s. 212.054(4), the proceeds of the surtax levied under this subsection shall be distributed to the county and the municipalities within such county in which the surtax was collected, according to:

1. An interlocal agreement between the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, *which agreement may include a school district with the consent of the county governing authority and the governing bodies of the municipalities representing a majority of the county's municipal population, pursuant to s 236 76*; or

2. If there is no interlocal agreement, according to the formula provided in s. 218.62.

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended *by the school district or* within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure. Counties, as defined in s. 125.011(1), may, in addition, use the proceeds to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes.

2. For the purposes of this paragraph, "infrastructure" means any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

(e) *School districts,* counties, and municipalities receiving proceeds under the provisions of this subsection may pledge such proceeds for the purpose of servicing new bond indebtedness incurred pursuant to law. Local governments may use the services of the Division of Bond Finance of the Department of General Services pursuant to the State Bond Act to issue any bonds through the provisions of this subsection. In no case may a jurisdiction issue bonds pursuant to this subsection more frequently than once per year. Counties and municipalities may join together for the issuance of bonds authorized by this subsection.

Section 35. Subsection (2) of section 229.555, Florida Statutes, is amended to read:

229.555 Educational planning and information systems.—

(2) COMPREHENSIVE MANAGEMENT INFORMATION SYSTEMS.—The commissioner shall develop and implement an integrated information system for educational management. The system shall support, as feasible, the management decisions to be made in each division of the department and at the individual school and district levels. Similar data elements among divisions and levels shall be compatible. The system shall be based on an overall conceptual design; the information needed for such decisions, including fiscal, student, program, personnel, facility, community, evaluation, and other relevant data; and the relationship between cost and effectiveness. The system shall be managed and administered by the commissioner and shall include a district subsystem component to be administered at the district level, with input from the reports-and-forms control management committees. Each district school system with a unique management information system shall assure that compatibility exists between its unique system and the district component of the state system to the extent that all data required as input to the state system shall be made available in the appropriate input format. *New or changed data elements, fields, or formats may not be transmitted within the Florida Information Resource Network into the Division of Public Schools data bases until the school district council on comprehensive management information systems data review committee has reviewed the technical specifications, reporting requirements, and date for the first automated transmission of the elements, fields, or formats. Interim requests for this data must be made through other appropriate media.*

(a) The specific responsibilities of the commissioner shall include:

1. Consulting with school district representatives in the development of the system design model and implementation plans for the management information system for public school education management;

2. Providing operational definitions for the proposed system;

3. Determining the information and specific data elements required for the management decisions made at each educational level, recognizing that the primary unit for information input shall be the individual school and recognizing that time and effort of instructional personnel expended in collection and compilation of data should be minimized;

4. Developing standardized terminology and procedures to be followed at all levels of the system;

5. Developing a standard transmittal format to be used for collection of data from the various levels of the system;

6. Developing appropriate computer programs to assure integration of the various information components dealing with students, personnel, facilities, fiscal, program, community, and evaluation data;

7. Developing the necessary programs to provide statistical analysis of the integrated data provided in subparagraph 6. in such a way that required reports may be disseminated, comparisons may be made, and relationships may be determined in order to provide the necessary information for making management decisions at all levels;

8. Developing output report formats which will provide district school systems with information for making management decisions at the various educational levels, *including regular downloads from the department's data base of the official current reported data and projected data from estimating conferences*;

9. Developing a phased plan for distributing computer services equitably among all public schools and school districts in this state as rapidly as possible. The plan shall describe alternatives available to the state in providing such computing services and shall contain estimates of the cost of each alternative, together with a recommendation for action. In developing such plan, the feasibility of shared use of computing hardware and software by school districts, community colleges, and universities shall be examined. Laws or administrative rules regulating procurement of data processing equipment, communication services, or data processing services by state agencies shall not be construed to apply to local agencies which share computing facilities with state agencies;

10. Assisting the district school systems in establishing their subsystem components and assuring compatibility with current district systems, *and requesting from the Legislature moneys sufficient to fund the requirements of this section*;

11. Establishing procedures for continuous evaluation of system efficiency and effectiveness;

12. Initiating a reports-management and forms-management system to ascertain that duplication in collection of data does not exist and that forms and reports for reporting under state and federal requirements and other forms and reports are prepared in a logical and uncomplicated format, resulting in a reduction in the number and complexity of required reports, particularly at the school level; and

13. Initiating such other actions as are necessary to carry out the intent of the Legislature that a management information system for public school management needs be implemented. Such other actions shall be based on criteria including, but not limited to:

a. The purpose of the reporting requirement;

b. The origination of the reporting requirement;

c. The date of origin of the reporting requirement; and

d. The date of repeal of the reporting requirement.

(b) The specific responsibilities of each district school system shall include:

1. Establishing, at the district level, a reports-control and forms-control management system committee composed of school administrators and classroom teachers. The district school board shall appoint school administrator members and classroom teacher members; or, in school districts where appropriate, the classroom teacher members shall be appointed by the bargaining agent. Teachers shall constitute a majority of the committee membership. The committee shall periodically recommend procedures to the district school board for eliminating, reducing, revising, and consolidating paperwork and data collection requirements and shall submit to the district school board an annual report of its findings. ~~The superintendent shall review the annual report and recommendations of the committee and, following such review, submit a report no later than June 15 to the chairmen of the education committees of the House of Representatives and the Senate indicating the district's response to the committee recommendations.~~

2. With assistance from the commissioner, developing systems compatibility between the state management information system and unique local systems.

3. Providing, with the assistance of the department, inservice training dealing with management information system purposes and scope, a method of transmitting input data, and the use of output report information.

4. Establishing a plan for continuous review and evaluation of local management information system needs and procedures.

5. Advising the commissioner of all district management information needs.

6. Transmitting required data input elements to the appropriate processing locations in accordance with guidelines established by the commissioner.

7. Determining required reports, comparisons, and relationships to be provided to district school systems by the system output reports, continuously reviewing these reports for usefulness and meaningfulness, and submitting recommended additions, deletions, and change requirements in accordance with the guidelines established by the commissioner.

8. Being responsible for the accuracy of all data elements transmitted to the department.

(c) It is the intent of the Legislature that the expertise in the state system of public education, as well as contracted services, be utilized to hasten the plan for full implementation of a comprehensive management information system.

Section 36. Paragraph (a) of subsection (1) of section 322.21, Florida Statutes, is amended to read:

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

(1) Except as otherwise provided herein, the fee for:

(a) An original or renewal driver's license is *$16* ~~$15~~, which shall include the fee for driver education provided by s. 233.063 *and a $1 fee to finance school district and nonpublic school administrative costs pursuant to s. 322.0601. The $1 fee shall be promptly remitted to the Department of Highway Safety and Motor Vehicles for transferral to the State Treasurer who shall disburse such funds to the Department of Education to be disbursed to each school district. Funds shall be disbursed to each school district according to a formula based on public and nonpublic secondary school student enrollment. School districts shall disburse funds to each school in the proportion that the student enrollment in that school bears to the total student enrollment in public and nonpublic secondary schools in the district.*

Section 37. Effective April 1, 1991, subsection (1) of section 322.21, Florida Statutes, as amended by chapter 89-282, Laws of Florida, is amended to read:

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

(1) Except as otherwise provided herein, the fee for:

(a) An original or renewal commercial driver's license is *$51* ~~$50~~, which shall include the fee for driver education provided by s. 233.063 *and a $1 fee to finance school district and nonpublic school administrative costs pursuant to s. 322.0601*; however, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires the commercial license, the fee shall be the same as for a Class E driver's license.

(b) An original Class D or Class E driver's license is *$21* ~~$20~~, which shall include the fee for driver's education provided by s. 233.063 *and a $1 fee to finance school district and nonpublic school administrative costs pursuant to s. 322.0601*; however, if an applicant has completed training and is applying for employment or is currently employed in a public or nonpublic school system that requires a commercial driver license, the fee shall be the same as for a Class E license.

(c) The renewal of a Class D or Class E driver's license or of a license restricted to motorcycle use only is *$16* ~~$15~~, except that a delinquent fee of $1 shall be added for a renewal made not more than 12 months after the license expiration date, unless the applicant elects to take and passes the written examination. The fee provided in this paragraph shall include the fee for driver's education provided by s. 233.063 *and a $1 fee to finance school district and nonpublic school administrative costs pursuant to s. 322.0601.*

(d) An original driver's license restricted to motorcycle use only is *$21* ~~$20~~, which shall include the fee for driver's education provided by s. 233.063 *and a $1 fee to finance school district and nonpublic school administrative costs pursuant to s. 322.0601.*

(e) Each endorsement required by s. 322.57 is $5.

The $1 fee to finance school district administrative costs pursuant to s. 322.0601 shall be promptly remitted to the Department of Highway Safety and Motor Vehicles for transferral to the State Treasurer who shall disburse such funds to the Department of Education to be disbursed to each school district. Funds shall be disbursed to each school district according to a formula based on public and nonpublic secondary school student enrollment. School districts shall disburse funds to each public and nonpublic secondary school proportionately based on their student enrollment.

Section 38. Effective April 1, 1991, subsection (1) of section 322.16, Florida Statutes, is amended to read:

322.16 Restricted licenses.—

(1)(a) The department, upon issuing a driver's license, shall have authority whenever good cause appears, to impose restrictions suitable to the licensee's driving ability with respect to the type or special mechanical control devices required on a motor vehicle which the licensee may operate, including, but not limited to, a licensee's ability to operate vehicles equipped with air brakes, or such other restrictions applicable to the licensee as the department may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee. *With regard to any knowledge test required as to the operation of vehicles equipped with air brakes, such test shall be limited to the operation of such brakes and such test shall not be designed to test an applicant's knowledge of the intricate mechanical workings of such brakes.*

(b) The department may further impose other suitable restrictions on use of the license with respect to time and purpose of use, including, but not limited to, a restriction providing for intrastate operation only, or impose any other condition or restriction deemed necessary for driver improvement, safety, or control of drivers in this state.

(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 Parole Commission, or the Department of Corrections with respect to any individual under its jurisdiction, supervision, or control on probation or parole.

(d) The department shall have authority to impose a restriction upon the use of the license requiring that the licensee wear a medical identification bracelet when operating a motor vehicle. Medical identification bracelet restrictions shall be coded on the license of the restricted operator. There shall be no penalty for a violation of this paragraph.

Section 39. Paragraph (g) of subsection (1) of section 236.081, Florida Statutes, is amended to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(g) Alternative handicapped allocation.—As an alternative to a special program for hospital and homebound part-time, a school district may establish appropriate instructional groupings of certain students within any hospital when those students are eligible for a special program for the hospitalized or homebound due to physical *or health* impairments which result in reduced efficiency in school work because of temporary or chronic lack of strength, vitality, or alertness. Each full-time equivalent student in such a program shall be assigned a cost factor equal to the cost factor established for physically handicapped pursuant to subparagraph (c)2.

Section 40. Notwithstanding section 236.25(2), Florida Statutes, school districts are not subject to an equal dollar reduction in Florida Education finance Program funds for violations of former sections 235.435(1)(c) and 236.25(2)(b), Florida Statutes, 1988 Supplement, which violations occurred prior to July 1, 1989, if the Department of Education did not provide an equal dollar reduction of Florida Education Finance Program funds, before July 1, 1989, for such violations.

(Renumber subsequent sections.)

Amendment 1D—On page 11, between lines 9 and 10, insert:

Section 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent sections.)

Amendment 1 as amended was adopted.

Senator Johnson moved the following amendment:

Amendment 2—In title, on page 3, line 14, after the semicolon (;) insert: providing for distribution of the local government infrastructure surtax to school districts; providing for expenditure of proceeds; providing a definition; amending s. 229.555, F.S.; requiring the approval of the school district council on comprehensive management information systems data review committee in order to transmit certain information within the Florida Information Resource Network into the Division of Public Schools data bases; providing that certain output report formats developed by the Commissioner of Education must provide district school systems access to the computer data base of the Department of Education which relates to legislative information; requiring the commissioner to request moneys from the Legislature sufficient to fund the system; repealing a provision which requires a district school superintendent to file an annual report with the Legislature; amending s. 322.21, F.S.; increasing license fees to finance certain school district and nonpublic school costs; providing for the disbursal of such funds to school districts and nonpublic schools; amending s. 322.16, F.S.; providing content for a driver's license examination relating to the use of air brakes; amending s. 236.081, F.S.; revising provisions relating to students eligible for a special program for the hospitalized or homebound;

Senator Johnson moved the following amendments to Amendment 2 which were adopted:

Amendment 2A—In title, on page 3, line 14, after the semicolon (;) insert: providing for distribution of the local government infrastructure surtax to school districts; providing for expenditure of proceeds; providing a definition; amending s. 229.555, F.S.; requiring the approval of the school district council on comprehensive management information systems data review committee in order to transmit certain information within the Florida Information Resource Network into the Division of Public Schools data bases; providing that certain output report formats developed by the Commissioner of Education must provide district school systems access to the computer data base of the Department of Education which relates to legislative information; requiring the commissioner to request moneys from the Legislature sufficient to fund the system; repealing a provision which requires a district school superintendent to file an annual report with the Legislature; amending s. 322.21, F.S.; increasing license fees to finance certain school district and nonpublic school costs; providing for the disbursal of such funds to school districts and nonpublic schools; amending s. 322.16, F.S.; providing content for a driver's license examination relating to the use of air brakes; amending s. 236.081, F.S.; revising provisions relating to students eligible for a special program for the hospitalized or homebound;

Amendment 2B—In title, on page 2, line 7, after the semicolon (;) insert: providing for severability;

Amendment 2C—In title, on page 2, line 7, after the semicolon (;) insert: providing for the expenditure of moneys from the Public Education Capital Outlay and Debt Service Trust Fund for vocational educational facilities; providing that a district school board must levy the maximum millage against nonexempt property value of real property within the school district, to apply for such moneys; requiring approval of the facility; creating the Vocational Education Construction Committee; providing for membership of the committee; requiring the committee to annually list applications for moneys from the trust fund and submit the list to the Commissioner of Education for inclusion in the annual legislative capital outlay budget request; specifying the maximum percentage of the cost of each such facility that may be paid from the trust fund;

Amendment 2D—In title, on page 2, line 7, after the semicolon (;) insert: amending s. 61.046, F.S.; redefining the term "income"; amending s. 61.11, F.S.; providing for writs in support cases; amending s. 61.13, F.S.; prohibiting discrimination with respect to sex in determining primary residence of a child; amending s. 61.1301, F.S.; providing an additional requirement with respect to income deduction orders; revising language with respect to enforcement; amending s. 61.16, F.S.; requiring attorney's fees and other costs to be assessed; amending s. 61.181, F.S.; revising language with respect to the central depository for receiving, recording, reporting, monitoring, and disbursing alimony, support, maintenance, and child support payments; providing for disbursement of certain checks; authorizing the depository to require certain information; amending s. 61.183, F.S.; requiring certain costs to be assessed with respect to mediation; amending s. 68.02, F.S.; including support as a reason for issuance of a writ; amending s. 88.031, F.S.; providing for a definition of support; creating s. 88.0515, F.S.; providing additional methods for enforcing orders and judgments and providing for recovery of costs; amending s. 88.331, F.S.; limiting judicial jurisdiction under certain conditions; amending s. 213.053, F.S.; authorizing release of certain information to the child support agency; amending s. 409.2554, F.S.; redefining the term "support"; expanding the definition of "administrative costs" and defining "child support services"; amending s. 409.2561, F.S.; providing for recovery of past period child support obligations; amending s. 409.2564, F.S.; specifying the attorney-client relationship in Title IV-D cases and providing authority for modifications; amending s. 409.2567, F.S.; including certain fees as administrative costs; amending s. 409.2571, F.S.; providing for services to the Title IV-D agency; amending s. 409.2577, F.S.; providing statutory clarification regarding access to confidential information; amending s. 409.2584, F.S.; revising language with respect to the interest earned on certain judgments; creating s. 409.2595, F.S.; providing authority to enter into specified contractual agreements; creating s. 409.2596, F.S.; providing for the admissibility in evidence of electronic data; creating s. 409.2598, F.S.; providing for suspension of licenses or certifications for delinquent support; amending s. 455.203, F.S.; providing for suspension of licenses for delinquent support; amending s. 559.79, F.S.; requiring additional data for license application; providing for suspension of licenses for delinquent support; requesting the Florida Supreme Court to adopt certain rules; amending s. 742.08, F.S.; providing authority for assessment of certain costs and fees with respect to default of support payments; amending s. 742.10, F.S.; revising language with respect to establishment of paternity for certain children;

Amendment 2 as amended was adopted.

On motion by Senator Johnson, by two-thirds vote CS for CS for SB 3006 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Mr. President	Deratany	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Langley	Thomas
Brown	Forman	Malchon	Thurman
Bruner	Gardner	McPherson	Walker
Casas	Girardeau	Meek	Weinstein
Childers, D.	Gordon	Myers	Weinstock
Childers, W. D.	Grant	Peterson	Woodson-Howard
Crenshaw	Grizzle	Plummer	
Davis	Jennings	Scott	

Nays—None

Senator W. D. Childers presiding

On motions by Senator Jennings, by two-thirds vote CS for HB 2107 was withdrawn from the Committees on Insurance, Judiciary-Civil and Appropriations.

On motion by Senator Jennings—

CS for HB 2107—A bill to be entitled An act relating to insurance; amending s. 627.215, F.S.; providing an alternative basis for calculation of excess profits for specified forms of insurance; revising excess profits calculations; providing retroactivity; providing an effective date.

—a companion measure, was substituted for CS for SB 3060 and read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—On page 4, between lines 21 and 22, insert:

Section 2. Subsection (7) of section 627.066, Florida Statutes, is amended to read:

627.066 Excessive profits for motor vehicle insurance prohibited.—

(7) If the insurer group has realized an excessive profit, the department shall order a return of the excessive amounts after affording the insurer group an opportunity for hearing and otherwise complying with the requirements of chapter 120. Such excessive amounts shall be refunded in all instances unless the insurer group affirmatively demonstrates to the department that the refund of the excessive amounts will render a member of the insurer group *financially impaired or will render it* insolvent under the provisions of the Florida Insurance Code.

Section 3. Subsection (9) of section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited.—

(9) If the insurer group has realized an excessive profit, the department shall order a return of the excessive amounts after affording the insurer group an opportunity for hearing and otherwise complying with the requirements of chapter 120. Such excessive amounts shall be refunded in all instances unless the insurer group affirmatively demonstrates to the department that the refund of the excessive amounts will render a member of the insurer group *financially impaired or will render it* insolvent under the provisions of the Florida Insurance Code.

(Renumber subsequent section.)

Amendment 2—On page 4, between lines 21 and 22, insert:

Section 2. Subsection (3) of section 624.462, Florida Statutes, is amended to read:

624.462 Commercial self-insurance funds.—

(3) Each member of a commercial self-insurance trust fund established pursuant to this section must maintain membership in the association or self-insurance trust fund established under s. 627.356 or s. 627.357. *Membership in a not-for-profit trade association, industry association, or professional association of employers or professionals for the purpose of obtaining or providing insurance shall be in accordance with the constitution or bylaws of the association, and the dues, fees, or other costs of membership shall not be different for members obtaining insurance from the commercial self-insurance fund.*

Section 3. Subsection (12) is added to section 624.468, Florida Statutes, to read:

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

(12) A fund shall maintain records which will confirm that membership in the fund is in accordance with the constitution or bylaws of the association as required by s. 624.462(3). The department may request from the fund, not more than annually, a certification which confirms that all members of the fund are members of the association and are in compliance with the constitution or bylaws of the association and may require that the fund submit a plan, acceptable to the department, to eliminate membership that does not comply with s. 624.462(3).

Section 4. Section 624.469, Florida Statutes, is created to read:

624.469 Premiums written; restrictions.—

(1) If, during the first 6 full calendar years of its operation, a commercial self-insurance fund's actual or projected annual earned premiums exceed four times the sum of 10 percent of the fund's statutory unearned premium as reported in its most recent report made pursuant to s. 624.470(2)(a) plus the aggregate excess of loss reinsurance limits available for the year reported, established in accordance with subsection (2), the department may establish by order maximum net annual premiums to be written by the fund consistent with maintaining this ration between actual or projected earned premiums and unearned premiums and aggregate excess of loss reinsurance, unless the fund demonstrates to the department's satisfaction that exceeding such limitations does not endanger the financial condition of the fund or endanger the interest of the fund's members or that the fund's operation is and will be actuarily sound without obtaining excess reinsurance. Such orders shall be in effect no longer than the end of the current calendar year. The fund's self-funded reinsurance, if any, shall be included as aggregate excess of loss reinsurance at an amount that will be sufficient to cover unpaid losses as actuarily determined.

(2) With respect to subsection (1), the aggregate excess of loss reinsurance shall attach at a point not greater than the loss ratio, above which an assessment would be indicated pursuant to rules of the department adopted under the authority of this chapter. As a minimum, the aggregate excess of loss reinsurance shall also provide coverage for 100 percent of the losses between the attachment point required by this section and a loss ratio of 100 percent.

(3) After the 6th full calendar year of operation, a commercial self-insurance fund may, instead of limiting actual or projected premium to the ratio specified in subsection (1), maintain aggregate excess of loss reinsurance limits, subject to minimum limits enumerated in subsection (4), equal to the difference between the loss ratio at which an assessment would be indicated pursuant to rules adopted by the department and a loss ratio 10 percentage points higher than the highest loss ratio from the most recent 6 calendar years as indicated on the property and casualty annual statement report, after including excess statutory reserves over statement reserves, for auto liability, other liability, medical malpractice, workers' compensation, and credit insurance. For commercial lines of business other than auto liability, other liability, medical malpractice, workers' compensation, and credit, the amount required by Schedule P will be calculated in the same manner as auto liability and shall be calculated for each line of business individually. However, if a fund fails or chooses not to maintain the aggregate excess reinsurance as specified in this subsection, it shall be subject to the provisions of subsection (1).

(4) A commercial self-insurance fund maintaining aggregate excess of loss reinsurance pursuant to subsection (3) must, as a minimum, maintain dollar limits of aggregate excess of loss reinsurance as follows:

(a) For funds with actual or projected earned premiums of $5,000,000 or less, the minimum shall be equal to either 25 percent of actual or projected earned premiums or $500,000, whichever is greater.

(b) For funds with actual or projected earned premiums greater than $5,000,000, the minimum shall be:

Actual or Projected Earned Premiums	Percent of Earned Premium
$5,000,000.01-$10,000,000	22 percent
$10,000,000.01-$25,000,000	19 percent
$25,000,000.01-$50,000,000	16 percent
$50,000,000.01-$100,000,000	13 percent
$100,000,000.01-$250,000,000	10 percent
$250,000,000.01 and greater	7 percent

(5) Notwithstanding the other provisions of this section, the department may, by order, establish maximum gross or net annual premiums to be written if the department, for good cause shown, finds that the actual or projected premium volume of the fund endangers the interests of the fund's policyholders or the financial condition of the fund.

(Renumber subsequent section.)

Amendment 3—On page 4, between lines 21 and 22, insert:

Section 2. Present subsections (2) and (3) of section 627.211, Florida

Statutes, are renumbered as subsections (3) and (4) respectively, and a new subsection (2) is added to said section to read:

627.211 Deviations; workers' compensation and employer's liability insurances.—

(2) Every member or subscriber to a rating organization may, as to workers' compensation and employers' liability insurance, file a plan or plans to use deviations that vary according to factors present in each insured's individual risk. The insurer that files for the deviations provided in this subsection shall file the qualifications for the plans, schedules of rating factors, and the maximum deviation factors which shall be subject to the approval of the department pursuant to s. 627.091. The actual deviation which shall be used for each insured that qualifies under this subsection may not exceed the maximum filed deviation under that plan and shall be based on the merits of each insured's individual risk as determined by using schedules of rating factors which shall be applied uniformly. Insurers shall maintain statistical data in accordance with the schedule of rating factors. Such data shall be available to support the continued use of such varying deviations.

(Renumber subsequent section.)

Amendment 4—On page 4, between lines 21 and 22, insert:

Section 2. Insurers to be added to those exempt from excess profit requirements.—Insurers described in section 624.509(10), Florida Statutes, are exempt from the excess profit requirements.

(Renumber subsequent section.)

Amendment 5—On page 4, between lines 21 and 22, insert:

Section 2. Conversion of commercial self-insurance fund.—

(1) A commercial self-insurance fund may become a domestic mutual insurer under a plan and procedure which are approved by the department.

(2) The department may not approve any plan or procedure unless:

(a) It is equitable to the commercial self-insurance fund members; and

(b) The requirements imposed as to the formation of domestic mutual insurers are satisfied.

(Renumber subsequent section.)

Amendment 6—On page 4, between lines 21 and 22, insert:

Section 2. Subsection (8) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(8) From and after July 1, 1980, the premium tax authorized by this section shall not be imposed upon receipts of annuity premiums or considerations paid by holders in this state *and from and after July 1, 1991, the intangible tax imposed by chapter 199 shall not be imposed on assets equal to the statutory legal reserves of annuity products maintained by insurance companies on behalf of their holders* if the tax savings derived are credited to the *annuity* holders ~~in this state~~. Upon request by the Department of Revenue, any insurer availing itself of this provision shall submit to the department evidence which establishes that the tax savings derived have been credited to *annuity* holders ~~in this state~~. As used in this subsection, the term "holders" shall be deemed to include employers contributing to an employee's pension, annuity, or profit-sharing plan.

(Renumber subsequent section.)

Senator Grant moved the following amendment which was adopted:

Amendment 7—On page 5, between lines 18 and 19, insert:

Section 2. Subsection (2) of section 624.411, Florida Statutes, is amended read:

624.411 Deposit requirement; domestic insurers and foreign insurers.—

(2) As to foreign insurers, the department, *upon issuing* ~~shall not issue~~ or *permitting* ~~permit~~ to exist a certificate of authority, *may require for good cause a deposit* ~~unless such insurer has deposited~~ and *maintenance of the deposit* ~~maintains deposited~~ in trust for the protection of the insured's policyholders or its policyholders and creditors with the department securities eligible for such deposit under s. 625.52, having at all times a value of not less than as follows:

(a) To transact casualty insurance, $150,000.

(b) To transact all other kinds of insurance, $100,000 per kind of insurance.

(c) A foreign insurer authorized to transact more than one kind of insurance in this state shall not be required to deposit more than $200,000 under this subsection.

(d) A foreign insurer with surplus as to policyholders of more than $10 million according to its latest annual statement shall not be required to make a deposit under this subsection.

(Renumber subsequent section.)

Senator Kirkpatrick offered the following amendment which was moved by Senator Jennings and adopted:

Amendment 8—On page 4, between lines 21 and 22, insert:

Section 2. Paragraph (a) of subsection (1) of section 627.0645, Florida Statutes, is amended to read:

627.0645 Annual filings.—

(1)(a) Each rating organization filing rates for, and each insurer writing, any line of property or casualty insurance to which this part applies, except workers' compensation and employer's liability insurance *and commercial property and casualty as defined in s. 627.0625(1) other than commercial multiple line and commercial automobile*, shall make an annual base rate filing for each such line with the department no later than 12 months after its previous base rate filing, demonstrating that its rates are not inadequate. *Deviations filed by an insurer to any rating organization's base rate filing shall not be subject to this section. The department, after receiving a request to be exempted from the provision of s. 627.0645 may, for good cause due to insignificant numbers of policies in force or insignificant premium volume, exempt a company by line of coverage from filing rates or rate certification as required by this section.*

Section 3. Paragraph (a) of subsection (7) of section 627.410, Florida Statutes, is amended to read:

627.410 Filing, approval of forms.—

(7)(a) Each insurer subject to the requirements of subsection (6) shall make an annual filing with the department no later than 12 months after its previous filing, demonstrating the reasonableness of benefits in relation to premium rates. *The department, after receiving a request to be exempted from the provisions of s. 627.410 may, for good cause due to insignificant numbers of policies in force or insignificant premium volume,* exempt an insurer from filing annual rates or rate certification as requested by this subsection.

(Renumber subsequent section.)

Senator Grant moved the following amendment which was adopted:

Amendment 9—In title, on page 1, line 7, after the semicolon (;) insert: amending s. 624.411, F.S.; specifying the deposit requirements for foreign insurers;

Senator Kirkpatrick offered the following amendment which was moved by Senator Jennings and adopted:

Amendment 10—In title, on page 1, strike line 6 and insert: calculations; amending ss. 627.0645 and 627.410, F.S.; exempting certain insurers from annual rate filing requirements; exempting deviations; providing retroactivity;

Senator Jennings moved the following amendments which were adopted:

Amendment 11—In title, on page 1, line 6. after the semicolon (;) insert: amending s. 624.509, F.S.; exempting reserves on annuity products from the intangible tax imposed by chapter 199, F.S.;

Amendment 12—In title, on page 1, line 6, after the first semicolon (;) insert: authorizing conversion of commercial self-insurance funds to domestic mutual insurers;

Amendment 13—In title, on page 1, line 6, after the first semicolon (;) insert: exempting specified insurers from excess profit requirements;

Amendment 14—In title, on page 1, line 6, insert: amending s. 627.211, F.S.; providing that premium deviations with respect to workers' compensation and employers' liability insurance may be made variable according to factors in each insured's individual risk;

Amendment 15—In title, on page 1, line 6, after the first semicolon (;) insert: amending s. 624.462, F.S.; prescribing requirements with respect to membership in a commercial self-insurance fund; amending s. 624.468, F.S.; requiring commercial self-insurance funds to maintain certain membership records; creating s. 624.469, F.S.; prescribing requirements with respect to commercial self-insurance fund net annual premiums and excess of loss reinsurance;

Amendment 16—In title, on page 1, line 6, after the first semicolon (;) insert: amending ss. 627.066, 627.215, F.S.; providing that specified insurer groups need not return excessive profits if they demonstrate that to do so would render a member of the group financially impaired;

Senator Kirkpatrick offered the following amendment which was moved by Senator Jennings and adopted:

Amendment 17—In title, on page 1, line 6, after the second semicolon (;) insert: amending s. 627.0645, F.S.; providing additional exemptions from certain rate filing requirements; amending s. 627.410, F.S.; providing additional circumstances under which the Department of Insurance may exempt insurers from certain filing requirements;

On motion by Senator Jennings, by two-thirds vote CS for HB 2107 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Deratany	Johnson	Scott
Beard	Diaz-Balart	Kirkpatrick	Souto
Brown	Dudley	Kiser	Stuart
Bruner	Forman	Langley	Thomas
Casas	Gardner	Malchon	Thurman
Childers, D.	Girardeau	Meek	Walker
Childers, W. D.	Grant	Myers	Weinstein
Crenshaw	Grizzle	Peterson	Weinstock
Davis	Jennings	Plummer	Woodson-Howard

Nays—None

CS for HB 691—A bill to be entitled An act relating to mortgage lending; creating ch. 521, F.S.; providing a short title; providing definitions; providing exemptions; providing for licensing and regulation of mortgage lenders by the Department of Banking and Finance; providing for rules; providing for fees and disposition thereof; providing for applications for licensure and renewal for mortgage lenders; providing for applications for licensure of correspondent mortgage lenders; requiring branch office permits; specifying conduct required of licensees; specifying grounds for disciplinary action; specifying disciplinary actions that may be taken by the department; providing that specified records maintained by a financial examiner are admissible in evidence; requiring maintenance of certain books, accounts, and records; providing for examination thereof; providing for investigations; providing confidentiality; providing for privilege against civil liability; specifying powers of the department to issue or seek subpoenas; providing for injunctive and other relief for failure to comply with a subpoena; authorizing the court to require the refund of certain fees; providing for attorney's fees; providing for writs of ne exeat and attachment; providing for injunctions to restrain violations; providing for impoundment and receivership; authorizing the department to issue cease and desist orders and refund orders; prohibiting false, deceptive, or misleading statements; providing that certain fees and charges are not interest or finance charges for purposes of usury laws; specifying effect of failure to comply on the validity or enforceability of mortgage loans; providing that statutory and common law remedies are not superseded; prohibiting an unlicensed person from acting as a mortgage lender; prohibiting specified fraudulent or deceptive acts; prohibiting certain falsification or concealment of material facts; providing that licensees are exempt from licensing requirements of ch. 494, F.S., relating to regulation of mortgage brokers; providing certain parity; providing waiver; providing certain liability; providing penalties; providing exemptions for persons licensed under ch. 494, F.S.; providing intent; creating the Florida Mortgage Lending Sunset Review Task Force; providing for review and recommendations to the Legislature; providing for staff support; providing for review and repeal; providing effective dates.

—was read the second time by title.

The Committee on Commerce recommended the following amendments which were moved by Senator Crenshaw and failed:

Amendment 1—On page 8, line 25, strike "application" and insert: applicant

Amendment 2—On page 12, line 11, strike "section" and insert: subsection

On motion by Senator Crenshaw, by two-thirds vote CS for HB 691 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Brown	Forman	Langley	Stuart
Bruner	Gardner	Malchon	Thomas
Casas	Girardeau	McPherson	Thurman
Childers, D.	Grant	Meek	Walker
Childers, W. D.	Grizzle	Myers	Weinstein
Crenshaw	Jennings	Peterson	Weinstock
Davis	Johnson	Plummer	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Deratany

Consideration of **CS for SB 1566** and **CS for SB 2350** was deferred.

Motion

On motion by Senator Scott, the rules were waived and time of recess was extended until 11:00 p.m.

On motions by Senator Diaz-Balart, by two-thirds vote CS for HB 1915 was withdrawn from the Committees on Judiciary-Civil; and Personnel, Retirement and Collective Bargaining.

On motion by Senator Diaz-Balart—

CS for HB 1915—A bill to be entitled An act relating to entry onto property; creating s. 112.182, F.S., providing that a firefighter or law enforcement officer while performing his duties is an invitee, rather than a licensee; specifying liability of property owners when property owner negligently fails to maintain premises or negligently fails to warn invitee of a dangerous condition; providing an effective date.

—a companion measure, was substituted for CS for SB 2688 and read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote CS for HB 1915 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Bankhead	Deratany	Grizzle	Myers
Brown	Diaz-Balart	Jennings	Plummer
Bruner	Dudley	Johnson	Souto
Casas	Forman	Langley	Stuart
Childers, W. D.	Gardner	Malchon	Weinstein
Crenshaw	Gordon	McPherson	Woodson-Howard
Davis	Grant	Meek	

Nays—6

Beard	Girardeau	Thurman
Childers, D.	Thomas	Walker

Vote after roll call:

Nay to Yea—Beard

On motions by Senator Thurman, by two-thirds vote CS for HB 2185 was withdrawn from the Committees on Economic, Professional and Utility Regulation; and Appropriations.

On motion by Senator Thurman—

CS for HB 2185—A bill to be entitled An act relating to health studios; amending s. 501.012, F.S., repealing subsections (2)-(13) thereof, and creating ss. 501.0125, 501.013, 501.014, 501.015, 501.016, 501.017, 501.018, and 501.019, F.S.; revising and restructuring provisions relating to the regulation of health studios; providing definitions; providing for exemption of certain businesses and activities; providing powers and duties of the Department of Agriculture and Consumer Services; providing registration, fee, and security requirements; specifying contractual provisions for the sale of services; providing requirements for change of ownership or location; providing penalties; providing applicability; providing an effective date.

—a companion measure, was substituted for CS for SB 2586 and read the second time by title. On motion by Senator Thurman, by two-thirds vote CS for HB 2185 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Kiser	Thomas
Brown	Forman	Langley	Thurman
Bruner	Gardner	Malchon	Walker
Casas	Girardeau	McPherson	Weinstein
Childers, D.	Gordon	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

CS for HB 2493—A bill to be entitled An act relating to the Florida Public Service Commission; amending s. 20.055, F.S.; excluding the commission from the requirement of employing a chief internal auditor; amending s. 110.205, F.S.; providing that the commission is not a department for purposes of the career service system; amending s. 186.005, F.S.; excluding the commission from the requirement of designating a planning officer; amending s. 255.257, F.S.; excluding the commission from the requirement of appointing an energy management coordinator; amending s. 350.001, F.S.; providing legislative intent; amending s. 350.01, F.S.; providing that commissioners currently in office may qualify for reappointment; providing a limitation on number of terms; providing for the referral of proceedings to the Division of Administrative Hearings of the Department of Administration; requiring regulatory proceedings to be conducted in an independent and nonpartisan manner; applying the public records law and the open meetings law to such proceedings; amending s. 350.03, F.S.; providing powers of the Governor and Senate in suspension and removal of commissioners; amending s. 350.031, F.S.; requiring certain certification by appointees; providing for reimbursement for per diem and travel for applicants; amending s. 350.04, F.S.; providing qualifications of commissioners; creating s. 350.041, F.S.; providing standards of conduct for commissioners; providing requirements relating to performance of duties, avoidance of impropriety, engaging in certain activities, acceptance of gifts and compensation, financial reporting, and conflicts of interest; providing duties of the Commission on Ethics; creating s. 350.042, F.S.; providing requirements relating to ex parte communications; prohibiting certain communications; providing a reporting requirement; providing a penalty; providing duties of the Commission on Ethics; creating s. 350.043, F.S.; providing for enforcement and interpretation; providing duties of the Commission on Ethics; amending s. 350.05, F.S., relating to the oath of office, to conform; amending s. 350.06, F.S.; removing a limitation on compensation of official reporters; creating s. 350.0604, F.S.; requiring submission of annual reports; amending s. 350.0605, F.S.; clarifying restrictions on activities of former commissioners and employees; amending s. 350.0611, F.S.; conforming language; amending s. 350.111, F.S.; revising the definition of "regulated company"; amending s. 350.113, F.S.; removing obsolete language with respect to the Florida Public Service Regulatory Trust Fund; revising regulatory assessment fees; amending s. 350.115, F.S.; removing obsolete language; amending s. 350.117, F.S.; providing for audits of regulated companies; amending s. 350.121, F.S.; revising exemptions from public records requirements for certain information obtained by the commission in connection with an inquiry; providing requirements with respect to inquiries; providing a definition; providing for a time limit on confidentiality; creating s. 350.122, F.S.; providing for confidentiality of business material; amending s. 350.127, F.S.; increasing a penalty; providing for injunctions; amending s. 350.128, F.S.; providing for judicial review of commission actions; repealing s. 350.80, F.S., relating to regulation of coal slurry pipelines; providing for financial and program audits; providing for effectiveness of commission rules; providing that the commission is considered part of the legislative branch of government for budget and appropriation purposes; requiring the Office of Public Counsel to submit certain reports; providing an effective date.

—was read the second time by title.

Senator Jennings moved the following amendments which were adopted:

Amendment 1—On page 6, lines 19-30; on page 7, lines 1-31; on page 8, lines 1-31; and on page 9, lines 1-29, strike all of said lines and insert:

Section 6. Section 350.01, Florida Statutes, is amended to read:

350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chairman; quorum; proceedings.—

(1) The Florida Public Service Commission shall consist of five commissioners appointed pursuant to s. 350.031.

(2)(a) Each commissioner serving on July 1, *1992* ~~1978~~, shall be permitted to remain in office until the completion of his current term *or until January 1 of the year in which the next general election is held, whichever is later.* Upon the expiration of the term, *if the commissioner has not qualified for retention or if the commissioner qualified but was not retained, the vacancy shall be filled by appointment* ~~a successor shall be appointed in the manner prescribed by s. 350.031(3) and (4)~~ for a 4-year term. *Thereafter, the incumbent commissioners will be subject to merit retention for 4-year terms.*, ~~except that the terms of the initial members appointed under this act shall be as follows:~~

~~1. The vacancy created by the present term ending in January, 1981, shall be filled by appointment for a 4-year term and for 4-year terms thereafter; and~~

~~2. The vacancies created by the two present terms ending in January, 1979, shall be filled by appointment for a 3-year term and for 4-year terms thereafter.~~

~~(b) Two additional commissioners shall be appointed in the manner prescribed by s. 350.031(3) and (4) for 4-year terms beginning the first Tuesday after the first Monday in January, 1979, and successors shall be appointed for 4-year terms thereafter.~~

(b)~~(c)~~ Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as original appointments to the commission.

(3) Any person serving on the commission who seeks to be *retained for a full term of office must run in a statewide election held pursuant to ss. 350.021-350.026* ~~appointed or reappointed shall file with the nominating council at least 180 days before the expiration of his term a statement that he desires to serve an additional term~~.

(4) One member of the commission shall be elected by majority vote to serve as chairman for a term of 2 years, beginning with the first Tuesday after the first Monday in January ~~1979~~. A member may not serve two consecutive terms as chairman.

(5) The primary duty of the chairman is to serve as chief administrative officer of the commission; however, the chairman may participate in any proceedings pending before the commission when administrative duties and time permit. In order to distribute the workload and expedite the commission's calendar, the chairman, in addition to other administrative duties, has authority to assign the various proceedings pending before the commission requiring hearings to two or more commissioners or to the commission's office of hearing examiners under the supervision of the office of general counsel. Only those commissioners assigned to a proceeding requiring hearings are entitled to participate in the final decision of the commission as to that proceeding; provided, if only two commissioners are assigned to a proceeding requiring hearings and cannot agree on a final decision, the chairman shall cast the deciding vote for final disposition of the proceeding. If more than two commissioners are assigned to any proceeding, a majority of the members assigned shall constitute a quorum and a majority vote of the members assigned shall be essential to final commission disposition of those proceedings requiring actual participation by the commissioners. If a commissioner becomes unavailable after assignment to a particular proceeding, the chairman

shall assign a substitute commissioner. In those proceedings assigned to a hearing examiner, following the conclusion of the hearings, the designated hearing examiner is responsible for preparing recommendations for final disposition by a majority vote of the commission. A petition for reconsideration shall be voted upon by those commissioners participating in the final disposition of the proceeding.

(6) A majority of the commissioners may determine that the full commission shall sit in any proceeding. The public counsel or a person regulated by the Public Service Commission and substantially affected by a proceeding may file a petition that the proceeding be assigned to the full commission. Within 15 days of receipt by the commission of any petition or application, the full commission shall dispose of such petition by majority vote and render a written decision thereon prior to assignment of less than the full commission to a proceeding. In disposing of such petition, the commission shall consider the overall general public interest and impact of the pending proceeding, including but not limited to the following criteria: the magnitude of a rate filing, including the number of customers affected and the total revenues requested; the services rendered to the affected public; the urgency of the requested action; the needs of the consuming public and the utility; value of service involved; the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved. If the petition is denied, the commission shall set forth the grounds for denial.

(7) This section does not prohibit a commissioner, designated by the chairman, from conducting a hearing as provided under s. 120.57(1) ~~or s. 350.631,~~ and the rules of the commission adopted pursuant thereto.

(8)~~(7)~~ This section does not prohibit a commissioner, designated by the chairman, from conducting a hearing as provided under s. 120.57(1) ~~or s. 350.631,~~ and the rules of the commission adopted pursuant thereto.

Section 7. Section 350.021, Florida Statutes, is created to read:

350.021 Candidates for retention; qualification; oath.—

(1) A candidate for retention as a commissioner of the Florida Public Service Commission shall qualify with the Division of Elections of the Department of State no earlier than noon of the 50th day, and no later than noon of the 46th day, before the first primary election preceding the expiration of his term. The qualification shall be on forms provided by the division. No qualifying fee is required of a candidate seeking retention on the commission.

(2) Each candidate for retention as a commissioner of the Florida Public Service Commission shall subscribe to, and file with the Division of Elections, an oath or affirmation in substantially the following form:

State of Florida
County of. . .

Before me, an officer authorized to administer oaths, personally appeared . . . (print name as you wish it to appear on the ballot) . . ., to me well known, who, being sworn, says he is a candidate for retention as commissioner of the Florida Public Service Commission; that he will have served on the commission for less than 12 years at the end of his present term; that he is a qualified elector of this state; that he is qualified under the constitution and laws of Florida to hold the office of commissioner of the Florida Public Service Commission; that he has taken the oath required pursuant to ss. 876.05-876.10, Florida Statutes; that he has not violated any law of the state relating to elections or the registration of electors; and that he has qualified for no other public office in this state, the term of which runs in whole or in part concurrently with the term of commissioner.

. . . (Signature of candidate) . . .

. . . (Address of candidate) . . .

Sworn to and subscribed before me this . . . . day of . . . . , 19. . . . , at . . . . , ... County, Florida.

. . . (Signature and title of officer administering oath) . . .

Section 8. Section 350.022, Florida Statutes, is created to read:

350.022 Candidates for retention; form of ballot.—

(1) The names of the commissioners of the Florida Public Service Commission seeking retention in office shall be grouped together on a separate portion of the general election ballot.

(2) The question "Shall Commissioner . . . (name of commissioner) . . . of the Florida Public Service Commission be retained in office?" shall appear on the ballot and thereafter the words "Yes" and "No."

(3) No reference to political party affiliation may appear on any ballot with respect to a candidate for retention as a commissioner of the Florida Public Service Commission.

Section 9. Section 350.023, Florida Statutes, is created to read:

350.023 Retention election.—The question prescribed in s. 350.022(2) shall be placed on the ballot at the general election. If a majority of the qualified electors voting on the question vote for retention, the commissioner shall be retained in office for a term commencing on the first Tuesday after the first Monday in January following the general election. If fewer than a majority of the qualified electors voting on the question vote for retention, a vacancy shall exist in the office upon the expiration of the term being served by the commissioner.

Section 10. Section 350.024, Florida Statutes, is created to read:

350.024 Candidates for retention; limitation on political activity.—

(1) A candidate for retention as a commissioner of the Florida Public Service Commission may not:

(a) Participate in any partisan political activity; however, he may register to vote as a member of a political party and may vote in a party primary for candidates for nomination of that party.

(b) Campaign as a member of a political party.

(c) Publicly represent or advertise himself as a member of a political party.

(d) Endorse any candidate.

(e) Make a political speech other than in his own behalf.

(f) Make a contribution to political party funds.

(g) Accept contributions from a political party.

(h) Solicit contributions for a political party.

(i) Accept or retain a place on a political party committee.

(j) Make a contribution to any person, group, or organization for its endorsement to the office of commissioner of the Florida Public Service Commission.

(k) Agree to pay all or part of an advertisement sponsored by any person, group, or organization in which the candidate may be endorsed for commissioner.

(l) Receive a campaign contribution from an agent, officer, or employee of an industry regulated by the Florida Public Service Commission.

(2) A candidate who violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 11. Section 350.025, Florida Statutes, is created to read:

350.025 Campaign contributions and expenses.—A candidate for retention as a commissioner of the Florida Public Service Commission may accept contributions and may incur only such expenses as are authorized by law. Each such candidate shall keep an accurate record of his contributions and expenses and shall file such reports thereof as are required of a candidate for a state office.

Section 12. Section 350.027, Florida Statutes, is created to read:

350.027 Applicability of election code.—The Florida Election Code applies to merit retention elections for commissioners of the Florida Public Service Commission; however, if any provision of ss. 350.021-

350.026 is in conflict with the Florida Election Code, the provision of ss. 350.021-350.026 prevails.

Section 13. Subsection (6) of section 101.151, Florida Statutes, is amended to read:

101.151 Specifications for general election ballot.—In counties in which voting machines are not used, and in other counties for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the general election ballot shall conform to the following specifications:

(6) Except for justices of the Supreme Court, ~~and~~ judges of district courts of appeal, *and commissioners of the Florida Public Service Commission,* the names of unopposed candidates shall not appear on the general election ballot. Each unopposed candidate shall be deemed to have voted for himself.

Section 14. Subsection (1) of section 106.08, Florida Statutes, is amended to read:

106.08 Contributions; limitations on.—

(1) No person, political committee, or committee of continuous existence shall make contributions to any candidate or political committee in this state, for any election, in excess of the following amounts:

(a) To a candidate for countywide office or to a candidate in any election conducted on less than a countywide basis, $1,000.

(b) To a candidate for legislative or multicounty office, $1,000.

(c) To a candidate for statewide office, $3,000. Candidates for the offices of Governor and Lieutenant Governor shall be considered a single candidate for the purpose of this section.

(d) To a political committee supporting or opposing one or more candidates, $1,000.

(e) To a candidate for county court judge or circuit judge, $1,000.

(f) To a candidate for retention as a judge of a district court of appeal, $2,000.

(g) To a candidate for retention as a justice of the Supreme Court, $3,000.

(h) To a candidate for retention as a commissioner of the Florida Public Service Commission, $3,000.

The contribution limits provided in paragraphs *(a) through (h)* ~~(a)-(g)~~ shall not apply to contributions made by a state or county executive committee of a political party regulated by chapter 103 or to amounts contributed by a candidate to his own campaign. The limitations provided by this subsection shall apply to each election. For purposes of this subsection the first primary, second primary, and general election shall be deemed separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice of the Supreme Court, ~~or~~ judge of a district court of appeal, *or commissioner of the Florida Public Service Commission,* there shall be only one election, which shall be the general election, and with respect to candidates for circuit judge or county court judge, there shall be only two elections, which shall be the first primary election and general election.

Section 15. Paragraph (h) is added to subsection (5) of section 106.141, Florida Statutes, to read:

106.141 Disposition of surplus funds by candidates.—

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign account to an office account any amount of the funds on deposit in such campaign account up to:

(h) $6,000 for a candidate for retention as a commissioner of the Florida Public Service Commission.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with his public office. Such expenses may include travel expenses incurred by the officer or a member of his staff or expenses incurred in the operation of his office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his office account, he may transfer surplus campaign funds to his office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall give such funds to a charitable organization or organizations which meet the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(Renumber subsequent sections.)

Amendment 2—On page 32, lines 16-31, and on page 33, lines 1 and 2, strike all of said lines and renumber subsequent sections.

Amendment 3—On page 34, between lines 22 and 23, insert:

Section 31. False statements by officers, directors, employees, and agents of utility companies.—Any person who is an officer, director, agent, or employee of a telephone company as defined in section 364.02, Florida Statutes, a public utility as defined in section 366.02, Florida Statutes, or a utility as defined in section 367.021, Florida Statutes, who willfully and knowingly:

(1) Subscribes to, makes, or exhibits any false paper or statement with intent to deceive a person authorized to examine the records of the telephone company, public utility, or utility;

(2) Subscribes to or makes any false report or statement to the Florida Public Service Commission or to the Public Counsel or any employee of the Public Counsel; or

(3) Causes to be published any false report which relates to the status or operations of the telephone company, public utility, or utility

is guilty of a felony of the third degree, punishable as provided in section 775.082, section 775.083, or section 775.084, Florida Statutes.

Section 32. (1) If any telephone company as defined in section 364.02, Florida Statutes, public utility as defined in section 366.02, Florida Statutes, or a utility as defined in section 367.021, Florida Statutes, has been convicted of a felony under the laws of this state or of the United States or has had a penalty imposed upon it as a result of a negotiated plea to a felony offense, such utility shall be required to pay an administrative penalty in the following amount:

(a) If the offense is a third-degree felony or is an offense which is equivalent to a third-degree felony under the laws of this state, the penalty is $100,000 for each offense.

(b) If the offense is a second-degree felony or is an offense which is equivalent to a second-degree felony under the laws of this state, the penalty is $250,000 for each offense.

(c) If the offense is a first-degree felony or is an offense which is equivalent to a first-degree felony under the laws of this state, the penalty is $500,000 for each offense.

(2) The administrative penalty imposed by this section is in addition to any other penalty provided by law and shall be imposed even if the penalty is withheld on the underlying felony.

(3) The administrative penalty imposed by this section may be paid only out of moneys which would otherwise be distributed to shareholders of the telephone company, public utility, or utility.

(4) Administrative penalties imposed by this section shall be paid into the General Revenue Fund.

(5) The Attorney General shall be responsible for enforcing the payment of any fines imposed pursuant to this section.

Section 33. (1) A telephone company as defined in section 364.02, Florida Statutes, a public utility as defined in section 366.02, Florida Statutes, or a utility as defined in section 367.021, Florida Statutes, which has been convicted of a felony under the laws of this state or of the United States or has had a penalty imposed upon it as a result of a nego-

tiated plea to a felony offense may not engage in any nonutility business or enterprise.

(2) The prohibition in subsection (1) shall be for a period of 3 years after the date of the conviction, or, if the conviction is appealed and upheld on appeal, for a period of 3 years after the date of the final judgment upholding the conviction.

(3) A utility which violates subsection (1) shall be required to pay an administrative penalty of $10,000. Each day on which the violation occurs constitutes a separate violation for which the penalty is due and payable. The Attorney General shall be responsible for enforcing the payment of any penalties imposed pursuant to this section.

Section 34. (1) A telephone company as defined in section 364.02, Florida Statutes, a public utility as defined in section 366.02, Florida Statutes, or a utility as defined in section 367.021, Florida Statutes, which has been convicted of a felony under the laws of this state or of the United States or has had a penalty imposed upon it as a result of a negotiated plea to a felony offense shall not have included in its rate base any plant located outside this state. However, plant that is to be removed from rate base pursuant to this section shall be limited to an amount which will not damage the financial stability of the utility.

(2) The prohibition in subsection (1) shall be for a period of 3 years after the date of the conviction, or, if the conviction is appealed and upheld on appeal, for a period of 3 years after the date of the final judgment upholding the conviction.

(3) Immediately after conviction or final judgment on appeal upholding the conviction, the Florida Public Service Commission shall initiate proceedings to remove the out-of-state plant from the utility's rate base and recalculate and implement new rates based on the new rate base determination.

Section 35. (1) Any advertisement, in any medium, by a telephone company defined in section 364.02, Florida Statutes, a public utility as defined in section 366.02, Florida Statutes, or a utility as defined in section 367.021, Florida Statutes, which has been convicted of a felony under the laws of this state or of the United States or has had a penalty imposed upon it as a result of a negotiated plea to a felony offense shall be subject to the following restrictions:

(a) Advertisements which are for the sole purpose of enhancing the utility's image must be paid for out of moneys which otherwise would be distributed to the utility's shareholders.

(b) Advertisements other than advertisements for the sole purpose of enhancing the utility's image must be expressly approved by the Florida Public Service Commission before publication or broadcast. Such advertisements may only relate to approved energy conservation programs and approved consumer education programs.

(2) The restrictions in subsection (1) shall be for a period of 3 years after the date of the conviction, or, if the conviction is appealed and upheld on appeal, for a period of 3 years after the date of the final judgment upholding the conviction.

(3) The Florida Public Service Commission shall impose an administrative penalty of $10,000 against any public utility which publishes or broadcasts an advertisement in violation of subsection (1). Each day on which an advertisement is published or broadcast in violation of subsection (1) constitutes a separate violation.

Section 36. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(Renumber subsequent sections.)

Amendment 4—In title, on page 3, line 20, after the semicolon (;) insert: providing a criminal penalty for any false statement made by an officer, director, employee, or agent of a utility; providing an administrative penalty for a utility convicted of a felony; prohibiting certain business dealings by a utility convicted of a felony; prohibiting a utility from including in its rate base any out-of-state plant if it has been convicted of a felony; providing advertising restrictions;

Amendment 5—In title, on page 3, strike all of lines 14 and 15, and insert: regulation of coal slurry pipelines; providing for

Amendment 6—In title, on page 1, strike all of lines 14-24, and insert: F.S., providing legislative intent; amending s. 350.01, F.S.; providing for 4-year terms and for merit retention elections for commissioners; creating s. 350.021, F.S.; providing for qualification and oath by candidates for retention; creating s. 350.022, F.S.; prescribing form for retention election ballots; creating s. 350.023, F.S.; providing for retention elections to be held at general elections; creating s. 350.024, F.S.; prescribing limits on political activity by candidates for retention; creating s. 350.025, F.S.; prescribing guidelines for campaign contributions and expenses and providing for reports thereof; creating s. 350.026, F.S.; prohibiting certain activity by political parties and partisan political groups with respect to candidates for retention; prescribing penalties; creating s. 350.027, F.S.; providing applicability of the Florida Election Code; providing for names of commission retention candidates to be on the ballot; amending ss. 106.08, 106.141, F.S.; providing limits on campaign contributions to candidates for retention; amending

On motion by Senator Jennings, by two-thirds vote CS for HB 2493 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Bankhead	Deratany	Kirkpatrick	Souto
Beard	Diaz-Balart	Kiser	Stuart
Brown	Dudley	Langley	Thomas
Bruner	Forman	Malchon	Thurman
Casas	Gardner	McPherson	Walker
Childers, D.	Grant	Meek	Weinstein
Childers, W. D.	Grizzle	Myers	Weinstock
Crenshaw	Jennings	Peterson	Woodson-Howard
Davis	Johnson	Plummer	

Nays—None

Consideration of **CS for SB 1544** was deferred.

CS for SB 2350—A bill to be entitled An act relating to mediation and arbitration; amending s. 44.301, F.S.; providing definitions; amending s. 44.302, F.S.; providing procedures for court-ordered mediation; exempting oral and written communication in mediation proceedings from ch. 119, F.S.; providing an exception; providing for certification of mediators by the Supreme Court; providing for reimbursement of volunteer mediators; providing for compensation of nonvolunteer mediators; renumbering s. 44.303, F.S., relating to court-ordered nonbinding arbitration; amending s. 44.304, F.S.; providing a cross-reference; amending s. 44.305, F.S.; providing for nonreferral under certain circumstances unless agreed by the parties; amending s. 44.306, F.S.; requiring the Supreme Court to establish standards and procedures for certification and discipline of court-appointed mediators and arbitrators and to set fees for certification; providing for use of such fees; authorizing the Supreme Court to appoint personnel; amending s. 44.307, F.S.; providing cross-references; amending s. 44.308, F.S.; providing for levying of additional service charges to be used to fund various mediation and arbitration programs; amending s. 741.01, F.S.; providing for an increase in the marriage license fee to be used to fund family mediation services and to reimburse the Supreme Court for its responsibilities under the act; repealing s. 44.101, F.S., relating to family mediation services; providing an effective date.

—was read the second time by title.

Senator Davis moved the following amendment which was adopted:

Amendment 1—On page 12, lines 28-31 and on page 13, lines 1-10, strike all of said lines and insert:

(3) Levying, in addition to the service charges levied under s. 28.241, a service charge of no more than $45 on any petition for a modification of a final judgment of dissolution, which shall be deposited in the court's family mediation account fund to be used to fund family mediation services under the supervision of the chief judge of the circuit in which the county resides.

(4) If a board of county commissioners levies the service charge authorized in subsection (1), subsection (2), or subsection (3), the clerk of the court shall forward $1 of each charge to the Office of the State Courts Administrator. That office shall deposit the funds in a state

mediation and arbitration trust fund which is hereby established. Such fund shall be used by the Supreme Court to carry out its responsibilities set forth in s. 44.106.

(Renumber subsequent sections.)

Senators Diaz-Balart and Davis offered the following amendment which was moved by Senator Diaz-Balart and adopted:

Amendment 2—On page 13, between lines 10 and 11, insert:

Section 10. Standards for court reporters; procedures; rules of professional conduct, discipline, and training; fees.—The Supreme Court shall establish minimum standards and procedures for qualifications, certification, discipline, and training for court reporters. The Supreme Court is authorized to set fees to be charged to applicants for certification and renewal of certification. The revenues generated from such fees shall be used to offset the costs of administration of the certification process. The Supreme Court may appoint or employ such personnel as are necessary to assist the court in exercising its powers and performing its duties under this section.

(Renumber subsequent sections.)

Senators Diaz-Balart and Davis offered the following amendments which were moved by Senator Davis and adopted:

Amendment 3—In title, on page 1, line 2, strike all of said line and insert: An act relating to legal proceedings;

Amendment 4—In title, on page 1, between lines 1 and 2, insert: requiring the Supreme Court to establish certain standards and requirements for court reporters; providing for certification fees; providing for the appointment of personnel;

On motion by Senator Davis, by two-thirds vote CS for SB 2350 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Bankhead	Deratany	Jennings	Plummer
Beard	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kirkpatrick	Stuart
Bruner	Forman	Langley	Thomas
Casas	Gardner	Malchon	Thurman
Childers, D.	Girardeau	McPherson	Walker
Childers, W. D.	Gordon	Meek	Weinstein
Crenshaw	Grant	Myers	Weinstock
Davis	Grizzle	Peterson	Woodson-Howard

Nays—None

On motions by Senator Plummer, by two-thirds vote HB 3711 was withdrawn from the Committees on Education; Corrections, Probation and Parole; and Appropriations.

On motions by Senator Plummer, by two-thirds vote—

HB 3711—A bill to be entitled An act relating to the correctional system; amending s. 110.205, F.S.; providing for salaries of employees of the Correctional Education School Authority to be subject to approval by the State Board of Education; amending s. 242.68, F.S.; specifying the authority of certain members of the Board of Correctional Education; providing additional responsibilities of the board; requiring the Director of Correctional Education to administer a compensation and classification plan for correctional educators; requiring the Department of Education to review such compensation and classification plan and report to the Legislature; deleting obsolete provisions; creating the "Florida Community Corrections Act"; amending s. 951.26, F.S.; providing for additional duties for county correctional planning committees; creating s. 944.028, F.S.; providing for community corrections assistance grants to qualified counties; providing legislative intent; providing for eligibility of counties to apply for grants; authorizing the Department of Corrections to administer and award grants to counties; providing purposes for which grants may be used; providing for chargeback from grants to counties for certain state inmates; amending s. 944.026, F.S.; requiring the Department of Corrections to provide for a system of offender restitution and work centers; limiting the types of offenders which may be accepted for residence at such centers; providing for development and assessment of community-based programs at such centers by the county correctional planning committee; requiring participating counties to provide costs for such programs from community corrections assistance grants; providing for disbursements of court-ordered payments; providing minimum housing requirements at such centers; amending ss. 921.187, 948.03, and 958.04, F.S., relating to sentencing, terms of probation or community control, and youthful offenders, to conform; creating s. 921.221, F.S.; providing for an offender risk and needs assessment performed by the Department of Corrections for certain defendants; specifying required contents of such assessments; providing for the renaming and use of existing centers; requiring a study by the Department of Corrections of medical expenses of state prisoners; amending s. 945.30, F.S.; authorizing the department to charge offenders for the use of electronic monitoring devices and specifying cost of supervision fee; amending s. 946.40, F.S.; revising provisions relating to use of cost of supervision fee; amending s. 948.01, F.S.; excluding private probation services from supervising felons; requiring misdemeanor probation services to contract with the Department of Corrections; eliminating certain restriction relating to electronic monitoring devices; amending s. 947.01, F.S., increasing the membership of the Parole Commission; amending s. 947.03, F.S., relating to term of office of the Parole Commission; amending s. 947.1405, F.S., relating to the conditional release program and the authority of a panel of no fewer than two parole commissioners, with respect thereto; requiring random substance abuse testing; amending s. 947.146, F.S., relating to the Control Release Authority and the eligibility of inmates for a control release date; mandating that the Department of Corrections contract for inmate support services; requiring random substance abuse testing; amending s. 947.22, F.S.; authorizing an individual parole commissioner to release a parolee under certain circumstances; amending s. 944.277, F.S., relating to eligibility for provisional credits; mandating the Department of Corrections contract for inmate support services; requiring random substance abuse testing; amending s. 947.18, F.S., relating to conditions of parole, s. 948.01, F.S., relating to placement in a community control program, s. 948.03, F.S., relating to terms and conditions of probation or community control, and s. 948.10, F.S., relating to individualized programs, to require random substance abuse testing; amending s. 119.07, F.S.; providing an exemption from the public records law for certain information given by a victim to the Control Release Authority; amending ss. 16 and 17 of chapter 89-531, Laws of Florida; extending the sunset date of the Parole Commission; amending s. 947.04, F.S.; providing for commission meetings; amending s. 947.06, F.S.; providing that the Parole Commission conduct meetings in counties throughout the state; amending s. 944.09, F.S.; requiring the Department of Corrections to adopt rules to require inmates to pay postage costs for certain types of mail they send, under certain circumstances; amending s. 944.516, F.S.; authorizing the department to use moneys from an inmate's trust account to pay such postage costs, under certain circumstances; providing an effective date.

—a companion measure, was substituted for CS for SB 1544 and read the second time by title.

Senator Plummer moved the following amendments which were adopted:

Amendment 1—On page 5, lines 10-14, strike all of said lines and insert: the provisions of chapter 242, the salaries for all *instructional personnel* ~~officers and employees~~ of the Correctional Education School Authority shall be set by the Director of Correctional Education, subject only to the approval of the Board of Correctional Education *and the State Board of Education. In accordance with chapter 242, the salaries for all administrative and noninstructional personnel of the Correctional Education School Authority shall be set by the Director of Correctional Education, subject only to the approval of the Department of Administration.*

Amendment 2—On page 5, line 31, through page 6, line 3, strike all of said lines and insert: Department of Corrections. All education-related

Amendment 3—On page 6, lines 8-19, strike all of said lines and insert: 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.

Amendment 4—On page 10, line 26, before "*as*" insert: *or a regional coordinating council*

Amendment 5—On page 15, lines 22-25, strike all of said lines and insert: *plan for instructional personnel within the rules and policies established by the board, subject only to the approval of the State Board of Education. The director shall administer the compensation and classification plan for administrative and noninstructional personnel within the rules and policies established by the board, subject only to the approval of the Department of Administration.*

Amendment 6—On page 19, lines 4-11, strike all of said lines and insert:

(t)~~(u)~~ Be responsible for renovation and new construction of correctional education facilities.

(u)~~(v)~~ Conduct a survey of all correctional institutions to identify inmates with special education needs and develop a plan whereby those special needs will be addressed. *The survey may be revised at any time but at least once every 2 years.*

Amendment 7—On page 22, lines 3-4, strike all of said lines and insert:

Section 3. *The Department of Administration shall*

Amendment 8—On page 22, line 10, through page 33, line 13, strike all of said lines and insert:

Section 4. *The Commissioner of Education shall conduct a comprehensive review of the Corrections Education program. Based on this review, the Commissioner shall submit to the Legislature by January 1, 1991, a detailed plan for transferring the functions, powers, duties, and responsibilites of the Correctional Education School Authority and the Board of Correctional Education to the Department of Education effective July 1, 1991. The transfer plan shall include draft legislation required to accomplish the transfer, the repeal of s. 242.68, effective July 1, 1991, and a recommended Legislative Budget for Corrections Education for the 1991-92 fiscal year.*

(Renumber subsequent sections.)

Amendment 9—On page 36, lines 10-24, strike all of said lines and renumber subsequent sections.

Amendment 10—On page 37, line 14, strike "*convicted*" and insert: *placed on probation or other supervision*

Amendment 11—On page 37, line 31, through page 38, line 2, strike all of said lines and insert: *private entity providing services for the supervision of misdemeanor probationers must contract for the provision of such services.*

Amendment 12—On page 52, lines 1-10, strike all of said lines and renumber subsequent sections.

Amendment 13—In title, on page 1, line 4, through page 2, line 21, strike all of said lines and insert: salaries of instructional personnel of the Correctional Education School Authority to be subject to approval by the State Board of Education; providing for salaries of the administrative and noninstructional personnel of the authority to be subject to approval by the Department of Administration; amending s. 242.68, F.S.; specifying the authority of certain members of the Board of Correctional Education; providing additional responsbilities of the board; requiring the Director of Correctional Education to administer a compensation and classification plan for correctional educators; providing for administration of such compensation and classification plan; requiring periodic revisions to the survey of correctional institutions; deleting obsolete provisions; requiring the Department of Administration to review the compensation and classification plan for correctional educators and report to the Legislature; requiring the Commissioner of Education to conduct a review of corrections education programs and submit a plan to the Legislature for transferring the functions to the Department of Education; requiring a study by the Department of

Amendment 14—In title, on page 2, lines 27-28, strike all of said lines

Amendment 15—In title, on page 4, lines 1-4, strike all of said lines and insert: testing; amending ss. 16 and

On motion by Senator Plummer, by two-thirds vote HB 3711 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32

Bankhead	Davis	Johnson	Plummer
Beard	Deratany	Kiser	Souto
Brown	Diaz-Balart	Langley	Stuart
Bruner	Dudley	Malchon	Thomas
Casas	Forman	Margolis	Thurman
Childers, D.	Girardeau	Meek	Walker
Childers, W. D.	Grant	Myers	Weinstein
Crenshaw	Grizzle	Peterson	Woodson-Howard

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 90, with amendments, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 90—A bill to be entitled An act relating to arson; amending s. 806.01, F.S.; expanding the elements of the crime of arson to include damaging a dwelling or other structure by fire or explosion while committing any felony or trespass; providing penalties; reenacting ss. 110.1127(3)(a)1.q., 242.335(3)(a)1.q., 393.0655(1)(o), 394.457(6)(a)15., 396.0425(1)(o), 397.0715(1)(o), 402.305(1)(a)15., 409.175(4)(a)6.q., 903.133, and 959.06(3)(q), F.S., relating to personnel of the Department of Health and Rehabilitative Services and entities regulated by the department, personnel of the Florida School for the Deaf and the Blind, and bail pending appeal, to incorporate the amendment to s. 806.01, F.S., in references thereto; providing an effective date.

House Amendment 1—On page 1, line 26, and on page 2, line 12, strike: *or trespass*

House Amendment 2—On page 1, line 6, strike: or trespass

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

CS for SB 90 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—33

Bankhead	Deratany	Kiser	Thomas
Beard	Diaz-Balart	Langley	Thurman
Brown	Dudley	Malchon	Walker
Bruner	Forman	Meek	Weinstein
Casas	Girardeau	Myers	Weinstock
Childers, D.	Grant	Peterson	Woodson-Howard
Childers, W. D.	Grizzle	Plummer	
Crenshaw	Johnson	Souto	
Davis	Kirkpatrick	Stuart	

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 390 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 390—A bill to be entitled An act relating to public school student health records; amending s. 402.32, F.S.; revising provisions for the maintenance of such records; providing an effective date.

House Amendment 1—On page 2, between lines 24 and 25, insert:

Section 2. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (d) of subsection (2) of section 383.14, Florida Statutes, is reenacted and amended to read:

383.14 Screening of infants for metabolic and other hereditary and congenital disorders.—It shall be the duty of the Department of Health

and Rehabilitative Services to promote the screening of all infants born in Florida for phenylketonuria and other metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. Tests shall be performed at such times and in such manner as may be prescribed by the department after consultation with the Genetics and Infant Screening Advisory Council.

(2) DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES; POWERS AND DUTIES.—The department shall administer and provide certain services to implement the provisions of this section and shall:

(d) Maintain a confidential registry of cases, including information of importance for the purpose of follow-up services to prevent mental retardation, to correct or ameliorate physical handicaps, and for epidemiologic studies, if indicated. *Such registry shall be exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 3. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, paragraphs (d), (e), (f), and (g) of subsection (3), paragraph (c) of subsection (4), paragraph (f) of subsection (5), and paragraph (b) of subsection (6) of section 381.609, Florida Statutes, are reenacted and amended to read:

381.609 Testing for human immunodeficiency virus.—

(3) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

(d) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted. *Except as provided in this section, test results are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(e) No test result shall be revealed to the person upon whom the test was performed without affording that person the immediate opportunity for individual, face-to-face counseling about:

1. The meaning of the test results;

2. The possible need for additional testing;

3. Measures for the prevention of the transmission of the human immunodeficiency virus infection;

4. The availability in the geographic area of any appropriate health care services, including mental health care, and appropriate social and support services;

5. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to the human immunodeficiency virus infection and any individual whom the infected individual may have exposed to such human immunodeficiency virus infection; and

6. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 5.

Except as provided in this section, test results are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(f) *Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* No person who has obtained or has knowledge of a test result pursuant to this section may disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of such a test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative.

2. Any person, including third-party payors, designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative. The test subject may in writing authorize the disclosure of the test subject's HIV test results to third party payors, who need not be specifically identified, and to other persons to whom the test subject subsequently issues a general release of medical information. A general release without such prior written authorization is not sufficient to release HIV test results.

3. An authorized agent or employee of a health facility or health care provider if the health facility or health care provider itself is authorized to obtain the test results, the agent or employee participates in the administration or provision of patient care or handles or processes specimens of body fluids or tissues, and the agent or employee has a need to know such information. The department shall adopt a rule defining which persons have a need to know pursuant to this subparagraph.

4. Health care providers consulting between themselves or with health care facilities to determine diagnosis and treatment.

5. The department, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law.

6. A health facility or health care provider which procures, processes, distributes, or uses:

a. A human body part from a deceased person, with respect to medical information regarding that person; or

b. Semen provided prior to July 6, 1988, for the purpose of artificial insemination.

7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews pursuant to chapters 395 and 766.

8. Authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information.

9. A person allowed access by a court order which is issued in compliance with the following provisions:

a. No court of this state shall issue such order unless the court finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records.

b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially in documents not filed with the court.

c. Before granting any such order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party.

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice.

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

10. A person allowed access by order of a judge of compensation claims of the Division of Workers' Compensation of the Department of Labor and Employment Security. A judge of compensation claims shall not issue such order unless he finds that the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means.

11. Those employees of the department or of child-placing or child-caring agencies or of family foster homes, licensed pursuant to s. 409.175, who are directly involved in the placement, care, or custody of such test subject and who have a need to know such information; and adoptive parents of such test subject. The department shall adopt a rule to implement this subparagraph.

(g) *Except as provided in this section, the identity of a person upon whom a test has been performed is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* No person to whom the results of a test have been disclosed may disclose the test results to another person except as authorized by this subsection. Whenever disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within 10 days, except that this written statement shall not be required to disclosures made pursuant to subparagraph *(f)*3.

(4) PUBLIC HEALTH UNIT NETWORK OF VOLUNTARY HUMAN IMMUNODEFICIENCY VIRUS TESTING PROGRAMS.—

(c) Each public health unit shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. The Department of Health and Rehabilitative Services or its designated agent shall continue to provide for anonymous testing through an alternative testing site program with sites throughout all areas of the state. *Except as provided in this section, the identity of a person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(5) HUMAN IMMUNODEFICIENCY VIRUS TESTING REQUIREMENTS; REGISTRATION WITH THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES; EXEMPTIONS FROM REGISTRATION.—No public health unit and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immune deficiency syndrome, acquired immune deficiency syndrome related complex, or human immunodeficiency virus status without first registering with the Department of Health and Rehabilitative Services, complying with all other applicable provisions of state law, and meeting the following requirements:

(f) The program must provide supplemental corroborative testing on all positive test results before the results of any positive test *are* ~~is~~ provided to the patient. *Except as provided in this section, the identity of any person upon whom a test has been performed and test results are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(6) PENALTIES.—

(b) Any person who intentionally violates the confidentiality provisions of this section and s. 951.27 is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 4. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (9) and paragraph (a) of subsection (11) of section 381.6105, Florida Statutes, are reenacted and amended to read:

381.6105 Donation and transfer of human tissue; testing requirements.—

(9) All blood banks shall be governed by the confidentiality provisions of s. 381.609(3). *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(11)(a) Any person who fails to test blood, plasma, organs, skin, or other human tissue which is to be transfused or transplanted, or violates the confidentiality provisions required by this section, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 5. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (2) of section 384.26, Florida Statutes, is reenacted and amended to read:

384.26 Contact investigation.—

(2) All information gathered in the course of contact investigation shall be ~~considered~~ confidential and *exempt from the provisions of s. 119.07(1),* subject to the provisions of s. 384.29. ~~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.

Section 6. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 384.282, Florida Statutes, is reenacted and amended to read:

384.282 Naming of parties.—

(3) The department and its authorized representatives, the court, and other parties to the lawsuit shall not reveal the name of any person subject to these proceedings except as permitted in s. 384.29. *Except as provided in this section, the name of any person subject to these proceedings is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 7. Notwithstanding the October 1, 1990, repeal specified in s. 119.14(3)(a), Florida Statutes, subsections (1) and (2) of section 384.29, Florida Statutes, are reenacted and amended to read:

384.29 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of sexually transmissible diseases shall be strictly confidential and exempt from *the provisions of s.* ~~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 shall not be released or made public by the department or its authorized representatives, or by a court or parties to a lawsuit upon revelation by subpoena, except that release may be made under the following circumstances:

(a) When made with the consent of all persons to which the information applies;

(b) When made for statistical purposes, and medical or epidemiologic information is summarized so that no person can be identified and no names are revealed;

(c) When made to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction, to enforce the provisions of this chapter and related rules;

(d) When made in a medical emergency, but only to the extent necessary to protect the health or life of a named party; or

(e) When made to the proper authorities as required by chapter 415.

(2) When disclosure is made pursuant to a subpoena, such information shall be sealed by the court from further disclosure, except as deemed necessary by the court to reach a decision, unless otherwise agreed to by all parties. *Except as provided in this section, such information that is disclosed pursuant to a subpoena is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 8. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (2) of section 384.30, Florida Statutes, is reenacted and amended to read:

384.30 Minors' consent to treatment.—

(2) The fact of consultation, examination, and treatment of a minor for a sexually transmissible disease is confidential *and exempt from the provisions of s. 119.07(1)* and shall not be divulged in any direct or indirect manner, such as sending a bill for services rendered to a parent or guardian, except as provided in s 384.29. ~~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.

Section 9. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (a) of subsection (3) of section 406.075, Florida Statutes, is reenacted and amended to read:

406.075 Grounds for discipline; disciplinary proceedings.—

(3)(a) The commission chairman shall appoint a probable cause panel of three members from among the commission membership, one of whom shall be a medical examiner. The probable cause panel may request staff to perform additional investigations as it sees fit.

1. The determination as to whether or not probable cause exists shall be made by a majority vote of the probable cause panel within 30 working days of its receipt of staff investigative findings and recommendations. The commission chairman may grant 30-day extensions of the 30 working day time limit.

2. All proceedings and findings of the probable cause panel are exempt from the provisions of s. 286.011 until probable cause has been found or until the subject of the investigation waives ~~his privilege of~~ confidentiality. ~~, provided that~~ This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The complaint, all investigative findings, and the recommendations of the probable cause panel are exempt from the provisions of s. 119.07*(1)* until 10 days after probable cause has been found or until the subject of the investigation waives ~~his privilege of~~ confidentiality. ~~, provided that~~ This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The commission may provide such information at any time to any law enforcement agency or to any regulatory agency.

Section 10. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (3) of section 395.035, Florida Statutes, is reenacted and amended to read:

395.035 Review of trauma registry data; proceedings, records, and reports specified confidential.—

(3) Patient care quality assurance proceedings, records, or reports made pursuant to this section or s. 119.07(3)*(v)* ~~(w)~~, s. 395.017(3)(f), s. 395.031, or s. 395.032 shall be held confidential within the hospital and the department and shall not be available to the public pursuant to s. 119.07*(1)* or any other law providing access to public records or be discoverable or admissible in any civil or administrative action. A person in attendance at such proceedings may not be required to testify as to what transpired at the meeting. *The exemption from the public records law provided by this subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.114.*

Section 11. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 392.54, Florida Statutes, is reenacted and amended to read:

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 *s.* ~~ss. 119.01 and~~ 119.07(1). *The* ~~This~~ exemption *from s. 119.07(1) provided by this subsection* is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 12. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 392.545, Florida Statutes, is reenacted and amended to read:

392.545 Naming of persons subject to proceedings.—

(1) When requesting an order from a circuit court under the provisions of s. 392.55, s. 392.56, or s. 392.57, the department shall substitute a pseudonym for the true name of the person to whom the order pertains. The actual name of the person shall be revealed to the court only in camera, and the court shall seal such name from further revelation.

(2) All court decisions, orders, petitions, and other formal documents shall be styled in a manner to protect the name of the person from public disclosure.

(3) The department, its authorized representatives, the court, and other parties to the lawsuit shall not reveal the name of any person subject to these proceedings except as permitted in s. 392.65. *Such information is exempt from s. 119.07(1). The exemption from s. 119.07(1) provided by this subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 13. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 392.65, Florida Statutes, is reenacted and amended to read:

392.65 Confidentiality.—

(1) All information and records held by the department or its authorized representatives relating to known or suspected cases of tuberculosis or exposure to tuberculosis shall be strictly confidential and exempt from *s.* ~~ss. 119.01 and~~ 119.07(1). *The* ~~This~~ exemption *from s. 119.07(1) provided by this subsection* is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Such information shall not be released or made public by the department or its authorized representatives or by a court or parties to a lawsuit, except that release may be made under the following circumstances:

(a) When made with the consent of all persons to which the information applies;

(b) When made for statistical purposes, and medical or epidemiologic information is summarized so that no person can be identified and no names are revealed;

(c) When made to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter and related rules;

(d) When made in a medical emergency but only to the extent necessary to protect the health or life of a named person or group of persons; or

(e) When made to the proper authorities as required by chapter 415.

(2) When disclosure is made pursuant to a subpoena, such information shall be sealed by the court from further disclosure, except as deemed necessary by the court to reach a decision in the proceeding, unless otherwise agreed to by all parties. *Such information is exempt from s. 119.07(1). The exemption from s. 119.07(1) provided by this subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(3) No employee of the department or its authorized representatives shall 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 representatives, or of the existence or contents of such reports received from a private physician or private health facility or laboratory, without the consent of the person examined or treated for tuberculosis, except in proceedings under s. 392.55, s. 392.56, or s. 392.57.

Section 14. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 395.0115, Florida Statutes, is amended and reenacted to read:

395.0115 Licensed facilities; peer review; disciplinary powers.—

(1) It is the intent of the Legislature that good-faith participants in the process of investigating and disciplining physicians pursuant to the state-mandated peer review process shall, in addition to receiving immunity from retaliatory tort suits pursuant to s. 455.225(12), be protected from federal antitrust suits filed under the Sherman Anti-Trust Act, 15 U.S.C.A., s. 1 et seq. Such intent is within the public policy of the state to secure the provision of quality medical services to its citizens.

(2) Each licensed facility, as a condition of licensure, shall provide for peer review of physicians who deliver health care services at the facility. Each facility shall develop written, binding procedures by which such peer review shall be conducted. Such procedures shall include:

(a) Mechanism for choosing the membership of the body or bodies that conduct peer review.

(b) Adoption of rules of order for the peer review process.

(c) Fair review of the case with the physician involved.

(d) Mechanism to identify and avoid conflict of interest on the part of the peer review panel members.

(e) Recording of agendas and minutes which do not contain confidential material, for review by the Division of Medical Quality Assurance of the Department of Professional Regulation.

~~(f) Mechanism for advising the Division of Medical Quality Assurance in writing of all new procedures for and changes to existing peer review procedures.~~

~~(g) Process for amending peer review procedures when the Division of Medical Quality Assurance advises the facility in writing that the procedures do not meet the requirements of the law.~~

(f)~~(h)~~ Review, at least annually, of the peer review procedures by the governing board of the facility.

(g)~~(i)~~ Focus of the peer review process on review of professional practices at the facility to reduce morbidity and mortality and to improve patient care.

(3) If reasonable belief exists that conduct by a staff member or physician who delivers health care services at the facility may constitute one or more grounds for discipline as provided in this subsection, a peer review panel shall investigate and determine whether grounds for discipline exist with respect to such staff member or physician. The governing board of any licensed facility, after considering the recommendations of its peer review panel, shall suspend, deny, revoke, or curtail the privileges, or reprimand, counsel, or require education, of any such staff member or physician after a final determination has been made that one or more of the following grounds exist:

(a) Incompetence.

(b) Being found to be a habitual user of intoxicants or drugs to the extent that he is deemed dangerous to himself or others.

(c) Mental or physical impairment which may adversely affect patient care.

(d) Being found liable by a court of competent jurisdiction for medical negligence or malpractice involving negligent conduct.

(e) One or more settlements exceeding $10,000 for medical negligence or malpractice involving negligent conduct by the staff member.

(f) Medical negligence other than as specified in paragraphs (d) or (e).

(g) Failure to comply with the policies, procedures, or directives of the risk management program or any quality assurance committees of any licensed facility.

However, the procedures for such actions shall comply with the standards outlined by the Joint Commission on Accreditation of Hospitals, the American Osteopathic Association, the Accreditation Association for Ambulatory Health Care, and the "Medicare/Medicaid Conditions of Participation," as such procedures existed on January 1, 1985. The procedures shall be adopted pursuant to hospital bylaws.

(4) All final disciplinary actions taken under subsection (3) shall be reported within 10 working days to the Division of Medical Quality Assurance in writing and shall specify the disciplinary action taken and the specific grounds therefor. The division shall treat each report 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. ~~However,~~ The report shall not be subject to inspection under the provisions of *s. 119.07(1)* ~~chapter 119~~ even if the division's investigation results in a finding of probable cause. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(5) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any licensed facility, its governing body and governing body members, peer review panel, medical staff, or disciplinary body, or its agents, investigators, witnesses, employees, or any other person for any action taken without intentional fraud in carrying out the provisions of this section.

(6) The proceedings and records of peer review panels, committees, and governing bodies which relate solely to actions taken in carrying out the provisions of this section shall not under any circumstances be subject to inspection under the provisions of *s. 119.07(1)* ~~chapter 119~~; nor shall meetings held pursuant to achieving the objectives of such panels, committees, and governing bodies be open to the public under the provisions of chapter 286. *The exemptions provided by this subsection are subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(7) The investigations, proceedings, and records of the board as described in this section shall not be subject to discovery or introduction into evidence in any civil *or administrative* action against a provider of professional health services arising out of the matters which are the subject of evaluation and review by such board, and no person who was in attendance at a meeting of such board shall be permitted or required to testify in any such civil *or administrative* action as to any evidence or other matters produced or presented during the proceedings of such board or as to any findings, recommendations, evaluations, opinions, or other actions of such board or any members thereof. However, information, documents, or records otherwise available from original sources are not to be construed as immune from discovery or use in any such civil *or administrative* action merely because they were presented during proceedings of such board; nor should any person who testifies before such board or who is a member of such board be prevented from testifying as to matters within his knowledge, but such witness cannot be asked about his testimony before such a board or opinions formed by him as a result of such board hearings.

(8)(a) In the event that the defendant prevails in an action brought by a staff member or physician who delivers health care services at the facility against any person or entity that initiated, participated in, was a witness in, or conducted any review as authorized by this section, the court shall award reasonable attorney's fees and costs to the defendant.

(b) As a condition of any staff member or physician bringing any action against any person or entity that initiated, participated in, was a witness in, or conducted any review as authorized by this section and before any responsive pleading is due, the staff member or physician shall post a bond or other security, as set by the court having jurisdiction of the action, in an amount sufficient to pay the costs and attorney's fees.

Section 15. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 395.017, Florida Statutes, is reenacted and amended to read:

395.017 Patient *and personnel* records; copies; examination.—

(1) Any licensed facility shall, upon request, and only after discharge of the patient, furnish, in a timely manner, without delays for legal review, to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or in the absence of one of those persons, to the next of kin of a decedent or the parent of a minor, or to anyone designated by such person in writing, a true and correct copy of all patient records, including X rays, and insurance information concerning such person, which records are in the possession of the licensed facility, except progress notes and consultation report sections of a psychiatric nature concerning the care and treatment performed by the licensed facility, provided the person requesting such records agrees to pay a charge. The charge, except for X rays, may not exceed the fee charged per page for copying records by the clerk of the county court of the county in which the licensed facility is located. The licensed facility shall further allow any such person to examine the original records in its possession, or microfilms or other suitable reproductions of the records, upon such reasonable terms as shall be imposed to assure that the records will not be damaged, destroyed, or altered.

(2) The provisions of this section do not apply to any licensed facility the primary function of which is to provide psychiatric care to its patients.

(3) Patient records shall *be* ~~have a privileged and~~ confidential ~~status~~ and shall not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(a) Hospital personnel for use in connection with the treatment of the patient.

(b) Hospital personnel only for internal hospital administrative purposes associated with the treatment.

(c) The Health Care Cost Containment Board.

(d) 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 by the party seeking such records to the patient or his legal representative.

(e) The Department of Professional Regulation upon subpoena issued pursuant to s. 455.223, but the records obtained thereby shall be used solely for the purpose of the Department of Professional Regulation and the appropriate professional board in its investigation, prosecution, and appeal of disciplinary proceedings. If the Department of Professional Regulation requests copies of such records, the facility shall charge no more than its actual copying costs, including reasonable staff time. The records shall be sealed and shall not be available to the public pursuant to s. 119.07*(1)* or any other statute providing access to records, nor shall they 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. However, the Department of Professional Regulation shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(f) The department or its agent, for the purpose of establishing and maintaining a trauma registry and for the purpose of ensuring that hospitals and trauma centers are in compliance with the standards and rules established pursuant to ss. 395.031, 395.032, 395.035, and 395.036, and for the purpose of monitoring patient outcome at hospitals and trauma centers which provide trauma care services.

(g) The State Nursing Home and Long-Term Care Facility Ombudsman Council and the district nursing home and long-term care facility ombudsman councils, with respect to the records of a patient who has been admitted from a nursing home or long-term care facility, when the councils are conducting an investigation involving the patient as authorized under part I of chapter 400, upon presentation of identification as a council member by the person making the request. Disclosure under this paragraph shall only be made after a competent patient or the patient's representative has been advised that disclosure may be made and the patient has not objected.

(4) The department may examine patient records of a licensed facility for the purpose of epidemiological investigations, provided that the unauthorized release of information by agents of the department which would identify an individual patient constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) Patient records shall contain information required for completion of birth, death, and stillbirth certificates.

(6) Patient records at hospitals and ambulatory surgical centers are exempt from disclosure under s. 119.07(1), except as provided by subsections (1), (3), and (4). The exemptions to s. 119.07(1) provided by this section are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(7) A licensed facility may prescribe the content and custody of limited access records which the facility may maintain on its employees. Such records shall be limited to information regarding evaluations of employee performance, including records forming the basis for evaluation and subsequent actions, and shall be open to inspection only by the employee and by officials of the facility who are responsible for the supervision of the employee. The custodian of limited access employee records may release information from such records only upon authorization in writing from the employee or upon order of a court of competent jurisdiction. Such limited access employee records are exempt from the provisions of s. 119.07(1) for a period of 5 years from the date such records are designated limited access records. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 16. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, section 395.041, Florida Statutes, is reenacted and amended to read:

395.041 Internal risk management program.—

(1) Every facility licensed under this chapter shall, as a part of its administrative functions, establish an internal risk management program which shall include the following components:

(a) The investigation and analysis of the frequency and causes of general categories and specific types of adverse incidents causing injury to patients;

(b) The development of appropriate measures to minimize the risk of injuries and adverse incidents to patients, including risk management and risk prevention education and training of all nonphysician personnel as follows:

1. Such education and training of all nonphysician personnel as part of their initial orientation; and

2. At least 1 hour of such education and training annually for all nonphysician personnel of the facility working in clinical areas and providing patient care;

(c) The analysis of patient grievances which relate to patient care and the quality of medical services; and

(d) The development and implementation of an incident reporting system based upon the affirmative duty of all health care providers and all agents and employees of the health care facility to report injuries and adverse incidents to the hospital risk manager.

(2) The risk management program shall be the responsibility of the governing board of the health care facility. As of October 1, 1986, every facility licensed under this chapter shall hire a risk manager, certified under part IX of chapter 626, who shall be responsible for implementation and oversight of such facility's risk management program as required by this section. Part-time risk managers shall not be responsible for risk management programs in more than four such facilities.

(3) In addition to the programs mandated by this act, other innovative approaches intended to reduce the frequency and severity of medical malpractice and patient injury claims shall be encouraged and their implementation and operation facilitated. Such additional approaches may include extending risk management programs to health care providers' offices and the assuming of provider liability by a health care facility for acts or omissions occurring within the facility.

(4) The Department of Health and Rehabilitative Services shall, after consulting with the Department of Insurance, promulgate rules governing the establishment of such internal risk management programs to meet the needs of individual establishments. The Department of Insurance shall assist the Department of Health and Rehabilitative Services in preparing such rules. Each internal risk management program shall include the use of incident reports to be filed with an individual of responsibility who is competent in risk management techniques in the employ of each establishment, such as an insurance coordinator, or who is retained by said establishment as a consultant. Said individual shall have free access to all establishment medical records, and the rules promulgated by the Department of Health and Rehabilitative Services shall so provide. The incident reports shall be considered to be a part of the workpapers of the attorney defending the establishment in litigation relating thereto and shall be subject to discovery, but shall not be admissible as evidence in court, nor shall any person filing an incident report be subject to civil suit by virtue of such incident report. As a part of each internal risk management program, the incident reports shall be utilized to develop categories of incidents which identify problem areas. Once identified, procedures shall be adjusted to correct said problem areas.

(5)(a) Each licensed facility subject to this section shall submit *a quarterly* ~~an annual~~ report to the department summarizing the incident reports that have been filed in the facility for that *quarter* ~~year~~. The report shall be on a form prescribed by rule of the department and shall include:

1. The total number of adverse incidents causing injury to patients.

2. A listing, by category, of the types of operations, diagnostic or treatment procedures, or other actions causing the injuries, and the number of incidents occurring within each category.

3. A listing, by category, of the types of injuries caused and the number of incidents occurring within each category.

4. A code number utilizing the health care professional's licensure number and a separate code number identifying all other individuals directly involved in adverse incidents causing injury to patients, the relationship of the individual to the facility, and the number of incidents in which each individual has been directly involved. Each facility shall maintain names of the health care professionals and individuals identified by code numbers for purposes of this section.

5. A description of all malpractice claims filed against the facility, including the total number of pending and closed claims and the nature of the incident which led to, the persons involved in, and the status and disposition of each claim. Each report shall update status and disposition for all prior reports.

6. A report of all disciplinary actions pertaining to patient care taken against any medical staff member, including the nature and cause of the action.

(b) The information reported to the department pursuant to paragraph (a) which relates to persons licensed under chapter 458, chapter 459, chapter 461, or chapter 466 shall also be reported to the Department of Professional Regulation on a quarterly basis, ~~beginning with the quarter ending September 30, 1988~~. The Department of Professional Regulation shall review the information and determine whether any of the inci-

dents potentially involved conduct by a licensee that is subject to disciplinary action, in which case the provisions of s. 455.225 shall apply.

(c) The ~~annual~~ report *submitted to the department* shall also contain the name of the risk manager of the facility, a copy of its policy and procedures which govern the measures taken by the facility and its risk manager to reduce the risk of injuries and adverse or untoward incidents, and the results of such measures. ~~This report and~~ The quarterly reports ~~under paragraph (b)~~ shall be held confidential and shall not be available to the public pursuant to s. 119.07*(1)* or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the department, the Department of Professional Regulation, and the appropriate regulatory board. ~~This report and~~ The quarterly reports ~~under paragraph (b)~~ shall not 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, the Department of Professional Regulation, or the appropriate regulatory board. However, the Department of Professional Regulation shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause.

(6) If an adverse or untoward incident, whether occurring in the facility or arising from health care prior to admission in the facility, results in:

(a) The death of a patient;

(b) Severe brain or spinal damage to a patient;

(c) A surgical procedure being performed on the wrong patient; or

(d) A surgical procedure unrelated to the patient's diagnosis or medical needs being performed on any patient,

the facility shall report this incident to the department within 15 calendar days of its occurrence. The department may require an additional, final report. Reports under this subsection shall be sent immediately by the department to the Department of Professional Regulation whenever they involve a health care provider licensed under chapter 458, chapter 459, chapter 461, or chapter 466. These reports shall not be available to the public pursuant to s. 119.07*(1)* or any other law providing access to public records, nor be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the department, the Department of Professional Regulation, and the appropriate regulatory board, nor shall they 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. However, the Department of Professional Regulation shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of probable cause. The department may investigate, as it deems appropriate, any such incident and prescribe measures that must or may be taken in response to the incident. 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.

(7) In addition to any penalty imposed pursuant to s. 395.018, the department may impose an administrative fine, not to exceed $5,000, for any violation of the reporting requirements of subsection (5) or subsection (6). This subsection shall take effect July 1, 1989.

(8) The department and, upon subpoena issued pursuant to s. 455.223, the Department of Professional Regulation shall have access to all facility records necessary to carry out the provisions of this section. The records obtained are not available to *the* public *under s. 119.07(1)* ~~access~~, nor shall they be discoverable or admissible in any civil or administrative action, except in disciplinary proceedings by the department, the Department of Professional Regulation, and the appropriate regulatory board, nor shall records obtained pursuant to s. 455.223 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. However, the Department of Professional Regulation shall make available, upon written request by a practitioner against whom probable cause has been found, any such records which form the basis of the determination of *probable cause, except that, with respect to medical review committee* records, the provisions of s. 766.101 shall control.

(9) The meetings of the committees and governing board of a licensed facility held solely for the purpose of achieving the objectives of risk management as provided by this section shall not be open to the public under the provisions of chapter 286. The records of such meetings are confidential and exempt from the provisions of s. 119.07(1), except as provided in subsection (8).

(10)~~(9)~~ The department shall review, no less than annually, the risk management program at each facility regulated by this section to determine whether the program meets standards established in statutes and rules, whether the program is being conducted in a manner designed to reduce adverse incidents, and whether the program is appropriately reporting incidents under subsections (5) and (6).

(11)~~(10)~~ There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any risk manager, certified under part IX of chapter 626, for the implementation and oversight of the risk management program in a facility licensed under this chapter or chapter 390 as required by this section, for any act or proceeding undertaken or performed within the scope of the functions of such risk management program if the risk manager acts without intentional fraud.

(12)~~(11)~~ If the department, through its receipt of the annual reports prescribed in subsection (5) or through any investigation, has a reasonable belief that conduct by a staff member or employee of a facility may constitute grounds for disciplinary action by the appropriate regulatory board, the department shall report this fact to such regulatory board.

(13)~~(12)~~ The department shall send information bulletins to all facilities as necessary to disseminate trends and preventative data derived from its actions under this section. The gross data compiled shall be furnished by the department upon request to facilities to be utilized for risk management purposes.

(14)~~(13)~~ The department may promulgate rules necessary to carry out the provisions of this section.

(15) The exemptions from s. 119.07(1) and chapter 286 provided by paragraph (5)(c) and subsections (6), (8), and (9) are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 17. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsections (2) and (3) of section 401.30, Florida Statutes, are reenacted and amended to read:

401.30 Records.—

(2) Reports *to the department* from service providers that cover statistical data are public records, *except that the names of patients and other patient-identifying information contained in such reports are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.* ~~The department shall protect the privacy of patients in disseminating any such information.~~ Any record furnished by a service provider at the request of the department must be a true and certified copy of the original record and may not be altered or have information deleted.

(3) Records of emergency calls that contain patient examination or treatment information *are* ~~have a privileged and~~ confidential *and exempt from the provisions of s. 119.07(1)* ~~status~~ and shall not be disclosed without the consent of the person to whom they pertain, but appropriate disclosure may be made without such consent to:

(a) Hospital personnel for use in conjunction with the treatment of the patient;

(b) The department;

(c) The service medical director; or

(d) 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 by the party seeking such records, to the patient or his legal representative.

This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 18. Notwithstanding the October 1, 1990, repeal specified in s. 119.14(3)(a), Florida Statutes, subsection (3) of section 401.414, Florida Statutes, is reenacted and amended to read:

401.414 Proceedings in investigating complaints and alleged violations.—

(3) The complaint and all information obtained pursuant to the investigation by the department *are confidential and exempt from the provisions of s. 119.07(1) until 10 days after probable cause has been found to exist by the department, or until the person who is the subject of the investigation waives confidentiality, whichever occurs first. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Nothing in this subsection shall be construed to prohibit the department from providing such information to any law enforcement agency or any other regulatory agency* ~~shall be maintained in a manner similar to that provided for in s. 455.225(10), relating to exemptions from s. 119.07 for complaints processed by the Department of Professional Regulation~~.

Section 19. Section 405.01, Florida Statutes, is amended to read:

405.01 Release of medical information to certain study groups; exemption from liability.—Any person, hospital, *adult congregate living facility, hospice,* sanatorium, nursing or rest home or other organization may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to research groups, governmental health agencies, medical associations and societies, and ~~any~~ in-hospital medical staff *committees* ~~committee~~, to be used in the course of any study for the purpose of reducing morbidity or mortality. ~~, and~~ No liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, or by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

Section 20. Notwithstanding the October 1, 1990, repeal specified in s. 119.14(3)(a), Florida Statutes, section 405.02, Florida Statutes, is reenacted and amended to read:

405.02 Limitation on publication of released information.—~~The~~ Research groups, governmental health agencies, organized medical associations and societies, *and* ~~or any~~ in-hospital medical staff *committees* ~~committee~~ shall use or publish said material only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 21. Notwithstanding the October 1, 1990, repeal specified in s. 119.14(3)(a), Florida Statutes, section 405.03, Florida Statutes, is reenacted and amended to read:

405.03 Confidentiality of identity of person studied.—In all events the identity of any person whose condition or treatment has been studied shall be confidential and *exempt from the provisions of s. 119.07(1)* ~~shall not be revealed under any circumstances~~. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 22. Paragraph (n) of subsection (3) of section 119.07, Florida Statutes, is renumbered as section 407.23, Florida Statutes, and amended to read:

407.23 Confidentiality of patient records.—

~~(n)~~ A patient record obtained by the *Health Care* ~~Hospital~~ Cost Containment Board ~~established under s. 407.01~~, which record contains the name, residence or business address, telephone number, social security or other identifying number, or photograph of any person or the spouse, relative, or guardian of such person or which record is patient-specific or otherwise identifies the patient, either directly or indirectly, is *confidential and* exempt from the provisions of *s. 119.07(1)* ~~paragraph (1)(a)~~. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 23. Notwithstanding the October 1, 1990, repeal specified in s. 119.14(3)(a), Florida Statutes, section 407.12, Florida Statutes, is reenacted and amended to read:

407.12 Quality assurance monitoring.—Each hospital shall maintain a quality assurance program which shall include monitoring of the necessity of admission, appropriateness of the length of stay, proper utilization of services, and the evaluation of the quality of services rendered. Quality assurance plans shall be available to the board upon request. The Department of Health and Rehabilitative Services, the Department of Insurance, or the Department of Professional Regulation shall provide, upon request, any information the board determines necessary to monitor a hospital's quality assurance. The board shall exercise the same confidentiality restrictions imposed by law on the providing agency. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 24. Subsection (6) of section 407.31, Florida Statutes, is amended to read:

407.31 Uniform system of financial reporting for nursing homes.—

(6) *Except as provided in s. 407.23,* all reports filed under ss. 407.30-407.34~~, except privileged medical information,~~ shall be open to public inspection.

Section 25. Paragraph (d) of subsection (1) of section 101.5607, Florida Statutes, is amended to read:

101.5607 Department of State to maintain voting system information; prepare software.—

(1)

(d) Section 119.07(3)*(q)*~~(r)~~ applies to all software on file with the Department of State.

Section 26. Paragraph (b) of subsection (2) and subsection (4) of section 119.07, Florida Statutes, are amended to read:

119.07 Inspection and examination of records; exemptions.—

(2)

(b) In any civil action in which an exemption to subsection (1) is asserted, if the exemption is alleged to exist under or by virtue of paragraph (e), paragraph (f), paragraph (g), paragraph (m), paragraph *(n)* ~~(o)~~, or paragraph *(q)* ~~(r)~~ of subsection (3), the public record or part thereof in question shall be submitted to the court for an inspection in camera. If an exemption is alleged to exist under or by virtue of paragraph (d) of subsection (3), an inspection in camera will be discretionary with the court. If the court finds that the asserted exemption is not applicable, it shall order the public record or part thereof in question to be immediately produced for inspection, examination, or copying as requested by the person seeking such access.

(4) Nothing in this section shall be construed to exempt from subsection (1) a public record which was made a part of a court file and which is not specifically closed by order of court, except as provided in paragraphs (e), (f), (g), (m), *(n)* ~~(o)~~, and *(q)* ~~(r)~~ of subsection (3) and except information or records which may reveal the identity of a person who is a victim of a sexual offense as provided in paragraph (h) of subsection (3).

Section 27. Paragraph (f) of subsection (1) of section 395.005, Florida Statutes, is amended to read:

395.005 Rules and enforcement.—

(1) The department shall adopt, amend, promulgate, and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(f) All hospitals submit such data as necessary to conduct certificate-of-need reviews required under ss. 381.701-381.715. Such data shall include, but shall not be limited to, patient origin data, hospital utilization data, type of service reporting, and facility staffing data. *The department shall not collect data that identifies or could disclose the identity of individual patients.* ~~Data collection and dissemination procedures of the department shall include safeguards to ensure the confidentiality of individual patients.~~ The department shall utilize existing uniform statewide data sources when available and shall minimize reporting costs to hospitals.

Section 28. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (a) of subsection (2) of section 395.006, Florida Statutes, is reenacted and amended to read:

395.006 Licensure inspection.—

(2)(a) The department shall accept, in lieu of its own periodic inspections for licensure, the survey or inspection of an accrediting organization, provided the accreditation of the licensed facility is not provisional and provided the licensed facility authorizes release of, and the department receives the report of, the accrediting organization. Reports of

accrediting organizations received by the department in lieu of its periodic inspections of licensed facilities for licensure shall not be released publicly in such a manner as to disclose the identity of individuals or licensed facilities, *and such information is confidential and exempt from the provisions of s. 119.07(1),* except as permitted by the licensed facility or in a proceeding involving the question of licensure. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 29. Notwithstanding the October 1, 1990, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (2) of section 395.008, Florida Statutes, is reenacted and amended to read:

395.008 Inspection reports.—

(2) Any records, reports, or documents which, by state or federal law or regulation, are deemed confidential, *are confidential and exempt from the provisions of s. 119.07(1), and* shall not be distributed or made available for purposes of compliance with this section unless or until such confidential status expires. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

(Renumber subsequent sections.)

House Amendment 2—On page 1, strike the title and insert: An act relating to confidentiality of health care records; amending s. 402.32, F.S.; revising provisions for the maintenance of such records; amending s. 383.14, F.S., which provides an exemption from public records requirements for the registry of cases maintained by the Department of Health and Rehabilitative Services in connection with the screening of infants for metabolic and other disorders; saving such exemption from repeal; providing for future review and repeal; amending ss. 381.609 and 381.6105, F.S., which provide exemptions from public records requirements for the results of tests for human immunodeficiency virus and the identity of persons undergoing such tests; amending ss. 384.26, 384.282, 384.29, and 384.30, F.S., which provide exemptions from public records requirements for information relating to known or suspected cases of sexually transmissible diseases and information gathered in the course of contact investigations, and for the fact of a minor's examination or treatment for such disease; saving such exemptions from repeal; amending s. 406.075, F.S.; saving from repeal the exemption from public records and meetings requirements for complaints against medical examiners; providing for future review and repeal; amending s. 395.035, F.S.; saving from repeal the exemption from public records requirements for trauma patient information; providing for future review and repeal; amending ss. 392.54, 392.545, and 392.65, F.S.; saving the exemption from public records requirements for certain information and records relating to the tuberculosis control program from repeal; providing for future review and repeal; amending s. 395.0115, F.S.; saving from repeal the exemption from public records and meetings requirements for hospital peer review records and meetings; deleting oversight responsibilities of the department; providing that peer review proceedings shall not be subject to discovery or introduction into evidence in administrative actions; providing for future review and repeal; amending s. 395.017, F.S., which provides an exemption from public records requirements for hospital patient records; saving such exemption from repeal; authorizing hospitals to prescribe the content and custody of limited access employee records and restricting release thereof; providing for future review and repeal; amending s. 395.041, F.S.; saving from repeal the exemption from public records requirements for records relating to hospital risk management programs; providing for quarterly reports of certain information to the Department of Health and Rehabilitative Services and to the Department of Professional Regulation; exempting meetings held for the purpose of achieving risk management objectives, and the records thereof, from public meetings and records requirements; providing for future review and repeal; amending s. 401.30, F.S., which provides exemptions from public records requirements for patient information in reports by providers of such services to the Department of Health and Rehabilitative Services and in records of emergency calls; amending s. 401.414, F.S., which provides an exemption from public records requirements for complaints against providers of such services; saving such exemptions from repeal; providing for future review and repeal; specifying the institutions that may provide access to medical information for research; amending ss. 405.02 and 405.03, F.S., which provide limitations on the publication of such information and provide an exemption from public records requirements for the identity of persons studied; saving such exemptions from repeal; providing for future review and repeal; amending ss. 119.07 and 407.12, F.S., which provide exemptions from public records requirements for patient records obtained by the Health Care Cost Containment Board and information relating to hospitals' quality assurance programs provided to the board by other state agencies; saving such exemptions from repeal; providing for future review and repeal; amending s. 407.31, F.S., to conform; amending ss. 101.5607, 119.07, 395.035, and 407.23, F.S.; correcting references; amending s. 395.005, F.S.; providing that information that identifies or could identify individual patients is unavailable for certificate-of-need reviews; limiting rulemaking authority provided to the Department of Health and Rehabilitative Services; amending ss. 395.006 and 395.008, F.S., which provide exemptions from public records requirements for hospital inspection reports of accrediting organizations received by the Department of Health and Rehabilitative Services in lieu of its own inspection, and for information in inspection reports which is confidential pursuant to state or federal law or regulation; saving such exemptions from repeal; providing for future review and repeal; providing an effective date.

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

SB 390 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

Bankhead	Deratany	Kiser	Stuart
Beard	Diaz-Balart	Langley	Thomas
Brown	Dudley	Malchon	Thurman
Bruner	Forman	Meek	Walker
Casas	Girardeau	Myers	Weinstein
Childers, D.	Grant	Peterson	Weinstock
Childers, W. D.	Grizzle	Plummer	Woodson-Howard
Crenshaw	Johnson	Scott	
Davis	Kirkpatrick	Souto	

Nays—None

Vote after roll call:

Yea—Gardner

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 706, with amendments, and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 706—A bill to be entitled An act relating to the regulation of commercial enterprises; amending s. 559.801, F.S.; prescribing certain requirements for the sales of business opportunities; exempting the sale of certain equipment from the definition of "business opportunity"; amending s. 559.925, F.S.; defining the term "receptive tour operator" for purposes of regulation; providing for regulation of receptive tour operators by the Department of Agriculture and Consumer Services rather than by the Department of Business Regulation; providing for the deposit of fees and fines; providing duties of the department; transferring certain powers, duties, functions, records, and property from the Department of Business Regulation to the Department of Agriculture and Consumer Services; abrogating the repeal of s. 559.925, F.S., scheduled under the Regulatory Sunset Act; providing for future review and repeal; providing an effective date.

House Amendment 1—On page 6, between lines 28 and 29 insert:

Section 6. Paragraph (g) is added to subsection (8) of section 559.927, Florida Statutes, and subsection (11) of said section is amended, to read:

559.927 Sellers of travel; registration; disclosures; bonding; violation; penalties; exemptions; preemption; enforcement.—

(8) It is a violation of this section for any person:

(g) Knowingly to sell or market admissions tickets to theme or amusement parks, sporting events, concerts, theater productions, or other entertainment events, unless said tickets are part of a prearranged travel package which includes transportation or accommodations services, and are being resold on behalf of the original seller of said tickets. When any original seller of tickets provides a travel agency with tickets in bulk, the travel agent shall be deemed to be reselling the tickets on behalf of the original seller.

(10) CIVIL PENALTIES; REMEDIES.—

(a) The division or the Department of Legal Affairs may institute a civil action in a court of competent jurisdiction to recover any penalties or damages allowed in this section and for injunctive relief to enforce compliance with this section or any rule or order of the division.

(b) The enforcing authority may seek a civil penalty of up to $5,000 for each violation of this section and may proceed by administrative proceeding or court action to assess such penalties and to enforce this section.

(c) The enforcing authority may bring an action for restitution for and on behalf of any traveler or purchaser of travel services aggrieved or injured by a violation of this section. In any such action, the enforcing authority may establish the nature and types of violations by a seller of travel from the testimony of one or more aggrieved purchasers concerning the practices in question, and may then rely on testimony by investigators, receivers, or financial analysts, corroborated by summaries, financial records, and purchaser affidavits, in order to establish the commonality of the practices giving rise to the alleged violations and the amount of restitution owed.

(d) Any provision in a travel contract, certificate, vacation package, or other brochure or travel material from a seller of travel that purports to waive, limit, restrict, or avoid any of the duties, obligations, or prescriptions of the seller of travel, as herein provided, is void and unenforceable and against public policy, unless it is necessitated by contractual arrangements with travel service suppliers and fully disclosed.

(e) The remedies provided in this section are in addition to any other remedies available for the same conduct.

(11) CRIMINAL PENALTIES.—Any person or business which violates this section or any rule adopted pursuant to this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 *or*~~,~~ s. 775.083~~, or s. 775.084~~.

Section . Section 817.36, Florida Statutes, is amended to read:

817.36 Resale of tickets of common carriers, places of amusement, etc.—

(1)*(a)* Whoever shall offer for sale or sell any ticket good for passage or accommodations on any common carrier in this state~~, or good for admission to any sporting exhibition, athletic contest, theater, or any exhibition where an admission price is charged,~~ and request or receive a price in excess of $1 above the *retail* price charged therefor by the original seller of said ticket shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b)~~(2)~~ The provisions of this *subsection* ~~law~~ shall not apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes.

(2)(a) Whoever shall offer for sale or sell any ticket good for admission to any sporting exhibition, athletic contest, theater, or any exhibition where an admission price is charged and request or receive a price in excess of $1 above the retail admission price charged therefor by the original seller of said ticket shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) The provisions of this subsection shall apply to travel agencies that have an established place of business in this state, which place of business is required to pay state, county, and city occupational license taxes, unless such agencies are registered sellers of travel pursuant to s. 559.927 and adhere to the restriction of selling said tickets as part of the travel packages specified in that section, and such travel agencies are reselling said tickets on behalf of the original sellers of said tickets. When any original seller of tickets provides a travel agency with tickets in bulk, the travel agent shall be deemed to be reselling the tickets on behalf of the original seller.

(Renumber subsequent sections.)

House Amendment 2—On page 1, line 21, after the semicolon (;) insert: amending s. 559.927, F.S.; providing for an additional violation of provisions relating to sellers of travel for which penalties are provided; amending s. 817.36, F.S.; revising provisions relating to the resale of certain tickets; providing a penalty;

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

SB 706 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

Bankhead	Deratany	Johnson	Plummer
Beard	Diaz-Balart	Kirkpatrick	Scott
Brown	Dudley	Kiser	Souto
Bruner	Forman	Langley	Stuart
Casas	Gardner	Malchon	Thomas
Childers, D.	Girardeau	McPherson	Thurman
Childers, W. D.	Grant	Meek	Walker
Crenshaw	Grizzle	Myers	Weinstein
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 1050 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1050—A bill to be entitled An act relating to the acquisition of state lands; amending s. 253.025, F.S.; creating the Relocation and Construction Trust Fund within the Department of Agriculture and Consumer Services; providing conditions for the sale and purchase of certain state lands on which a forestry facility resides; providing an effective date.

House Amendment 1—On page 3, lines 6-9, strike all of said lines and insert: *sole purpose of effectuating the orderly relocation of the forestry fire towers and work centers as follows: Crestview Work Center, Marianna Work Center, Panama City Headquarters, Tallahassee Headquarters, Southside Tower Site, Gainesville Headquarters, Ocala Work Center, Orlando Headquarters, Lakeland Headquarters, Dunedin Work Center, Hamner Towersite, Bradenton Headquarters, Venetia Towersite, Fort Myers Headquarters, Naples Work Center, Philpot Towersite, Sand Hill Towersite, Mayo Work Center, Benton Towersite, Plymouth Towersite, Longwood Work Center, Oviedo Towersite, Valrico Work Center, and Belle Glade Work Center.*

Section 2. Section 590.026, Florida Statutes, is created to read:

590.026 Prescribed burning; requirements; liability.—

(1) SHORT TITLE.—This section may be cited as the "Florida Prescribed Burning Act."

(2) LEGISLATIVE FINDINGS AND PURPOSE.—

(a) The application of prescribed burning is a land management tool that benefits the safety of the public, the environment, and the economy of Florida. Pursuant thereto, the Legislature finds that:

1. Prescribed burning reduces naturally occurring vegetative fuels within wild land areas. Reduction of the fuel load reduces the risk and severity of major catastrophic wildfire, thereby reducing the threat of loss of life and property, particularly in urbanizing areas.

2. Most of Florida's natural communities require periodic fire for maintenance of their ecological integrity. Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities. Significant loss of the state's biological diversity will occur if fire is excluded from fire-dependent systems.

3. Forest land and range land constitute significant economic, biological, and aesthetic resources of statewide importance. Prescribed burning on forest land prepares sites for reforestation, removes undesirable competing vegetation, expedites nutrient cycling, and controls or eliminates certain forest pathogens. On range land, prescribed burning improves the quality and quantity of herbaceous vegetation necessary for livestock production.

4. The state purchased hundreds of thousands of acres of land for parks, preserves, wildlife management areas, forests, and other public purposes. The use of prescribed burning for management of public lands is essential to maintain the specific resource values for which these lands were acquired.

5. A public education program is necessary to make citizens and visitors aware of the public safety, resource, and economic benefits of prescribed burning.

6. Proper training in the use of prescribed burning is necessary to ensure maximum benefits and protection for the public.

7. As Florida's population continues to grow, pressures from liability issues and nuisance complaints inhibit the use of prescribed burning.

(b) It is the purpose of this section to authorize and promote the continued use of prescribed burning for ecological, silvicultural, wildlife management, and range management purposes.

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

(a) "Prescribed burning" means the controlled application of fire to naturally occurring vegetative fuels under specified environmental conditions and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplish the planned land management objectives.

(b) "Certified prescribed burn manager" means an individual who successfully completes the certification program of the Division of Forestry of the Department of Agriculture and Consumer Services.

(c) "Prescription" means a written plan for starting and controlling a prescribed burn.

(4) RULES.—The Division of Forestry of the Department of Agriculture and Consumer Services shall promulgate rules for the use of prescribed burning.

(5) REQUIREMENTS; LIABILITY.—

(a) Prescribed burning conducted under the provisions of this section shall:

1. Be accomplished only when at least one certified prescribed burn manager is present on site while the burn is being conducted.

2. Require that a written prescription be prepared prior to receiving authorization to burn from the Division of Forestry.

3. Be considered in the public interest and shall not constitute a public or private nuisance when conducted pursuant to state air pollution statutes and rules applicable to prescribed burning.

4. Be considered a property right of the property owner if naturally occurring vegetative fuels are used and when conducted pursuant to the requirements of this subsection.

(b) No property owner or his agent, conducting a prescribed burn pursuant to the requirements of this subsection, shall be liable for damage or injury caused by fire or resulting smoke, unless negligence is proven.

(6) DUTIES OF AGENCIES.—

(a) The Department of Community Affairs, the Division of Forestry of the Department of Agriculture and Consumer Services, and the Office of the State Fire Marshal shall prepare a report to be submitted to appropriate legislative committees by February 1, 1991, that shall identify actions required to minimize the threat of wildfire in areas where new development is proposed in or adjacent to wild lands.

(b) The Office of Environmental Education of the Department of Education shall incorporate, where feasible and appropriate, the issues of prescribed burning into their educational materials.

Section 3. This act shall take effect October 1, 1990.

House Amendment 2—On page 1, strike the entire title and insert: A bill to be entitled An act relating to environmental management; amending s. 253.025, F.S.; creating the Relocation and Construction Trust Fund within the Department of Agriculture and Consumer Services; providing conditions for the sale and purchase of certain state lands on which a forestry facility resides; creating s. 590.026, F.S.; creating the "Florida Prescribed Burning Act"; providing legislative findings and purpose regarding prescribed burning as a land management tool; providing definitions; providing rulemaking authority of the Division of Forestry of the Department of Agriculture and Consumer Services; providing requirements for the conduct of prescribed burning; providing liability of property owner; requiring a report by the Department of Community Affairs, the Division of Forestry, and the Office of the State Fire Marshal regarding actions to minimize wildfires; providing duty of the Office of Environmental Education of the Department of Education; providing an effective date.

WHEREAS, the Legislature recognizes that the growing urbanization of Florida has surpassed the same agricultural areas planned for by the state, and

WHEREAS, such growth has placed some vital Department of Agriculture and Consumer Services' operations in inappropriate areas, and

WHEREAS, the state needs to keep these operations functioning to better protect its citizens, and

WHEREAS, the Florida Legislature finds it in the best interest of the state to give the Department of Agriculture and Consumer Services the authority to sell, trade, exchange, transfer, or convey land with the consent of the Governor and Cabinet in order to better fulfill its duties to protect the citizens of the state. If the land is sold, the proceeds are to go to a trust fund for distribution by the Legislature to the Department of Agriculture and Consumer Services for replacement facilities, NOW, THEREFORE,

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

SB 1050 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

Bankhead	Diaz-Balart	Kiser	Stuart
Beard	Dudley	Langley	Thomas
Brown	Forman	Malchon	Thurman
Bruner	Gardner	McPherson	Walker
Casas	Girardeau	Meek	Weinstein
Childers, D.	Grant	Myers	Weinstock
Childers, W. D.	Grizzle	Peterson	Woodson-Howard
Crenshaw	Jennings	Plummer	
Davis	Johnson	Scott	
Deratany	Kirkpatrick	Souto	

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 1102 with amendment and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1102—A bill to be entitled An act relating to Lee County; prohibiting the taking of saltwater fish, except by hook and line, handheld cast net, or use of five or fewer blue crab traps, from any manmade saltwater canal located in a specified area of the county; specifying a criminal penalty; providing an effective date.

House Amendment 1—On page 1, line 15, after the word "any" insert: residential

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

SB 1102 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	Diaz-Balart	Langley	Stuart
Brown	Dudley	Malchon	Thomas
Bruner	Forman	McPherson	Thurman
Casas	Girardeau	Meek	Walker
Childers, D.	Grant	Myers	Weinstein
Childers, W. D.	Grizzle	Peterson	Weinstock
Crenshaw	Jennings	Plummer	Woodson-Howard
Davis	Johnson	Scott	
Deratany	Kirkpatrick	Souto	

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1206 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1206—A bill to be entitled An act relating to procurement; revising part I of ch. 287, F.S., relating to commodities, insurance, and contractual services; amending s. 287.001, F.S.; providing legislative intent; amending s. 287.012, F.S.; providing definitions; amending s. 287.022, F.S.; providing for the purchase of insurance by state agencies in specified circumstances; amending s. 287.042, F.S.; specifying powers, duties, and functions of the Division of Purchasing of the Department of General Services; providing for acceptance of a cashier's check or money order in lieu of certain bonds; providing circumstances for waiver of certain notice requirements; authorizing the division to delegate specified powers and duties to other agencies; removing a limitation on the authority of the Comptroller; providing for award of contracts on a statewide or regional basis; amending s. 287.045, F.S.; providing for procurement of products or materials with a recycled or degradable content below the minimum in certain circumstances; amending s. 287.057, F.S.; revising procedures for the procurement of commodities and contractual services; providing circumstances and procedures for the procurement of commodities and contractual services without competitive bids; revising provisions on renewal of contracts; amending s. 287.058, F.S.; authorizing use of a purchase order for certain classes of contractual services; providing for certification of noncompliance with emergency procurement requirements; correcting a cross-reference; amending s. 287.059, F.S.; excluding certain services from provisions relating to procurement of private legal services; amending s. 287.064, F.S.; specifying functions of the Division of Bond Finance of the Department of General Services; amending s. 287.073, F.S.; correcting cross-references; amending s. 287.0943, F.S.; revising provisions relating to a minority vendors list; amending ss. 265.26, 321.02, 337.02, 381.715, F.S.; correcting cross-references; reenacting ss. 112.3185(1)(a), 216.031(8), 240.225, 240.551(5)(i) and (8), 283.422, 287.055(3)(d), 287.0735, 287.0945(3)(a), 287.0947(2), 403.7065(1), 410.402(2) and (3), 550.012(4), 944.105(6), 945.091(1)(c), F.S., relating to various aspects of the procurement process by various agencies, to incorporate the amendments to part I of ch. 287, F.S., in references thereto; saving s. 287.073, F.S., from Sundown repeal; saving s. 287.102, F.S., from scheduled repeal; repealing ss. 287.052, 287.062, 287.072, 287.115, F.S., relating to procurement of commodities, competitive bidding, and delegation of authority to purchase; amending s. 282.1095, F.S.; providing for exemption from permitting requirements and proceedings; providing an effective date.

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

Section 1. Subsection (1) of section 101.293, Florida Statutes, is amended to read:

101.293 Competitive *sealed* bids *and proposals* required.—

(1) Any purchase of voting equipment, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017, by a governing body shall be by means of ~~sealed~~ competitive *sealed* bids *or competitive sealed proposals* from at least two bidders, except under the following conditions:

(a) If a majority of the governing body agrees by vote that an emergency situation exists in regard to the purchase of such equipment to the extent that the potential benefits derived from competitive *sealed* bids *or competitive sealed proposals* are outweighed by the detrimental effects of a delay in the acquisition of such equipment; or

(b) If a majority of the governing body finds that there is but a single source from which suitable equipment may be obtained.

If such conditions are found to exist, the chairman of the governing body shall certify to the Division of Elections the situation and conditions requiring an exception to the competitive *sealed* bidding *and competitive sealed proposal* requirements of this section. Such certification shall be maintained on file by the division.

Section 2. Paragraph (a) of subsection (1) of section 112.3185, Florida Statutes, is amended to read:

112.3185 Contractual services.—

(1) For the purposes of this section:

(a) "Contractual services" shall be defined as set forth in s. 287.012~~(4)~~.

Section 3. Paragraph (a) of subsection (1) of section 112.3215, Florida Statutes, is amended to read:

112.3215 Executive branch lobbyists; registration and reporting; investigation by commission.—

(1) For the purposes of this section:

(a) "Lobbyist" means a person who for compensation, remuneration, or commission, on behalf of another person, lobbies an agency or who is principally employed for governmental affairs by another person to lobby on behalf of that other person. Lobbyist does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.

2. An employee of an agency acting in the normal course of his duties.

3. A person who is a confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.

4. Any person who lobbies to procure a contract pursuant to chapter 287 which contract *is less than the threshold for CATEGORY ONE* ~~does not exceed category one~~ as provided in s. 287.017(1)(a).

Section 4. Paragraph (b) of subsection (3) of section 229.8052, Florida Statutes, is amended to read:

229.8052 State satellite network.—

(3) The Department of Education, in consultation with the Department of General Services, shall implement the provisions of this section and coordinate the network. Specifically, the department shall:

(b) Acquire by competitive *sealed* bid and place appropriate receiving equipment in those community college regions of the state in which such equipment is presently not available at a public postsecondary institution.

Section 5. Section 233.39, Florida Statutes, is amended to read:

233.39 Renovation and repair of textbooks.—The Board of Education shall prescribe rules and regulations under which the Department of Education shall, whenever requested to do so by any superintendent, make necessary arrangements for the renovation and repair of books which could thereby be put into serviceable condition. All proper expense in connection with such renovation and repair is declared to be a proper charge against the appropriation for the purchase of instructional materials by the school district. The state board, in order to assist district school boards in obtaining the most economical services, shall formulate and prescribe such rules and regulations for the letting of contracts for the renovation and repair of books used in the public schools of the state as in its judgment may be practicable and economically feasible. The Department of Education shall enter into such contracts upon the basis of competitive *sealed* bids from responsible firms who must, prior to contract award, have on hand in their plants the equipment necessary to perform the work of rebinding specified by the department. For the purpose of rebinding, textbooks shall be classified by the department as to size, and such classification shall be the basis for bids from rebinding firms. Bids from rebinding firms shall be on the basis of minimum quantities of 100 books in each classification. No such contract shall be entered for the renovation and repair of books used in the public schools of this state when the cost of renovation and repair exceeds the original acquisition cost of such books or the cost of replacing such books, whichever is the lesser. However, nothing herein contained shall be construed to prohibit the inmates of the state prison from repairing and renovating any public school textbooks or library books. Any suit of any nature instituted under the provisions of this section shall be brought in the name of the state, and any amount recovered by reason of such suit shall be deposited in the General Revenue Fund.

Section 6. Subsection (9) of section 265.26, Florida Statutes, is amended to read:

265.26 Trustees of Ringling Museum of Art.—

(9) The provisions of s. *287.057* ~~287.062~~ to the contrary notwithstanding, the board of trustees may enter into contracts or agreements with or without competitive bidding, in its discretion, for the restoration of objects of art in the museum collection or for the purchase of objects of art which are to be added to the collection.

Section 7. Section 283.33, Florida Statutes, is amended to read:

283.33 Public printing to be let to lowest bidder.—Except as otherwise provided in this chapter, all public printing of the state shall be let upon contract to the lowest *responsive* ~~responsible~~ bidder, who shall furnish all paper and other material used in printing and binding.

Section 8. Section 283.42, Florida Statutes, is amended to read:

283.42 Bids required on class B printing.—No general contract shall be let to cover the printing designated as class B, but each job coming under this classification shall be let separately under rules adopted by the division to the lowest *responsive* ~~responsible~~ bidder who will manufacture the same in accordance with s. 283.35. Such contract shall apply only to the work under consideration and shall require competitive *sealed* bids *or competitive sealed proposals* on all purchases in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO.

Section 9. Subsection (3) of section 283.53, Florida Statutes, is amended to read:

283.53 Specified university publications; activities; trust funds.—

(3) Printing of such publications shall be let upon contract to the lowest *responsive* ~~responsible~~ bidder, in accordance with s. 283.33, except when the additional costs incurred in changing from the current printer to the new low bidder exceed the savings reflected in the bid prices. Such additional costs shall not exceed 10 percent of the lowest bid price.

Section 10. Section 287.001, Florida Statutes, is amended to read:

287.001 Legislative intent.—The Legislature recognizes that fair and open competition is a basic tenet of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which *commodities and* contractual services are procured. It is essential to the effective and ethical procurement of *commodities and* contractual services that there be a system of uniform procedures to be utilized by state agencies in managing and procuring *commodities and* contractual services; that detailed justification of agency decisions in the procurement of *commodities and* contractual services be maintained; and that adherence by the agency and the *contractor* ~~consultant~~ to specific ethical considerations be required.

Section 11. Section 287.012, Florida Statutes, is amended to read:

287.012 Definitions.—The following definitions shall apply in this part:

(1) "Agency" means any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government.

(2) "Agency head" means, with respect to an agency headed by a collegial body, the executive director or chief administrative officer of the agency.

(3)~~(2)~~ "Artist" means an individual or group of individuals who profess and practice a demonstrated creative talent and skill in the area of music, dance, drama, folk art, creative writing, painting, sculpture, photography, graphic arts, craft arts, industrial design, costume design, fashion design, motion pictures, television, radio, or tape and sound recording or in any other related field.

(4)~~(3)~~ "Commodity" means any of the various supplies, materials, goods, merchandise, class B printing, equipment, and other personal property, including a mobile home, trailer, or other portable structure with floor space of less than 2,000 square feet, purchased, leased, or otherwise contracted for by the state and its agencies. "Commodity" also includes interest on deferred-payment commodity contracts approved pursuant to s. 287.063 entered into by an agency for the purchase of other commodities. However, commodities purchased for resale except class B printing are excluded from this definition. Further, a prescribed drug, medical supply, or device required by a licensed health care provider as a part of providing health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration for clients at the time the service is provided is not considered to be a "commodity."

(5) "Competitive sealed bids" or "competitive sealed proposals" refers to the receipt of two or more sealed bids or proposals submitted by responsive and qualified bidders or offerors.

(6) "Contractor" means a person who contracts to sell commodities or contractual services to an agency.

(7)~~(4)(a)~~ "Contractual service" means the rendering by a contractor of its time and effort rather than the furnishing of specific commodities. The term applies only to those services rendered by individuals and firms who are independent contractors, and such services may include, but are not limited to, evaluations; consultations; maintenance; accounting; security; management systems; management consulting; educational training programs; research and development studies or reports on the findings of consultants engaged thereunder; and professional, technical, and social services.

~~(b)~~ "Contractual service" does not include *any contract for the furnishing of labor or materials for the construction, renovation, repair, modification, or demolition of any facility, building, portion of building, utility, park, parking lot, or structure or other improvement to real property entered into pursuant to chapter 255 and rules adopted thereunder.*:

~~1. Artistic services.~~

~~2. Academic program reviews or lectures by individuals.~~

~~3. Auditing services.~~

~~4. Legal services including paralegals, expert witnesses including appraisal services, and court reporters.~~

~~5. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.~~

~~6. Services provided to persons with mental or physical disabilities by not-for-profit corporations which have obtained exemptions under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954 or when such services are governed by the provisions of Office of Management and Budget Circular A-122. However, in acquiring such services, the agency shall consider the ability of the contractor, past performances, willingness to meet time requirements, and price.~~

~~7. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Health and Rehabilitative Services shall be exempt from the provisions of this section. However, this exception shall be valid for a period not to exceed 90 days after the date of delivery of service to the Medicaid recipient and shall not be renewed by the department.~~

~~8. Family placement services.~~

~~9. Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.~~

~~10. Training and education services provided to injured employees pursuant to s. 440.49(1).~~

~~(c) The acquisition of services from other governmental agencies and the performance of services in-house, other than those performed by an employee in an authorized position, wherein the rate of pay for the performances of such services does not exceed the rate of pay for an equivalent authorized position, shall not be subject to the provisions of this part. Contracts for types of services included in paragraph (b) shall be subject to the requirements of ss. 112.3185, 287.058, 287.059, 287.094, and the laws relating to the authority of the Comptroller to audit expenditures for contractual services.~~

(8)~~(5)~~ "Division" means the Division of Purchasing of the Department of General Services.

(9)~~(6)~~ "Exceptional purchase" means any purchase of commodities or *contractual* services excepted by law or rule from the requirements for

competitive solicitation or acquisition, including, but not limited to, purchases from a single source, purchases upon receipt of *less than two* responsive ~~no competitive~~ bids or proposals, purchases without publication of notice in the Florida Administrative Weekly, and exceptions granted by the division for a purchase of commodities from other than a state term contract vendor.

(10)~~(7)~~ "Extension" means an increase in the time allowed for the contract period due to circumstances which, without fault of either party, make performance impracticable or impossible, or which prevent a new contract from being executed, with *or without* a proportional increase in the total dollar amount, *with any* ~~which~~ increase ~~is~~ to be based on the method and rate previously established in the contract.

(11)~~(8)~~ "Invitation to bid" means a written solicitation for ~~sealed~~ competitive *sealed* bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, group of commodities, or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is used when the agency is capable of specifically defining the scope of work for which a contractual service is required or when the agency is capable of establishing precise specifications defining the actual commodity or group of commodities required.

(12) "Minority business enterprise" has the same meaning as that provided in s. 288.703.

~~(9) "Minority-owned firm or company" means any legal entity, other than a joint venture, which is organized to engage in commercial transactions and which is at least 51 percent owned and controlled by minority persons. The term "minority person" means a member of a socially or economically disadvantaged group which, for the purposes of this section, includes blacks not of Hispanic origin, Hispanics, American Indians, Alaska Natives, Pacific Islanders, women, and physically or mentally disabled persons. As used in this section, the term "physically or mentally disabled person" means a person who has a physical, mental, or emotional impairment, defect, disease, ailment, or disability of a permanent nature which in any way limits the type of employment for which the person would otherwise be qualified.~~

(13)~~(10)~~ "Qualified bidder," *"responsible bidder,"* ~~or~~ "qualified offeror," *or "responsible offeror"* means a person who has the capability in all respects to perform fully the contract requirements and has the integrity and reliability which will assure good faith performance.

(14)~~(11)~~ "Renewal" means contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal.

(15)~~(12)~~ "Request for proposals" means a written solicitation for *competitive* sealed proposals with the title, date, and hour of the public opening designated. The request for proposals is used when the agency is incapable of specifically defining the scope of work for which the commodity, group of commodities, or contractual service is required and when the agency is requesting that a qualified offeror propose a commodity, group of commodities, or contractual service to meet the specifications of the solicitation document. A request for proposals includes, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposal instructions, and evaluation criteria. Requests for proposals shall state the relative importance of price and any other evaluation criteria.

(16) "Responsive bid" or "responsive proposal" means a bid or proposal submitted by a responsive, and responsible or qualified, bidder or offeror which conforms in all material respects to the invitation to bid or request for proposals.

(17)~~(13)~~ "Responsive bidder" or "responsive offeror" means a person who has submitted a bid *or proposal* which conforms in all material respects to the invitation to bid or request for proposals.

(18)~~(14)~~ "Term contract" means an indefinite quantity contract wherein a party agrees to furnish ~~a commodity or~~ commodities *or contractual services* during a prescribed period of time, the expiration of which concludes the contract.

~~(15) "Competitive bids" or "competitive offers" mean the receipt of two or more bids or offers submitted by responsive and qualified bidders or offerors.~~

Section 12. Subsection (1) of section 287.017, Florida Statutes, is amended to read:

287.017 Purchasing categories, threshold amounts; procedures for automatic adjustment by division.—

(1) The following purchasing categories are hereby created:

(a) CATEGORY ONE: *$5,000* ~~$600~~.

(b) CATEGORY TWO: *$10,000* ~~$3,000~~.

(c) CATEGORY THREE: *$20,000* ~~$6,000~~.

(d) CATEGORY FOUR: $60,000.

(e) CATEGORY FIVE: $120,000.

Section 13. Subsection (1) of section 287.022, Florida Statutes, is amended to read:

287.022 Purchase of insurance.—

(1) Insurance, while not a commodity, nevertheless shall be purchased for all agencies by the division, except *that agencies may purchase title insurance for land acquisition and may make emergency purchases of insurance pursuant to s. 287.057(3)(a).* ~~for title insurance purchased by the Department of Transportation on property acquired for right-of-way purposes, and~~ The procedures for purchasing insurance, whether the purchase is made by the division or by the *agencies* ~~Department of Transportation~~, shall be the same as those set forth herein for the purchase of commodities.

Section 14. Section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The division shall have the following powers, duties, and functions:

(1)(a) To canvass all sources of supply, establish and maintain a vendor list, and contract for the purchase, lease, or acquisition in any manner, including purchase by installment sales or lease-purchase contracts which may provide for the payment of interest on unpaid portions of the purchase price, of all commodities *and contractual services* required by any agency under competitive bidding or by contractual negotiation. Any contract providing for deferred payments and the payment of interest shall be subject to specific rules adopted by the division.

(b) The division may remove from its vendor list any source of supply which fails to fulfill any of its duties specified in a contract with the state. It may reinstate any such source of supply when it is satisfied that further instances of default will not occur.

(c) In order to promote cost-effective procurement of commodities and contractual services, the division or an agency may enter into contracts that limit the liability of a vendor consistent with s. 672.719.

(2)(a) To plan and coordinate purchases in volume and to negotiate and execute purchasing agreements and contracts *for commodities and contractual services* under which the division shall require state agencies to *make purchases* ~~purchase commodities~~ and under which a county, municipality, or other local public agency may *make purchases* ~~purchase commodities~~. Purchases by any county, municipality, or other local public agency under the provisions in the state purchasing contracts shall be exempt from the competitive *sealed* bid requirements otherwise applying to their purchases.

(b) As an alternative to any provision in s. 120.53(5)(c), the division may proceed with the bid solicitation or contract award process of a term contract bid when the director of the division sets forth in writing particular facts and circumstances which demonstrate that the delay incident to staying the bid process or contract award process would be detrimental to the interests of the state. After the award of a contract resulting from a bid in which a timely protest was received and in which the state did not prevail, the contract may be canceled and reawarded to the prevailing party.

(c) Any person who files an action protesting a decision or intended decision pertaining to contracts administered by the division or a state agency pursuant to s. 120.53(5)(b) shall post with the division or the state agency at the time of filing the formal written protest a bond payable to the division or state agency in an amount equal to 1 percent of the division's or the state agency's estimate of the total volume of the contract or $5,000, whichever is less, which bond shall be conditioned upon the

payment of all costs which may be adjudged against him in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. For protests of decisions or intended decisions of the division pertaining to agencies' requests for approval of exceptional purchases, the bond shall be in an amount equal to 1 percent of the requesting agency's estimate of the contract amount for the exceptional purchase requested or $5,000, whichever is less. *In lieu of a bond, the division or state agency may, in either case, accept a cashier's check or money order in the amount of the bond.* If, after completion of the administrative hearing process and any appellate court proceedings, the agency prevails, it shall recover all costs and charges which shall be included in the final order or judgment, excluding attorney's fees. Upon payment of such costs and charges by the person protesting the award, the bond, *cashier's check, or money order* shall be returned to him. If the person protesting the award prevails, he shall recover from the agency all costs and charges which shall be included in the final order of judgment, excluding attorney's fees.

(3) To have general supervision, through the state agencies, of all storerooms and stores operated by the agencies and to have supervision of inventories of all commodities belonging to the state agencies. The duties imposed by this section do not relieve any state agency from accountability for commodities under its control.

(4) To establish a system of coordinated, uniform procurement policies, procedures, and practices to be used by agencies in acquiring commodities and contractual services, which shall include, but not be limited to:

(a) Development of a list of interested vendors to be maintained by classes of *commodities and* contractual services. This list shall not be used to prequalify vendors or to exclude any interested vendor from bidding. ~~All vendors listed in a particular class shall be mailed, by the agency, at the address provided to the division by the vendor, a notice of the request for proposals at least 28 days prior to the date set for submittal of proposals. Notice of invitation to bid shall be mailed at least 10 days prior to the date set for submittal of bids.~~

(b) Development of procedures for the releasing of requests for proposals and invitations to bid, which procedures shall include, but not be limited to, publication in the Florida Administrative Weekly of notice for requests for proposals at least 28 days before the date set for submittal of proposals and publication of notice for invitations to bid at least 10 days before the date set for submission of bids. *Upon written request of the agency, the division may waive the requirement for notice in the Florida Administrative Weekly. Notice of the request for proposals shall be mailed to prospective offerors at least 28 calendar days prior to the date for submittal of proposals. Notice of the invitation to bid shall be mailed to prospective bidders at least 10 calendar days prior to the date set for submittal of bids.*

(c) Development of procedures for the receipt and opening of bids or proposals by an agency.

(d) Development of procedures to be used by an agency in deciding to contract, including, but not limited to, identifying and assessing in writing project needs and requirements, availability of agency employees, budgetary constraints or availability, facility equipment availability, current and projected agency work load capabilities, and the ability of any other state agency to perform the services.

(e) Development of procedures to be used by an agency in maintaining a contract file for each contract which shall include, but not be limited to, all pertinent information relating to the contract during the preparatory stages, a copy of the invitation to bid or request for proposals, documentation relating to the bid process, opening of bids, evaluation and tabulation of bids, and determination and notice of award of contract.

(f) Development of procedures to be used by an agency in identifying commodities, contractual services, and construction contracts, except those construction contracts subject to the provisions of chapter 339, that could be provided by *minority business enterprises* ~~minority owned firms or companies or minority persons~~. Each agency is encouraged to spend 15 percent of the moneys actually expended for commodities, contractual services, and construction during the previous fiscal year and reported to the Legislature pursuant to s. 216.023, for the purpose of entering into contracts with certified minority business enterprises as defined in *s 288.703* ~~this act~~.

(5) To prescribe the methods of securing competitive *sealed* bids and proposals, or negotiating and awarding commodity *and contractual services* contracts, unless otherwise provided by law.

(6) To prescribe specific commodities and quantities to be purchased locally.

(7)*(a)* To govern the purchase by any agency of any commodity *or contractual service and*, to establish standards and specifications for any commodity~~, and to set the maximum fair prices that shall be paid for any commodity~~.

(b) Except for the purchase of insurance, the division may delegate to agencies the authority for the contracting for, or the purchase, lease, or acquisition of, commodities or contractual services.

(8) To establish definitions and classes of *commodities and* contractual services. *Agencies shall follow the definitions and classes of commodities and contractual services established by the division in acquiring or purchasing commodities or contractual services.* The authority of the division under this section shall not be construed to impair or interfere with the determination by state agencies of their need for, or their use of, services including particular specifications.

(9) To furnish copies of any commodity ~~purchasing~~ and contractual service *purchasing* rules to the Comptroller and all agencies affected thereby. ~~Thereafter, no agency shall purchase any commodity covered by purchasing rules without prior approval of the division.~~ The Comptroller shall not approve any account or direct any payment of any account for the purchase of any commodity or the procurement of any contractual service covered by a purchasing or contractual service rule except as authorized therein. The division shall furnish copies of rules adopted by the division to any county, municipality, or other local public agency requesting them.

(10) To require that every agency furnish information relative to its commodity and contractual services purchases and methods of purchasing commodities and contractual services to the division when so requested.

(11) To prepare statistical data concerning the method of procurement, terms, usage, and disposition of *commodities and* contractual services by state agencies. All ~~such affected~~ agencies shall furnish such information for this purpose as the division may call for on such forms or in such manner as the division may prescribe.

(12) To establish and maintain programs for the purpose of disseminating information to government, industry, educational institutions, and the general public concerning policies, procedures, rules, and forms for the procurement of *commodities and* contractual services.

(13) Except as otherwise provided herein, to adopt rules necessary to carry out the purposes of this section, including the authority to delegate to any state agency any and all of the responsibility conferred by this section, retaining to the division any and all authority for supervision thereof. Such purchasing of commodities and procurement of contractual services by state agencies shall be in strict accordance with the rules and procedures prescribed by the Department of General Services.

(14) If the division determines that it is in the best interest of the state, to award to multiple suppliers contracts for commodities and contractual services established by the division for use by all agencies. Such awards may be on a statewide or regional basis. If regional contracts are established by the division, multiple supplier awards may be based upon multiple awards for regions. *Agencies may award contracts to the lowest qualified responsive bidder on a statewide or regional basis.*

(15)*(a)* To establish a system to record and measure the use of certified minority business enterprises in state contracting. This system shall maintain information and statistics on certified minority business enterprise participation, awards, dollar volume of expenditures and agency goals, and other appropriate types of information to analyze progress in the access of certified minority business enterprises to state contracts and to monitor agency compliance with this section. Agencies shall report their compliance with the requirements of this reporting system at least annually and at the request of the division. All agencies shall cooperate with the division in establishing this reporting system.

(b)~~(16)~~ *To* ~~On or before February 1 of each year, the division shall~~ report agency compliance with the provisions of *paragraph (a)* ~~subsection (15)~~ for the preceding fiscal year to the Governor and Cabinet, the

President of the Senate, the Speaker of the House of Representatives, and the Small and Minority Business Advisory Council *on or before February 1 of each year.*

Section 15. Subsection (5) of section 287.045, Florida Statutes, is amended to read:

287.045 Procurement of products and materials with recycled *or degradable* 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 other responsive bidders who have certified that the products or materials contain at least the minimum percentage of recycled content *or degradable material content as defined by the Department of Environmental Regulation* 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 *or degradable material content as defined by the Department of Environmental Regulation. Degradable materials shall be used where economically and technically feasible, particularly in situations where materials are likely to become litter, such as in food services provided by state agencies.* If no bidders offer products or materials with the minimum prescribed recycled *or degradable* content, the contract shall be awarded to the lowest *qualified responsive* bidder.

Section 16. Paragraph (a) of subsection (3) and paragraph (c) of subsection (4) of section 287.055, Florida Statutes, are amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or land-surveying services; definitions; procedures; contingent fees prohibited; penalties.—

(3) PUBLIC ANNOUNCEMENT AND QUALIFICATION PROCEDURES.—

(a) Each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services are required to be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY *TWO* ~~THREE~~, except in cases of valid public emergencies so certified by the agency head. The public notice shall include a general description of the project and shall indicate how interested consultants may apply for consideration.

(4) COMPETITIVE SELECTION.—

(c) This subsection does not apply to a professional service contract for a project the basic construction cost of which is estimated by the agency to be not in excess of the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services is not in excess of the threshold amount provided in s. 287.017 for CATEGORY *TWO* ~~THREE~~.

Section 17. Section 287.057, Florida Statutes, is amended to read:

287.057 Procurement of *commodities or* contractual services.—

~~(1) For the purposes of this section, the term "state contractual service term contract" means a term contract whereby a responsive bidder agrees to furnish a contractual service during a prescribed period of time or by a specific date. The specified period of time or date completes such contract.~~

(1)~~(2)~~ Unless otherwise authorized by law, all contracts for *the purchase of commodities or* contractual services *in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO* shall be awarded by competitive sealed bidding. An invitation to bid shall be issued which shall include a detailed description of the *commodities or contractual* services sought; the date for submittal of bids; and all contractual terms and conditions applicable to the procurement of *commodities or* contractual services, including the criteria which shall include, but need not be limited to, price, to be used in determining acceptability of the bid. If the agency contemplates renewal of the contract, it shall be so stated in the invitation to bid. The bid shall include the price for each year for which the contract may be renewed. Evaluation of bids shall include consideration of the total cost for each year as quoted by the bidder. No criteria may be used in determining acceptability of the bid that was not set forth in the invitation to bid. The contract shall be awarded with reasonable promptness by written notice to the qualified and responsive bidder who submits the lowest *responsive* ~~and best~~ bid. This bid must be determined in writing to meet the requirements and criteria set forth in the invitation to bid.

(2)~~(3)~~ When an agency determines in writing that the use of competitive sealed bidding is not practicable, *commodities or* contractual services shall be procured by competitive sealed proposals. A request for proposals which includes a statement of the *commodities or contractual* services sought and all contractual terms and conditions applicable to the procurement of *commodities or* contractual services, including the criteria, which shall include, but need not be limited to, price, to be used in determining acceptability of the proposal shall be issued. If the agency contemplates renewal of the *commodities or contractual services* contract, it shall be so stated in the request for proposals. The proposal shall include the price for each year for which the contract may be renewed. Evaluation of proposals shall include consideration of the total cost for each year as quoted by the *offeror* ~~proposer~~. To assure full understanding of and responsiveness to the solicitation requirements, discussions may be conducted with qualified offerors. The offerors shall be accorded fair and equal treatment prior to the submittal date specified in the request for proposals with respect to any opportunity for discussion and revision of proposals. The award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration the price and the other criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

(3) When the purchase price of commodities or contractual services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, no purchase of commodities or contractual services may be made without receiving competitive sealed bids or competitive sealed proposals unless:

(a) The agency head determines in writing that an immediate danger to the public health, safety, or welfare or other substantial loss to the state requires emergency action. After the agency head makes such a written determination, the agency may proceed with the procurement of commodities or contractual services necessitated by the immediate danger, without competition. However, such emergency procurement shall be made with such competition as is practicable under the circumstances. The agency shall furnish copies of the written determination certified under oath and any other documents relating to the emergency action to the division. A copy of the statement shall be furnished to the Comptroller with the voucher authorizing payment. The individual purchase of personal clothing, shelter, or supplies which are needed on an emergency basis to avoid institutionalization or placement in a more restrictive setting is an emergency for the purposes of this paragraph, and the filing with the division of such statement is not required in such circumstances. In the case of the emergency purchase of insurance, the period of coverage of such insurance shall not exceed a period of 30 days, and all such emergency purchases shall be reported to the Department of General Services.

(b) Purchasing agreements and contracts executed by the division or by agencies under authority delegated by the division in writing are excepted from bid requirements.

(c) Commodities or contractual services available only from a single source may be excepted from the bid requirements if it is determined that such commodities or services are available only from a single source and such determination is documented. However, if such contract is for an amount greater than the threshold amount provided in s. 287.017 for CATEGORY THREE, the agency head shall file a certification of conditions and circumstances with the division and shall obtain the prior approval of the division. The failure of the division to approve or disapprove the request of an agency for prior approval within 21 days after receiving such request or within 14 days after receiving from the agency additional materials requested by the division shall constitute prior approval of the division. To the greatest extent practicable, but no later than 45 days after authorizing the exception in writing, the division shall combine single-source procurement authorizations for identical information technology resources for which the purchase price exceeds the threshold amount provided in s. 287.017 for CATEGORY FOUR, and shall negotiate and execute volume purchasing agreements for such procurements on behalf of the agencies.

(d) When it is in the best interest of the state, the Department of General Services may authorize the director of the division to purchase insurance by negotiation, but such purchase shall be made only under conditions most favorable to the public interest.

(e) Prescriptive assistive devices for the purpose of medical, developmental, or vocational rehabilitation of clients are excepted from competitive sealed bid and competitive sealed proposal requirements and shall be procured pursuant to an established fee schedule or by any other method which ensures the best price for the state, taking into consideration the needs of the client. Prescriptive assistive devices include, but are not limited to, prosthetics, orthotics, and wheelchairs. For purchases made pursuant to this paragraph, state agencies shall annually file with the division a description of the purchases and methods of procurement.

(f) The following contractual services are not subject to the competitive sealed bid requirements of this section:

1. Artistic services.

2. Academic program reviews.

3. Lectures by individuals.

4. Auditing services.

5. Legal services, including paralegals; expert witnesses, including appraisal services; and court reporters.

6. Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration.

7. Services provided to persons with mental or physical disabilities by not-for-profit corporations which have obtained exemptions under the provisions of s. 501(c)(3) of the United States Internal Revenue Code or when such services are governed by the provisions of Office of Management and Budget Circular A-122. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.

8. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Health and Rehabilitative Services. However, this exception shall be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed by the department.

9. Family placement services.

10. Prevention services related to mental health, including drug abuse prevention programs, child abuse prevention programs, and shelters for runaways, operated by not-for-profit corporations. However, in acquiring such services, the agency shall consider the ability of the contractor, past performance, willingness to meet time requirements, and price.

11. Training and education services provided to injured employees pursuant to s. 440.49(1).

12. Contracts entered into pursuant to s. 337.11.

13. Services provided by governmental agencies.

(g) Continuing education events or programs that are offered to the general public and for which fees have been collected that pay all expenses associated with the event or program are exempt from competitive sealed bidding.

(4) If less than two responsive bids or proposals for commodity or contractual services purchases are received, the division may negotiate or authorize the agency to negotiate on the best terms and conditions.

(5) Upon issuance of any invitation to bid or request for proposals, an agency shall forward to the division one copy of each invitation to bid or request for proposals for all commodity and contractual services purchases in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO. An agency shall also, upon request, furnish a copy of all competitive sealed bid or competitive sealed proposal tabulations.

(6) In order to strive to meet the minority business enterprise goals set forth in s. 287.042, an agency may reserve any contract for competitive sealed bidding only among certified minority business enterprises. Agencies shall review all their contracts each fiscal year and shall determine which contracts may be reserved for bidding only among certified minority business enterprises. This reservation may only be used when it is determined before the invitation to bid that there are capable, qualified certified minority business enterprises available to bid on a contract to provide for effective competition. Before a contract may be reserved for bidding only by certified minority business enterprises, the agency head must find that such a reservation is in the best interests of the state. Once a decision has been made to reserve a contract, but before sealed bids are requested, the agency shall estimate what it expects the amount of the contract to be, based on the nature of the services or commodities involved and their value under prevailing market conditions. If all the sealed bids received are over this estimate, the agency may reject the bids and request new ones from certified minority business enterprises, or the agency may reject the bids and reopen the bidding to all eligible qualified bidders.

(7) An agency may reserve any contract for competitive sealed bidding only among qualified bidders who agree to utilize certified minority enterprises as subcontractors or subvendors. The percentage of funds which must be expended with certified minority business enterprise subcontractors and subvendors shall be determined by the agency before such contracts may be reserved, but may not be below 15 percent. In order to bid on a contract so reserved, the qualified bidder shall identify those certified minority business enterprises which will be utilized as subcontractors or subvendors.

(8)~~(4)~~ *An* ~~When the price of contractual services is less than the threshold amount provided in s. 287.017 for CATEGORY TWO, an agency shall not be required to use the competitive procedures set forth in subsections (2) and (3). However, the~~ agency shall not divide the procurement of *commodities or* contractual services so as to avoid the requirements of subsections *(1),* (2), and (3).

~~(5) A contract for contractual services may be awarded without competition if it is determined in writing that such services are available from only one source; however, if such contract is for an amount greater than the threshold amount provided in s. 287.017 for CATEGORY THREE, the agency shall secure prior approval from the division.~~

(9)~~(6)~~ A contract for *commodities or* contractual services may be awarded without competition if state or federal law prescribes with whom the agency must contract or if the rate of payment is established during the appropriations process.

~~(7) If only one response to an invitation to bid or request for proposals is received, the agency may proceed with the procurement of the contractual services pursuant to subsection (5).~~

~~(8) If no response to an invitation to bid or request for proposals is received, the agency may proceed with the procurement of contractual services pursuant to subsection (5).~~

~~(9) The failure of the division to approve or disapprove the request of an agency for prior approval pursuant to subsections (5), (7), and (8) within 21 days after receiving such request or within 14 days after receiving from the agency additional materials requested by the division shall constitute prior approval by the division.~~

(10) If two equal responses to an invitation to bid or request for proposals are received and one response is from a certified *minority business enterprise* ~~minority-owned firm or company~~, the agency shall enter into a contract with the certified *minority business enterprise* ~~minority-owned firm or company~~.

~~(11) If the head of any agency determines in writing that an immediate danger to the public health, safety, welfare, or other substantial loss to the state requires emergency action, the agency may proceed with the procurement of the contractual services necessitated by the immediate danger without competition. However, such emergency procurements shall be made with such competition as is practicable under the circumstances. The agency shall furnish copies of the written determination certified under oath and any other documents relating to the emergency action to the division.~~

(11)~~(12)~~ Extension of a contract for contractual services shall be in writing for a period not to exceed 6 months and shall be subject to the same terms and conditions set forth in the initial contract. ~~The extension may, however, provide for an increase in the total dollar amount of the contract based on the method and rate established in the initial contract.~~

There shall be only one extension of a contract unless the failure to meet the criteria set forth in the contract for completion of the contract is due to events beyond the control of the contractor.

(12)~~(13)~~ *Except for those contracts initially procured pursuant to paragraph (3)(a) or paragraph (3)(c)* ~~If initially competitively procured~~, contracts for *commodities or* contractual services may be renewed on a yearly basis for no more than 2 years *or for a period no longer than the term of the original contract, whichever period is longer*. Renewal of a contract for *commodities or* contractual services shall be in writing and shall be subject to the same terms and conditions set forth in the initial contract. *If the commodity or contractual service is purchased as a result of the solicitation of bids or proposals,* the cost of any contemplated renewals shall be included in the invitation to bid or request for proposals. Renewals shall be contingent upon satisfactory performance evaluations by the agency.

(13)~~(14)~~ For each contractual services contract, the agency shall designate an employee to function as contract manager who shall be responsible for enforcing performance of the contract terms and conditions *and*~~,~~ serve as a liaison with the contractor~~, and approve all invoices prior to payment~~. *The agency shall establish procedures to ensure that contractual services have been rendered in accordance with the contract terms prior to processing the invoice for payment.*

(14)~~(15)~~ Each agency shall designate one employee who, in addition to his existing duties, shall serve as a contract administrator responsible for maintaining a contract file and financial information on all contractual services contracts and who shall serve as a liaison with the contract managers and the division.

(15)~~(16)~~ *For requests for proposals,* a selection team of at least three employees who have experience and knowledge in the program areas and service requirements for which contractual services are sought shall be appointed by the agency head to aid in the selection of contractors for contracts of more than the threshold amount provided in s. 287.017 for CATEGORY FOUR.

(16)~~(17)~~ No person who receives a contract which has not been procured pursuant to subsection *(1), subsection* (2), or subsection (3) to perform a feasibility study of the potential implementation of a subsequent contract, participating in the drafting of an invitation to bid or request for proposals, or developing a program for future implementation shall be eligible to contract with the agency for any other contracts dealing with that specific subject matter; nor shall any firm in which such person has any interest be eligible to receive such contract.

(17)~~(18)~~ Each agency shall establish a review and approval process for all contractual services contracts costing more than the threshold amount provided for in s. 287.017 for CATEGORY THREE which shall include, but not be limited to, program, financial, and legal review and approval. Such reviews and approvals shall be obtained before the contract is executed.

(18)~~(19)~~ The division may establish state contractual service term contracts. Such contracts may be utilized by any agency, county, municipality, or local public agency.

(19) In any procurement that is accomplished without competition, the individuals taking part in the development or selection of criteria for evaluation, the evaluation process, and the award process shall attest in writing that they are independent of, and have no conflict of interest in, the entities evaluated and selected.

(20) Nothing in this section shall affect the validity or effect of any contract in existence on *October 1, 1990* ~~July 1, 1983~~.

(21) An agency may contract for services with any independent, nonprofit college or university which is located within the state and is accredited by the Southern Association of Colleges and Schools, on the same basis as it may contract with any institution in the State University System.

Section 18. Section 287.058, Florida Statutes, is amended to read:

287.058 Contract document.—

(1) Every procurement of contractual services in excess of the threshold amount provided in s. 287.017 for CATEGORY *ONE* ~~TWO~~, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall, where applicable, include, but shall not be limited to:

(a) A provision that bills for fees or other compensation for services or expenses be submitted in detail sufficient for a proper preaudit and postaudit thereof.

(b) A provision that bills for any travel expenses be submitted in accordance with s. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.

(c) A provision allowing unilateral cancellation by the agency for refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of chapter 119 and made or received by the contractor in conjunction with the contract.

(d) A provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(e) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(f) A provision specifying that the contract may be renewed on a yearly basis for a *period of up to* ~~maximum of~~ 2 years after the initial contract *or for a period no longer than the term of the original contract, whichever period is longer,* specifying the terms under which the cost may change as determined in the invitation to bid or request for proposals, and specifying that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of funds.

In lieu of a written agreement, the division may authorize the use of a purchase order for classes of contractual services, provided the provisions of paragraphs (a)-(f) are included in the purchase order, invitation to bid, or request for proposals. The purchase order shall include an adequate description of the services, the contract period, and the method of payment.

(2) The written agreement shall be signed by the agency head and the contractor prior to the rendering of any contractual service the value of which is in excess of the threshold amount provided in s. 287.017 for CATEGORY *ONE* ~~TWO~~, except in the case of a valid emergency as certified by the agency head. The certification of *an* ~~a valid~~ emergency shall be prepared within 30 days after the contractor begins rendering the service and shall state the particular facts and circumstances which precluded the execution of the written agreement prior to the rendering of the service. *If the agency fails to have the contract signed by the agency head and the contractor prior to rendering the contractual service, and if an emergency does not exist, the agency head shall, no later than 30 days after the contractor begins rendering the service, certify the specific conditions and circumstances to the division as well as describe actions taken to prevent recurrence of such noncompliance. The agency head may delegate the certification only to other senior management agency personnel. A copy of the certification shall be furnished to the Comptroller with the voucher authorizing payment. The division shall report repeated instances of noncompliance by an agency to the Auditor General. Nothing in this subsection shall be deemed to authorize additional compensation prohibited by s. 215.425.* The procurement of contractual services shall not be divided so as to avoid the provisions of this section.

(3) Notwithstanding the provisions of subsections (1) and (2), in those cases in which state agencies are unable to procure a written agreement for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured persons in the care or custody of a state agency, those services and drugs may be obtained by purchase order. The purchase order shall contain sufficient detail for a proper audit and shall be signed by purchasing or contracting personnel acting on behalf of the agency.

(4) Every procurement of contractual services of the value of the threshold amount provided in s. 287.017 for CATEGORY *ONE* ~~TWO~~ or less, except for the providing of health and mental health services or drugs in the examination, diagnosis, or treatment of sick or injured state employees or the providing of other benefits as required by the provisions of chapter 440, shall be evidenced by a written agreement or purchase

order. The written agreement shall contain sufficient detail for a proper audit, shall be signed by purchasing or contracting personnel acting on behalf of the agency, and may contain the provisions and conditions provided in subsection (1).

(5) Unless otherwise provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, the Comptroller may waive the requirements of this section for services which are included in s. *287.057(3)(f)* ~~287.012(4)(b)~~.

Section 19. Section 287.059, Florida Statutes, is amended to read:

287.059 Private legal services.—

(1) No funds shall be expended by an agency for private legal services without the prior initial approval of the Attorney General. This initial approval shall include a certification that the private legal services requested cannot be provided by the office of the Attorney General or that such private legal services are cost effective in the opinion of the Attorney General The office of the Attorney General shall respond to the request of an agency for prior initial approval within 10 working days after receiving such request.

(2) When initial approval has been received from the Attorney General, final approval must be obtained prior to the expenditure of funds for private legal services:

(a) From the Governor for expenditures by the Executive Office of the Governor;

(b) From the appropriate Cabinet officer for expenditures by an agency under the jurisdiction of a Cabinet officer; or

(c) From the Governor and Cabinet for an agency under the jurisdiction of the Governor and Cabinet.

(3) This section does not apply to contracts for:

(a) Legal services entered into by the Department of Health and Rehabilitative Services for child support enforcement pursuant to s. 409.2557;

(b) Child dependency or termination of parental rights under chapter 39;

(c) Services to be provided by legal services organizations to indigent clients;

(d) Legal services necessary pursuant to part II of chapter 284; or

(e) Contracts for legal services entered into by the Board of Regents for defense of comprehensive general liability claims, including professional liability claims, which are covered by the self-insurance programs created pursuant to s. 240.213.

(4) Initial approval by the Attorney General is not required for legal services procured by the Executive Office of the Governor or any department under the jurisdiction of a Cabinet officer. Final approval as provided in subsection (2) is required before the expenditure of funds for private legal services by these agencies.

(5) This section does not apply to services provided by paralegals; expert witnesses, including appraisal services; or court reporters.

Section 20. Subsection (1) of section 287.064, Florida Statutes, is amended to read:

287.064 Consolidated financing of deferred-payment purchases.—

(1) The Division of Bond Finance of the Department of General Services and the Comptroller shall plan and coordinate deferred-payment purchases made by or on behalf of the state or its agencies or by or on behalf of state community colleges participating under this section pursuant to s. 240.319(3)(p). The Division *of Bond Finance* shall negotiate and the Comptroller shall execute agreements and contracts to establish master equipment financing agreements for consolidated financing of deferred-payment, installment sale, or lease purchases with a financial institution or a consortium of financial institutions. As used in this act, the term "deferred-payment" includes installment sale and lease-purchase.

(a) The period during which equipment may be acquired under any one master equipment financing agreement shall be limited to not more than 3 years.

(b) Repayment of the whole or a part of the funds drawn pursuant to the master equipment financing agreement may continue beyond the period established pursuant to paragraph (a) ~~above~~.

(c) The interest rate component of any master equipment financing agreement shall be deemed to comply with the interest rate limitation imposed in s. 287.063 so long as the interest rate component of every interagency or community college agreement entered into under such master equipment financing agreement complies with the interest rate limitation imposed in s. 287.063. Such interest rate limitation does not apply when the payment obligation under the master equipment financing agreement is rated by a nationally recognized rating service in any one of the three highest classifications, which rating services and classifications are determined pursuant to rules adopted by the Comptroller.

Section 21. Subsection (4) and paragraph (a) of subsection (5) of section 287.073, Florida Statutes, are amended to read:

287.073 Procurement of information technology resources.—

(4) If an agency determines that the information technology resources required to meet the agency's needs are available only from a single source of supply, the *agency* head ~~of the agency~~ shall file a single-source certification request with the division, specifying the conditions and circumstances and requesting that the acquisition of information technology resources be exempt from the bid requirements provided under s. *287.057* ~~287.062~~.

(5)(a) There is created within the Department of General Services the Information Technology Resource Procurement Advisory Council to function on a continuing basis. The council shall review and make recommendations to the agencies regarding agency single-source certification requests for information technology resources which have a 2-year total cost in excess of $500,000. *Continuation of annual hardware or software maintenance or software licensing agreements are exempt from review by the council unless required by the division.* The review shall be made prior to the request being filed with the division ~~as specified in s. 287.062(1)(c)~~. The council shall also review and recommend to the agencies modifications regarding agency invitations to bid or requests for proposals for information technology resources which have a 2-year total cost in excess of $1 million. The review shall be made prior to the issuance of the invitation to bid or the request for proposals. When specifications have been modified through discussions with qualified offerors ~~as provided in s. 287.062(1)(c)~~, the council shall review the modifications prior to the submittal date stated in the request for proposals. Except for emergency purchases under s. *287.057* ~~287.062~~, the council shall also review and make recommendations regarding agency acquisitions by any other method of acquiring information technology resources which have a 2-year total cost in excess of $500,000. The review shall be made prior to acquisition. The acquisition of a system that collectively includes data processing hardware, software, and services shall not be divided to avoid the requirements of this subsection.

Section 22. Section 287.082, Florida Statutes, is amended to read:

287.082 Commodities manufactured in state given preference.—Whenever two or more competitive *sealed* bids are received, one or more of which relates to commodities manufactured within this state, and whenever all things stated in such received bids are equal with respect to price, quality, and service, the commodities manufactured within this state shall be given preference.

Section 23. Effective January 1, 1991, section 287.087, Florida Statutes, is created to read:

287.087 Preference to businesses with drug-free workplace programs.—Whenever two or more bids which are equal with respect to price, quality, and service are received by the state or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

(1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

(2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

(3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

(4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.

(5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.

(6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

Section 24. Subsection (3) of section 287.0943, Florida Statutes, is amended to read:

287.0943 Certification of minority business enterprises.—

(3) The department shall maintain an up-to-date vendors list of certified minority business enterprises and shall make this list available to all agencies. The list may include information about minority *business enterprises that* ~~firms or persons who~~ provide legal services, auditing services, and health services ~~as defined by s. 287.012~~. Agencies shall use this list in efforts to meet the minority business enterprise goal set forth in s. 287.042.

Section 25. Section 287.102, Florida Statutes, is amended to read:

287.102 Class B printing.—No general contract shall be let to cover printing designated as "class B," but each job coming under this classification shall be let separately, under regulations adopted by the division, to the lowest *responsive* ~~responsible~~ bidder. Such contract shall apply only to the work under consideration, and competitive *sealed* bids *or competitive sealed proposals* shall be required on any purchase in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO. All public printing governed hereby shall be done in accordance with s. 283.35.

Section 26. Section 287.115, Florida Statutes, is amended to read:

287.115 Comptroller; quarterly reports.—The Comptroller shall submit *quarterly* to the office of the Auditor General ~~quarterly,~~ a report on those contractual service contracts disallowed *by the Comptroller* ~~pursuant to s. 287.042(9)~~, which report shall include, but is not limited to, the name of the user agency, the name of the firm or individual from which the contractual service was to be acquired, a description of the contractual service, the financial terms of the contract, and the reason for rejection.

Section 27. Section 321.02, Florida Statutes, is amended to read:

321.02 Powers and duties of department, highway patrol.—The director of the Division of Highway Patrol of the Department of Highway Safety and Motor Vehicles shall also be the commander of the Florida Highway Patrol. The said department shall set up and promulgate rules and regulations by which the personnel of the Florida Highway Patrol officers shall be examined, employed, trained, located, suspended, reduced in rank, discharged, recruited, paid and pensioned, subject to civil service provisions hereafter set out. The department is further specifically authorized to purchase, sell, trade, rent, lease and maintain all necessary equipment, uniforms, motor vehicles, communication systems, housing facilities, office space, and perform any other acts necessary for the proper administration and enforcement of this chapter. ~~Provided,~~ However, ~~that~~ all supplies and equipment consisting of single items or in lots~~,~~ shall be purchased under the requirements of s. *287.057* ~~287.062~~ Purchases shall be made by accepting the bid of the lowest *responsive* ~~responsible~~ bidder; the right being reserved to reject all bids. The department shall prescribe a distinctive uniform and distinctive emblem to be worn by all officers of the Florida Highway Patrol. It shall be unlawful for any other person or persons to wear a similar uniform or emblem, or any part or parts thereof. The department shall also prescribe a distinctive color or colors for all motor vehicles and motorcycles to be used by the Florida Highway Patrol.

Section 28. Subsection (3) of section 322.142, Florida Statutes, is amended to read:

322.142 Color photographic licenses.—

(3) The department may conduct negotiations and enter into contracts with qualified firms possessing the requisite qualifications for the development and production of photographic identification documents to assure efficient and economical processing of such licenses in sufficient quantity and of acceptable quality to meet the requirements and intent of this section, and to ensure adequate service at a sufficient number of convenient locations in each county, at the lowest competitive *sealed* bid price. The terms of such contract may provide for return of the original copy of each application, a photographic duplicate thereof or the original negative.

Section 29. Subsection (1) of section 337.02, Florida Statutes, is amended to read:

337.02 Purchases by department subject to competitive bids; advertisement; emergency purchases; bid specifications.—

(1) Except as provided herein, purchase by the Department of Transportation of commodities, including the advertising and awarding of competitive bids, shall be governed by chapters 283 and 287 and rules adopted by the Department of General Services pursuant thereto. However, the provisions of s. *287.057* ~~287.062~~ notwithstanding, the department may purchase parts and repairs valued at $5,000 or less without receiving competitive bids for the repair of mobile road maintenance equipment, marine vessels, permanent vehicle scales, and mechanical and electrical equipment for movable bridges, toll facilities including the Florida Turnpike, treatment plants for water and sewage, and major heating and cooling systems.

Section 30. Subsection (2) of section 381.715, Florida Statutes, is amended to read:

381.715 Certificate of need; competitive sealed proposals.—

(2) The department shall make a decision regarding the issuance of the certificate of need in accordance with the provisions of s. 287.057*(15)*~~(16)~~, rules adopted by the department relating to intermediate care facilities for the developmentally disabled, and the criteria in s. 381.705, as further defined by rule.

Section 31. For the purpose of incorporating the amendments to part I of chapter 287, Florida Statutes, in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted to read:

11.147 Joint Legislative Management Committee.—

(4) The joint committee shall prepare and adopt rules and procedures governing the following matters:

(a) The purchase or acquisition by the Legislature of all supplies, capital outlay items, and other commodities required for the proper functioning of the Legislature. Such rules and procedures shall govern all legislative purchases as contemplated herein and shall be in accord with, but not limited to, the following requirements:

1. A purchase in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO shall be made only upon competitive bids received.

101.292 Definitions.—As used in ss. 101.292-101.295, the following terms shall have the following meanings:

(2) "Voting equipment" means new or used voting machines and materials, parts, or other equipment necessary for the maintenance or improvement of voting machines, the individual or combined retail value of which is in excess of the threshold amount for CATEGORY TWO purchases provided in s. 287.017. The term "voting equipment" also includes electronic or electromechanical voting systems, voting devices, and automatic tabulating equipment as defined in s. 101.5603, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems and devices.

216.031 Budgets for operational expenditures.—A legislative budget request, reflecting the independent judgment of the head of the state agency with respect to the needs of the agency for operational expenditures during the next biennium, shall be submitted by each head of a state agency and shall contain the following:

(8) The sum of money actually expended for contractual services, as defined in s. 287.012, by the agency for the previous year.

Either chairman of a legislative appropriations committee or the Executive Office of the Governor may require the agency to address major issues separate from those outlined in s. 216.023, this section, and s. 216.043 for inclusion in the requests of the agency. The issues shall be submitted to the agency no later than August 30 of each even-numbered year and shall be displayed in its requests as provided in the budget instructions.

240.225 Applicability of certain sections.—The Department of General Services shall by rule provide for delegation to the State University System of the functions and duties in ss. 273.04, 273.05, and 273.055 and chapter 287 as they pertain to the State University System. The Governor and Cabinet, sitting as the State Board of Education, shall approve or disapprove the award of information technology resources procurements under s. 287.073 for the State University System which are reviewed by the Board of Regents pursuant to this section. No additional positions shall be authorized for the State University System to implement the provisions of this section.

240.551 Florida Prepaid Postsecondary Education Expense Program.—

(5) The Florida Prepaid Postsecondary Education Expense Program shall be administered by the Prepaid Postsecondary Education Expense Board as an agency of the state. The Prepaid Postsecondary Education Expense Board is hereby created as a body corporate with all the powers of a body corporate for the purposes delineated in this section. For the purposes of s. 6, Art. IV of the State Constitution, the board shall be assigned to and administratively housed within the Division of Benefits of the Department of Insurance, but it shall independently exercise the powers and duties specified in this section. The board shall consist of seven members to be composed of the Insurance Commissioner and Treasurer, the Comptroller, the Chancellor of the Board of Regents, the Executive Director of the State Board of Community Colleges, and three members appointed by the Governor and subject to confirmation by the Senate. Each member appointed by the Governor shall possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Each member of the board not appointed by the Governor may name a designee to serve the board on behalf of the member; however, any designee so named shall meet the qualifications required of gubernatorial appointees to the board. Members appointed by the Governor shall serve terms of 3 years except that, in making the initial appointments, the Governor shall appoint one member to serve for 1 year, one member to serve for 2 years, and one member to serve for 3 years. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term. Any member shall be eligible for reappointment and shall serve until a successor qualifies. Members of the board shall serve without compensation but shall be reimbursed for per diem and travel in accordance with s. 112.061. Each member of the board shall file a full and public disclosure of his financial interests pursuant to s. 8, Art. II of the State Constitution and corresponding statute.

(i) The board shall solicit proposals for the marketing of the Florida Prepaid Postsecondary Education Expense Program pursuant to s. 287.057. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall be solely responsible for the marketing of the program. Any materials produced for the purpose of marketing the program shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent.

(8) The board shall solicit proposals for the operation of the Florida Prepaid Postsecondary Education Expense Program pursuant to s. 287.057, through which the board shall contract for the services of a records administrator, a trustee services firm, and one or more product providers.

(a) The records administrator shall be the entity designated by the board to conduct the daily operations of the program on behalf of the board. The goals of the board in selecting a records administrator shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.

2. Past experience in records administration and current ability to provide timely and accurate service in the areas of records administration, audit and reconciliation, plan communication, participant service, and complaint resolution.

3. Sufficient staff and computer capability for the scope and level of service expected by the board.

4. Financial history and current financial strength and capital adequacy to provide administrative services required by the board.

(b) The trustee services firm shall be the entity designated by the board to select and supervise investment programs on behalf of the board. The goals of the board in selecting a trustee services firm shall be to obtain the highest standards of professional trustee services, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. The trustee services firm shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent selection or supervision of investment programs by such firm. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Adequacy of trustee services for supervision and management of the program, including current operations and staff organization and commitment of management to the proposal.

2. Capability to execute program responsibilities within time and regulatory constraints.

3. Past experience in trustee services and current ability to maintain regular and continuous interactions with the board, records administrator, and product provider.

4. The minimum purchaser participation assumed within the proposal and any additional requirements of purchasers.

5. Adequacy of technical assistance and services proposed for staff.

6. Adequacy of a management system for evaluating and improving overall trustee services to the program.

7. Adequacy of facilities, equipment, and electronic data processing services.

8. Detailed projections of administrative costs, including the amount and type of insurance coverage, and detailed projections of total costs.

(c)1. The product providers shall be the entities designated by the board to develop investment portfolios on behalf of the board to achieve the purposes of this section. Product providers shall be limited to authorized insurers as defined in s. 624.09, banks as defined in s. 658.12, associations as defined in s. 665.012, authorized Securities and Exchange Commission investment advisers, and investment companies as defined in the Investment Company Act of 1940. All product providers shall have their principal place of business and corporate charter located and registered in the United States. In addition, each product provider shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent investing by such provider. Each authorized insurer shall evidence superior performance overall on an acceptable level of surety in meeting its obligations to its policyholders and other contractual obligations. Only qualified public depositories approved by the State Insurance Commissioner and Treasurer shall be eligible for board consideration. Each investment company shall provide investment plans as specified within the request for proposals.

2. The goals of the board in selecting a product provider company shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services

equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

a. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.

b. Past and current investment performance, including investment and interest rate history, guaranteed minimum rates of interest, consistency of investment performance, and any terms and conditions under which moneys are held.

c. Past experience and ability to provide timely and accurate service in the areas of records administration, benefit payments, investment management, and complaint resolution.

d. Financial history and current financial strength and capital adequacy to provide products, including operating procedures and other methods of protecting program assets.

282.308 State University System information resources management plan.—

(3) The president of each university or his designee shall serve as the information resource manager who is responsible for the preparation of the plan of the university, the Annual Performance Report required in s. 282.312, and the Information Resources Management Operating Plan required in s. 282.3115; shall serve as a liaison with the information resource manager of the State University System and with the Division of Communications of the Department of General Services; and must approve all information resources management procurements of the university which have a purchase price in excess of the threshold amount for CATEGORY THREE purchases provided in s. 287.017.

282.311 Information resource managers.—Each department executive director, secretary, or Cabinet officer; the executive director of the Justice Administrative Commission; and the state attorney and public defender for each judicial circuit, or their designees, shall serve as the information resource managers who are responsible for developing information resources management policies for their respective agencies in conformance with policies, standards, and rules established by the commission and shall coordinate all agency information resources management activities of their agencies. In addition, each information resource manager is responsible for the preparation of the Strategic Plan for Information Resources Management, the Annual Performance Report, and the Information Resources Management Operating Plan required in this chapter; shall serve as a liaison with the commission and the Division of Communications of the Department of General Services; and must approve all information resources management procurements of his agency which have a purchase price in excess of the threshold amount for CATEGORY THREE purchases provided in s. 287.017. The Chief Justice of the Supreme Court and the Chancellor of the Board of Regents or their designees shall serve as the managers for the state courts system and the State University System, respectively.

282.3115 Information Resources Management Operating Plan.—

(4) Information resources management procurements which have a purchase price in excess of the threshold amount for CATEGORY THREE purchases provided in s. 287.017 may not be acquired by an agency unless the resources are approved by the information resource manager of the agency.

283.422 Printing of test or related materials to preserve test security.—A contract let for the development, administration, or grading of tests or related materials by the Department of Insurance pursuant to the various agent, solicitor, or adjuster licensing and examination provisions of the Florida Insurance Code may include the printing or furnishing of these tests or related materials in order to preserve test security. Any such contract shall be let as a contract for a contractual service pursuant to s. 287.057.

287.0735 Information Resource Commission review of contracts.—All contracts which relate to the acquisition of information technology resources and which are entered into by the division pursuant to subsections 287.042(1), (2), (7), or (14) or s. 287.057 shall first be reviewed by the Information Resource Commission, which shall make recommendations to the division.

287.0945 Minority Business Enterprise Assistance Office; powers, duties, and functions.—

(3) The Minority Business Enterprise Assistance Office shall have the following powers, duties, and functions:

(a) To adopt rules to determine what constitutes a "good faith effort" for purposes of state agency compliance with the 15-percent minority business enterprise procurement goal set forth in s. 287.042. Factors which shall be considered by the Minority Business Enterprise Assistance Office in determining good faith effort shall include, but not be limited to:

1. Whether the agency scheduled presolicitation or prebid meetings for the purpose of informing minority business enterprises of contracting and subcontracting opportunities;

2. Whether the agency provided interested minority business enterprises or minority persons with adequate information about the plans, specifications, and requirements of contracts or the availability of jobs;

3. Whether the agency effectively used services and resources of available minority community organizations; minority contractors' groups; local, state, and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of minority business enterprises or minority persons; and

4. Whether the agency provided written notice to a reasonable number of minority business enterprises that their interest in contracting with the agency was being solicited in sufficient time to allow the minority business enterprises to participate effectively.

287.0947 Agency minority business enterprise assistance.—Each state agency shall coordinate its minority business enterprise procurement activities with the Minority Business Enterprise Assistance Office. At a minimum, each agency shall:

(2) Adopt rules, duly promulgated in the Florida Administrative Code, which set forth procedures to achieve the minority business enterprise procurement goals set forth in s. 287.042; and

287.133 Public entity crime; denial or revocation of the right to transact business with public entities.—

(2)(a) A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

(b) No public entity shall accept any bid from, award any contract to, or transact any business in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO with any person or affiliate on the convicted vendor list for a period of 36 months from the date that person or affiliate was placed on the convicted vendor list unless that person or affiliate has been removed from the list pursuant to paragraph (3)(f). No public entity which was transacting business with a person at the time of the commission of a public entity crime which resulted in that person being placed on the convicted vendor list shall accept any bid from, award any contract to, or transact any business with any other person who is under the same, or substantially the same, control as the person whose name appears on the convicted vendor list so long as that person's name appears on the convicted vendor list.

(3)(a) Prior to entering into a contract in excess of the threshold amount provided for in s. 287.017 for CATEGORY TWO to provide goods or services to a public entity, a person shall file a sworn statement with the contracting officer of that public entity on a form to be promulgated by the department by rule, including the following information:

1. The name of the person.

2. The business address of the person.

3. A statement of whether the person, or an affiliate of that person, has been convicted of a public entity crime subsequent to July 1, 1989, unless a determination has been made pursuant to paragraph (e) or paragraph (f) that it is not in the public interest for the name of that person or affiliate to appear on the convicted vendor list.

403.7065 Procurement of products or materials with recycled content.—

(1) Except as provided in s. 287.045, 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 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) Is not available within a reasonable period of time; or

(b) Fails to meet the performance standards set forth in the applicable specifications or fails to meet the reasonable performance standards of the agency.

When the requirements of s. 287.045 are met, agencies shall be subject to the procurement requirements of that section for procuring products or materials with recycled content.

410.402 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(2) Pursuant to the provisions of s. 287.057, the Department of Health and Rehabilitative Services shall contract for the provision of three specialized model day care programs in conjunction with each memory disorder clinic. The purpose of each model day care program shall be service delivery to persons suffering from Alzheimer's disease or a related memory disorder and training of health care and social service personnel in the care of persons with Alzheimer's disease and related memory disorders.

(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.

550.012 Additional operating days.—

(4) The division shall review all requests for additional operating days and shall make recommendations to the commission regarding such days. The division may contract with accountants, economists, attorneys, and other persons as may be required to determine the required economic and fiscal impacts of the requested additional days. To ensure that the requests for additional operating days are reviewed in a timely manner by the division, it is exempt from the provisions of s. 287.057 with regard to contracts awarded to review or determine the economic and fiscal impacts of the requested additional days. However, in awarding such contracts, the division shall consider the cost and the ability and resources of the individual or firm to perform the review or study in a competent and timely manner.

944.105 Contractual arrangements with private entities for operation and maintenance of correctional facilities and supervision of inmates.—

(6) The provisions of ss. 216.311 and 287.057 shall apply to all contracts between the department and any private vendor providing such services. The department shall promulgate rules pursuant to chapter 120 specifying criteria for such contractual arrangements.

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:

(c) Participate in a residential or nonresidential rehabilitative program operated by a public or private, nonprofit agency with which the department has contracted for the treatment of such inmate. The provisions of ss. 216.311 and 287.057 shall apply to all contracts between the department and any private entity providing such services. The department shall require such agency to provide appropriate supervision of inmates participating in such program. The department is authorized to terminate any inmate's participation in the program if such inmate fails to demonstrate satisfactory progress in the program as established by departmental rules.

Section 32. Section 287.052, Florida Statutes, as amended by chapter 88-384, Laws of Florida, section 287.062, Florida Statutes, as amended by chapters 88-327 and 88-384, Laws of Florida, and section 287.072, Florida Statutes, are hereby repealed.

Section 33. Section 13 of chapter 86-204, Laws of Florida, is hereby repealed.

Section 34. Section 112.3185, Florida Statutes, is amended to read:

112.3185 Contractual services.—

(1) For the purposes of this section:

(a) "Contractual services" shall be defined as set forth in s. 287.012(4).

(b) "Agency" means any state officer, department, board, commission, or council of the executive branch or judicial branch of state government.

(c) "Single source" means any individual, corporation or its subsidiaries, partnership, limited partnership, proprietorship, firm, enterprise, franchise, association, self-employed individual, trust, business trust, joint venture, estate, syndicate, fiduciary, joint stock company, club, organization, or any other group or combination having collective capacity.

(d) "Contracting employee" means any officer or employee of the state, or of a political subdivision of the state, who personally and substantially participates in any decision relating to the award of contracts, including any person who serves as a member of, or as a consultant to, a contract selection panel.

(e) "Employee" has the meaning set forth in s. 112.3141(1)(b)1.

(2) No agency employee who participates through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services shall become or be, while an agency employee, the employee of a person contracting with the agency by whom the employee is employed.

(3) No agency employee shall, after retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract in which the agency employee participated personally and substantially through decision, approval, disapproval, recommendation, rendering of advice, or investigation while an officer or employee.

(4) No agency employee shall, within 2 years *after* ~~of~~ retirement or termination, have or hold any employment or contractual relationship with any business entity other than an agency in connection with any contract for contractual services which was within his responsibility while an employee.

(5) The sum of money paid to a former agency employee during the first year after the cessation of his responsibilities, by the agency with *which* ~~whom~~ he was employed, for contractual services provided to the agency by him, shall not exceed the annual salary received by him on the date of cessation of his responsibilities. The provisions of this subsection may be waived by the agency head for a particular contract if the agency head determines that such waiver will result in significant time or cost savings for the state.

(6) No agency employee acting in his official capacity shall directly or indirectly procure contractual services for his own agency from any business entity of which a relative, as defined in s. *112.3135(1)(c)* ~~116.111(1)(c)~~, is an officer, partner, director, or proprietor or in which such officer or employee or his spouse or child, or any combination of them, has a material interest.

(7) No contracting employee shall have or hold any employment or contractual relationship with any single source as defined in this sec-

tion other than an agency within 2 years of participating personally and substantially through approval, recommendation, rendering of advice, development, investigation, or like activity in connection with any bid specifications or contracts awarded to that single source and involving an amount of $100,000 or more in the aggregate.

This subsection does not apply to performance of services for an entity that provided goods or services to the employee's former agency under a Department of General Services commodity contract. This subsection applies only to contracts entered into, extended, or renewed on or after July 1, 1991, and to proposals or bids filed on or after July 1, 1991.

(8) No state contracting employee who personally and substantially participates in decisions relating to contractual services shall, while employed by the state, serve as a consultant to, or as a member of, a contract selection panel for any entity other than the state, regardless of whether or not the employee is compensated for such service.

(9) Each contracting employee shall report all gifts, including the payment of expenses for meals, beverages, travel, or lodging, valued over $25, received from any single source other than an agency or a member of the employee's immediate family, within 60 days after receipt thereof. The report shall be filed with the Comptroller on the contracting employee's next regular travel voucher and shall include the name, business name, address, and occupation or nature of business of the benefactor together with the date it was received and an estimation of its fair market value.

(10) In addition to the other penalties provided in this section, any person who violates subsection (7) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(11)~~(7)~~ A violation of any provision of this section is punishable in accordance with s. 112.317.

Section 35. For the purpose of incorporating the amendment to section 112.3185, Florida Statutes, in a reference thereto, paragraph (c) of subsection (4) of section 287.012, Florida Statutes, is reenacted to read:

287.012 Definitions.—The following definitions shall apply in this part:

(4)

(c) The acquisition of services from other governmental agencies and the performance of services in-house, other than those performed by an employee in an authorized position, wherein the rate of pay for the performances of such services does not exceed the rate of pay for an equivalent authorized position, shall not be subject to the provisions of this part. Contracts for types of services included in paragraph (b) shall be subject to the requirements of ss. 112.3185, 287.058, 287.059, 287.094, and the laws relating to the authority of the Comptroller to audit expenditures for contractual services.

Section 36. Except as otherwise provided herein, this act shall take effect October 1, 1990.

House Amendment 2—Strike the title and insert: An act relating to procurement; revising part I of ch. 287, F.S., relating to commodities, insurance, and contractual services; amending s. 101.293, F.S.; revising requirements for competitive sealed bids and proposals; amending s. 112.3215, F.S.; revising requirements for contractors to register as lobbyists; amending s. 283.42, F.S.; requiring competitive sealed bids or proposals for certain class B printing; amending s. 287.001, F.S.; providing legislative intent; amending s. 287.012, F.S.; providing definitions; amending s. 287.017, F.S.; increasing the dollar amounts of specified purchasing categories; amending s. 287.022, F.S.; providing for the purchase of insurance by state agencies in specified circumstances; amending s. 287.042, F.S.; specifying powers, duties, and functions of the Division of Purchasing of the Department of General Services; providing for acceptance of a cashier's check or money order in lieu of certain bonds; providing circumstances for waiver of certain notice requirements; authorizing the division to delegate specified powers and duties to other agencies; providing for award of contracts on a statewide or regional basis; amending s. 287.045, F.S.; providing for procurement of products or materials with a recycled content below the minimum in certain circumstances; amending s. 287.055, F.S.; specifying the threshold for applicability of the section to planning and study activities of design-build projects; amending s. 287.057, F.S.; revising procedures for the procurement of commodities and contractual services; providing circumstances and procedures for the procurement of commodities and contractual services without competitive bids; revising provisions on renewal of contracts; amending s. 287.058, F.S.; specifying the threshold for applicability of the section; authorizing use of a purchase order for certain classes of contractual services; providing for certification of noncompliance with emergency procurement requirements; correcting a cross reference; amending s. 287.059, F.S.; excluding certain services from provisions relating to procurement of private legal services; amending s. 287.064, F.S.; specifying functions of the Division of Bond Finance of the Department of General Services; amending s. 287.073, F.S.; providing for continuation of certain contracts without Information Technology Resource Procurement Advisory Council review; correcting cross references; creating s. 287.087, F.S.; providing a preference for businesses that have drug-free workplace programs; amending s. 287.0943, F.S.; revising provisions relating to a list of minority business enterprises; amending s. 287.102, F.S.; requiring competitive sealed bids or proposals for certain class B printing; amending s. 287.115, F.S.; requiring the Comptroller to report on disallowed contractual service contracts; amending ss. 112.3185, 265.26, 321.02, 337.02, and 381.715, F.S.; correcting cross references; amending ss. 229.8052, 233.39, 283.33, 283.53, 287.082, and 322.142, F.S.; conforming terminology; reenacting ss. 11.147(4)(a)1., 101.292(2), 216.031(8), 240.225, 240.551(5)(i) and (8), 282.308(3), 282.311, 282.3115(4), 283.422, 287.0735, 287.0945(3)(a), 287.0947(2), 287.133(2) and (3)(a), 403.7065(1), 410.402(2) and (3), 550.012(4), 944.105(6), and 945.091(1)(c), F.S., relating to various aspects of the procurement process by various agencies, to incorporate the amendments to part I of ch. 287, F.S., in references thereto; repealing ss. 287.052, 287.062, and 287.072, F.S., relating to procurement of commodities contracts, competitive bidding, and delegation of authority to purchase; repealing s. 13 of ch. 86-204, L.O.F., relating to repeal of monetary thresholds for purchasing categories; amending s. 112.3185, F.S., relating to contractual relationships and services; providing effective dates.

Senators Kiser and Gardner offered the following amendment which was moved by Senator Kiser and adopted:

Senate Amendment 1 to House Amendment 1—On page 46, between lines 6 and 7, insert:

Section 2. Subsection (4) of section 287.17, Florida Statutes, is amended to read:

287.17 Limitation on use of motor vehicles and aircraft.—

(4) A person who is not otherwise authorized in this section may accompany the Governor, the Lieutenant Governor, a member of the Cabinet, the President of the Senate, the Speaker of the House of Representatives, or the Chief Justice of the Supreme Court when such official is traveling on state aircraft for official state business and the aircraft is traveling with seats available. Transportation of a person accompanying any official specified in this subsection shall be approved by the official, who shall also guarantee payment of the transportation charges. When the person accompanying such official is not traveling on official state business as provided in this section, the transportation charge shall be a prorated share of all fixed and variable expenses related to the ownership, operation, and use of such state aircraft. *The spouse of any official specified in this subsection may, without payment of transportation charges, accompany the official when such official is traveling for official state business and the aircraft has seats available.*

(Renumber subsequent sections.)

Senator Kiser moved the following amendments which were adopted:

Senate Amendment 2 to House Amendment 1—On page 61, line 8, through page 65, line 3, strike all of said lines and renumber subsequent section.

Senate Amendment 1 to House Amendment 2—In title, on page 3, line 3, after the semicolon (;) insert: amending s. 287.17, F.S.; providing for certain travel without charge for official state business;

Senate Amendment 2 to House Amendment 2—In title, on page 3, strike all of lines 15 and 16 and insert: categories; providing effective

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

CS for SB 1206 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Bankhead	Deratany	Jennings	Souto
Beard	Diaz-Balart	Johnson	Stuart
Brown	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Casas	Gardner	Langley	Walker
Childers, D.	Girardeau	Malchon	Weinstein
Childers, W. D.	Gordon	Meek	Weinstock
Crenshaw	Grant	Myers	Woodson-Howard
Davis	Grizzle	Peterson	

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1330 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1330—A bill to be entitled An act relating to mechanic's liens; creating s. 713.001, F.S.; designating part I of ch. 713, F.S., the "Construction Lien Law"; amending s. 713.01, F.S.; rearranging and revising definitions; deleting unnecessary cross-references; revising the definition of the term "furnish materials" to exclude certain preliminary work from inclusion in specially fabricated materials; providing a definition for the term "lender"; transferring a provision relating to the effectiveness of the giving of a notice of commencement to a section that relates to such notice; amending s. 713.03, F.S.; permitting architects, landscape architects, interior designers, engineers, and land surveyors to file liens for all services permitted under their respective licenses; amending s. 713.06, F.S.; revising the time period within which a person not in privity with the owner must serve a notice to owner in order to perfect a lien against the owner's property; revising cross-references, including a reference relating to the mailing of a copy of a notice to owner by a lienor to a person designated by the owner to receive notices in addition to himself; prescribing a revised form for a notice to owner; prescribing requirements for serving a copy of a notice to owner on the owner's lender; prescribing the manner that a lender who has received such notice must make payments to the contractor on behalf of the owner; providing that the lender's failure to comply with such requirement in making payments renders the lender liable to the owner for all damages sustained as a result of such failure; providing that a lienor, in the absence of a recorded notice of commencement, may rely on the information contained in the building permit application in serving a notice to owner; requiring a lienor to strictly comply with the time requirements for providing such notice; amending s. 713.09, F.S.; deleting an unnecessary cross-reference that requires revision to conform with changes made by the act; amending s. 713.13, F.S.; deleting an unnecessary cross-reference; requiring an owner entering into a construction contract of more than 1 year's duration to record a notice of commencement stating the period of effectiveness of the notice; providing that payments by the owner after expiration of the notice of commencement are improper; prescribing a form for a notice of commencement; providing that the failure to attach a copy of the bond to the notice of commencement when recording it negates the exemption that an owner having a payment bond would otherwise have but permits the unrecorded bond to be used as a transfer bond; requiring the owner to sign the notice of commencement; extending the time period allowed for commencement of construction after the recording of a notice of commencement; requiring a lender to file a notice of commencement for the owner-borrower before disbursing construction funds; providing that the lender is liable to the owner for all damages sustained as a result of the lender's failure to record the notice of commencement; requiring a lender who is required to record a notice of commencement to designate the lender, in addition to others, to receive copies of notices to owner; creating s. 713.132, F.S.; providing for termination by the owner of the period of effectiveness of a notice of commencement by recording a notice of termination, accompanied by the contractor's affidavit; prescribing the contents of a notice of termination; providing that an owner may rely on the contractor's affidavit, except with respect to lienors who have given notice, in executing, swearing to, and recording a notice of termination; providing for when a notice of termination may be recorded; providing that the owner or contractor, or both, are liable for fraud or collusion with respect to a fraudulent notice of termination to any lienor damaged thereby; providing for when a notice of termination is effective to terminate the notice of commencement; amending s. 713.135, F.S.; revising the warning statement that an issuing authority is required to print on building permits; deleting the requirement that such warning statement be placed on applications for permits; revising references to conform to changes made by this act; deleting unnecessary references; requiring an issuing authority to furnish building permit applicants with notice-of-commencement forms and printed summaries of the Construction Lien Law; requiring an issuing authority to verify at its first inspection that a certified copy of the recorded notice of commencement has been posted and prohibiting it from approving the inspection without such verification; providing that an issuing authority is not liable for failure to verify that a certified copy of the recorded notice of commencement has been posted; prescribing a building permit application form; amending s. 713.14, F.S.; providing that a subcontractor's, sub-subcontractor's, or materialman's failure to demand a designation of account is a defense only to the extent of the payment made; amending s. 713.16, F.S.; prescribing a form for a request to a lienor for a sworn statement of account; amending s. 713.18, F.S.; prescribing when service is effective if made by registered or certified mail that is returned by the postal service; amending s. 713.23, F.S.; changing the time when a notice of nonpayment must be served in order for a lienor to recover on a payment bond; providing that a lienor may not waive in advance his right to bring an action under a payment bond against the surety; creating s. 713.245, F.S.; creating a conditional payment bond; providing requirements for bond; providing that conditional payment bond does not exempt owner's property from liens; providing for notices; providing penalties; amending s. 713.29, F.S.; providing for the payment of attorney's fees if a lien dispute is submitted to arbitration; amending s. 713.31, F.S.; providing that a minor mistake or error or a good faith dispute as to the amount due does not constitute a willful exaggeration that defeats an otherwise valid lien; repealing s. 713.34, F.S., relating to misapplication of real property mortgage loan funds; amending s. 713.345, F.S.; proscribing misapplication of construction funds and providing penalties therefor; amending s. 713.346, F.S., relating to payment on construction contracts; revising a cross-reference to conform to changes made by the act; amending s. 48.23, F.S., relating to lis pendens, to revise terminology used in that section to accord with this act; amending s. 95.11, F.S., relating to limitations on actions, to revise cross-references to conform with changes made by this act; amending s. 255.05, F.S.; prohibiting a claimant on a public construction bond from waiving in advance his right to bring an action under the bond against the surety; amending s. 482.201, F.S., relating to liens of licensees on real property, to revise a reference to accord with this act; amending s. 489.119, F.S.; providing that an application by a corporation to engage in contracting through a qualifying agent must contain the names of certain stockholders under certain circumstances; providing restrictions on persons whose license is revoked; amending s. 489.129, F.S.; increasing the time within which a contractor must remove a lien placed on an owner's property in order to avoid disciplinary action against him by the Construction Industry Licensing Board; providing that intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under the Construction Lien Law or a notice to contractor under ch. 255, F.S., with respect to a public construction contract is a ground for disciplinary action against a contractor by such licensing board; amending s. 501.1375, F.S., relating to escrow deposits for the purchase of residential dwelling units, to revise a reference to accord with this act; amending s. 718.121, F.S., relating to liens against condominium property, to revise a reference to accord with this act; amending s. 721.16, F.S., relating to liens for overdue assessments under real estate time-share plans, to revise references to accord with this act; providing effective dates.

House Amendment 1—On page 17, between lines 28 and 29, insert:

(3) The owner may make proper payments on the direct contract as to lienors under this section, in the following manner:

(a) ~~The owner shall not pay any money on account of a direct contract prior to recording of the notice provided in s. 713.13, and any amount so paid shall be held improperly paid.~~ If the description of the property in the notice prescribed by s. 713.13 is incorrect and the error adversely affects any lienor, payments made on the direct contract shall be held improperly paid to that lienor; but this does not apply to clerical errors when the description listed covers the property where the improvements are.

(b) The owner~~, at any time after recording the notice provided in s. 713.13,~~ may pay to any laborers the whole or any part of the amounts that shall then be due and payable to them respectively for labor or services performed by them and covered by the direct contract, and shall deduct the same from the balance due the contractor under a direct contract.

House Amendment 2—On page 13, line 16, strike all of said line and insert:

Section 4. Subsections (1) and (2), and paragraphs (a) and (b) of subsection (3) of section 713.06,

House Amendment 3—On page 22, lines 25-27, strike all of said lines and insert: *section; however, the lender is not required to post a certified copy of the notice at the construction site. The posting of the notice at the construction site remains the owner's obligation. The*

House Amendment 4—On page 23, line 18, strike the period (.), and after the word "recorded" insert: ;

House Amendment 5—On page 27, line 22, through page 29, line 23, strike all of said lines and insert:

(6) In addition to any other information required by the authority issuing the permit, the building permit application must be in substantially the following form:

Tax Folio No.. . . . . .

BUILDING PERMIT APPLICATION

Owner's Name .....
Owner's Address .....
Fee Simple Titleholder's Name. . . (If other than owner) . . .
Fee Simple Titleholder's Address. . . (If other than owner's) . . .
City .....
State. . . . . Zip. . . . . .
Contractor's Name .....
Contractor's Address .....
City .....
State. . . . . Zip. . . . . .
Job Name .....
Job Address .....
City. . . . . County. . . . . .
Legal Description .....
Bonding Company .....
Bonding Company Address .....
City. . . . . State. . . . . .
Architect/Engineer's Name .....
Architect/Engineer's Address .....
Mortgage Lender's Name .....
Mortgage Lender's Address .....

Application is hereby made to obtain a permit to do the work and installations as indicated. I certify that no work or installation has commenced prior to the issuance of a permit and that all work will be performed to meet the standards of all laws regulating construction in this jurisdiction. I understand that a separate permit must be secured for ELECTRICAL WORK, PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS, TANKS, and AIR CONDITIONERS, ETC.

OWNER'S AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.

WARNING TO OWNER: YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT MAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE RECORDING YOUR NOTICE OF COMMENCEMENT.

Signature.	*Signature. . . . . .*
Owner or Agent (including contractor)	*Contractor*
Date.	*Date. . . . . .*
NOTARY as to Owner or Agent	*NOTARY as to Contractor. . . . . .*
My Commission Expires:. . . .	*My Commission Expires:. . . .*

(Certificate of Competency Holder)

Contractor's State Certification or Registration No.. . . . . .
Contractor's Certificate of Competency No. .....
APPLICATION APPROVED BY. . . . . Permit Officer

(7)~~(5)~~ This section applies to every municipality and

House Amendment 6—On page 47, lines 23-27, strike all of said lines and insert: corporation and of its officers and directors *and the name of each of its stockholders who is also an officer or director;*~~,~~ the name

House Amendment 7—On page 52, line 16, strike all of said line and insert:

Section 29. This section, section 13 and section 17 shall take

House Amendment 8—On page 43, line 24, strike "*lein*" and insert: *lien*

House Amendment 9—On page 1, line 1, through page 7, line 2, strike all of said lines and insert: A bill to be entitled An act relating to mechanic's liens; creating s. 713.001, F.S.; designating part I of ch. 713, F.S., the "Construction Lien Law"; amending s. 713.01, F.S.; rearranging and revising definitions; deleting unnecessary cross-references; revising the definition of the term "furnish materials" to exclude certain preliminary work from inclusion in specially fabricated materials; providing a definition for the term "lender"; transferring a provision relating to the effectiveness of the giving of a notice of commencement to a section that relates to such notice; amending s. 713.03, F.S.; permitting architects, landscape architects, interior designers, engineers, and land surveyors to file liens for all services permitted under their respective licenses; amending s. 713.06, F.S.; revising the time period within which a person not in privity with the owner must serve a notice to owner in order to perfect a lien against the owner's property; revising cross-references, including a reference relating to the mailing of a copy of a notice to owner by a lienor to a person designated by the owner to receive notices in addition to himself; prescribing a revised form for a notice to owner; prescribing requirements for serving a copy of a notice to owner on the owner's lender; prescribing the manner that a lender who has received such notice must make payments to the contractor on behalf of the owner; providing that the lender's failure to comply with such requirement in making payments renders the lender liable to the owner for all damages sustained as a result of such failure; providing that a lienor, in the absence of a recorded notice of commencement, may rely on the information contained in the building permit application in serving a notice to owner; requiring a lienor to strictly comply with the time requirements for providing such notice; deleting the requirement of a notice of commencement for making proper payments; amending s. 713.09, F.S.; deleting an unnecessary cross-reference that requires revision to conform with changes made by the act; amending s. 713.13, F.S.; deleting an unnecessary cross-reference; requiring an owner entering into a construction contract of more than 1 year's duration to record a notice of commencement stating the period of effectiveness of the notice; providing that payments by the owner after expiration of the notice of commencement are improper; prescribing a form for a notice of commencement; providing that the failure to attach a copy of the bond to the notice of commencement when recording it negates the exemption that an owner having a payment bond would otherwise have but permits the unrecorded bond to be used as a transfer bond; requiring the owner to sign the notice of commencement; extending the time period allowed for commencement of construction after the recording of a notice of commencement; requiring a lender to record a notice of commencement for the owner-borrower before disbursing construction funds; providing that the lender is liable to the owner for all damages sustained as a result of the lender's failure to record the notice of commencement; requiring a lender who is required to record a notice of commencement to designate the lender, in addition to others, to receive copies of notices to owner; creating s. 713.132, F.S.; providing for termination by the owner of the period of effectiveness of a notice of commencement by recording a notice of termination, accompanied by the contractor's affidavit; prescribing the contents of a notice of termination; providing that an owner may rely on the contractor's affidavit, except with respect to lienors who have given notice, in executing, swearing to, and recording a notice of termination; providing for when a notice of termination may be recorded; providing that the owner or contractor, or both, are liable for fraud or collusion with respect to a fraudulent notice of termination to any lienor damaged thereby; providing for when a notice of termination is effective to terminate the notice of commencement; amending s. 713.135, F.S.; revising the warning statement that an issuing authority is required to print on building permits; deleting the requirement that such warning statement be placed on applications for permits; revising references to conform to changes made by this act; deleting unnecessary references; requiring an issuing authority to furnish building permit applicants with notice of commencement forms and printed summaries of the Construc-

tion Lien Law; requiring an issuing authority to verify at its first inspection which occurs at least seven days after the building permit has been issued that a certified copy of the recorded notice of commencement has been posted and prohibiting it from approving the inspection without such verification; providing that an issuing authority is not liable for failure to verify that a certified copy of the recorded notice of commencement has been posted; prescribing a building permit application form; amending s. 713.14, F.S.; providing that a subcontractor's, sub-subcontractor's, or materialman's failure to demand a designation of account is a defense only to the extent of the payment made; amending s. 713.16, F.S.; prescribing a form for a request to a lienor for a sworn statement of account; amending s. 713.18, F.S.; prescribing when service is effective if made by registered or certified mail that is returned by the postal service; amending s. 713.23, F.S.; changing the time when a notice of nonpayment must be served in order for a lienor to recover on a payment bond; providing that a lienor may not waive in advance his right to bring an action under a payment bond against the surety; creating s. 713.245, F.S.; creating a conditional payment bond; providing requirements for bond; providing that conditional payment bond does not exempt owner's property from liens; providing for notices; providing penalties; amending s. 713.29, F.S.; providing for the payment of attorney's fees if a lien dispute is submitted to arbitration; amending s. 713.31, F.S.; providing that a minor mistake or error or a good faith dispute as to the amount due does not constitute a willful exaggeration that defeats an otherwise valid lien; repealing s. 713.34, F.S., relating to misapplication of real property mortgage loan funds; amending s. 713.345, F.S.; proscribing misapplication of construction funds and providing penalties therefor; amending s. 713.346, F.S., relating to payment on construction contracts; revising a cross-reference to conform to changes made by the act; amending s. 48.23, F.S., relating to lis pendens, to revise terminology used in that section to accord with this act; amending s. 95.11, F.S., relating to limitations on actions, to revise cross-references to conform with changes made by this act; amending s. 255.05, F.S.; prohibiting a claimant on a public construction bond from waiving in advance his right to bring an action under the bond against the surety; amending s. 482.201, F.S., relating to liens of licensees on real property, to revise a reference to accord with this act; amending s. 489.119, F.S.; providing restrictions on persons whose license is revoked; amending s. 489.129, F.S.; increasing the time within which a contractor must remove a lien placed on an owner's property in order to avoid disciplinary action against him by the Construction Industry Licensing Board; providing that intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under the Construction Lien Law or a notice to contractor under ch. 255, F.S., with respect to a public construction contract is a ground for disciplinary action against a contractor by such licensing board; amending s. 501.1375, F.S., relating to escrow deposits for the purchase of residential dwelling units, to revise a reference to accord with this act; amending s. 718.121, F.S., relating to liens against condominium property, to revise a reference to accord with this act; amending s. 721.16, F.S., relating to liens for overdue assessments under real estate time-share plans, to revise references to accord with this act; providing effective dates.

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

CS for SB 1330 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

Bankhead	Deratany	Jennings	Peterson
Beard	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kirkpatrick	Stuart
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Langley	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	McPherson	Weinstein
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Woodson-Howard

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB's 1640 and 1740, with amendment, and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB's 1640 and 1740—A bill to be entitled An act relating to governmental data processing software; creating s. 119.083, F.S.; authorizing certain governmental agencies to obtain copyrights for data processing software created by such agencies; authorizing such agencies to enforce rights pertaining to said copyrights; authorizing agencies to sell or license copyrighted data processing software, with certain restrictions; providing applicability; providing an effective date.

House Amendment 1—On page 1, lines 19-20, strike all of said lines and insert:

(1) As used in this section:

(a) "Agency" has the same meaning as in s. 119.011(2), except that the term does not include any private agency, person, partnership, corporation, or business entity.

(b) "Data processing software" has the same meaning as in s. 282.303(6).

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

CS for SB's 1640 and 1740 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

Bankhead	Davis	Grizzle	Myers
Beard	Diaz-Balart	Jennings	Souto
Brown	Dudley	Johnson	Thomas
Bruner	Forman	Kirkpatrick	Thurman
Casas	Gardner	Kiser	Walker
Childers, D.	Girardeau	Malchon	Weinstein
Childers, W. D.	Gordon	McPherson	Weinstock
Crenshaw	Grant	Meek	Woodson-Howard

Nays—None

Vote after roll call:

Yea—Deratany

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed SB 2094 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 2094—A bill to be entitled An act relating to Gilchrist County; authorizing the District School Board of Gilchrist County to issue bonds to raise moneys to pay for the construction of classrooms at Bell High School; authorizing the school board to issue refunding bonds and bond anticipation notes; requiring the school board to pay the principal of, premium for, and interest on such bonds out of racetrack moneys and jai alai fronton moneys that accrue annually to Gilchrist County and are allocated to the school board and from certain other moneys of the school board; requiring the school board to annually reserve $100,000 of such moneys to secure the payment of the principal of, premium for, and interest on such bonds; specifying costs of classroom construction for which the school board may issue such bonds; providing for the investment of the proceeds of the sale of bonds; making the bonds legal investments, lawful collateral for public deposits, and negotiable instruments; covenanting with bondholders that the Legislature will not impair their rights or the security of the racetrack moneys or jai alai fronton moneys; providing that a referendum is not required to exercise any powers under the act, unless required by the State Constitution; amending s. 1, ch. 63-942, Laws of Florida, as amended; revising the distribution of racetrack moneys and jai alai fronton moneys that accrue to Gilchrist County and are allocated to the district school board and the board of county commissioners; deleting a provision that has had its effect; providing an effective date.

House Amendment 1—On page 1, lines 23-26, strike "covenanting with bondholders that the Legislature will not impair their rights or the security of the racetrack moneys or jai alai fronton moneys;"

House Amendment 2—On page 2, line 16, strike "from time to time"

House Amendment 3—On page 3, line 20, after the word "interest", insert: as long as the terms and conditions comply with applicable state statutes

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

SB 2094 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

Bankhead	Deratany	Jennings	Souto
Beard	Diaz-Balart	Johnson	Stuart
Brown	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Thurman
Casas	Gardner	Langley	Walker
Childers, D.	Girardeau	Malchon	Weinstein
Childers, W. D.	Gordon	Meek	Weinstock
Crenshaw	Grant	Myers	Woodson-Howard
Davis	Grizzle	Peterson	

Nays—None

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1, concurred in same as amended, passed as amended, HB 2537, and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 2537—A bill to be entitled An act relating to weights, measures, and standards; amending ss. 177.091, 235.26, 255.252, 255.255, 506.23, 531.38, 531.39, 531.40, 531.41, and 578.28, F.S.; updating language relating to the renaming of the National Bureau of Standards; correcting a reference; providing an effective date.

House Amendment 1 to Senate Amendment 1—On page 1, line a, strike "a" and insert: a foot or meter adopted by the *National Institute* ~~United States Bureau~~ of Standards *and Technology.*

House Amendment 2 to Senate Amendment 1—On page 1, lines 1-2, strike all of said lines and insert: *the U.S. Survey foot or meter adopted by the National Institute* ~~United States Bureau~~ *of Standards and Technology. All measurements shall use the 39.37/12=3.28083333333 equation for conversion from a U.S. foot to a metric foot.*

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

HB 2537 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35

Bankhead	Diaz-Balart	Johnson	Souto
Brown	Dudley	Kirkpatrick	Stuart
Bruner	Forman	Kiser	Thomas
Casas	Gardner	Langley	Thurman
Childers, D.	Girardeau	Malchon	Walker
Childers, W. D.	Gordon	McPherson	Weinstein
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Woodson-Howard
Deratany	Jennings	Peterson	

Nays—None

SPECIAL ORDER, continued

Consideration of **CS for HB 3293** was deferred.

CS for SB 1744—A bill to be entitled An act relating to juvenile proceedings; amending s. 39.408, F.S.; requiring the predisposition study in dependency proceedings to include documentation regarding the availability of, and efforts by the department to provide, services through the Family Builders Program; amending s. 415.505, F.S., relating to child protective investigations; providing for intensive family-based services through the Family Builders Program; requiring the Department of Health and Rehabilitative Services to establish two Family Builders Program pilot projects to provide family preservation services; authorizing the department to adopt rules; providing goals; authorizing the department to subcontract its services; providing eligibility requirements for participation in the projects; prescribing services; providing for development of a family preservation plan; providing qualifications and training for caseworkers; providing for program evaluation; authorizing the use of certain funds; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Meek and adopted:

Amendment 1—On page 2, line 31, strike "eminent" and insert: imminent

Senator Meek moved the following amendments which were adopted:

Amendment 2—On page 3, line 6, strike everything after the enacting clause and insert:

Section 1. Subsection (3) of section 39.408, Florida Statutes, is amended to read:

39.408 Hearings for dependency cases.—

(3) DISPOSITION HEARING.—At the disposition hearing, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, the court shall receive and consider a predisposition study, which shall be in writing and be presented by an authorized agent of the department.

(a) The predisposition study shall cover for any dependent child all factors specified in s. 61.13(3). The predisposition study also shall provide the court with documentation regarding:

1. The availability of appropriate prevention and reunification services for the family to prevent the removal of the child from the home or to reunify the child with the family after removal, *including the availability of family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.*;

2. The inappropriateness of other prevention and reunification services that were available.;

3. The efforts by the department to prevent out-of-home placement of the child or, when applicable, to reunify the family if appropriate services were available, *including the application of intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both.*;

4. Whether the services were provided.;

5. If the services were provided, whether they were sufficient to meet the needs of the child and the family and to enable the child to remain at home or to be returned home.;

6. If the services were not provided, the reasons for such lack of action.; ~~and~~

7. The need for, or appropriateness of, continuing such services if the child remains in the custody of the family or if the child is placed outside the home.

(b) If placement of the child with anyone other than the child's parent or custodian is being considered, the study shall include the designation of a specific length of time as to when custody by the parent or custodian will be reconsidered.

(c) A copy of this predisposition study will be furnished to the person having custody of the child at the time such person is notified of the disposition hearing.

(d) This study shall not be made prior to the adjudication of dependency unless the parents or custodians of the child consent thereto.

Any other relevant and material evidence, including other written or oral reports, may be received by the court in its effort to determine the action to be taken with regard to the child and may be relied upon to the extent of its probative value, even though not competent in an adjudicatory hearing. Except as provided in paragraph (2)(c), nothing in this section shall prohibit the publication of proceedings in a hearing.

Section 2. Paragraph (e) of subsection (1) of section 415.505, Florida Statutes, is amended to read:

415.505 Child protective investigations; institutional child abuse or neglect investigations.—

(1)

(e) If the department determines that a child requires immediate or long-term protection through:

1. Medical or other health care;

2. Homemaker care, day care, protective supervision, or other services to stabilize the home environment, *including intensive family preservation services through the Family Builders Program, the Intensive Crisis Counseling Program, or both*; or

3. Foster care, shelter care, or other substitute care to remove the child from his parents' custody,

such services shall first be offered for the voluntary acceptance of the parents or other person responsible for the child's welfare, who shall be informed of the right to refuse services as well as the responsibility of the department to protect the child regardless of the acceptance or refusal of services. If the services are refused or the department deems that the child's need for protection so requires, the department shall take the child into protective custody or petition the court as provided in chapter 39.

Section 3. Establishment of Family Builders Program pilot projects.—

(1) Any Family Builders Program pilot project that is established by the Department of Health and Rehabilitative Services must provide family preservation services to families whose children are at risk of imminent out-of-home placement because they are dependent or delinquent, or are children in need of services, and to reunite families whose children have been removed and placed in foster care for a period of 30 days or less. The Family Builders Program shall provide programs to achieve long-term changes within families that will allow children to remain with their families as an alternative to the more expensive and potentially psychologically damaging program of out-of-home placement.

(2) The department may adopt rules to implement the Family Builders Program pilot projects.

Section 4. Goals.—The goals of any Family Builders Program pilot projects that may be established must be to:

(1) Help parents to improve their relationships with their children and to provide better care, nutrition, hygiene, discipline, protection, instruction, and supervision.

(2) Help parents to provide a better household environment for their children by improving household maintenance, budgeting, and purchasing.

(3) Provide part-time child care when parents are unable to do so or need temporary relief.

(4) Perform household maintenance, budgeting, and purchasing when parents are unable to do so on their own or need temporary relief.

(5) Assist parents and children to manage and resolve conflicts.

(6) Assist parents to meet the special physical, mental, or emotional needs of their children and help parents to deal with their own special physical, mental, or emotional needs that interfere with their ability to care for their children and to manage their households.

(7) Help families to discover and gain access to community resources to which the family or children might be entitled and which would assist the family in meeting its needs and the needs of the children, including the needs for food, clothing, housing, utilities, transportation, appropriate educational opportunities, employment, respite care, and recreational and social activities.

(8) Help families by providing cash or in-kind assistance to meet their needs for food, clothing, housing, or transportation when such needs prevent or threaten to prevent parents from caring for their children, and when such needs are not met by other sources in the community in a timely fashion.

(9) Provide such additional reasonable services for the prevention of maltreatment and unnecessary foster care as may be needed in order to strengthen a family at risk.

Section 5. Contracting of services.—The department may contract for the delivery of Family Builders Program services by professionally qualified persons or local governments when it determines that it is in the family's best interest. The service provider or program operator must submit to the department monthly activity reports covering any services rendered. These activity reports must include project evaluation in relation to individual families being served as well as statistical data concerning families referred for services who are not served due to the unavailability of resources. The costs of program evaluation are an allowable cost consideration in any service contract negotiated in accordance with this subsection.

Section 6. Eligibility for Family Builders Program services.—In any designated pilot project, Family Builders Program services must be made available to a family at risk, as determined by the department or by the court. All members of the families who accept such services are responsible for cooperating fully with the family preservation plan developed for each family under this section. Families in which children are at imminent risk of sexual abuse or physical endangerment perpetrated by a member of their immediate household are not eligible to receive family preservation services.

Section 7. Delivery of Family Builders Program services.—Family Builders Program services delivered to eligible families under any pilot project must be provided in accordance with the following requirements:

(1) Each Family Builders Program caseworker, whether employed by the department or a contractor providing family preservation services, may provide intensive services to a maximum of three families and at the same time offer follow-up services to a maximum of three additional families.

(2) Each family will receive intensive family preservation services, beginning with the crisis of imminent risk of placement of one or more children, for up to 8 weeks, with a maximum of 3 months of services for all eligible families. Upon termination of family preservation services, the caseworker shall close the case for further action or refer the family for other appropriate services.

(3) Family Builders Program services will normally be provided in the family's own home and community consistent with the needs of family members. Caseworkers shall be available by telephone and on call for visits to families at all times including evenings and weekends during the period of service to each family.

(4) Within the first week of initiating family preservation services, and after thorough consultation with the family receiving such services, the family preservation caseworker shall develop a family preservation plan which shall clearly state the specific goals and priorities, and approaches to be used to reach these goals, for the time-limited duration of these services.

Section 8. Qualifications of Family Builders Program workers.—

(1) A public or private agency staff member who provides direct service to an eligible family under a pilot project must possess a bachelor's degree in a human service related field and 5 years' experience providing direct services to children, youth, or their families or possess a master's degree in a human service related field with 1 year of experience. A person who supervises caseworkers who provide direct services to eligible families must possess a master's degree in a human-service-related field and have at least 1 year of supervisory experience or must possess a bachelor's degree in a human service related field and have at least 5 years of supervisory experience.

(2) Caseworkers must successfully complete at least 40 hours of intensive training prior to providing direct service under this program. Program supervisors and caseworkers must thereafter complete at least 40 hours of additional training each year in accordance with standards established by the department.

Section 9. Program evaluation.—One year after the establishment of any Family Builders Program pilot project, the department shall provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall provide an evaluation of the effectiveness of any Family Builders Program pilot project estab-

lished pursuant to this act. The report shall include, but is not limited to, the following information:

(1) The number of families receiving services through the pilot projects.

(2) The number of children at risk of placement and the number of children in foster placement for 30 days or less prior to initiation of services to families who are participating in the Family Builders Program.

(3) Among those children in subsection (2), the number of children placed in emergency shelters, foster care, group homes, or other facilities outside their homes and families.

(4) The average cost of the services provided to families receiving services.

(5) The estimated cost of out-of-home placement, through emergency shelters, foster care, group homes, or other facilities, which would otherwise have been expended on behalf of these children at risk of placement who successfully remain united with their families as a result of services provided through any Family Builders Program pilot project, based on average lengths of stay and average cost of such out-of-home placements.

(6) The feasibility of using funds currently earmarked for the out-of-home placement of children for the creation of a family preservation program and an estimate of additional funds needed to implement such a program statewide.

(7) A thorough evaluation of the contractors utilized by the department to provide family preservation services.

(8) An overall statement of the progress of the Family Builders Program pilot projects during the preceding year, along with recommendations for improvements.

Section 10. Funding.—The department is authorized to use appropriate state, federal, and private funds within its budget for operating the Family Builders Program pilot projects. Appropriated state funding made available through capture of additional federal funds must be utilized to provide family preservation services as described in this act. For each child served, the cost of providing home-based services described in this act must not exceed the costs of out-of-home care which otherwise would be incurred.

Section 11. This act shall take effect upon becoming a law.

Amendment 3—In title, on page 1, line 1, through page 3, line 2, strike all of said lines and insert: A bill to be entitled An act relating to juvenile proceedings; amending s. 39.408, F.S.; requiring the predisposition study in dependency proceedings to include documentation regarding the availability of, and efforts by the department to provide, services through the Family Builders Program; amending s. 415.505, F.S., relating to child protective investigations; providing for intensive family-based services through the Family Builders Program; authorizing the Department of Health and Rehabilitative Services to establish Family Builders Program pilot projects to provide family preservation services; authorizing the department to adopt rules; providing goals; authorizing the department to contract its services; providing eligibility requirements for participation in the projects; prescribing services; providing for development of a family preservation plan; providing qualifications and training for caseworkers; providing for program evaluation; authorizing the use of certain funds; providing an effective date.

On motion by Senator Meek, by two-thirds vote CS for SB 1744 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Bankhead	Deratany	Johnson	Plummer
Beard	Diaz-Balart	Kirkpatrick	Souto
Brown	Dudley	Kiser	Stuart
Bruner	Forman	Langley	Thomas
Casas	Gardner	Malchon	Thurman
Childers, D.	Girardeau	McPherson	Walker
Childers, W. D.	Grant	Meek	Weinstein
Crenshaw	Grizzle	Myers	Weinstock
Davis	Jennings	Peterson	Woodson-Howard

Nays—None

CS for SB 2262—A bill to be entitled An act relating to nursing home care; amending s. 407.31, F.S.; requiring nursing homes assessing separate laundry charges to residents to include data on such charges in their financial reports to the Health Care Cost Containment Board or otherwise provide such data to the board; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote CS for SB 2262 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Bankhead	Diaz-Balart	Kirkpatrick	Stuart
Beard	Dudley	Langley	Thomas
Brown	Forman	Malchon	Thurman
Bruner	Gardner	McPherson	Walker
Casas	Girardeau	Meek	Weinstein
Childers, D.	Grant	Myers	Weinstock
Childers, W. D.	Grizzle	Peterson	Woodson-Howard
Crenshaw	Jennings	Plummer	
Deratany	Johnson	Souto	

Nays—None

CS for SB 178—A bill to be entitled An act relating to state funds; amending s. 215.34, F.S.; increasing the minimum service fee for any check, draft, or order of payment which is returned by the State Treasurer or by a qualified public depository to a state officer or agency for collection; increasing the maximum service fee allowed; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1—On page 2, between lines 4 and 5, insert:

Section 1. (1) No person shall require, as a condition of acceptance of a check or share draft or as a means of identification, that the person presenting the check or draft provide a credit card number or credit card expiration date.

(2) Recording a credit card number or expiration date in connection with the sale of goods or services in which the purchaser pays by check or share draft, or in connection with the acceptance of a check or share draft, is a noncriminal violation as defined pursuant to s. 775.08, Florida Statutes, punishable by a fine of $250 for the first violation and $1,000 for the second or subsequent violation in accordance with the provisions of s. 775.083, Florida Statutes.

(3) This section shall not prohibit a person from requesting a purchaser to display a credit card as indicia of credit worthiness and financial responsibility or as additional identification, but the only information concerning a credit card which may be recorded is the type of credit card so displayed and the issuer of the credit card. This section does not require acceptance of a check or share draft whether or not a credit card is presented.

(4) This section does not prohibit a person from requesting or receiving a credit card number or expiration date and recording the number or date, or both, in lieu of a deposit to secure payment in the event of default, loss, damage, or other occurrence.

(5) This section does not prohibit a credit card issuer or a subsidiary of the issuer of a credit card from requesting or receiving a credit card number or expiration date and recording the number or date, or both, for the purpose of establishing identity pursuant to s. 832.07(2), Florida Statutes.

(6) This section does not prohibit a person from recording a credit card number or expiration date as a condition for cashing a check where that person has agreed with the card issuer to cash checks as a service to the card issuer's cardholders and the card issuer has agreed to guarantee cardholder checks cashed by that person.

(Renumber subsequent section.)

Senator Forman offered the following amendments which were moved by Senator Brown and adopted:

Amendment 2—In title, on page 1, strike line 2 and insert: An act relating to checks and other negotiable instruments; amending s.

Amendment 3—In title, on page 1, line 8, after the semicolon (;) insert: providing that the provision of a credit card number or expiration date may not be required as a condition of acceptance of a check; providing that recording of certain information is prohibited; providing a penalty; providing exceptions;

On motion by Senator Brown, by two-thirds vote CS for SB 178 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—22

Bankhead	Crenshaw	Jennings	Myers
Beard	Davis	Johnson	Walker
Brown	Deratany	Kirkpatrick	Weinstein
Bruner	Forman	Kiser	Weinstock
Casas	Gardner	Malchon	
Childers, D.	Grant	McPherson	

Nays—9

Childers, W. D.	Girardeau	Peterson
Diaz-Balart	Grizzle	Souto
Dudley	Langley	Woodson-Howard

Vote after roll call:

Yea to Nay—Weinstock

HB 2397—A bill to be entitled An act relating to juvenile delinquency and gang prevention; creating ch. 874, F.S., the "Street Terrorism Enforcement and Prevention Act of 1990"; creating s. 874.01, F.S.; providing a short title; creating s. 874.02, F.S.; providing legislative findings and intent; creating s. 874.03, F.S.; providing definitions; creating s. 874.04, F.S.; providing reclassified penalties for youth and street gang activity; creating s. 874.06, F.S.; providing a civil cause of action, including treble damages and attorney's fees; creating s. 874.08, F.S.; providing for seizure and forfeiture of profits, proceeds, and instrumentalities of youth and street gangs; creating s. 874.09, F.S.; requiring crime data information reporting; amending s. 893.138, F.S.; providing nuisance remedies with respect to buildings or places used for youth and street gang activity; amending s. 959.31, F.S.; changing the name and scope of "Delinquency Prevention Councils" to "Juvenile Delinquency and Gang Prevention Councils"; providing legislative intent; revising council membership and grant application procedures; amending s. 943.0572, F.S.; changing "youth gang data base" to "youth and street gang data base," to conform; providing additional direction and duties; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote HB 2397 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Bankhead	Deratany	Johnson	Stuart
Beard	Diaz-Balart	Kiser	Thomas
Brown	Dudley	Langley	Thurman
Bruner	Forman	Malchon	Walker
Casas	Gardner	McPherson	Weinstein
Childers, D.	Girardeau	Meek	Weinstock
Childers, W. D.	Grant	Myers	Woodson-Howard
Crenshaw	Grizzle	Peterson	
Davis	Jennings	Souto	

Nays—None

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Bob Crawford, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 482 with amendments and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 482—A bill to be entitled An act relating to real estate; amending s. 475.01, F.S.; defining the term "broker"; designating professional services; amending s. 475.04, F.S.; including certified appraisers within a group which the Florida Real Estate Commission is required to educate; amending s. 475.045, F.S.; revising language with respect to removal from the Foundation Advisory Committee; amending s. 475.17, F.S.; revising language with respect to qualifications for practice as a real estate broker; amending s. 475.175, F.S.; requiring persons who wish to take the real estate examination to submit certain information; amending s. 475.25, F.S.; revising language regarding commission disputes; authorizing mediation for escrow disputes; amending s. 475.42, F.S.; revising language with respect to violations and penalties; authorizing liens where permitted by contractual agreement; amending s. 475.451, F.S.; including reference to certification as a real estate appraiser in the provision of law governing schools teaching real estate practice, amending s. 475.483, F.S.; providing for licensees to make claims against the Recovery Fund; amending s. 475.501, F.S.; revising language with respect to state-certified appraisers; creating s. 475.5015, F.S.; providing requirements with respect to brokerage business records; providing penalties; creating s. 475.5017, F.S.; providing injunctive relief; providing an effective date.

House Amendment 1—On page 6, line 29, after "section." insert: *Payment for mediation shall be as agreed to in writing by the parties.*

House Amendment 2—On page 2, line 6, insert:

Section 1. Effective October 1, 1990, a new part I of chapter 468, Florida Statutes, consisting of sections 468.1105, 468.1115, 468.1125, 468.1135, 468.1145, 468.1155, 468.1165, 468.1175, 468.1185, 468.1195, 468.1205, 468.1215, 468.1225, 468.1245, 468.1255, 468.1265, 468.1275, 468.1285, 468.1295, 468.1305, and 468.1315, Florida Statutes, is created to read:

468.1105 Legislative intent.—The sole legislative purpose for enacting this part is to ensure that every speech-language pathologist and audiologist practicing in this state meets minimum requirements for safe practice in Florida. It is the legislative intent that speech-language pathologists and audiologists who fall below minimum competencies or who otherwise present a danger to the public health and safety be prohibited from practicing in this state.

468.1115 Exemptions.—

(1) No provision of this part shall be construed to limit the practice of persons licensed in this state from engaging in the professions for which they are licensed, so long as they do not hold themselves out to the public as possessing a license or certificate issued pursuant to this part or use a title protected by this part.

(2) The provisions of this part shall not apply to:

(a) Students actively engaged in a training program, if such persons are acting under the direct supervision of a licensed speech-language pathologist or a licensed audiologist.

(b) Persons practicing a licensed profession or operating within the scope of their profession, such as doctors of medicine, clinical psychologists, nurses, or hearing aid specialists, who are properly licensed under the laws of this state.

(c) A person licensed in this state under chapter 231 when engaging in the profession for which he is licensed, or any person under the direct supervision of the licensee when rendering services within the scope of the profession of the licensee.

(d) Laryngectomized individuals, rendering guidance and instruction to other laryngectomized individuals, who are under the supervision of a speech-language pathologist licensed by this part or of a physician licensed under chapter 458 or chapter 459 and qualified to perform this surgical procedure.

468.1125 Definitions.—As used in this part, the term:

(1) "Audiologist" means a person licensed under this part to practice audiology.

(2) "Board" means the Board of Speech-Language Pathology and Audiology.

(3) "Certified audiology assistant" means a person who is certified under this part to perform audiology services under the direct supervision of an audiologist.

(4) "Certified speech-language pathology assistant" means a person who is certified under this part to perform speech pathology services under the direct supervision of a speech pathologist.

(5) "Department" means the Department of Professional Regulation.

(6)(a) "Practice of audiology" means the application of principles, methods, and procedures for the prevention, identification, evaluation, consultation, habilitation, rehabilitation, instruction, treatment, and research, relative to hearing and the disorders of hearing, and to related language and speech disorders. "Disorders" are defined to include any and all conditions, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication, including, but not limited to, disorders of auditory sensitivity, acuity, function, or processing, or damage to the integrity of the physiological system.

(b) Any audiologist who has complied with the provisions of this part may:

1. Offer, render, plan, direct, conduct, consult, or supervise services to individuals or groups of individuals who have or are suspected of having disorders of hearing, including prevention, identification, evaluation, treatment, consultation, habilitation, rehabilitation, instruction, and research.

2. Participate in hearing conservation, evaluation of noise environment, and noise control.

3. Conduct and interpret tests of vestibular function and nystagmus, electrophysiologic auditory evoked potentials, central auditory function, and calibration of measurement equipment used for such purposes.

4. Habilitate and rehabilitate, including, but not limited to, hearing aid evaluation, prescription, preparation, fitting and dispensing, assistive listening device selection and orientation, auditory training, aural habilitation, aural rehabilitation, speech conservation, and speech reading.

5. Fabricate ear molds.

6. Evaluate tinnitus.

7. Include speech and language screening, limited to a pass/fail determination for identifying individuals with disorders of communication.

(7)(a) "Practice of speech-language pathology" means the application of principles, methods, and procedures for the prevention, identification, evaluation, treatment, consultation, habilitation, rehabilitation, instruction, and research, relative to the development and disorders of human communication; to related oral and pharyngeal competencies; and to behavior related to disorders of human communication. "Disorders" are defined to include any and all conditions, whether of organic or nonorganic origin, that impede the normal process of human communication, including, but not limited to, disorders and related disorders of speech, phonology, articulation, fluency, voice, accent, verbal and written language and related nonoral/nonverbal forms of language, cognitive communication, auditory and visual processing, memory and comprehension, interactive communication, mastication, deglutition, and other oral, pharyngeal, and laryngeal sensorimotor competencies.

(b) Any speech-language pathologist who has complied with the provisions of this part may:

1. Offer, render, plan, direct, conduct, and supervise services to individuals or groups of individuals who have or are suspected of having disorders of human communication, including identification, evaluation, treatment, consultation, habilitation, rehabilitation, amelioration, instruction, and research.

2. Determine the need for personal alternatives or augmentative systems, and recommend and train for the utilization of such systems.

3. Perform a hearing screening, limited to a pass/fail determination, for the purpose of initial identification of communication disorders.

(8) "Speech-language pathologist" means a person licensed under this part to practice speech pathology.

(9) "Direct supervision" means responsible supervision and control by a licensed speech-language pathologist who shall assume legal liability for the services rendered by any certified speech-language pathology assistant under the licensee's supervision, or responsible supervision and control by a licensed audiologist who shall assume legal liability for the services rendered by any certified audiology assistant under the licensee's supervision. Direct supervision shall require the physical presence of the licensed speech-language pathologist for consultation and direction of the actions of the certified speech-language pathology assistant, or the physical presence of the licensed audiologist for consultation and direction of the actions of the certified audiology assistant. The board shall establish rules further defining direct supervision of a certified speech-language pathology assistant or a certified audiology assistant.

468.1135 Board of Speech-Language Pathology and Audiology.—

(1) There is created within the Department of Professional Regulation a Board of Speech-Language Pathology and Audiology, composed of seven members appointed by the Governor and confirmed by the Senate.

(2)(a) Four members of the board shall be persons licensed under this part, as follows:

1. Two members shall be practicing speech-language pathologists.

2. Two members shall be practicing audiologists.

3. One member shall be a physician licensed pursuant to chapter 458 who is a neurologist, a otolaryngologist, or a pediatrician.

(b) Two members shall be citizens of the state who are communicatively impaired and who are not, and have never been, licensed as a speech-language pathologist or an audiologist and who are in no way connected with the practice of such profession.

(c) At least one member of the board shall be 60 years of age or older.

(3) No later than January 1, 1991, the Governor shall appoint two members for a term of 2 years; two members for a term of 3 years; and three members for a term of 4 years. Each of the initial speech-language pathologist and audiologist members must hold a valid certificate of registration issued pursuant to part I of chapter 468, Florida Statutes, 1989, and must have been engaged in the practice of speech-language pathology or audiology for not less than 3 years prior to his appointment. As the terms of the initial members expire, the Governor shall appoint successors who meet the requirements of subsection (2) for terms of 4 years. Members shall serve until their successors are appointed.

(4) The board is authorized to adopt such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by this part.

(5) All provisions of chapter 455 relating to activities of regulatory boards shall apply to the board.

(6) The board shall maintain its official headquarters in the City of Tallahassee.

468.1145 Fees; establishment; disposition.—

(1) The board, by rule, shall establish fees to be paid for application, examination, reexamination, licensing and renewal, reinstatement, and recordmaking and recordkeeping. The board may also establish, by rule, a late renewal penalty. The board shall establish fees which are adequate to ensure continued operation of the board and to fund the proportionate expenses incurred by the department in carrying out its licensure and other related responsibilities under this part. Fees shall be based on department estimates of the revenue required to implement this part and the provisions of law with respect to the regulation of speechlanguage pathologists and audiologists.

(2) The application fee shall not exceed $200 and shall be nonrefundable.

(3) The examination fee shall be in an amount which covers the costs of obtaining and administering the examination and shall be refunded if the applicant is found ineligible to sit for the examination. The combined fees for initial application and examination shall not exceed $200 plus the actual per applicant cost to the department for developing or procuring the licensure examination.

(4) The initial license fee shall not exceed $500.

(5) The provisional license fee shall not exceed $200.

(6) The fee for licensure by endorsement shall not exceed $200.

(7) The fee for certification as a speech-language pathology assistant or an audiology assistant shall not exceed $50.

(8) The biennial renewal fee shall not exceed $500.

(9) The fee for application for an inactive status license or for reactivation of an inactive status license shall not exceed $100.

(10) All moneys derived from fees and fines imposed pursuant to this part shall be deposited as required by s. 215.37.

468.1155 Provisional license; requirements.—

(1) A provisional license shall be required prior to initiating the professional employment experience required pursuant to s. 468.1165. Any person desiring a provisional license to practice speech-language pathology or audiology shall apply to the department.

(2) The department shall issue a provisional license to practice speech-language pathology to each applicant whom the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee.

(b) Received a master's degree with a major emphasis in speech-language pathology from an institution of higher learning which, at the time the applicant was enrolled and graduated, was accredited by an accrediting agency recognized by the Council on Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from a program at a university or college outside the United States or Canada shall present documentation of the determination of equivalency to programs accredited by the Council on Postsecondary Accreditation in order to qualify. The applicant shall have completed a total of 60 semester hours which include fundamental information applicable to the normal development and use of speech, hearing, and language, and information about training in management of speech, hearing, and language disorders, and which provide information supplementary to these fields. Thirty of these semester hours shall be in courses acceptable toward a graduate degree by the college or university in which these courses were taken. Of these 30 hours, 6 semester hours shall be in audiology and 24 semester hours shall be in speech-language pathology.

(c) Completed 300 clock hours of supervised clinical practice with 200 clock hours in the area of speech-language pathology. The supervised clinical practice shall be completed within the training institution or one of its cooperating programs.

(3) The department shall issue a provisional license to practice audiology to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee.

(b) Received a master's degree with a major emphasis in audiology from an institution of higher learning which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized by the Council on Postsecondary Accreditation or from an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada. An applicant who graduated from a program at a university or college outside the United States or Canada shall present documentation of the determination of equivalency to programs accredited by the Council on Postsecondary Accreditation in order to qualify. The applicant shall have completed a total of 60 semester hours which include fundamental information applicable to the normal development and use of speech, hearing, and language, and information about training in management of speech, hearing, and language disorders, and which provide information supplementary to these fields. Thirty of these semester hours shall be in courses acceptable toward a graduate degree by the college or university in which these courses are taken and shall include 6 semester hours in speech-language pathology and 24 semester hours in audiology.

(c) Completed 300 clock hours of supervised clinical practice with 200 clock hours in the area of audiology. The supervised clinical practice shall be completed within the training institution or one of its cooperating programs.

(4) The board, by rule, shall establish requirements for the renewal of a provisional license. However, no person shall obtain a provisional license for a period which exceeds 24 months.

468.1165 Professional employment experience requirement.—Every applicant for licensure as a speech pathologist or audiologist shall demonstrate, prior to licensure, 9 months of full-time professional employment, or the equivalent in part-time professional employment, pertinent to the license being sought. The board, by rule, shall establish standards for obtaining and verifying the required professional employment experience.

468.1175 Examination.—A person desiring to be licensed as a speech-language pathologist or an audiologist shall apply to the department to take the licensure examination. The department shall administer the licensure examination to each applicant who the board certifies has submitted an examination fee and holds a valid provisional license issued pursuant to s. 468.1155.

468.1185 Licensure.—

(1) The department shall license any applicant who the board certifies is qualified to practice speech-language pathology or audiology and who has paid the initial licensure fee.

(2) The board shall certify for licensure any applicant who has:

(a) Satisfied the education and supervised clinical practice requirements of s. 468.1155.

(b) Satisfied the professional experience requirement of s. 468.1165.

(c) Passed the licensure examination required by s. 468.1175.

(3) The board shall certify as qualified for a license by endorsement as a speech-language pathologist or audiologist an applicant who:

(a) Holds a valid license or certificate in another state to practice the profession for which the application for licensure is made, if the criteria for issuance of such license were substantially equivalent to or more stringent than the licensure criteria which existed in this state at the time the license was issued; or

(b) Has received the certificate of clinical competence of the American Speech-Language and Hearing Association.

(4) The board may refuse to certify any applicant who is under investigation in any jurisdiction for an act which would constitute a violation of this part or chapter 455 until the investigation is complete and disciplinary proceedings have been terminated.

(5) The board may refuse to certify any applicant who has violated any of the provisions of s. 468.1245.

468.1195 Renewal of license or certificate; continuing education requirements.—

(1) The department shall renew a license or certificate upon receipt of the renewal application, renewal fee, and proof satisfactory to the board that, during the 2 years prior to the application for renewal, the licensee or certificateholder participated in not less than 20 hours of continuing education in each area of licensure or certification.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses and certificates.

(3) The board shall by rule prescribe continuing education as a condition for renewal of a license or a certificate. The board may make exception from the requirements of continuing education in emergency or hardship cases.

(4) Any license or certificate that is not renewed at the end of the biennium prescribed by the department shall automatically revert to an inactive status. Such license or certificate may be reactivated only if the licensee or certificateholder meets the other qualifications for reactivation in s. 468.1205.

(5) Sixty days prior to the automatic reversion of a license or certificate to inactive status, the department shall mail a notice of such reversion to the last known address of the licensee.

468.1205 Inactive status.—

(1) A license or certificate which has become inactive may be reactivated pursuant to this section upon application to the department and payment of an inactive status application fee, any applicable biennial renewal fee, and a reactivation fee.

(a) The board shall prescribe by rule continuing education requirements as a condition of reactivating a license or certificate. The continuing education requirements for reactivating a license or certificate shall not exceed 25 contact hours for each year the license was inactive in addition to the continuing education which was required for renewal on the date the license became inactive. Any such license or certificate which has been inactive for more than 4 years shall automatically expire if the licensee or certificateholder has not made application for reactivation. Once a license or certificate expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the inactive license or certificate, the department shall give notice to the licensee or certificateholder at the licensee's or certificateholder's last address of record.

(2) The board shall adopt rules relating to application procedures for inactive status, the renewal of an inactive license or certificate, and the reactivation of an inactive license or certificate.

468.1215 Speech-language pathology assistant and audiology assistant; certification.—

(1) A person desiring to be certified as a speech-language pathology assistant or audiology assistant shall apply to the department.

(2) The department shall issue a certificate as a speech-language pathology assistant or as an audiology assistant to each applicant whom the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee.

(b) Completed at least 24 semester hours of coursework as approved by the board at an institution accredited by an accrediting agency recognized by the Council on Postsecondary Accreditation.

(3) The board, by rule, shall establish minimum education requirements for certification as a speech-language pathology assistant or audiology assistant.

(4) The provisions of this section shall not apply to any student, intern, or trainee performing speech-language pathology or audiology services while completing the supervised clinical experience as required in s. 468.1155.

468.1225 Minimal procedures and equipment.—

(1) The following minimal procedures shall be used when a licensed audiologist fits and sells a hearing aid:

(a) Pure tone audiometric testing by air and bone to determine the type and degree of hearing deficiency.

(b) Effective masking when indicated.

(c) Appropriate testing to determine speech reception thresholds, speech discrimination scores, the most comfortable listening levels, uncomfortable loudness levels, and the selection of the best fitting arrangement for maximum hearing aid benefit.

(2) The following equipment shall be used:

(a) A wide range audiometer which meets the specifications of the American National Standards Institute for diagnostic audiometers.

(b) A speech audiometer or a master hearing aid in order to determine the most comfortable listening level and speech discrimination.

(3) A final fitting ensuring physical and operational comfort of the hearing aid shall be made.

(4) The following medical clearance shall be obtained: If, upon inspection of the ear canal with an otoscope in the common procedure of fitting a hearing aid and upon interrogation of the client, there is any recent history of infection or any observable anomaly, the client shall be instructed to see a physician, and a hearing aid shall not be fitted until medical clearance is obtained for the condition noted. If, upon return, the condition noted is no longer observable and the client signs a medical waiver, a hearing aid may be fitted. Any person with a significant difference between bone conduction hearing and air conduction hearing must be informed of the possibility of medical correction.

(5) A licensed audiologist's office must have available, or have access to, a selection of hearing aid models, hearing aid supplies, and services complete enough to accommodate the various needs of the hearing aid wearers.

(6) Each audiometric test conducted by a licensee or a certified audiology assistant in the fitting and selling of hearing aids shall be made in a testing room that has been certified by the department, or by an agent approved by the department, not to exceed the following sound pressure levels at the specified frequencies: 250Hz-40dB, 500Hz-40dB, 750Hz-40dB, 1000Hz-40dB, 1500Hz-42dB, 2000Hz-47dB, 3000Hz-52dB, 4000Hz-57dB, 6000Hz-62dB, and 8000Hz-67dB. An exception to this requirement shall be made in the case of a client who requests that the test be conducted in a place other than the licensee's certified testing room. When a test is conducted under this exception, the licensee shall obtain a waiver from the client on a form provided by the department. The executed waiver shall be attached to the client's copy of the contract, and a copy of the executed waiver shall be retained in the licensee's file. The board shall have the power to prescribe the minimum procedures and equipment which shall be used when a licensed audiologist fits and sells a hearing aid, including equipment that will measure the hearing aid's response curves to assure that they meet the manufacturer's specifications. These procedures and equipment may differ from those provided in this section in order to take full advantage of devices and equipment which may hereafter become available and which are demonstrated to be of greater efficiency and accuracy. The board shall adopt and enforce rules necessary to carry out the provisions of this subsection.

(7) Any duly authorized officer or employee of the department shall have the right to make such inspections and investigations as are necessary in order to determine the state of compliance with the provisions of this section and the applicable rules and may enter the premises of a licensee and inspect the records of same upon reasonable belief that a violation of this law is being or has been committed or that the licensee has failed or is failing to comply with the provisions of this part.

468.1245 Itemized listing of prices; receipt; guarantee; packaging; disclaimer.—

(1) Prior to delivery of services or products to a prospective purchaser, any licensee who fits and sells hearing aids shall disclose, upon request by the prospective purchaser, an itemized listing of prices, which listing shall include separate price estimates for each service component and each product. Provision of such itemized listing of prices shall not be predicated on the prospective purchaser's payment of any charge or agreement to purchase any service or product.

(2) Any licensee who fits and sells a hearing aid shall, at the time of delivery, provide the purchaser with a receipt containing the seller's signature, the address of his regular place of business, and his license or certification number, if applicable, together with the brand, model, manufacturer or manufacturer's identification code, and serial number of the hearing aid furnished and the amount charged for the hearing aid. The receipt also shall specify whether the hearing aid is new, used, or rebuilt and shall specify the length of time and other terms of the guarantee and by whom the hearing aid is guaranteed. When the client has requested an itemized list of prices, the receipt shall also provide an itemization of the total purchase price, including, but not limited to, the cost of the aid, ear mold, batteries, and other accessories, and the cost of any services. Notice of the availability of this service shall be displayed in a conspicuous manner in the office. The receipt also shall state that any complaint concerning the hearing aid and guarantee therefor, if not reconciled with the licensee from whom the hearing aid was purchased, should be directed by the purchaser to the Division of Consumer Services of the Department of Agriculture and Consumer Services. The address and telephone number of such office shall be stated on the receipt.

(3) No hearing aid may be sold to any person unless both the packaging containing the hearing aid and the itemized receipt provided pursuant to subsection (2) carry the following disclaimer in 10-point or larger type: "A hearing aid will not restore normal hearing, nor will it prevent further hearing loss."

468.1255 Cancellation by medical authorization; purchaser's right to return.—

(1) In addition to any other rights and remedies the purchaser of a hearing aid may have, the purchaser shall have the right to rescind the transaction if the purchaser for whatever reason consults a licensed physician with specialty board certification in otolaryngology or internal medicine or a licensed family practice physician, subsequent to purchasing a hearing aid, and the physician certifies in writing that the purchaser has a hearing impairment for which a hearing aid will not provide a benefit or that the purchaser has a medical condition which contraindicates the use of a hearing aid.

(2) The purchaser of a hearing aid shall have the right to rescind provided in subsection (1) only if the purchaser gives a written notice of the intent to rescind the transaction to the seller at the seller's place of business by certified mail, return receipt requested, which notice shall be posted not later than 60 days following the date of delivery of the hearing aid to the purchaser, and the purchaser returns the hearing aid to the seller in the original condition less normal wear and tear.

(3) If the conditions of subsections (1) and (2) are met, the seller shall, without request, refund to the purchaser, within 10 days of the receipt of notice to rescind, a full and complete refund of all moneys received, less 5 percent. The purchaser shall incur no additional liability for rescinding the transaction.

468.1265 Sale or distribution of hearing aids through mail; penalty.—It is unlawful for any person to offer for sale or distribution hearing aids through the mail. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

468.1275 Place of business; display of license.—Each licensee who fits and sells a hearing aid shall declare and establish a regular place of business, at which his license shall be conspicuously displayed.

468.1285 Prohibitions; penalties.—

(1) No person shall knowingly:

(a) Practice speech-language pathology or audiology, unless the person is licensed pursuant to this part.

(b) Use terms such as, but not limited to: "speech pathologist," "speech therapy," "speech therapist," "speech correction," "speech correctionist," "speech clinic," "speech clinician," "language pathology," "language pathologist," "voice therapist," "voice pathology," "voice pathologist," "logopedics," "logopedist," "communicology," "communicologist," "cognitive communication therapy," "cognitive communication therapist," "aphasiologist," or "phoniatrist," or any title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as a speech-language pathologist when the person is not licensed as a speech-language pathologist pursuant to this part.

(c) Use terms such as, but not limited to: "audiology," "audiologist," "audiometrist," "audiological," "hearing therapy," "hearing therapist," "hearing clinic," "hearing clinician," "hearing aid audiologist," "aural habilitationalist," "aural rehabilitationalist," or any title, designation, words, letters, abbreviations, or device tending to indicate that such person holds an active license as an audiologist when the person is not licensed as an audiologist pursuant to this part.

(d) Present as his own the license of another.

(e) Use or attempt to use a license to practice speech-language pathology or audiology which has been suspended, revoked, or placed on inactive status.

(f) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a license.

(g) Employ unlicensed persons in the practice of speech-language pathology or audiology.

(h) Sell or fraudulently obtain or furnish any speech-language pathology or audiology diploma, license, or record of registration, or aid or abet in the same.

(i) Conceal information relative to violations of this part.

(2) Any person who is convicted of a violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

468.1295 Disciplinary proceedings.—

(1) The following acts constitute grounds for both disciplinary actions as set forth in subsection (2) and cease and desist actions by the department as set forth in s. 455.228.

(a) Attempting to procure a license by bribery, by fraudulent misrepresentation, or through an error of the department or the board.

(b) Having a license revoked, suspended, or otherwise acted against, including denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of speech-language pathology or audiology. A plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges. However, the board shall allow the person being disciplined to present any evidence relevant to the underlying charges and the circumstances surrounding his plea.

(d) Making or filing a report or record which the licensee knows to be false, intentionally or negligently failing to file a report or records required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such report or record shall include only those reports or records which are signed in one's capacity as a licensed speech-language pathologist or audiologist.

(e) Advertising goods or services in a manner which is fraudulent, false, deceptive, or misleading in form or content.

(f) Proof that the licensee is guilty of fraud or deceit or of negligence, incompetency, or misconduct in the practice of speech-language pathology or audiology.

(g) Violating a lawful order of the board or department previously entered in a disciplinary hearing, or failing to comply with a lawfully issued subpoena of the board or department.

(h) Practicing with a revoked, suspended, or inactive license.

(i) Using, or causing or promoting the use of, any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or other representation, however disseminated or published, which is misleading, deceiving, or untruthful.

(j) Showing or demonstrating or, in the event of sale, delivery of a product unusable or impractical for the purpose represented or implied by such action.

(k) Failing to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of such equipment as designated by the board and on the form approved by the board.

(l) Aiding, assisting, procuring, or advising any licensed person to practice speech-language pathology or audiology contrary to this part or to a rule of the department or the board.

(m) Violation or repeated violation of this part or of chapter 455, or any rules adopted pursuant thereto.

(n) Misrepresentation of professional services available in the fitting, sale, adjustment, service, or repair of a hearing aid, or use of any other term or title which might connote the availability of professional services when such use is not accurate.

(o) Representation, advertisement, or implication that a hearing aid or its repair is guaranteed without providing full disclosure of the identity of the guarantor; the nature, extent, and duration of the guarantee; and the existence of conditions or limitations imposed upon the guarantee.

(p) Representing, directly or by implication, that a hearing aid utilizing bone conduction has certain specified features, such as the absence of anything in the ear or leading to the ear, or the like, without disclosing clearly and conspicuously that the instrument operates on the bone conduction principle and that in many cases of hearing loss this type of instrument may not be suitable.

(q) Stating or implying that the use of any hearing aid will improve or preserve hearing or prevent or retard the progression of a hearing impairment or that it will have any similar or opposite effect.

(r) Making any statement regarding the cure of the cause of a hearing impairment by the use of a hearing aid.

(s) Representing or implying that a hearing aid is or will be "custom-made," "made to order," or "prescription-made," or in any other sense specially fabricated for an individual person, when such is not the case.

(t) Canvassing from house to house or by telephone either in person or by an agent for the purpose of selling a hearing aid, except that contacting persons who have evidenced an interest in hearing aids, or have been referred as in need of hearing aids, shall not be considered canvassing.

(u) Failure to submit to the board on an annual basis, or such other basis as may be provided by rule, certification of testing and calibration of audiometric testing equipment on the form approved by the board.

(v) Failing to provide all information as described in s. 468.1245(1).

(w) Exercising influence on a client in such a manner as to exploit the client for financial gain of the licensee or of a third party.

(2) When the board finds any person guilty of any of the acts set forth in subsection (1), it may issue an order imposing one or more of the following penalties:

(a) Denial of an application for licensure.

(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) Issuance of a reprimand.

(e) Placement of the licensee on probation for a period of time and subject to such conditions as the board may specify, including requiring the speech-language pathologist or audiologist to attend continuing education courses or to work under the supervision of another speech-language pathologist or audiologist.

(f) Restriction of the authorized scope of practice.

(3) The department shall reissue the license of a speech-language pathologist or audiologist who has been disciplined upon certification by the board that the person has complied with all of the terms and conditions set forth in the final order.

468.1305 Prosecution of criminal violations.—The board shall report any criminal violation of this part to the proper prosecuting authority for prompt prosecution.

468.1315 Saving clauses.—

(1) No judicial or administrative proceeding pending pursuant to part I of chapter 468, Florida Statutes, 1989, on October 1, 1990, shall be abated as a result of the repeal of ss. 468.139, 468.140, 468.141, 468.142, 468.1425, 468.143, 468.144, 468.145, 468.146, 468.147, 468.148, and 468.149, Florida Statutes. In any such unabated proceeding, the Board of Speech-Language Pathology and Audiology and the Department of Professional Regulation shall be deemed parties in interest and shall be made parties to the proceeding.

(2) Certificates of registration and provisional registration issued pursuant to part I of chapter 468, Florida Statutes, 1989, which are in effect on September 30, 1990, shall remain in effect pursuant to the provisions of this part.

Section 2. Effective October 1, 1990, paragraph (n) is added to subsection (5) of section 20.30, Florida Statutes, to read:

20.30 Department of Professional Regulation.—There is created a Department of Professional Regulation.

(5) The following boards are established within the Department of Professional Regulation, Division of Medical Quality Assurance:

(n) Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

Section 3. Effective October 1, 1990, subsection (1) of section 468.1695, Florida Statutes, is amended to read:

468.1695 Licensure by examination.—

(1) Any person desiring to be licensed as a nursing home administrator shall apply to the department to take the licensure examination. The examination shall *be given at least four times a year and shall* include, but not be limited to, questions on the subjects of nursing home administration such as:

(a) Applicable standards of nursing home health and safety;

(b) Federal, state, and local health and safety laws and rules;

(c) General administration;

(d) Psychology of patient care;

(e) Principles of medical care;

(f) Personal and social care;

(g) Therapeutic and supportive care and services in long-term care;

(h) Departmental organization and management;

(i) Community interrelationships; and

(j) Terminology.

The board may, by rule, adopt use of a national examination in lieu of part or all of the examination required by this part.

Section 4. Effective October 1, 1990 paragraph (b) of subsection (4) of section 468.1705, Florida Statutes, is amended to read:

468.1705 Licensure by endorsement; temporary license.—

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

(b) Meets the requirements of *subsection (1) or* s. 468.1695.

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

Section 5. Effective October 1, 1990, subsection (2) of section 484.042, Florida Statutes, is amended to read:

484.042 Board of Hearing Aid Specialists.—

(2) Five members of the board shall be hearing aid specialists who have been licensed and practicing in this state for at least the preceding 4 years~~, and one of these five members also shall be a certified audiologist~~. The remaining four members, *none of whom shall derive economic benefit from the fitting or dispensing of hearing aids,* shall be appointed from the resident lay public of this state. One of the lay members shall be a hearing aid user but may neither be nor have been a hearing aid specialist or a licensee of a closely related profession. One lay member shall be an individual age 65 or over. One lay member shall be an otolaryngologist licensed pursuant to chapter 458.

Section 6. Effective October 1, 1990, subsections (5) and (8) of section 484.0447, Florida Statutes, are amended to read:

484.0447 Fees.—The board shall by rule establish fees to be paid as follows:

(5) Initial licensure fee, not to exceed *$600* ~~$375~~;

(8) Biennial renewal fee, not to exceed *$600* ~~$375~~; and

Section 7. Effective October 1, 1990, subsection (3) of section 484.059, Florida Statutes, is amended to read:

484.059 Exemptions.—

(3) The licensure requirements of this part do not apply to an audiologist *licensed pursuant to part I of chapter 468* ~~who does not sell or repair hearing aids~~.

Section 8. Effective October 1, 1990, the unencumbered cash balance of the Speech-Language Pathology and Audiology Trust Fund created in the State Treasury pursuant to s. 468.146(4). Florida Statutes, and all programs, activities, and functions of the Department of Education relating to part I of chapter 468, Florida Statutes, 1989, are hereby transferred by a type four transfer, as defined in s. 20.06(4), Florida Statutes, to the Professional Regulation Trust Fund created pursuant to s. 215.37, Florida Statutes, and to the Department of Professional Regulation. Funds transferred pursuant to this section shall be used only to fund the regulation of speech-language pathology and audiology.

Section 9. Effective October 1, 1990, sections 468.139, 468.140, 468.141, 468.142, 468.1425, 468.143, 468.144, 468.145, 468.146, 468.147, 468.148, 468.149, and subsection (4) of section 484.045, Florida Statutes, are hereby repealed.

Section 10. Effective October 1, 1990, part I of chapter 468, Florida Statutes, is repealed on October 1, 2000, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statutes.

Section 11. Section 20 of chapter 86-283, Laws of Florida, is amended to read:

Section 20. Part II of chapter 484, Florida Statutes, is repealed on October 1, *2000* ~~1996~~ and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 12. Effective October 1, 1990, there is hereby appropriated from the Professional Regulation Trust Fund to the Department of Professional Regulation for fiscal year 1990-1991 the sum of $620,555 to fund 17 Career Service positions and to administer the provisions of this act relating to the licensure of speech-language pathologists and audiologists.

(Renumber subsequent sections.)

House Amendment 3—On page 1, line 2, strike said line and insert: An act relating to professional regulation; creating a new pt. I of ch. 468, F.S., relating to speech-language pathology and audiology; providing legislative intent; providing exemptions; providing definitions; creating the Board of Speech-Language Pathology and Audiology within the Department of Professional Regulation; providing rulemaking authority; providing for fees; providing for deposit of fees and fines; providing requirements for a provisional license; providing for renewal; providing a professional employment experience requirement; providing for a licensure examination; specifying requirements for licensure as a speech-language pathologist or an audiologist; providing requirements for licensure by endorsement; providing for renewal; providing continuing education requirements; providing exceptions; providing for inactive status, reactivation, and expiration of licenses and certificates; specifying requirements for certification as a speech-language pathology assistant or an audiology assistant; providing minimal procedures and equipment in fitting and selling hearing aids; requiring certification of such equipment and testing facilities by the department; providing an exception; providing authority of the board; providing for inspections and investigations by the department; requiring an itemized listing of prices for hearing aids; providing requirements for receipts, packaging, disclaimers, and guarantees; providing conditions for cancellation and refund; prohibiting the sale or distribution of hearing aids through the mail; providing a penalty; requiring establishment of a place of business and display of license; providing prohibitions; providing a penalty; providing disciplinary proceedings and penalties; providing for the prosecution of criminal violations; saving certain pending proceedings; providing for participation of the board and the department therein; continuing certificates and registrations currently in effect under pt. I of ch. 468, F.S.; amending s. 20.30, F.S., to conform; amending s. 468.1695, F.S.; providing that the examination for licensure as a nursing home administrator shall be given at least four times a year; amending s. 468.1705, F.S.; modifying requirements for temporary licensure; amending s. 484.042, F.S.; deleting the audiologist member of the Board of Hearing Aid Specialists; modifying requirements for lay members; amending s. 484.0447, F.S.; increasing licensure and renewal fees for hearing aid specialists; amending s. 484.059, F.S.; modifying the exemption from licensure as a hearing aid specialist for audiologists; providing for transfer of funds in the Speech-Language Pathology and Audiology Trust Fund; providing for the transfer of certain functions of the Department of Education to the department; repealing pt. I of ch. 468, F.S., the Speech-Language Pathology and Audiology Act; repealing s. 484.045(4), F.S., relating to licensure of audiologists to fit and dispense hearing aids; providing for review and repeal; rescheduling sunset review and repeal of part II of chapter 484, F.S.; relating to fitting and dispensing of hearing aids; providing an appropriation; amending s.

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

CS for SB 482 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

Bankhead	Casas	Davis	Forman
Beard	Childers, D.	Deratany	Gardner
Brown	Childers, W. D.	Diaz-Balart	Girardeau
Bruner	Crenshaw	Dudley	Grant
Grizzle	Langley	Peterson	Walker
Jennings	Malchon	Souto	Weinstein
Johnson	McPherson	Stuart	Weinstock
Kirkpatrick	Meek	Thomas	Woodson-Howard
Kiser	Myers	Thurman	

Nays—None

SPECIAL ORDER, continued

CS for HB 2059—A bill to be entitled An act relating to historic preservation; amending s. 267.061, F.S.; requiring state agencies within the executive branch to consider, in the acquisition of additional space, the use of historic properties; requiring such agencies to request the Division of Historical Resources of the Department of State to assist in identifying historic properties appropriate for use by the agency; requiring the Department of General Services to adopt rules for renovating historic properties owned by the state; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote CS for HB 2059 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Langley	Thurman
Brown	Forman	Malchon	Walker
Bruner	Gardner	McPherson	Weinstein
Casas	Girardeau	Meek	Weinstock
Childers, D.	Grant	Myers	Woodson-Howard
Childers, W. D.	Grizzle	Peterson	
Davis	Jennings	Souto	
Deratany	Johnson	Stuart	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for HB 51—A bill to be entitled An act relating to parking facilities; requiring the parking facility of every non-residential structure built after a certain date and designed to use covered or underground parking as the primary available parking to have a minimum height clearance; requiring specified signs; providing an exemption from height specified limitations and requirements imposed by local ordinance; providing exemptions for certain structures for which plans have been sealed by an architect; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote CS for HB 51 was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Bankhead	Deratany	Johnson	Souto
Beard	Diaz-Balart	Kirkpatrick	Stuart
Brown	Dudley	Kiser	Thomas
Bruner	Forman	Langley	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	

Nays—None

CS for SB 1644—A bill to be entitled An act relating to dangerous dogs; providing legislative findings; providing definitions; authorizing animal control authorities to classify dogs dangerous under certain conditions; requiring registration of dogs classified as dangerous; providing for fees; imposing certain duties on the owners of such dogs; specifying application of the act; providing a penalty; specifying criminal penalties applicable to the owner of a dangerous dog that attacks or bites a person or another domestic animal, and to the owner of any dog that causes severe injury to or death of a person; providing for confiscation and disposal of

such dogs; permitting local government to make certain restrictions; 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 Gardner and adopted:

Amendment 1—On page 6, lines 1 and 2, strike "and/or a misdemeanor of the second degree"

Amendment 2—On page 2, strike all of lines 12-14 and insert:

(d) Has when unprovoked chased or approached a person upon the

The Committee on Judiciary-Criminal recommended the following amendment which was moved by Senator Gardner:

Amendment 3—On page 7, strike line 22 and insert: provided that

Senator Diaz-Balart moved the following substitute amendment which was adopted:

Amendment 4—On page 7, line 24, after the period (.) insert: This section shall not apply to any local ordinance adopted prior to October 1, 1990.

On motion by Senator Gardner, by two-thirds vote CS for SB 1644 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

Bankhead	Deratany	Kiser	Thomas
Beard	Diaz-Balart	Langley	Thurman
Brown	Dudley	Malchon	Walker
Bruner	Forman	McPherson	Weinstein
Casas	Gardner	Meek	Weinstock
Childers, D.	Girardeau	Myers	Woodson-Howard
Childers, W. D.	Jennings	Peterson	
Crenshaw	Johnson	Souto	
Davis	Kirkpatrick	Stuart	

Nays—1

Grizzle

Consideration of Resolution

On motion by Senator Dudley, by two-thirds vote HCR 451 was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Dudley, by two-thirds vote—

HCR 451—A concurrent resolution ratifying the proposed amendment to the Constitution of the United States relating to compensation of Senators and Representatives.

—a companion measure, was substituted for CS for SCR 478 and read the second time in full. On motion by Senator Dudley, HCR 451 was adopted and certified to the House. The vote on adoption was:

Yeas—35

Bankhead	Deratany	Johnson	Souto
Beard	Diaz-Balart	Kirkpatrick	Stuart
Brown	Dudley	Kiser	Thomas
Bruner	Forman	Langley	Thurman
Casas	Gardner	Malchon	Walker
Childers, D.	Girardeau	McPherson	Weinstein
Childers, W. D.	Grant	Meek	Weinstock
Crenshaw	Grizzle	Myers	Woodson-Howard
Davis	Jennings	Peterson	

Nays—None

ENROLLING REPORTS

CS for CS for SB 60 and SB 278 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on May 31, 1990.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 30 was corrected and approved.

CO-INTRODUCERS

Senator Thurman—SB 1974; Senator D. Childers—CS for CS for SB 1150; Senator Souto—CS for CS for SB 2528

VOTES RECORDED

Senator Weinstock was recorded as voting yea on the following which were considered May 25: SB 2136, CS for SB 1024, CS for HB 1679, CS for HB 3641, CS for SB 2340 and SB 1284.

RECESS

On motion by Senator Scott, the Senate recessed at 10:13 p.m. to reconvene at 9:30 a.m., Friday, June 1.