



Journal of the Senate

Number 20

Thursday, April 25, 1991

CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—39:

Madam President	Diaz-Balart	Johnson	Scott
Bankhead	Dudley	Kirkpatrick	Souto
Beard	Forman	Kiser	Thomas
Brown	Gardner	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey
Davis	Jennings	Plummer	

Excused: Senator McKay at 11:30 a.m.

PRAYER

The following prayer was offered by Jackie Sharkey, former Administrative Assistant to the Sergeant at Arms:

Almighty God, Father of us all, we thank you for the night and this beautiful day. Lord, we thank you for the good earth and pray for wisdom and will to conserve it.

We pray for all in authority and public trust, especially this Florida Senate, that they may serve justice and promote the dignity and freedom of every person. Help them to protect the persecuted, the sick, and all who suffer; refugees, prisoners, and all who are in danger.

Lord, we ask that you bless us and keep us and cause your face to shine upon us now and forever. Amen.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Crotty, by two-thirds vote **SR 2416** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Crotty—

SR 2416—A resolution commending the Florida Student Association, Inc., for 15 years of service to the students of the State of Florida.

WHEREAS, the Florida Student Association, Inc., was created by the nine state universities' student government associations to act adequately and aggressively as the state university students' liaison to the Legislature, and

WHEREAS, the Florida Student Association, Inc., has advocated the needs of students of the State University System to the Board of Regents, the Department of Education, and the Legislature, and

WHEREAS, the Florida Student Association, Inc., has supported positive change in higher education in the state for many years, and

WHEREAS, the Florida Student Association, Inc., has played an integral part in securing legislative support for such progressive programs as the Prepaid Postsecondary Education Expense Plan, the Student Academic Support System, and Florida's Office for Campus Volunteers, and

WHEREAS, the Florida Student Association, Inc., can be credited for increased staffing for critical student service areas such as financial aid and academic advising, and

WHEREAS, the Florida Student Association, Inc., has been responsible for renewed activism concerning minority student issues such as recruitment, retention, and mentoring, and

WHEREAS, the Florida Student Association, Inc., reminds us that the customers of our State University System, the students, are of the highest academic quality and deserve the best education possible, NOW, THEREFORE,

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

That the Senate joins the public in commemorating the 15th anniversary of the founding of the Florida Student Association, Inc.

—was taken up out of order by unanimous consent, read the second time in full and adopted.

Senator Crotty introduced the following guests who were seated in the chamber: Brian Philpot, President, FSU student body; Daryl Parks, President, FAMU student body; Tim Cerio, representative of the University of Florida; and Trey Traviesa, Chairman, Florida Student Association.

On motion by Senator Thomas, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senators Thomas and Bruner—

SR 2490—A resolution honoring George Wesley Atkins.

WHEREAS, George Wesley Atkins was a lifelong resident of Calhoun County and served Florida public schools for over 40 years, and

WHEREAS, Mr. Atkins taught at Blountstown High School, was a supervisor for the state Department of Education, was Assistant Principal of Altha High School and Principal of Frink High School and Chatahoochee High School, and was Superintendent of Calhoun County Schools for 16 years, and

WHEREAS, Mr. Atkins was instrumental in establishing Chipola Junior College in Marianna in 1947, and

WHEREAS, Mr. Atkins was president of the Florida County School Superintendent's Association and the Mid-West Florida Education Association and was a member of the National Education Association, the Florida Education Association, and the Calhoun County Retired Teacher's Association, and

WHEREAS, Mr. Atkins was also well known as a newspaper columnist and correspondent, as well as a commentator on radio for the past 28 years, and

WHEREAS, Mr. Atkins was so highly regarded that his advice and counsel was often sought and appreciated by many public officials, Governors Reuben Askew, Bob Graham, and Lawton Chiles, among them, and

WHEREAS, George Wesley Atkins, a pioneer in Calhoun County and one of its best known and most widely respected residents passed away on April 22, 1991, NOW THEREFORE,

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

That the Senate of the State of Florida hereby recognizes the many contributions that George Wesley Atkins made to the betterment of his community and state and expresses its sorrow on his death.

BE IT FURTHER RESOLVED that a copy of this resolution, with the seal of the Senate affixed, be presented to the family of George Wesley Atkins as a tangible token of the sentiments of the Florida Senate.

On motion by Senator Thomas, **SR 2490** was read by title and was read the second time in full and adopted.

On motion by Senator Gordon, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Gordon—

SR 2492—A resolution honoring Alice Cutts Wainwright.

WHEREAS, Alice Cutts Wainwright was a resident of Dade County for fifty-two years, graduated from the University of Miami Law School, was the first woman elected to the Miami City Commission, and was very active in environmental and civic affairs, and

WHEREAS, Alice Cutts Wainwright was president of the Tropical Audubon Society for five years and was president emeritus of the society, served on the board of directors of the Florida Audubon Society, and was voted a life member of the Florida Audubon Society in January 1966, and

WHEREAS, Alice Cutts Wainwright was one of the state's leading environmentalists, served on the Florida Board of Pollution Control, the state's first Environmental Land Management Committee (ELMS I), and was the first woman to serve as a member of the Environmental Regulation Commission, and

WHEREAS, Alice Cutts Wainwright passed away on April 23, 1991, NOW, THEREFORE,

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

That the Senate of the State of Florida hereby expresses its sorrow on the death of Alice Cutts Wainwright.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the family of Alice Cutts Wainwright as a tangible token of the sentiments and bereavement of the Florida Senate.

On motion by Senator Gordon, **SR 2492** was read by title and was read the second time in full and adopted.

On motion by Senator Jenne, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Jenne—

SR 2494—A resolution commending Levi and Yvonne Henry for their contributions to Broward County through their publication of the Westside Gazette and the creation of the Levi Henry III Scholarship Foundation.

WHEREAS, Levi and Yvonne Henry created the Westside Gazette, a family-owned and family-operated community news publication, more than 20 years ago, and

WHEREAS, the Westside Gazette has been an informational link in the African-American community during those two decades, and

WHEREAS, the Westside Gazette has grown to be a powerful news medium in Broward County, and

WHEREAS, the Westside Gazette symbolizes educational excellence and the eradication of ignorance, and

WHEREAS, Levi and Yvonne Henry have created a legacy to continue their efforts to exemplify leadership skills and a commitment to the Broward County community through the Levi Henry III Scholarship Foundation, NOW, THEREFORE,

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

That Levi and Yvonne Henry are commended for their continued efforts to create educational excellence and eradicate ignorance.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Levi and Yvonne Henry as a tangible token of the sentiments of the Florida Senate.

On motion by Senator Jenne, **SR 2494** was read by title and was read the second time in full and adopted.

RECONSIDERATION

On motion by Senator Dantzler, the rules were waived and the Senate reconsidered the vote by which—

CS for HB 257—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; amending s. 504.31, F.S.; revising the membership of the organic food advisory council and the terms thereof and eliminating per diem and travel expense allowances; amending s. 570.541, F.S.; eliminating per diem and travel expense allowances for members of the Racing Quarter Horse Advisory Council; providing an effective date.

—passed as amended April 24.

On motion by Senator Dantzler, by two-thirds vote the Senate reconsidered the vote by which **CS for HB 257** was read the third time.

On motion by Senator Dantzler, the Senate reconsidered the vote by which **Amendments 1 and 2** were adopted. By permission, **Amendments 1 and 2** were withdrawn.

The Committee on Agriculture recommended **Amendment 3** which was moved by Senator Dantzler and adopted.

Senator Dantzler moved **Amendments 4, 5, 6 and 7** which were adopted.

On motion by Senator Dantzler, by two-thirds vote **CS for HB 257** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

SPECIAL ORDER

On motions by Senator Forman, by two-thirds vote—

CS for HB 803—A bill to be entitled An act relating to solicitation of funds; creating ss. 496.401-496.407, 496.409-496.424, F.S.; regulating solicitation of public contributions; requiring full public disclosure of certain information from persons who solicit contributions; providing exemptions; prohibiting deception, fraud, and misrepresentation in the soliciting and reporting of contributions; providing administrative fines; providing criminal penalties; providing for supervision and reports by the Division of Consumer Services of the Department of Agriculture and Consumer Services; providing procedures; authorizing the division to adopt rules; providing definitions; authorizing the Department of Legal Affairs to make investigations and bring civil actions to enforce the act; requiring the Department of State to provide notice of the requirements of the act to persons registering as nonprofit corporations; transferring and renumbering s. 496.008, F.S.; providing procedures for obtaining authority to solicit funds in a public transportation facility; providing powers of the division; providing civil remedies and criminal penalties; repealing ss. 496.001-496.007, 496.0085, 496.009, 496.011, F.S., which provide for regulating the solicitations of public contributions; providing a repeal date and review by the Legislature; amending s. 617.1002, F.S.; revising language with respect to the procedure for amending articles of incorporation; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 634** and by two-thirds vote read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB 803** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SENATOR JOHNSON PRESIDING

CS for CS for SB 998—A bill to be entitled An act relating to marriage and birth; amending s. 741.01, F.S.; increasing the portion of the marriage license fee used to fund domestic violence centers; amending s. 382.025 F.S.; deleting duplicative reference to fees charged for birth certificates or marriage certificates; repealing s. 33 of ch. 87-387, Laws of Florida, and s. 7 of ch. 88-303, Laws of Florida; abrogating the future repeal and review of provisions relating to the issuance of birth certificates and marriage certificates; providing effective dates.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote **CS for CS for SB 998** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

CS for SB 298—A bill to be entitled An act relating to records of the Department of Highway Safety and Motor Vehicles; prohibiting the department from releasing the addresses of licensees, registered owners, or titleholders except in certain situations; prohibiting persons who receive such addresses from selling, giving away, or allowing the copying of those addresses except under specified conditions; providing penalties; providing for future legislative review; providing for the adoption of rules; amending s. 320.05, F.S.; removing the authorization for a licensee under chapter 493, F.S., to obtain certain records; conforming provisions to this act; amending ss. 319.25, 320.03, 322.20, F.S., relating to motor vehicle title records, motor vehicle registration records, and driver's license records, to conform those provisions to this act; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for SB 298** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29 Nays—None

RECONSIDERATION

On motion by Senator Forman, the rules were waived and the Senate reconsidered the vote by which **CS for SB 298** passed.

The Committee on Governmental Operations recommended **Amendment 1** which was moved by Senator Forman and adopted by two-thirds vote.

On motion by Senator Forman, by two-thirds vote **CS for SB 298** as amended was read by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—None

CS for SB 688—A bill to be entitled An act relating to personnel of the school system; creating s. 231.3605, F.S.; providing for employment of educational support employees; providing definitions; providing for probationary status and continued employment; providing for suspension of an employee and for a notice and appeals process; providing for review and repeal; providing an effective date.

—was read the second time by title.

Senator Thurman moved **Amendment 1**.

Senator Johnson offered **Amendment 1A** which was moved by Senator Thurman and adopted.

Amendment 1 as amended was adopted.

Senator Thurman moved **Amendment 2** which was adopted.

On motion by Senator Thurman, by two-thirds vote **CS for SB 688** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32 Nays—None

CS for SB 76—A bill to be entitled An act relating to contraband forfeiture; amending s. 893.12, F.S.; providing that seized property must be forfeited; providing procedures and standards for protection of the interests of persons holding liens on seized property; prohibiting forfeiture of property if the owner or a coowner lacked knowledge of the criminal use of the property; amending s. 932.703, F.S.; providing that title to seized contraband vests in either the state or the seizing agency upon seizure, rather than in the state; amending s. 932.704, F.S.; specifying the manner of sale of seized property; requiring that certain reports to the Department of Law Enforcement be made by the law enforcement agency that received or expended forfeited property or proceeds from the sale of such property, rather than by the entity with budgetary authority over such law enforcement agency; providing an effective date.

—was read the second time by title.

Senator Weinstein moved **Amendments 1 and 2** which were adopted.

Senator Grant moved **Amendment 3** which failed.

On motion by Senator Grant, by two-thirds vote **CS for SB 76** 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 Nays—None

On motions by Senator Crotty, by two-thirds vote—

HB 309—A bill to be entitled An act relating to firearm safety; creating ss. 790.151, 790.153, 790.155, and 790.157, F.S.; prohibiting the use of a firearm while intoxicated or impaired; providing penalties; providing tests to determine intoxication or impairment; providing for right to refuse; authorizing use of blood tests in cases of death or serious bodily injury; providing for certain presumptions of impairment; providing definitions; providing evidentiary standards; providing an effective date.

—a companion measure, was substituted for **SB 144** and by two-thirds vote read the second time by title. On motion by Senator Crotty, by two-thirds vote **HB 309** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 426—A bill to be entitled An act relating to Florida Agricultural and Mechanical University; requiring the Board of Regents to develop a plan for establishing a College of Law at such university; providing the contents of such plan; requiring submission of such plan to the Legislature; providing an effective date.

—was read the second time by title.

The Committee on Education recommended **Amendments 1 and 2** which were moved by Senator Meek and adopted.

On motion by Senator Meek, by two-thirds vote **SB 426** 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 Nays—1

THE PRESIDENT PRESIDING

On motion by Senator Kiser, by two-thirds vote **HB 1809** was withdrawn from the Committee on Executive Business, Ethics and Elections.

On motion by Senator Kiser—

HB 1809—A bill to be entitled An act relating to elections; amending s. 100.371, F.S.; requiring the sponsor to certify that no per-signature fee has been paid to any person for signing an initiative petition; providing an effective date.

—a companion measure, was substituted for **CS for SB 872** and read the second time by title. On motion by Senator Kiser, by two-thirds vote **HB 1809** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28 Nays—None

On motions by Senator Malchon, by two-thirds vote—

CS for CS for HB 1681—A bill to be entitled An act relating to commerce; creating s. 288.017, F.S.; authorizing a cooperative advertising matching grants program within the Department of Commerce; providing grant limits and matching restrictions; providing recipient eligibility; providing for an annual competitive selection process, including criteria for consideration; providing for the expenditure of funds; providing for rules; amending s. 288.063, F.S.; providing an exemption to certain fund transfer provisions in contracts executed by the Division of Economic Development with governmental bodies for transportation projects; authorizing grants for transportation projects that retain jobs; increasing the membership of the selection committee; authorizing, rather than requiring, the Department of Transportation to be the contracting agency when the project is on the State Highway System; creating s. 288.045, F.S.; providing legislative findings and policy regarding the motion picture, television, video, and recording industries; requiring the division to review rules for negative impacts on these industries; amending s. 20.17, F.S.; providing an additional duty for the Motion Picture, Television, and Recording Industry Advisory Council; authorizing the Economic Development Advisory Council to appoint ad hoc committees; increasing membership of the direct-support organization supporting the Sports Advisory Council; creating s. 288.124, F.S.; authorizing a convention grants program; providing for eligible applicants; providing preference for minority groups; requiring the adoption of rules; amending ss. 272.11 and 288.121, F.S.; permitting the Department of Commerce to enter into contracts for the maintenance of the Capitol information center; amending s. 288.122, F.S.; authorizing the Division of Tourism to purchase and resell items related to specified publicity, advertising, or promotional campaigns; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1454** and by two-thirds vote read the second time by title. On motion by Senator Malchon, by two-thirds vote **CS for CS for HB 1681** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

Consideration of **CS for SB 1472** was deferred.

CS for SB 1834—A bill to be entitled An act relating to community colleges; amending s. 240.359, F.S.; providing for calculation of a community college cost differential and providing for its application in determining the annual apportionment of state funds to each community college district; amending s. 240.319, F.S.; correcting a cross-reference; providing an effective date.

—was read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote **CS for SB 1834** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—23 Nays—14

CS for SB 1850—A bill to be entitled An act relating to inmate labor; creating s. 236.0836, F.S.; providing for the renovation of public school buses under the correctional work program; amending s. 287.042, F.S.; requiring the Division of Purchasing of the Department of General Services to issue commodity numbers for certain products of the correctional work program; requiring the division to include corporation products on any listing prepared by the division which lists term contracts executed by the division; authorizing the corporation established under ch. 946, F.S., to submit products to the division for review; exempting purchases of such products and services by a local government from competitive-bid requirements; amending s. 946.511, F.S.; revising the priority of assigning inmates to correctional and public works programs; amending s. 944.09, F.S.; requiring the Department of Corrections to maintain specified information regarding victim restitution orders and the status of restitution payments; amending s. 946.512, F.S.; creating a Productivity Enhancement Trust Fund for deposit of a percentage of correctional work program corporation annual sales; providing for private corporations operating corrections facilities to have access to victim information for purposes of victim restitution; requiring the department to adopt rules governing the transfer of such information; amending s. 946.515, F.S.; providing that the Department of Corrections must certify that products and services produced by the correctional work program meet specifications and requirements of a state agency in order for the agency to be prohibited from purchasing the product or service from any other source; providing for administrative hearings to resolve disputes arising from contracts for the purchase of products or services of the program; amending s. 946.009, F.S.; repealing provisions relating to the priority assignment of inmates to work programs; authorizing the corporation to contract with counties and municipalities; providing for a study by the corporation on vocational training programs; providing an effective date.

—was read the second time by title.

Senator Bruner moved **Amendments 1 and 2** which were adopted.

On motion by Senator Bruner, by two-thirds vote **CS for SB 1850** 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 Nays—None

SENATOR SCOTT PRESIDING

On motions by Senator Girardeau, by two-thirds vote **HB 2397** was withdrawn from the Committees on Education; and Rules and Calendar.

On motion by Senator Girardeau—

HB 2397—A bill to be entitled An act relating to education; creating a task force and providing membership thereof; providing a definition; requiring the task force to examine multicultural education in Florida; requiring reports; providing for expiration; providing an effective date.

—a companion measure, was substituted for **CS for SB 1472** and read the second time by title.

THE PRESIDENT PRESIDING

Senator Girardeau moved **Amendments 1, 2 and 3** which were adopted.

On motion by Senator Girardeau, by two-thirds vote **HB 2397** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1804—A bill to be entitled An act relating to mentally ill inmates in the state correctional system; amending s. 945.42, F.S.; redefining the term “mental health treatment facility” for purposes of the Corrections Mental Health Act; defining the term “transitional mental health care” for purposes of the act; amending s. 945.48, F.S.; revising certain procedures authorizing the involuntary mental health treatment of inmates; providing an effective date.

—was read the second time by title. On motion by Senator Bruner, by two-thirds vote **CS for SB 1804** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

On motions by Senator Meek, by two-thirds vote—

CS for CS for HB 109—A bill to be entitled An act relating to the status of women; creating s. 14.24, F.S.; establishing the Florida Commission on the Status of Women; providing for membership; providing duties; authorizing the commission to receive funds; requiring a report; providing for review and repeal; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for SB 1324** and by two-thirds vote read the second time by title. On motion by Senator Meek, by two-thirds vote **CS for CS for HB 109** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—22 Nays—2

Consideration of **CS for SB 74** was deferred.

SB 1482—A bill to be entitled An act relating to hate crimes; amending s. 775.085, F.S.; revising elements of the offense to provide for enhanced penalties when the commission of a criminal offense evidences prejudice based on sexual orientation; amending s. 877.19, F.S.; requiring such offenses to be reported to the Department of Law Enforcement under the Hate Crimes Reporting Act; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended **Amendment 1** which was moved by Senator Grant.

POINT OF ORDER

Senator Bruner raised a point of order that pursuant to Rule 4.8, the bill should be referred to the Committee on Appropriations.

Further consideration of **SB 1482** with pending **Amendment 1** was deferred.

MOTION

On motion by Senator Thomas, the rules were waived and time of recess was extended until completion of **CS for CS for CS for HB's 2157 and 1871**.

On motion by Senator Thomas, by unanimous consent—

CS for CS for CS for HB's 2157 and 1871—A bill to be entitled An act relating to water resources; creating s. 373.4592, F.S.; providing findings and intent; providing definitions; providing for the adoption of an Everglades Surface Water Improvement and Management Plan by the South Florida Water Management District; providing limited eminent domain authority to the district; authorizing certain exchange of land; providing the district with alternative funding mechanisms, including the creation of stormwater utilities and stormwater management system benefit areas; providing procedures and requirements for the levy and collection of stormwater utility fees and stormwater assessments; providing for the issuance of interim permits to the district; providing for the applicability of certain standards and laws; providing for annual reports; amending s. 253.01, F.S.; providing for deposit and use of proceeds from the sale of lands in the Everglades Agricultural Area; amending ss. 253.111 and 253.115, F.S.; providing an exemption from certain notice and hearing requirements for the conveyance of certain lands; amending s. 373.584, F.S.; providing definitions; providing additional purposes for which revenue bonds may be issued by water management districts; specifying revenues that may be pledged for such bonds and providing requirements with respect thereto; providing that the power of districts to issue revenue bonds is coextensive with the power of municipalities to issue bonds; providing an effective date.

—was taken up out of order and read the second time by title.

The Committee on Natural Resources and Conservation recommended **Amendment 1** which was moved by Senator Kirkpatrick.

Senators Kirkpatrick and Scott offered **Amendments 1A, 1B, 1C and 1D** which were moved by Senator Kirkpatrick and adopted.

Senator Kirkpatrick moved **Amendment 1E** which was adopted.

Senators Plummer, Kirkpatrick, Margolis, Casas, Diaz-Balart, Gordon, Meek and Souto offered **Amendment 1F** which was moved by Senator Plummer and adopted.

Senator Grizzle moved **Amendment 1G** which failed.

Amendment 1 as amended was adopted.

The Committee on Natural Resources and Conservation recommended **Amendment 2** which was moved by Senator Kirkpatrick.

Senators Plummer, Kirkpatrick, Margolis, Casas, Diaz-Balart, Gordon, Meek and Souto offered **Amendment 2A** which was moved by Senator Plummer and adopted.

Amendment 2 as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for CS for CS for HB's 2157 and 1871** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

RECESS

On motion by Senator Thomas, the Senate recessed at 12:22 p.m. to reconvene at 2:00 p.m. or upon call of the President.

AFTERNOON SESSION

The Senate was called to order by the President at 2:00 p.m. A quorum present—35:

Madam President	Dantzler	Johnson	Souto
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Brown	Forman	Langley	Walker
Bruner	Girardeau	Malchon	Weinstein
Casas	Gordon	Meek	Weinstock
Childers	Grizzle	Myers	Wexler
Crenshaw	Jenne	Plummer	Yancey
Crotty	Jennings	Scott	

SPECIAL ORDER, continued

CS for SB 74—A bill to be entitled An act relating to labor regulations; prohibiting employers from taking retaliatory personnel action against employees under certain conditions; authorizing civil actions and providing specified relief; providing for certain employer relief; providing an effective date.

—was read the second time by title.

Senator Malchon moved **Amendment 1** which was adopted.

On motion by Senator Malchon, by two-thirds vote **CS for SB 74** 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 Nays—1

Consideration of **CS for SB 2004** was deferred.

On motions by Senator Weinstock, by two-thirds vote—

CS for HB 1613—A bill to be entitled An act relating to social and economic assistance; amending s. 228.072, F.S.; requiring school boards that operate adult education programs to provide testing for persons participating in employment and training programs of the Department of Health and Rehabilitative Services; amending ss. 230.645, 240.35, F.S.; providing conditions under which students enrolled in the department's employment and training programs are exempt from instructional fees; amending s. 409.029, F.S.; revising provisions relating to the Florida Employment Opportunity Act; revising legislative intent; deleting certain reporting requirements; providing for application of the Workers' Compensation Act to program participants; deleting obsolete provisions; providing that applicants for public assistance are exempt from program participation requirements until eligibility is determined; providing circumstances under which eligible participants may be deferred from participation; revising participation requirements; revising requirements for assessment of applicants for public assistance for program eligibility; amending s. 409.185, F.S.; revising standards for determining eligibility for and amount of economic assistance; providing an effective date.

—a companion measure, was substituted for **CS for SB 2064** and by two-thirds vote read the second time by title. On motion by Senator Weinstock, by two-thirds vote **CS for HB 1613** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

CS for HB 2497—A bill to be entitled An act relating to postsecondary education; establishing in Southwest Florida a tenth university in the State University System; providing for establishment of a site selection committee and providing duties thereof; providing duties of the Southwest Florida Regional Planning Council; providing duties of the Board of Regents; providing for transfer of certain donations; amending ss. 229.053 and 240.147, F.S.; providing a duty of the State Board of Education and the Postsecondary Education Planning Commission relating to the establishment of new community colleges and universities; providing for state university accountability; requiring plans; amending s. 240.2011, F.S.; providing for a new university in the State University System; amending s. 240.207, F.S.; providing for an orderly succession of Regents; providing for future repeal of s. 240.207(3), F.S., relating to the orderly succession of Regents; amending s. 240.209, F.S.; providing a duty of the Board of Regents relating to expansion of the State University System; revising Board of Regents' duties relating to fees; revising provisions relating to salary rate controls; providing an additional responsibility of the Board of Regents relating to bonding; amending s. 240.243, F.S.; revising provisions relating to required number of classroom contact hours for university faculty members; providing for allocation of minimum contact hour requirements and providing calculations; creating s. 240.2602, F.S.; providing for a State University System Access Improvement Fee and establishing a trust fund; providing for use of fees; providing project requirements; providing for community college efficiency and effectiveness; requiring plans; amending s. 240.299, F.S.; authorizing direct-support organizations to establish accounts; amending s. 240.551, F.S.; providing a duty of the Prepaid Postsecondary Education Expense Board; amending s. 240.552, F.S.; revising provisions relating to the Florida Prepaid Tuition Scholarship Program; amending ss. 235.195, 240.531, 282.308, and 447.203, F.S.; correcting cross references; amending s. 240.271, F.S.; revising provisions relating to State University System funding; providing for appropriations, transfer of funds, and establishment of positions; providing intent for funding of new programs and Board of Regents' duties; providing conditions for certain faculty positions; amending s. 240.272, F.S.; revising provisions relating to the carrying forward of unexpended funds; amending ss. 240.409, 240.4095, and 240.4097, F.S.; revising provisions relating to the amount of awards of the Florida Public Student Assistance Grant Fund, the Florida Private Student Assistance Grant Fund, and the Florida Postsecondary Student Assistance Grant Fund; providing an effective date.

—was read the second time by title.

The Committee on Education recommended 16 amendments which were engrossed into **Amendment 1** as recommended by the Committee on Appropriations.

The Committee on Appropriations recommended **Amendment 1** which was moved by Senator Johnson.

Senator Johnson moved **Substitute Amendment 2**.

Senator Johnson moved **Amendments 2A and 2B** which were adopted.

Senator Gordon moved **Amendment 2C** which failed.

Amendment 2 as amended was adopted.

The Committee on Appropriations recommended **Amendment 3** which was moved by Senator Johnson.

Senator Johnson moved **Substitute Amendment 4**.

Senator Johnson moved **Amendment 4A** which was adopted.

Amendment 4 as amended was adopted.

On motion by Senator Johnson, by two-thirds vote **CS for HB 2497** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—1

CS for SB 2214—A bill to be entitled An act relating to the Whistleblower's Act of 1986; amending s. 112.3187, F.S.; amending the short title; providing a definition; revising conditions under which the act does not apply; providing additional information that may be disclosed under the act without adverse action; expanding the persons protected under the act; revising conditions under which disclosure of information is protected; providing for mandatory relief; allowing the payment of reasonable costs to a prevailing employer, in specified circumstances; providing for affirmative defenses; amending s. 112.3188, F.S.; providing for confidentiality of information given to an internal auditor of an agency; creating s. 112.3189, F.S.; providing investigative procedures upon receipt of whistleblower information; providing applicability of the procedures; providing for a toll-free hotline; requiring reports; providing for procedures when there is evidence of a criminal violation; providing for confidentiality of the whistleblower's identity; exempting certain information from disclosure under ch. 119, F.S.; providing criminal penalties for willfully and knowingly disclosing confidential information; creating s. 112.3190, F.S.; providing investigative procedures in response to prohibited actions; establishing the Office of Special Counsel; providing duties of the office and of the Chief Inspector General in the Executive Office of the Governor; providing for investigations and corrective action; requiring the Special Counsel or agency head to report to the Florida Department of Law Enforcement if there is reasonable cause to believe that a criminal violation has occurred; providing rights of an employee against whom a complaint has been presented; providing that this section does not diminish certain existing rights; amending s. 20.055, F.S.; incorporating the amendment to s. 112.3187, F.S., into that section; providing an effective date.

—was read the second time by title. On motion by Senator Malchon, by two-thirds vote **CS for SB 2214** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

Consideration of **CS for CS for SB 1448** and **SB 214** was deferred.

CS for SB 1852—A bill to be entitled An act relating to education; providing for prekindergarten program expenditures; amending s. 228.041, F.S.; revising definitions in the Florida School Code; amending s. 228.071, F.S.; revising provisions relating to community education grants; amending s. 228.0713, F.S.; revising provisions relating to the Adult Literacy Plan; amending ss. 228.0715, 228.0716, F.S.; revising provisions of the Adult Literacy Act and the Florida Literacy Corps Act; amending s. 228.072, F.S.; amending s. 230.2305, F.S.; revising training requirements for principals; revising adult general education provisions; amending s. 228.0725, F.S.; revising provisions relating to adult literacy centers; amending s. 228.075, F.S.; providing for dates by which local, regional, and state vocational education plans must be completed; providing for the Department of Education to modify, revise, and review the state plan; providing a maximum length of time that may elapse between plan revisions; deleting deadlines that have passed; amending s. 229.132, F.S.; revising provisions relating to the registration of adult students; amending s. 229.55, F.S.; amending s. 229.555, F.S.; deleting a reporting requirement; revising provisions relating to educational accountability; amending s. 229.557, F.S.; revising provisions relating to the vocational education management information system; amending s. 229.805, F.S.; revising Department of Education powers relating to educational television; providing requirements for funding of stations; amending s. 229.8051, F.S.; revising requirements of the public broadcasting program system; providing for rules; amending s. 229.808, F.S.; correcting a cross-reference; amending s. 230.23, F.S.; revising provisions relating to programs for students in residential care facilities; revising provisions relating to school board duties in admitting, classifying, promoting, and graduating students; amending s. 230.2316, F.S.; revising provisions relating to educational alternatives programs; amending s. 230.645, F.S.; revising provisions relating to postsecondary adult student fees; amending s. 231.02, F.S.; providing for fingerprinting of certain personnel; amending s. 231.095, F.S.; deleting provisions relating to reporting of teachers assigned out-of-field; amending s. 231.15, F.S.; revising provisions relating to positions for which certificates are required; amending s. 231.17, F.S.; revising provisions relating to requirements for teacher certification and demonstration of competencies; providing for personnel records; amending s. 231.1711, F.S.; revising provisions relating to issuance of a teaching certificate; amending s. 231.1712, F.S., to conform; amending s. 231.1725, F.S.; conforming provisions; amending ss. 231.30, 231.36, F.S.; conforming provisions relating to certification; amending s. 231.47, F.S.; correcting a cross-reference; amending s. 231.471, F.S.; providing for cer-

tain qualified part-time teachers; amending s. 231.603, F.S.; conforming provisions; amending s. 232.01, F.S.; creating s. 234.301, F.S.; authorizing nonpublic schools to participate in the state pool purchase of school buses; providing conditions for such participation; amending s. 236.25, F.S.; authorizing school boards to use certain discretionary ad valorem tax revenues for the purchase of new and replacement library books, audio-visual materials, and motor vehicles; revising provisions relating to regular school attendance; amending s. 232.0315, F.S.; requiring school health examinations for entry to prekindergarten; amending s. 232.032, F.S.; revising provisions relating to immunizations; amending s. 232.06, F.S.; providing requirements for the child care exemption from compulsory school attendance; amending s. 232.145, F.S.; providing for information relating to exceptional students; amending s. 232.245, F.S.; revising provisions relating to pupil progression; amending s. 232.246, F.S.; deleting obsolete language; amending s. 232.2461, F.S.; correcting a cross-reference; amending s. 232.2465, F.S.; revising requirements to qualify as a Florida Academic Scholar; amending s. 232.247, F.S.; revising provisions relating to high school graduation requirements for certain exceptional students; amending s. 232.26, F.S.; providing for recommendation of expulsion of handicapped students; amending s. 232.3015, F.S.; revising provisions relating to outreach programs for educationally deprived children; amending s. 233.0575, F.S.; revising provisions relating to funding for mathematics/science mentor teachers; amending s. 233.0625, F.S.; deleting Department of Education responsibility for the traffic education program; amending s. 233.0663, F.S.; designating grade level at which D.A.R.E. Program is taught; providing exceptions; requiring annual program evaluations; amending s. 233.0664, F.S.; adding the Governor or his designated appointee to the D.A.R.E. Board of Directors; amending s. 234.01, F.S.; revising provisions relating to transportation of students; amending s. 234.051, F.S.; correcting a cross-reference; amending s. 234.091, F.S.; revising general qualifications of school bus drivers; amending s. 236.013, F.S.; including prekindergarten handicapped students in the definition of full-time equivalent students; amending s. 236.081, F.S.; revising provisions relating to calculation of full-time equivalent students for small, isolated high schools and the calculation of the extended day supplement; amending s. 236.088, F.S.; correcting a cross-reference; amending s. 236.1223, F.S.; revising provisions relating to writing skills instruction; amending s. 236.1228, F.S.; revising a statewide indicator for improving student productivity; amending s. 237.091, F.S.; specifying a cross-reference relating to certification of assessed valuation of property; amending s. 237.34, F.S.; correcting cross-references; amending s. 240.35, F.S.; authorizing community colleges to exempt from fees students who are enrolled in approved apprenticeship programs; amending s. 240.402, F.S.; revising provisions relating to awards from the Florida Undergraduate Scholars' Fund; amending s. 240.604, F.S.; correcting a cross-reference; amending ss. 246.041, 246.207, F.S.; conforming provisions; amending s. 229.814, F.S., relating to the Secondary Level Examination Program; repealing ss. 229.055, 229.552, 229.8371, 230.222, 230.23135(3)(m), 230.2405, 230.631, 230.69, 231.031, 231.165, 231.251, 231.29(1), 231.5335, 231.5336, 231.534, 231.609(3)(d) and (e), 231.612, 231.6125, 231.615, 232.302, 233.055, 233.064, 233.505, F.S., relating to education reports, the Florida Center for Educational Statistics, the Center for Middle Grades Education, playing of "Dixie," conforming provisions, accreditation of schools, area vocational centers, Youth Enhancement Services Centers, maximum age for employment of instructional personnel, prevention counselors, adjunct instructors, records of personnel, the Raymond B. Stewart Career Achievement Program, the Professional Teacher Career Development Council, subject area examinations, conforming provisions, school-focused program improvement, professional development plans, the Visiting School Scholars Program, the Florida Center for Dropout Prevention, remedial reading education plan, Americanism versus Communism course, and art or craft materials; providing effective dates.

—was read the second time by title.

Senator Johnson moved **Amendments 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13** and **14** which were adopted.

Senator Meek moved **Amendment 15** which was adopted.

On motion by Senator Johnson, by two-thirds vote **CS for SB 1852** 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 Nays—None

CS for CS for SB 748—A bill to be entitled An act relating to public school financing; providing that district school boards may use ad valorem tax revenues collected for capital outlay purposes to fund classroom operations under certain circumstances; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **CS for CS for SB 748** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for CS for SB 2040—A bill to be entitled An act relating to professional sports; amending s. 212.20, F.S.; providing for the distribution of tax revenue to new professional sports franchise facilities and new spring training franchise facilities; amending s. 288.1162, F.S.; revising application procedures to qualify for distribution; providing uses of distributed funds; allowing audits by the Department of Revenue; providing for confidentiality; amending s. 288.1161, F.S., to conform; amending s. 288.1167, F.S.; providing alternative methods to meet minority business participation requirements; repealing s. 288.1163, F.S., relating to allowing a county to impose a tourist development tax for payment of debt service on bonds related to a professional sports franchise facility; repealing s. 288.1164, F.S., relating to providing for a state funding program for professional sports franchises; repealing s. 288.1165, F.S., relating to the creation of the Professional Sports/Economic Trust Fund; providing an effective date.

—was read the second time by title.

Senator Kiser moved **Amendment 1**.

Senator Kiser moved **Amendment 1A** which was adopted.

Amendment 1 as amended was adopted.

Senator Kiser moved **Amendment 2** which was adopted.

On motion by Senator Kiser, by two-thirds vote **CS for CS for SB 2040** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—5

SB 124—A bill to be entitled An act relating to land use; reenacting and amending ss. 380.501-380.512, 380.514, 380.515, F.S., of the "Florida Communities Trust Act"; providing legislative findings and intent; providing definitions; creating the Florida Communities Trust; providing for membership and expenses; providing for meetings, quorum, and voting; providing for support services; providing trust powers; providing for development, review, and approval of projects; providing for first-year duties of the Department of Community Affairs; providing for conditions of grants and loans; providing for performance postaudits by the Auditor General; creating the Florida Communities Trust Fund; providing for an annual report; providing for application to other laws; providing for construction; repealing s. 380.513, F.S., pertaining to the corporate existence of the trust and the ownership of the rights and properties of the trust after its termination; reenacting and amending s. 320.08065, F.S.; providing for Florida panther license plates; providing for fees and distribution thereof; providing for repeal and review of ss. 320.08065, 380.501-380.512, 380.514, 380.515, F.S.; repealing s. 2(6), ch. 90-192, Laws of Florida, which provides for such repeal and review; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **SB 124** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

SB 620—A bill to be entitled An act relating to Florida Atlantic University; providing legislative intent; amending s. 3, ch. 82-247, Laws of Florida; removing site specific restrictions for the relocation of the Florida Atlantic University West Palm Beach Center and for the expenditure of proceeds from the sale of land; providing for the sale of the Florida Atlantic University TV Tower Site to fund the acquisition, purchase, lease, renovation, or expansion of facilities for use by Florida Atlantic University; providing an effective date.

—was read the second time by title.

The Committee on Education recommended **Amendment 1** which was moved by Senator Wexler and adopted.

On motion by Senator Wexler, by two-thirds vote **SB 620** 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 Nays—None

On motions by Senator Dudley, by two-thirds vote—

HB 845—A bill to be entitled An act relating to postsecondary education; creating the "Collegiate Athletic Association Compliance Enforcement Procedures Act"; providing legislative findings; providing definitions; providing that hearings are prerequisite to a finding of violation of association rules and specifying hearing procedures; providing penalty requirements; providing rights in interrogation; providing restrictions on penalties imposed by associations; providing for liability of an association; providing for application of the act; providing for cumulative remedies; providing an effective date.

—a companion measure, was substituted for **SB 1104** and by two-thirds vote read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 845** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

CS for SB 1578—A bill to be entitled An act relating to mobile homes; amending s. 193.075, F.S.; revising provisions which specify conditions under which mobile homes are to be taxed as real or tangible personal property; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 1578** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **CS for CS for SB 1408** was deferred.

On motions by Senator Dantzler, by two-thirds vote—

CS for CS for HB 1265—A bill to be entitled An act relating to the Department of State; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain information to the Division of Corporations and providing for use thereof; providing for confidentiality; providing for review and repeal; amending ss. 265.286 and 265.2861, F.S.; providing for transfer of funds from certain penalty fees to the Vital Local Cultural Organization Program; amending s. 607.0130, F.S.; specifying documents which the department is not required to file; authorizing the department to bring court action to collect penalties, fees, or taxes and to compel filing, qualification, or registration, file a *lis pendens* against corporate property, and certify findings to the Department of Legal Affairs for further action; amending s. 607.1502, F.S.; authorizing the department to collect penalties from foreign corporations which transact business in this state without authority and to bring court action to recover penalties and fees; providing an appropriation and authorizing positions; providing for the future review and repeal of ss. 265.286(7) and 265.2861(1)(d), F.S.; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1448** and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for CS for HB 1265** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

Consideration of **CS for CS for SB 1820** was deferred.

On motions by Senator Jennings, by two-thirds vote **CS for HB 771** was withdrawn from the Committees on Professional Regulation; Agriculture; Finance, Taxation and Claims; and Appropriations.

On motions by Senator Jennings, by two-thirds vote—

CS for HB 771—A bill to be entitled An act relating to auctioneers; amending s. 468.382, F.S.; providing definitions; amending s. 468.383, F.S.; revising provisions relating to exemptions; amending ss. 468.385 and 468.387, F.S.; providing intent relating to bonding requirements; amending s. 468.388, F.S.; revising requirements for advertising; amending s. 468.389, F.S.; increasing a penalty; amending s. 468.391, F.S.; revising language with respect to certain penalties; creating ss. 468.392-468.399, F.S.; establishing the Auctioneer Recovery Fund; providing for payments from the fund to settle claims against auctioneers; providing for license

surcharges to be deposited in the fund; providing for operations of the fund, including crediting of interest and payment of expenses; specifying conditions and eligibility for recovery from the fund; providing limitations; providing for distribution of payment when claims exceed the limitations; providing for joinder of claims; providing for prorating of payments under certain circumstances; providing for suspension of license until repayment to the fund of amount paid in claims against the licensee; providing for expenditure of excess funds; providing for future repeal of ss. 468.385(9)-(13), 468.387(3) and (4), and 468.389(2)(d), F.S., relating to bonding; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for **CS for SB 1670** and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote **CS for HB 771** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **CS for CS for SB 1796** was deferred.

HB 2511—A bill to be entitled An act relating to public printing; repealing s. 283.57, F.S., which requires specific legislative approval for an agency's purchase of printing equipment; providing an effective date.

—was read the second time by title. On motion by Senator Kiser, by two-thirds vote **HB 2511** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

CS for SB 2340—A bill to be entitled An act relating to living accommodations for elderly and disabled persons and health care facilities; amending s. 381.704, F.S.; modifying nursing home bed need methodology for certain areas of the state; amending s. 400.401, F.S.; modifying purpose of the Adult Congregate Living Facilities Act; amending s. 400.402, F.S.; modifying definitions; adding definitions; amending s. 400.404, F.S.; authorizing policies to enable residents to age in place; amending s. 400.407, F.S.; providing penalties for unlicensed operation of facilities; establishing licensure categories; providing for licensure of extended congregate care facilities; revising licensure fees; providing for biennial licensure; amending s. 400.408, F.S.; modifying requirements for notice relating to referral of persons to unlicensed facilities; amending s. 400.411, F.S.; providing additional requirements for license applications; requiring certain financial disclosure; amending s. 400.412, F.S.; requiring resident notification of sale or transfer of ownership of facility; amending s. 400.417, F.S.; requiring certain financial disclosure; amending s. 400.4176, F.S.; deleting required notice of certain contract services; amending s. 400.418, F.S.; specifying use fees; amending s. 400.419, F.S.; providing penalty for failure to make financial disclosure; providing an additional consideration for the department in imposing penalties; redesignating the Aging and Adult Licensure Fees Trust Fund as the Licensure Fees Trust Fund; amending s. 400.4195, F.S.; providing requirements for placement or referral services; restricting payment; amending s. 400.422, F.S.; conforming language; amending s. 400.424, F.S.; providing protection for security deposits and advanced rent; providing for claims against refunds; creating s. 400.4255, F.S.; specifying responsibilities of licensed personnel; amending s. 400.426, F.S.; modifying provisions relating to appropriateness of placement; providing for aging in place; amending s. 400.427, F.S.; modifying provisions relating to property and personal affairs of residents; amending ss. 400.428, 400.435, 400.442, 400.467, F.S., to conform to biennial licensure; amending s. 400.431, F.S.; modifying requirements for notice of closing a facility; providing a penalty; amending s. 400.441, F.S., relating to facility standards; modifying fire drill requirements; providing for rules and for waivers; providing for copying fees; amending s. 400.4445, F.S.; requiring compliance with ch. 419, F.S., under certain conditions; amending s. 400.447, F.S.; requiring certain financial disclosure; providing a penalty; revising advertising requirements; amending s. 400.451, F.S., to conform; amending s. 400.452, F.S.; modifying staff education and training requirements; providing an exemption from food service certification; amending s. 400.462, F.S.; modifying definitions under the Home Health Services Act; amending s. 400.464, F.S.; requiring infusion therapy providers to be licensed as home health agencies; providing for Medicare reimbursement; amending s. 400.478, F.S.; prohibiting agencies and health care facilities from certain recruiting; amending s. 420.5087, F.S.; expanding provisions relating to temporary reservations of funds for loans from State Apartment Incentive Loan Program to sponsors of housing for the elderly, to authorize such loans for additional purposes and to extend the term of such loans;

amending s. 651.011, F.S.; correcting a cross-reference; amending s. 651.091, F.S.; requiring expanded distribution of reports; requiring certain financial disclosure to residents' councils; requiring disclosure of certain plans to prospective residents; amending s. 651.121, F.S.; increasing membership on the Continuing Care Advisory Council; requiring the Department of Health and Rehabilitative Services to develop a plan for subsidizing extended congregate care for indigent persons; providing for cooperative efforts by the department, the Division of Hotels and Restaurants, and the State Fire Marshal to improve the safety and welfare of persons in retirement hotels or similar complexes; requiring reports; providing for future legislative review and repeal of s. 400.4255, F.S., pursuant to the Regulatory Sunset Act; providing an effective date.

—was read the second time by title.

Two amendments were adopted to **CS for SB 2340** to conform the bill to **CS for HB 1983**.

Pending further consideration of **CS for SB 2340** as amended, on motions by Senator Weinstock, by two-thirds vote—

CS for HB 1983—A bill to be entitled An act relating to health and long-term care; amending s. 381.704, F.S.; modifying nursing home bed need methodology for certain areas of the state; amending s. 400.401, F.S.; modifying purpose of the Adult Congregate Living Facilities Act; amending s. 400.402, F.S.; modifying definitions; adding definitions; amending s. 400.404, F.S.; authorizing policies to enable residents to age in place; amending s. 400.407, F.S.; providing penalties for unlicensed operation of facilities; establishing licensure categories; providing for extended congregate care; providing licensure requirements and fees; providing for monitoring visits and biennial inspections; requiring reports; modifying provisions relating to monitoring visits to facilities providing limited nursing services; amending s. 400.408, F.S.; modifying requirements for notice relating to referral of persons to unlicensed facilities; amending s. 400.411, F.S.; expanding information required in the initial application for licensure; requiring certain financial disclosure; amending s. 400.412, F.S.; requiring resident notification of sale or transfer of ownership of a facility; amending s. 400.417, F.S.; requiring certain financial disclosure; amending s. 400.4176, F.S.; deleting required notice of certain contract services; amending s. 400.418, F.S.; specifying use fees; amending s. 400.419, F.S.; providing penalty for failure to make financial disclosure; amending s. 400.4195, F.S.; providing for placement or referral services; restricting payment; revising provisions which prohibit rebates and provide for enforcement; amending s. 400.422, F.S.; conforming language; amending s. 400.424, F.S.; providing protection for security deposits and advanced rent; providing for claims against refunds; creating s. 400.4255, F.S.; specifying responsibilities of licensed personnel; amending s. 400.426, F.S.; modifying provisions relating to appropriateness of placement; providing for aging in place; amending s. 400.427, F.S.; modifying provisions relating to property and personal affairs of residents; amending ss. 400.428, 400.435, and 400.442, F.S., to conform to the act; amending s. 400.431, F.S.; modifying requirements for notice of closing a facility; providing a penalty; amending s. 400.441, F.S., relating to facility standards; modifying fire drill requirements; providing for rules and for waivers; providing for copying fees; amending s. 400.4445, F.S.; requiring compliance with ch. 419, F.S., under certain conditions; amending s. 400.447, F.S.; requiring certain financial disclosure; providing a penalty; revising advertising requirements; amending s. 400.451, F.S., to conform; amending s. 400.452, F.S.; modifying staff education and training requirements; providing an exemption from food service certification; amending s. 400.462, F.S.; modifying a definition and adding a definition under the Home Health Services Act; amending s. 400.464, F.S.; requiring infusion therapy providers to be licensed as home health agencies; providing for Medicare reimbursement; amending s. 400.478, F.S.; prohibiting agencies and health care facilities from certain recruiting; amending s. 400.497, F.S.; clarifying agency liability regarding termination of employees for noncompliance with specified minimum standards related to screening of personnel; amending s. 409.212, F.S.; correcting a cross reference; amending s. 651.011, F.S.; correcting a cross reference; amending s. 651.091, F.S.; requiring expanded distribution of reports; requiring certain financial disclosure to residents' councils; requiring disclosure to prospective residents of certain plans, policies, and rules and regulations; amending s. 651.121, F.S.; increasing membership on the Continuing Care Advisory Council; requiring the Department of Health and Rehabilitative Services to develop a plan for subsidizing extended congregate care for indigent persons; providing for cooperative efforts by the department, the Division of Hotels and Restaurants, and the State Fire Marshal to improve the safety and welfare of persons in retirement hotels or similar complexes; requiring reports; providing for review and repeal; providing effective dates.

—a companion measure, was substituted for **CS for SB 2340** and by two-thirds vote read the second time by title. On motion by Senator Weinstock, by two-thirds vote **CS for HB 1983** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—1

Consideration of **CS for SB's 1300 and 1688, CS for SB 1582, CS for SB's 434 and 532 and CS for SB 1732** was deferred.

CS for SB 1672—A bill to be entitled An act relating to state officers and employees; amending s. 110.151, F.S.; revising language with respect to state officers' and employees' child care services; providing that the sponsoring state agency shall be responsible for certain costs; providing that the sponsoring state agency may be responsible for the operation of a child care center under certain circumstances; providing for consortium arrangements; deleting language referring to the Ina S. Thompson Child Care Center; providing legislative intent; creating the "Family Support Personnel Policies Act"; directing the Department of Administration to develop a model rule with respect to family support personnel policies; providing a timeframe for the adoption of the rule; directing agencies to appoint advisory committees by a certain date; providing for future repeal and review of the advisory committees pursuant to s. 11.611, F.S., the Sundown Act; providing an effective date.

—was read the second time by title.

Senator Gordon moved **Amendments 1 and 2** which were adopted.

On motion by Senator Grizzle, by two-thirds vote **CS for SB 1672** 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 Nays—None

Consideration of **SB 2146** was deferred.

CS for CS for HB 365—A bill to be entitled An act relating to hunting and fishing; creating s. 372.105, F.S.; creating the Lifetime Fish and Wildlife Trust Fund; creating s. 372.106, F.S.; creating the Dedicated License Trust Fund; amending s. 372.561, F.S.; providing a fee to cover processing costs for lifetime or 5-year licenses; providing for remittance of funds; amending s. 372.57, F.S.; providing for a 5-year and lifetime sportsman's licenses for hunting and fishing; providing fees; amending s. 372.571, F.S.; revising language with respect to the expiration of licenses and stamps; providing reference to lifetime and 5-year licenses; amending s. 372.5712, F.S.; providing for the expenditure of certain revenues relating to waterfowl hunting privileges; amending s. 372.5715, F.S.; providing for the expenditure of certain revenues relating to turkey hunting privileges; amending s. 372.573, F.S.; providing for the expenditure of certain revenues relating to management area privileges; amending s. 372.60, F.S.; revising language with respect to the issuance of replacement licenses or stamps to include reference to lifetime and 5-year licenses; amending s. 372.661, F.S.; revising cross references with respect to private hunting preserve licenses; providing appropriations; amending s. 370.0605, F.S.; providing for a 5-year resident saltwater fishing license; providing a penalty; increasing certain fees; increasing the time period for paying certain civil penalties; providing fees; providing for the remittance of funds; providing for replacement licenses; amending s. 370.0608, F.S.; providing for the disposition of proceeds from 5-year licenses; creating s. 370.0615, F.S.; providing for lifetime saltwater fishing licenses; providing fees; amending s. 372.5717, F.S.; revising language with respect to Hunter Safety Program Requirements; providing effective dates.

—was read the second time by title.

Senator Bruner moved **Amendments 1, 2, 3 and 4** which were adopted.

Senator Dantzler offered **Amendment 5** which was moved by Senator Bruner.

Further consideration of **CS for CS for HB 365** with pending **Amendment 5** was deferred.

Consideration of **CS for SB 1582** was deferred.

CS for SB's 434 and 532—A bill to be entitled An act relating to taxation; creating s. 213.015, F.S.; providing requirements with respect to the rights, safeguards, and protections afforded taxpayers during tax assessment, collection, and enforcement processes; creating s. 213.018, F.S.; providing for a taxpayer problem resolution program; providing for

a taxpayers' rights advocate with authority to issue taxpayer assistance orders; amending s. 213.21, F.S.; providing a taxpayer's right to have representation and record informal conferences; creating s. 213.025, F.S.; requiring the Department of Revenue to conduct its audits, inspections, and interviews at reasonable times and places, with exceptions; amending s. 213.34, F.S.; directing the department to offset overpayments against deficiencies; creating s. 213.731, F.S.; requiring notice before collection action is taken; providing a taxpayer's right to protest and seek a review; creating s. 213.732, F.S.; providing procedural requirements, taxpayers' rights, and venue for certain legal actions with respect to jeopardy findings and assessments; creating s. 213.733, F.S.; providing for cancellation, amendment, or modification of warrants; amending ss. 199.262, 206.075, 211.125, 211.33, 212.14, 212.15, 214.12, 214.45, F.S.; specifying procedures applicable if jeopardy to the revenue exists and is asserted in or with an assessment; repealing s. 214.12(4), F.S., relating to taxpayer protest regarding a jeopardy assessment lien; amending s. 20.21, F.S.; creating within the department the position of taxpayers' rights advocate and providing his responsibilities; amending s. 72.011, F.S.; prohibiting certain legal actions when an action has been initiated under s. 120.575, F.S.; requiring the department to commence an audit within a specified period of time after it issues a notice of intent to conduct an audit; amending s. 120.575, F.S.; providing procedures and requirements applicable when a taxpayer contests specified taxes, interest, or penalties; providing requirements relating to petitions, hearings, and orders; providing venue; providing powers of hearing officers and panels; providing for liens; providing for recovery of legal costs, including attorney's fees; amending s. 120.65, F.S.; requiring that hearing officers be administrative law judges; providing for a uniform rate of pay; requiring the Taxation and Budget Reform Commission to make certain recommendations to the Legislature; amending s. 196.175, F.S.; extending the renewable energy source exemption until 1999; providing an appropriation; providing severability; providing an effective date.

—was read the second time by title.

Senator Forman moved **Amendments 1 and 2** which were adopted.

On motion by Senator Kiser, by two-thirds vote **CS for SB's 434 and 532** 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 Nays—None

The Senate resumed consideration of—

SB 1482—A bill to be entitled An act relating to hate crimes; amending s. 775.085, F.S.; revising elements of the offense to provide for enhanced penalties when the commission of a criminal offense evidences prejudice based on sexual orientation; amending s. 877.19, F.S.; requiring such offenses to be reported to the Department of Law Enforcement under the Hate Crimes Reporting Act; providing an effective date.

—with pending **Amendment 1** which was deferred on a point of order by Senator Bruner.

RULING ON POINT OF ORDER

The President ruled the point not well taken.

The question recurred on **Amendment 1** which failed.

Senator Bruner moved **Amendment 2** which failed.

Senator Dantzler moved **Amendment 3**.

On motion by Senator Thomas, further consideration of **SB 1482** with pending **Amendment 3** was deferred.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, April 25, 1991: **SB 124, SB 620, SB 1104, CS for SB 1578, CS for CS for SB 1408, CS for CS for SB 1820, CS for SB 1670, CS for CS for SB 1796, HB 2511, CS for SB 2340, CS for SB's 1300 and 1688, CS for SB 1582, CS for SB's 434 and 532, CS for SB 1732, CS for SB 1672, SB 2146, CS for CS for HB 365, SB 1676, CS for SB 1322, CS for SB 1776**

Respectfully submitted,
Pat Thomas, Chairman

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thomas, by two-thirds vote **CS for SB 1530** was withdrawn from the Committee on Criminal Justice; and **CS for SB 1792** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Thomas, by two-thirds vote **SB 1920** was withdrawn from the Committees on Commerce and Appropriations.

On motions by Senator Gardner, by two-thirds vote **SB 1464**, **CS for SB 856**, **CS for SB 912**, **CS for SB 1124**, **CS for SB 1424**, **CS for SB 1756** and **CS for CS for SB 2220** were withdrawn from the Committee on Appropriations.

MOTIONS

On motion by Senator Bankhead, the House was requested to return **CS for SB 162**.

On motions by Senator Thomas, by two-thirds vote **SB 1920**, **CS for HB's 343, 759, 1139 and 2073**, **SB 234**, **CS for SB's 1216 and 1224**, **HB 243**, **CS for HB 375**, **CS for HB 613**, **HB 905**, **CS for HB 2327**, **CS for CS for SB 308**, **CS for CS for SB 812** and **CS for SB 1022** were placed on the special and continuing order calendar.

On motions by Senator Jenne, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to meet at 6:00 p.m. today to consider **CS for SB 2114**, **House Bills 747, 2473 and 2607**.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES**First Reading**

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed **CS for CS for HB 109**, **HB 309**, **CS for HB 771**, **CS for HB 867**, **HB 889**, **CS for CS for HB 1057**, **CS for CS for HB 1265**, **CS for HB 1527**, **HB 2409**; has passed as amended **CS for HB 95**, **CS for HB 115**, **CS for HB 193**, **CS for CS for HB 297**, **CS for CS for HB 377**, **CS for HB 441**, **CS for HB 803**, **HB 845**, **HB 1019**, **CS for HB 1351**, **HB 1585**, **CS for HB 1613**, **CS for CS for HB 1681**, **HB 1839**, **CS for HB 1925**, **CS for HB 1983**, **CS for HB 2135**, **CS for HB 2557** and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committees on Appropriations and Governmental Operations and Representative Gordon and others—

CS for CS for HB 109—A bill to be entitled An act relating to the status of women; creating s. 14.24, F.S.; establishing the Florida Commission on the Status of Women; providing for membership; providing duties; authorizing the commission to receive funds; requiring a report; providing for review and repeal; providing an appropriation; providing an effective date.

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

By Representative McEwan and others—

HB 309—A bill to be entitled An act relating to firearm safety; creating ss. 790.151, 790.153, 790.155, and 790.157, F.S.; prohibiting the use of a firearm while intoxicated or impaired; providing penalties; providing tests to determine intoxication or impairment; providing for right to refuse; authorizing use of blood tests in cases of death or serious bodily injury; providing for certain presumptions of impairment; providing definitions; providing evidentiary standards; providing an effective date.

(Substituted for **SB 144** on the special order calendar this day.)

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

CS for HB 771—A bill to be entitled An act relating to auctioneers; amending s. 468.382, F.S.; providing definitions; amending s. 468.383, F.S.; revising provisions relating to exemptions; amending ss. 468.385 and 468.387, F.S.; providing intent relating to bonding requirements; amending s. 468.388, F.S.; revising requirements for advertising; amending s. 468.389, F.S.; increasing a penalty; amending s. 468.391, F.S.; revising language with respect to certain penalties; creating ss. 468.392-468.399, F.S.; establishing the Auctioneer Recovery Fund; providing for payments

from the fund to settle claims against auctioneers; providing for license surcharges to be deposited in the fund; providing for operations of the fund, including crediting of interest and payment of expenses; specifying conditions and eligibility for recovery from the fund; providing limitations; providing for distribution of payment when claims exceed the limitations; providing for joinder of claims; providing for prorating of payments under certain circumstances; providing for suspension of license until repayment to the fund of amount paid in claims against the licensee; providing for expenditure of excess funds; providing for future repeal of ss. 468.385(9)-(13), 468.387(3) and (4), and 468.389(2)(d), F.S., relating to bonding; providing for review and repeal; providing an effective date.

—was referred to the Committees on Professional Regulation; Agriculture; Finance, Taxation and Claims; and Appropriations.

By the Committee on Appropriations and Representative Chestnut—

CS for HB 867—A bill to be entitled An act relating to education; directing the State Board of Education to adopt rules regarding the provision of vocational education programs to meet statewide workforce shortage needs; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representative Stafford and others—

HB 889—A bill to be entitled An act relating to crimes against the elderly; amending s. 784.08, F.S.; providing that enhanced penalties apply for certain crimes against elderly persons regardless of whether the person charged with the crime has knowledge of the age of the victim; providing an effective date.

—was referred to the Committee on Criminal Justice.

By the Committees on Appropriations and Health Care and Representative Lawson—

CS for CS for HB 1057—A bill to be entitled An act relating to state employee fitness-wellness; providing legislative findings and intent; creating a pilot project for establishment of state employee fitness-wellness programs; providing for appointment of a fitness-wellness coordinator and providing duties thereof; providing duties of the Department of Administration; requiring a report to the Governor and the Legislature; providing an effective date.

—was referred to the Committees on Governmental Operations; Personnel, Retirement and Collective Bargaining; Rules and Calendar; and Appropriations.

By the Committees on Finance and Taxation; and Commerce; and Representative Mortham—

CS for CS for HB 1265—A bill to be entitled An act relating to the Department of State; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain information to the Division of Corporations and providing for use thereof; providing for confidentiality; providing for review and repeal; amending ss. 265.286 and 265.2861, F.S.; providing for transfer of funds from certain penalty fees to the Vital Local Cultural Organization Program; amending s. 607.0130, F.S.; specifying documents which the department is not required to file; authorizing the department to bring court action to collect penalties, fees, or taxes and to compel filing, qualification, or registration, file a lis pendens against corporate property, and certify findings to the Department of Legal Affairs for further action; amending s. 607.1502, F.S.; authorizing the department to collect penalties from foreign corporations which transact business in this state without authority and to bring court action to recover penalties and fees; providing an appropriation and authorizing positions; providing for the future review and repeal of ss. 265.286(7) and 265.2861(1)(d), F.S.; providing an effective date.

(Substituted for **CS for CS for SB 1448** on the special order calendar this day.)

By the Committee on Postsecondary Education and Representative K. Smith and Bainter—

CS for HB 1527—A bill to be entitled An act relating to postsecondary education; amending s. 250.10, F.S.; providing that the Adjutant General and representatives of the Board of Regents, State Board of Community Colleges, and State Board of Education shall develop a program for waiver of one-half of the cost of tuition and fees for certain members of

the Florida National Guard; providing requirements; amending s. 240.235, F.S.; requiring the Board of Regents to provide tuition and fee waivers; amending s. 240.35, F.S.; requiring the State Board of Community Colleges to provide tuition and fee waivers; amending s. 240.355, F.S.; requiring the State Board of Education to adopt rules; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Employee and Management Relations; and Representative Hargrett—

HB 2409—A bill to be entitled An act relating to state employees; providing certain employees with protection from layoff from employment; providing for expiration; amending s. 110.151, F.S.; revising language with respect to state officers' and employees' child care services; providing that the sponsoring state agency shall be responsible for certain costs; providing that the sponsoring state agency may be responsible for the operation of a child care center under certain circumstances; providing for consortium arrangements; deleting language referring to the Ina S. Thompson Child Care Center; providing legislative intent; creating the "Family Support Personnel Policies Act"; directing the Department of Administration to develop a model rule with respect to family support personnel policies; providing a timeframe for the adoption of the rule; directing agencies to appoint advisory committees by a certain date; providing for future repeal and review of the advisory committees pursuant to s. 11.611, F.S., the Sundown Act; authorizing the Department of Veterans' Affairs to select a site to erect a monument; authorizing the department to utilize certain resources; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Corrections and Representative Sindler and others—

CS for HB 95—A bill to be entitled An act relating to substance abuse punishment; amending s. 921.187, F.S.; authorizing specified substance abuse punishment programs as sentencing alternatives for certain felony drug possessors and felony drug sellers, manufacturers, and deliverers; amending s. 893.15, F.S., and creating s. 893.155, F.S.; providing for placement on probation with set conditions; authorizing residential supervision in a probation and restitution center or other specified residential facility in certain circumstances; authorizing the withholding of adjudication for first-time felony drug possessors; providing penalties for violation of probation; providing for fines; providing for reports; creating circuit correctional planning committees; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; Criminal Justice; and Appropriations.

By the Committee on Regulatory Reform and Representatives Cosgrove and Jennings—

CS for HB 115—A bill to be entitled An act relating to commercial collection agencies; creating ss. 559.541-559.5495, F.S., and designating said section as part IV of chapter 559; creating the Commercial Collection Practices Act; providing legislative intent; providing definitions; requiring commercial collection agencies and employees to be registered by the Department of Business Regulation; providing exemptions; providing procedures and qualifications for registration; providing for fees; requiring a surety bond; providing for evidence of bond; providing for void registration; providing penalties; providing for rules; providing for future review and repeal; providing an effective date.

—was referred to the Committees on Commerce; Professional Regulation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Regulated Industries and Representative Hargrett—

CS for HB 193—A bill to be entitled An act relating to games of chance; amending s. 849.0935, F.S.; providing definitions; authorizing certain organizations to conduct drawings by chance or raffles; authorizing requirement of payment of a fee or contribution; specifying use of proceeds; requiring maintenance of records; providing for inspection of records; limiting individuals who may participate in the conduct of games; prohibiting compensation to persons conducting such games; prohibiting use of mechanical or electrical devices or media; prohibiting drawings contingent on other contests; providing a conditional effective date.

—was referred to the Committees on Criminal Justice; and Finance, Taxation and Claims.

By the Committees on Finance and Taxation; and Community Affairs; and Representative Hargrett and others—

CS for CS for HB 297—A bill to be entitled An act relating to discretionary surtaxes on documents; providing legislative findings and intent; providing definitions; authorizing certain counties and eligible jurisdictions to levy a discretionary surtax on certain documents to provide financial assistance for financing eligible housing for eligible persons; requiring an Affordable Housing Task Force Study; providing for establishment of a trust fund; providing for the administration, collection, and distribution of the proceeds of the surtax; providing for application of specified administrative and enforcement provisions of chapter 201, F.S.; providing for notice to, and duties of, the Department of Revenue; authorizing collection and administration on a local basis by counties; requiring an annual report; providing for establishment and administration of the housing assistance award program; providing for an advisory council; providing eligibility requirements with respect to local government comprehensive planning; specifying effect of the act; amending s. 1, ch. 83-220, Laws of Florida; providing that a portion of the revenues from the discretionary surtax on documents which may be levied by certain charter counties may be deposited in a Home Investment Trust Fund to fund local matching requirements; providing an effective date.

—was referred to the Committees on Community Affairs; Finance, Taxation and Claims; and Appropriations.

By the Committees on Appropriations; and Health and Rehabilitative Services; and Representative Mishkin and others—

CS for CS for HB 377—A bill to be entitled An act relating to health care; amending s. 440.13, F.S.; redefining the term medicines; providing legislative findings and intent; creating the Florida Task Force on Pharmaceutical Assistance to the Elderly; specifying members to serve on the task force; assigning the task force to the Department of Health and Rehabilitative Services for administrative purposes and providing for other staff support; directing the task force to submit recommendations by a specified date; providing an appropriation; providing an effective date.

—was referred to the Committees on Health and Rehabilitative Services; and Appropriations.

By the Committee on Commerce and Representative Logan and others—

CS for HB 441—A bill to be entitled An act relating to purchasing; amending s. 11.42, F.S., relating to the Auditor General; providing for an audit statement regarding agency compliance with minority business enterprise procurement goals; amending s. 24.113, F.S.; revising provisions governing minority business enterprise participation in the state lottery; providing clarifying language; amending s. 215.422, F.S.; specifying certain rights of vendors in state agency purchasing agreements; amending s. 255.05, F.S.; revising certain contractor bonding requirements; allowing state agencies to grant exemptions from payment and performance bonds, in specified circumstances; requiring specified annual reports; amending s. 287.042, F.S., relating to the powers, duties, and functions of the Division of Purchasing of the Department of General Services; revising the date of publication of notice for invitations to bid; revising percentage requirements for procurement contracts by minority business enterprises; requiring periodic studies of the disparity between goals and practices and recommendations for revising goals; providing clarifying language with respect to determining the base amount for assessing compliance therewith; providing certain reporting requirements with respect to minority business enterprises in state contracting; providing for the breaking of contracts into smaller units or multiple smaller contracts; requiring annual reports; encouraging certain governmental entities to conduct studies; amending s. 287.055, F.S.; conforming language; amending s. 287.057, F.S., relating to procurement of commodities or contractual services; providing for direct payment of minority business enterprises; requiring annual reports; revising language relating to minority business enterprise procurement goals; amending s. 287.0585, F.S.; requiring contractor certification of progress payments to subcontractors and suppliers; creating s. 287.085, F.S.; providing for price preference to minority business enterprises in evaluation of proposals and bids; amending s. 287.0943, F.S.; providing for recertification; requiring acceptance of state certification of minority business enterprises by local governments; conforming language; amending s. 287.0935, F.S.; revising language with respect to surety bond insurers; amending ss. 287.0945, 288.1167, F.S.; revising language relating to minority business enterprise procurement

goals in provisions relating to the Minority Business Enterprise Assistance Office; amending s. 288.1167, F.S.; relating to sports franchise concession contracts; amending s. 288.703, F.S.; amending definitions of the terms "small business" and "minority person"; amending s. 325.207, F.S.; revising language relating to minority business enterprise procurement goals in provisions relating to contracts for the construction of motor vehicle emissions inspection stations; amending s. 337.17, F.S., relating to bid guaranty requirements in Department of Transportation construction contracts; requiring the Department of General Services to review and access recommendations presented in the study of availability and use of minority business enterprises in stated contracting; providing an effective date.

—was referred to the Committees on Governmental Operations; International Trade, Economic Development and Tourism; Rules and Calendar; and Appropriations.

By the Committee on Regulated Services and Technology; and Representative Mims and others—

CS for HB 803—A bill to be entitled An act relating to solicitation of funds; creating ss. 496.401-496.407, 496.409-496.424, F.S.; regulating solicitation of public contributions; requiring full public disclosure of certain information from persons who solicit contributions; providing exemptions; prohibiting deception, fraud, and misrepresentation in the soliciting and reporting of contributions; providing administrative fines; providing criminal penalties; providing for supervision and reports by the Division of Consumer Services of the Department of Agriculture and Consumer Services; providing procedures; authorizing the division to adopt rules; providing definitions; authorizing the Department of Legal Affairs to make investigations and bring civil actions to enforce the act; requiring the Department of State to provide notice of the requirements of the act to persons registering as nonprofit corporations; transferring and renumbering s. 496.008, F.S.; providing procedures for obtaining authority to solicit funds in a public transportation facility; providing powers of the division; providing civil remedies and criminal penalties; repealing ss. 496.001-496.007, 496.0085, 496.009, 496.011, F.S., which provide for regulating the solicitations of public contributions; providing a repeal date and review by the Legislature; amending s. 617.1002, F.S.; revising language with respect to the procedure for amending articles of incorporation; providing an effective date.

(Substituted for CS for CS for SB 634 on the special order calendar this day.)

By Representative King and others—

HB 845—A bill to be entitled An act relating to postsecondary education; creating the "Collegiate Athletic Association Compliance Enforcement Procedures Act"; providing legislative findings; providing definitions; providing that hearings are prerequisite to a finding of violation of association rules and specifying hearing procedures; providing penalty requirements; providing rights in interrogation; providing restrictions on penalties imposed by associations; providing for liability of an association; providing for application of the act; providing for cumulative remedies; providing an effective date.

(Substituted for SB 1104 on the special order calendar this day.)

By Representative Bronson—

HB 1019—A bill to be entitled An act relating to worthless checks; amending s. 68.065, F.S., relating to civil actions to collect worthless checks; increasing the service charge; amending s. 832.07, F.S., relating to criminal proceedings for uttering worthless checks; increasing the service charge; amending ss. 125.0105 and 166.251, F.S., relating to service fees for dishonored checks issued to counties and municipalities, respectively; increasing the service fee; amending s. 832.05, F.S.; increasing the criminal penalties for issuing worthless checks in the amount of less than \$150; amending s. 832.08, F.S.; specifying the fee that may be imposed upon the face value of a check for the purpose of funding diversionary programs; providing an effective date.

—was referred to the Committee on Criminal Justice.

By the Committee on Agriculture and Representatives Harris and Bronson—

CS for HB 1351—A bill to be entitled An act relating to aquatic resources; creating s. 597.0015, F.S.; providing definitions; amending s. 597.002, F.S.; providing for use of appropriated funds; amending

597.0021, F.S.; conforming language; amending s. 597.003, F.S.; providing additional functions of the Department of Agriculture and Consumer Services; amending s. 597.005, F.S.; providing additional responsibilities of the Aquaculture Review Council; amending s. 597.006, F.S.; providing additional responsibilities of the Aquaculture Interagency Coordinating Council; adding an agency participating in interagency coordination; amending s. 597.007, F.S.; clarifying provisions relating to permitting of aquaculture facilities; amending s. 258.42, F.S.; deleting restrictions relating to aquaculture activities; amending s. 370.081, F.S.; providing conditions under which a facility may possess sea snakes; providing an effective date.

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

By Representative Kelly and others—

HB 1585—A bill to be entitled An act relating to educational facilities; authorizing the District Board of Trustees of Pasco-Hernando Community College to acquire described property; authorizing site planning, engineering, and master planning for such property; amending s. 235.196, F.S.; providing conditions with respect to requests for funds to construct a community educational facility; requiring the Office of Educational Facilities through an independent appraiser to determine the value of existing sites for purposes of developing community educational facilities; amending s. 235.31, F.S.; providing for the purchase of maintenance, repair, and site improvement services by district school boards from other governmental contracts; amending s. 235.435, F.S.; revising requirements relating to a request for funding from the Special Facility Construction Account; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Vocational/Technical Education and Representative Reddick and others—

CS for HB 1613—A bill to be entitled An act relating to social and economic assistance; amending s. 228.072, F.S.; requiring school boards that operate adult education programs to provide testing for persons participating in employment and training programs of the Department of Health and Rehabilitative Services; amending ss. 230.645, 240.35, F.S.; providing conditions under which students enrolled in the department's employment and training programs are exempt from instructional fees; amending s. 409.029, F.S.; revising provisions relating to the Florida Employment Opportunity Act; revising legislative intent; deleting certain reporting requirements; providing for application of the Workers' Compensation Act to program participants; deleting obsolete provisions; providing that applicants for public assistance are exempt from program participation requirements until eligibility is determined; providing circumstances under which eligible participants may be deferred from participation; revising participation requirements; revising requirements for assessment of applicants for public assistance for program eligibility; amending s. 409.185, F.S.; revising standards for determining eligibility for and amount of economic assistance; providing an effective date.

(Substituted for CS for SB 2064 on the special order calendar this day.)

By the Committees on Appropriations; and Tourism, Hospitality and Economic Development; and Representative Brennan and others—

CS for CS for HB 1681—A bill to be entitled An act relating to commerce; creating s. 288.017, F.S.; authorizing a cooperative advertising matching grants program within the Department of Commerce; providing grant limits and matching restrictions; providing recipient eligibility; providing for an annual competitive selection process, including criteria for consideration; providing for the expenditure of funds; providing for rules; amending s. 288.063, F.S.; providing an exemption to certain fund transfer provisions in contracts executed by the Division of Economic Development with governmental bodies for transportation projects; authorizing grants for transportation projects that retain jobs; increasing the membership of the selection committee; authorizing, rather than requiring, the Department of Transportation to be the contracting agency when the project is on the State Highway System; creating s. 288.045, F.S.; providing legislative findings and policy regarding the motion picture, television, video, and recording industries; requiring the division to review rules for negative impacts on these industries; amending s. 20.17, F.S.; providing an additional duty for the Motion Picture, Television, and Recording Industry Advisory Council; authorizing the Economic Development Advisory Council to appoint ad hoc committees; increasing mem-

bership of the direct-support organization supporting the Sports Advisory Council; creating s. 288.124, F.S.; authorizing a convention grants program; providing for eligible applicants; providing preference for minority groups; requiring the adoption of rules; amending ss. 272.11 and 288.121, F.S.; permitting the Department of Commerce to enter into contracts for the maintenance of the Capitol information center; amending s. 288.122, F.S.; authorizing the Division of Tourism to purchase and resell items related to specified publicity, advertising, or promotional campaigns; providing an effective date.

(Substituted for CS for CS for SB 1454 on the special order calendar this day.)

By Representative Clemons and others—

HB 1839—A bill to be entitled An act relating to offender payment for cost of supervision; allowing cost of supervision payments to offset costs associated with supervising offenders; amending s. 945.30, F.S.; increasing the required minimum amount, and reenacting ss. 946.40(5), 947.1405(2), 948.01(10), and 948.06(4), F.S., relating to use of prisoners in public works, conditional release, probation, and community control, to incorporate said amendment in references thereto; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By the Committee on Criminal Justice and Representative Healey—

CS for HB 1925—A bill to be entitled An act relating to contraband forfeiture; amending ss. 932.703 and 932.704, F.S.; providing for action by owner if forfeiture proceedings are not initiated within 60 days; prohibiting forfeiture if property is titled or registered jointly; providing that property shall not be used until forfeiture perfected; providing for the return of seized contraband, if not forfeited; providing for prior approval to seize; providing the seizing agency shall proceed within 60 days after forfeiture; providing for immediate release of property; prohibiting the assessment of costs; providing for notice; authorizing counties and municipalities to appropriate certain proceeds from the sale of forfeited property for use in providing specified services and programs; providing application requirements for receiving such funds; providing for quarterly reports to the Department of Law Enforcement; providing for annual reports; providing an effective date.

—was referred to the Committees on Criminal Justice; Finance, Taxation and Claims; and Appropriations.

By the Committee on Health and Rehabilitative Services; and Representative Hafner and others—

CS for HB 1983—A bill to be entitled An act relating to health and long-term care; amending s. 381.704, F.S.; modifying nursing home bed need methodology for certain areas of the state; amending s. 400.401, F.S.; modifying purpose of the Adult Congregate Living Facilities Act; amending s. 400.402, F.S.; modifying definitions; adding definitions; amending s. 400.404, F.S.; authorizing policies to enable residents to age in place; amending s. 400.407, F.S.; providing penalties for unlicensed operation of facilities; establishing licensure categories; providing for extended congregare care; providing licensure requirements and fees; providing for monitoring visits and biennial inspections; requiring reports; modifying provisions relating to monitoring visits to facilities providing limited nursing services; amending s. 400.408, F.S.; modifying requirements for notice relating to referral of persons to unlicensed facilities; amending s. 400.411, F.S.; expanding information required in the initial application for licensure; requiring certain financial disclosure; amending s. 400.412, F.S.; requiring resident notification of sale or transfer of ownership of a facility; amending s. 400.417, F.S.; requiring certain financial disclosure; amending s. 400.4176, F.S.; deleting required notice of certain contract services; amending s. 400.418, F.S.; specifying use fees; amending s. 400.419, F.S.; providing penalty for failure to make financial disclosure; amending s. 400.4195, F.S.; providing for placement or referral services; restricting payment; revising provisions which prohibit rebates and provide for enforcement; amending s. 400.422, F.S.; conforming language; amending s. 400.424, F.S.; providing protection for security deposits and advanced rent; providing for claims against refunds; creating s. 400.4255, F.S.; specifying responsibilities of licensed personnel; amending s. 400.426, F.S.; modifying provisions relating to appropriateness of placement; providing for aging in place; amending s. 400.427, F.S.; modifying provisions relating to property and personal affairs of residents; amending ss. 400.428, 400.435, and 400.442, F.S., to conform to the act; amend-

ing s. 400.431, F.S.; modifying requirements for notice of closing a facility; providing a penalty; amending s. 400.441, F.S., relating to facility standards; modifying fire drill requirements; providing for rules and for waivers; providing for copying fees; amending s. 400.4445, F.S.; requiring compliance with ch. 419, F.S., under certain conditions; amending s. 400.447, F.S.; requiring certain financial disclosure; providing a penalty; revising advertising requirements; amending s. 400.451, F.S., to conform; amending s. 400.452, F.S.; modifying staff education and training requirements; providing an exemption from food service certification; amending s. 400.462, F.S.; modifying a definition and adding a definition under the Home Health Services Act; amending s. 400.464, F.S.; requiring infusion therapy providers to be licensed as home health agencies; providing for Medicare reimbursement; amending s. 400.478, F.S.; prohibiting agencies and health care facilities from certain recruiting; amending s. 400.497, F.S.; clarifying agency liability regarding termination of employees for noncompliance with specified minimum standards related to screening of personnel; amending s. 409.212, F.S.; correcting a cross reference; amending s. 651.011, F.S.; correcting a cross reference; amending s. 651.091, F.S.; requiring expanded distribution of reports; requiring certain financial disclosure to residents' councils; requiring disclosure to prospective residents of certain plans, policies, and rules and regulations; amending s. 651.121, F.S.; increasing membership on the Continuing Care Advisory Council; requiring the Department of Health and Rehabilitative Services to develop a plan for subsidizing extended congregare care for indigent persons; providing for cooperative efforts by the department, the Division of Hotels and Restaurants, and the State Fire Marshal to improve the safety and welfare of persons in retirement hotels or similar complexes; requiring reports; providing for review and repeal; providing effective dates.

(Substituted for CS for SB 2340 on the special order calendar this day.)

By the Committee on Regulated Services and Technology; and Representative Roberts and others—

CS for HB 2135—A bill to be entitled An act relating to the Spaceport Florida Authority; amending s. 331.302, F.S.; providing clarification of the definition of "agency" as applied to the authority; amending s. 331.303, F.S.; defining "conduit bond" and "financing agreement"; modifying the definition of "project"; amending s. 331.305, F.S.; authorizing the authority to execute financing agreements; revising the authority's power to construct and furnish facilities; revising bond authority, including authorizing the authority to fix, collect, and set aside in a sinking fund fees, loan payments, rental payments, and other charges for the use of any project to pay the principal of and interest on the bonds; providing the authority with the right and power of eminent domain within spaceport territory; amending s. 331.309, F.S.; authorizing transfer of authority funds to and from the State Treasury; amending s. 235.196, F.S.; authorizing the authority to participate in the funding and utilization of community educational facilities; amending s. 331.331, F.S.; revising the authority's power to issue revenue bonds; amending s. 331.339, F.S.; revising requirements for the sale of bonds; creating s. 331.354, F.S.; providing tax-exempt status for authority projects, for any other property owned by the authority under the provisions of the controlling act and upon income therefrom, for bonds and upon income therefrom, and for all securities issued in connection with a project financed under the controlling act, except for any tax imposed by chapter 220; amending s. 74.011, F.S.; availing the authority of proceedings supplemental to eminent domain; providing for a study; authorizing the use of funds generated by the authority for matching purposes under the State University System's facilities matching grant program; providing an effective date.

—was referred to the Committees on Governmental Operations; Community Affairs; Finance, Taxation and Claims; and Appropriations.

By the Committees on Finance and Taxation; and Insurance; and Representatives Ascherl and Cosgrove—

CS for HB 2557—A bill to be entitled An act relating to health insurance; amending s. 627.6482, F.S.; excluding certain policies from the definition of "health insurance;" amending s. 627.6484, F.S.; prohibiting the Florida Comprehensive Health Association from accepting applications for insurance after a specified date; amending s. 627.6486, F.S.; revising criteria for eligibility for coverage under the comprehensive health insurance plan; specifying application of certain claims payments; amending s. 627.6488, F.S.; requiring reports; amending s. 627.6496, F.S.; providing for issuance of policies; amending s. 627.6498, F.S.; providing for semi-annually renewable policies; specifying renewal dates; revising benefits; lim-

iting deductibles; revising provisions for determination of rates for coverage under the plan; providing an effective date.

—was referred to the Committees on Commerce; and Finance, Taxation and Claims.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB's 58 and 2294 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB's 58 and 2294—A bill to be entitled An act relating to governmental reorganization; creating s. 20.41, F.S.; creating a Department of Elderly Affairs; providing for its organization; transferring specified powers, duties and functions, records, personnel, property and funds from the Pepper Commission on Aging to the department; transferring the state and district nursing home and long-term care facility ombudsman councils from the Pepper Commission on Aging to the department; amending ss. 400.304, 400.307, F.S., relating to the state and district nursing home and long-term care facility ombudsman councils, to conform; adding provisions relating to council duties and positions; amending s. 410.016, F.S.; requiring coordination of Department of Health and Rehabilitative Services' activities with the Department of Elderly Affairs; creating s. 410.701, F.S.; providing for contracting between the Department of Health and Rehabilitative Services and area agencies on aging; amending s. 410.505, F.S., and repealing section 4 of chapter 89-294, Laws of Florida; abolishing the Pepper Commission on Aging; conforming provisions and saving such section from Sundown repeal; amending and renumbering s. 410.505, F.S., and creating ss. 430.01, 430.02, 430.03, 430.05, 430.055, 430.058, 430.06, F.S.; providing a short title; providing legislative intent; specifying the purposes of the Department of Elderly Affairs; establishing duties and responsibilities of the department; creating the Department of Elderly Affairs Advisory Council; providing duties and membership; requiring a plan to improve the provision of social services and long-term care; creating the Elder Services Advocacy Committee; providing duties of the committee; providing rulemaking authority; providing for future review and repeal pursuant to the Sundown Act; creating a Commission on Volunteer Community Services; prescribing its composition and duties; exempting commission members from financial disclosure requirements; amending s. 410.201, F.S.; providing for administration of the older volunteer service program by the Department of Elderly Affairs; amending s. 402.165, F.S.; providing for the Department of Health and Rehabilitative Services' Human Rights Advocacy Committee to cooperate with the Elder Services Advocacy Committee; providing an effective date.

House Amendment 1—On pages 3-44, strike everything after the enacting clause and insert:

Section 1. Section 20.41, Florida Statutes, is created to read:

20.41 Department of Elderly Affairs.—There is created a Department of Elderly Affairs.

(1) *The head of the department is the Secretary of Elderly Affairs, who shall be appointed by the Governor and serve at the pleasure of the Governor. The secretary shall administer the affairs of the department and shall employ such assistants, professional staff, and other employees as may be deemed necessary by the secretary to discharge the powers and duties of the department.*

(2) *The Pepper Commission on Aging, created by s. 410.505, is hereby abolished and all its statutory powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds are hereby transferred by a type three transfer, as defined in s. 20.06(3), to the department. The secretary shall add and delete or reclassify personnel positions as may be deemed necessary by the secretary to discharge the duties of the department.*

(3) *The State Nursing Home and Long-Term Care Facility Ombudsman Council, created by s. 400.304, and the district nursing home and long-term care facility ombudsman councils, created by s. 400.307, are hereby transferred from the Pepper Commission on Aging by a type one transfer, as defined in s. 20.06(1), to the department. The department shall administratively house the State Nursing Home and Long-Term Care Facility Ombudsman Council and district nursing home and long-*

term care facility ombudsman councils through a contract with the Department of Health and Rehabilitative Services. The councils in performance of their duties shall not be subject to control, supervision, or direction by the department.

Section 2. Section 400.304, Florida Statutes, is amended to read:

400.304 Establishment of a State Nursing Home and Long-Term Care Facility Ombudsman Council; duties; membership.—

(1) There is created a State Nursing Home and Long-Term Care Facility Ombudsman Council which shall be located for administrative purposes in the *Department of Elderly Affairs Commission on Aging*.

(2) In order to ensure that the ombudsman program has the objectivity and independence required to qualify it for funding under the federal Older Americans Act, the State Unit on Aging of the Department of Health and Rehabilitative Services shall contract with the *Department of Elderly Affairs Commission on Aging* for the operation of an Office of the State Long-Term Care Ombudsman to carry out the long-term care ombudsman program and advise the state and district councils. The contract shall be limited to provisions which assure compliance with and carry out the intent of the Older Americans Act. The State Unit on Aging shall:

(a) Provide, in accordance with guidelines formulated by the state council, the funds necessary to match the federal allocation.

(b) Receive and disburse state and federal funds by contract with the *Department of Elderly Affairs Commission on Aging* for purposes that the state council has formulated in accordance with the Older Americans Act.

(c) Act as liaison between the federal program representatives, the staffs of the state and district councils, and members of the state and district councils.

(d) Submit annually to the Legislature, *at least 30 days prior to the convening of the regular session of the Legislature*, a report of the status of the contract with the *Department of Elderly Affairs Commission on Aging*, including a statement regarding any problems in the contractual arrangement; an assessment of the success of the ombudsman program during the preceding year; the degree of compliance by the program with the Older Americans Act; and an assessment of the level of cooperation between the Department of Health and Rehabilitative Services and the ombudsman program regarding shared responsibilities, including, but not limited to, access to records and actions taken on behalf of residents of long-term care facilities. The report shall be submitted in conjunction with the report submitted by the state ombudsman council required by this section. ~~The first report shall be submitted to the Legislature on or before March 1, 1990.~~

(3) The state ombudsman council:

(a) Shall help establish and coordinate the district ombudsman councils throughout the state.

(b) Shall serve as an appellate body in receiving from the district ombudsman councils complaints not resolved at the district level. The state ombudsman council may enter any nursing home or long-term care facility involved in an appeal, pursuant to the conditions specified in s. 400.307(3). Members who are associated with a nursing home or long-term care facility which is under investigation by a council may not participate in the investigation or in an appeal.

(c) Shall develop procedures to discover, investigate, and determine the existence of abuse or neglect in any nursing home or long-term care facility. Investigations may consist, in part, of one or more onsite administrative inspections.

(d) Shall develop procedures for eliciting, receiving, responding to, and resolving complaints made by, and on behalf of, nursing home and long-term care facility residents.

(e) Shall elicit and coordinate state, local, and voluntary organizational assistance for the purpose of improving the care received by residents of a nursing home or long-term care facility.

(f) Shall prepare an annual report to the President of the Senate, the Speaker of the House of Representatives, minority leaders of the House and Senate, chairpersons of appropriate House and Senate committees, and the Governor containing an appraisal of the problems of nursing

home and long-term care facility residents, recommendations for improving nursing home and long-term care facility care and treatment, and an analysis of the success of the ombudsman program during the preceding year which should address, at a minimum, the relationship between the ombudsman program, the *Department of Elderly Affairs Commission on Aging*, and the Department of Health and Rehabilitative Services and an assessment of how successfully the ombudsman program has carried out its responsibilities under the Older Americans Act. The annual report shall be submitted on or before 30 days prior to the convening of the regular session of the Legislature ~~March 1 of each year.~~

(g) Shall appoint an executive director who shall serve at the pleasure of the council and shall perform the duties delegated to him by the council. The executive director, with the consent of the council and as authorized and funded by the Older Americans Act, shall employ such personnel, including staff for the district councils, as are necessary to perform adequately the functions of the council and may provide or contract for legal services to assist the state and district councils in the performance of their duties. Staff for each district council shall be selected in consultation with, and must meet the approval of, that district council. *District council staff positions may be established as state career service positions, as Older Americans Act funds permit.*

(h) May contract for services necessary to carry out its activities.

(i) May apply for, receive, and accept grants, gifts, or other payments, including, but not limited to, real property, personal property, and services from a governmental entity or other public or private entity or person, and make arrangements as to the use of such grants, gifts, or payments.

(4) In performing the duties specified in state and federal law, the ombudsman councils shall be independent of the Department of Health and Rehabilitative Services and the *Department of Elderly Affairs*. However, the ~~departments~~ department and the councils shall cooperate fully in the discharge of their responsibilities for identifying and correcting deficiencies in nursing homes and other long-term care facilities. *The state ombudsman council shall make a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate at any time the council judges that organizational or departmental policy issues threaten the continued independence of the state or district councils in performing their duties.*

(5) The state ombudsman council shall be composed of 12 members appointed by the Governor. The council shall solicit nominations from appropriate professional organizations, consumer groups representing older or disabled persons and long-term care advocacy groups, and shall submit a list of nominees to the Governor for consideration.

(a) The council shall include the following:

1. One medical or osteopathic physician whose practice includes or has included a substantial number of geriatric patients and who may have limited practice in a long-term care facility;
2. One registered nurse who has *gerontological nursing preparation and geriatric experience, if possible;*
3. One nursing home administrator;
4. One owner or operator of an adult congregate living facility;
5. One licensed pharmacist;
6. One registered dietitian;
7. Two nursing home residents or representative consumer advocates for nursing home residents;
8. One adult congregate living facility resident or representative consumer advocate for adult congregate living facility residents;
9. One adult foster home resident or representative consumer advocate for adult foster home residents;
10. One attorney; and
11. One professional social worker.

Each of the four representatives who are long-term care facility residents or consumer advocates shall be chosen from a list of at least four persons recommended by the state council.

(b) In no case may the medical director of a nursing home or a long-term care facility or an employee of the Department of Health and Rehabilitative Services or the *Department of Elderly Affairs* serve as a member or as an ex officio member of the council. Except for the nursing home administrator, adult congregate living facility owner or operator, medical or osteopathic physician, licensed pharmacist, registered dietitian, and registered nurse, each member of the state ombudsman council shall certify to having no association with a nursing home or long-term care facility for reward or profit.

(6)(a) All members shall be appointed to serve for 3-year terms. ~~A member may not serve more than two consecutive terms.~~ Any vacancy which occurs shall be filled by the Governor. If an appointment is not made within 60 days after a vacancy occurs, or within 60 days after the Governor receives a list of recommendations from the council, whichever is later, the vacancy shall be filled by a majority vote of the council. The term of any member missing three consecutive regular meetings without cause shall be declared vacant.

~~(b) In order to stagger the terms of office so that a third of the council members are in the first year of their respective terms, while a third are in the second year, and a third are in the third year:~~

~~1. When the terms of four members expire November 1, 1989, the Governor shall appoint their replacements to 3-year terms ending November 1, 1992;~~

~~2. When the terms of eight members expire November 1, 1990, the Governor shall appoint replacements for four of those members to 1-year terms ending November 1, 1991, and shall appoint replacements for four of those members to 3-year terms ending November 1, 1993; and~~

~~3. After the terms referred to in subparagraphs 1. and 2. have expired, the Governor shall appoint all members to 3-year terms.~~

(7) The state ombudsman council shall elect a chairman for a term of 1 year from members who have served at least 1 year. A person who is an owner, administrator, operator, or employee of a nursing home or long-term care facility, as defined in s. 400.301(2), may not be elected as chairman of the council. The chairman shall select a vice chairman from among the members. The vice chairman shall preside over the council in the absence of the chairman.

(8) The state ombudsman council shall meet upon the call of the chairman, at least quarterly or more frequently as needed.

(9)(a) Members shall receive no compensation but shall be reimbursed for per diem and travel expenses as provided for in s. 112.061.

(b) The *Department of Elderly Affairs Commission on Aging* shall make a separate and distinct request for an appropriation for all expenses for the state and district councils. Such request may be combined into a specific appropriation for *Department of Elderly Affairs Commission on Aging* expenses or included in a specific appropriation with other expenses in the Governor's recommended budget or in the appropriations acts.

(10) The state ombudsman council is authorized to call upon appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties, including assistance from any adult protective services programs of the Department of Health and Rehabilitative Services as provided for under s. 409.026 and ss. 415.101-415.113.

(11) The state ombudsman council shall enter into a cooperative agreement with the statewide and district human rights advocacy committees, as defined in s. 20.19(7) and (8), for the purpose of coordinating advocacy services provided to residents of nursing home and long-term care facilities.

Section 3. Subsections (4) and (5) of section 400.307, Florida Statutes, are amended to read:

400.307 District nursing home and long-term care facility ombudsman councils; duties; membership.—

(4) Each district ombudsman council shall be composed of no less than 15 members and no more than 20 members from the district, to include the following: one medical or osteopathic physician whose practice includes or has included a substantial number of geriatric patients and who may have limited practice in a long-term care facility; one registered nurse who has geriatric experience, if possible; one nursing home

administrator; one owner or operator of an adult congregate living facility; one licensed pharmacist; one registered dietitian; at least five nursing home residents or representative consumer advocates for nursing home residents; at least two long-term care facility residents or representative consumer advocates for long-term care facility residents; one attorney; and one professional social worker. In no case shall the medical director of a nursing home or a long-term care facility or an employee of the Department of Health and Rehabilitative Services or the Department of Elderly Affairs serve as a member or as an ex officio member of a council. Except for the nursing home administrator, adult congregate living facility owner or operator, medical or osteopathic physician, licensed pharmacist, registered dietitian, and registered nurse, each member of the council shall certify to having no association with a nursing home or long-term care facility for reward or profit. Any member who has an affiliation with a nursing home, adult congregate living facility, or adult foster home may not participate in any investigation or inspection of any facility with which he has such affiliation.

(5) All members shall be appointed to serve 3-year terms. ~~A member may not serve more than two consecutive terms.~~ Upon expiration of a term and in case of any other vacancy, the council shall appoint a replacement by majority vote of the council, subject to the approval of the Governor. If no action is taken by the Governor to approve or disapprove the replacement of a member within 30 days after the council has notified the Governor of the appointment, the appointment of the replacement shall be considered approved. The term of any member missing three consecutive regular meetings without cause shall be declared vacant.

Section 4. Subsection (2) of section 410.016, Florida Statutes, is amended to read:

410.016 Elderly population; departmental responsibilities.—

(2) DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES.—*In order to prevent unnecessary duplication of effort and to ensure that departmental efforts are in concert with the activities of the Department of Elderly Affairs, the department shall cooperate with the Department of Elderly Affairs to:*

(a) Coordinate plans, policies, and activities of governmental and nongovernmental agencies with regard to the aged.

(b) Create public awareness and understanding of the needs and potentials of older persons.

(c) Encourage state and local agencies, universities, and other appropriate agencies to conduct needed research in the field of aging. When such research cannot be done by established state agencies, it shall be carried out by the department.

(d) Appraise the availability, adequacy, and accessibility of all services and facilities for older persons within the state.

(e) Study the policies which affect older persons of all state and county departments and agencies responsible for providing services for older persons, including, but not limited to, the agencies with primary responsibility for public health, social welfare, education, housing, employment, recreation, and retirement. The executive heads of all such departments and agencies shall cooperate with the department in providing information which the department deems necessary for the effective discharge of its duties under this section. However, no provision of law with respect to confidentiality of information may be violated.

(f) Stimulate, guide, and provide technical assistance in the organization of local or regional committees on aging and in the planning and conduct of services, activities, and projects.

(g) Stimulate training for workers in services to the aged.

(h) Promote the development of services to assist middle-aged and older persons to develop skills, attitudes, and interests to prepare themselves for their later years.

(i) Maintain contacts with local, state, and federal officials and agencies concerned with planning for middle-aged and older persons.

(j) Cooperate with national groups on aging and arrange for participation by representatives of the state in White House conferences and other national conferences from time to time.

(k) Promulgate rules and regulations for the implementation of this section.

(l) Recommend legislative and administrative action on behalf of the aged; review legislation pertaining to older persons and appropriations made for services in their behalf in such fields as health, social welfare, education, employment, and recreation; and consider and present revisions and additions needed to the Governor and to the Legislature regarding such legislation.

(m) Engage in such other administrative activities as may be deemed necessary to *effectively and efficiently address the needs of* ~~for~~ the elderly population of this state.

(n) Fully utilize and coordinate with rural hospitals when carrying out activities under this chapter with regard to the aged when advisable in terms of cost-effectiveness and feasibility.

Section 5. Section 410.505, Florida Statutes, is renumbered as section 430.04, Florida Statutes, and amended, and chapter 430, Florida Statutes, consisting of sections 430.01, 430.02, 430.03, 430.04, 430.05, 430.06, 430.07, and 430.08, is created, to read:

430.01 *Short title.—This chapter may be cited as the "Department of Elderly Affairs Act," or the "Pepper Act" as a memorial to Congressman Claude Denson Pepper.*

430.02 *Legislative intent.—It is the intent of the Legislature to:*

(1) *Advise, assist, and protect the state's elderly citizens to the fullest extent.*

(2) *Ensure that programs and services are developed and implemented to be accessible to all elderly citizens to assist them in the achievement or maintenance of maximum independence and quality of life and minimum levels of social dependence.*

(3) *Support and promote the efforts of families and other caregivers in assisting elderly persons.*

(4) *Promote intergenerational activities that will provide citizens of all ages opportunities to enjoy the enriching benefits of interaction and that will promote unity and support for one another.*

(5) *Ensure that state government functions effectively and efficiently in serving the elderly through coordination of policy development, planning, and service delivery by all state agencies relating to the elderly population of the state.*

(6) *Ensure that elderly citizens are able to secure prompt, adequate, and accurate information and assistance regarding, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.*

430.03 *Purposes.—The purposes of the Department of Elderly Affairs, hereafter referred to as the department, are to:*

(1) *Combat ageism and create public awareness and understanding of the potentials and needs of elderly persons.*

(2) *Study and plan for programs and services to meet identified and projected needs and to provide opportunities for personal development and achievement of persons aged 60 years and older.*

(3) *Advocate quality programs and services for the state's elderly population and on behalf of individual citizen's needs.*

(4) *Coordinate interdepartmental policy development and program planning for all state agencies that provide services for the elderly population in order to prevent duplicative efforts, to maximize utilization of resources, and to ensure cooperation, communication, and departmental linkages.*

(5) *Recommend state and local level organizational models for the planning, coordination, implementation, and evaluation of programs serving the elderly population.*

(6) *Oversee implementation of federally funded and state-funded programs and services for the state's elderly population.*

(7) *Recommend legislative budget requests for programs and services for the state's elderly population.*

(8) *Serve as a state-level information clearinghouse and encourage the development of local-level identifiable points of information and referral regarding all federal, state, and local resources of assistance to elderly citizens.*

(9) *Assist elderly persons to secure needed services in accordance with personal choice and in a manner that achieves or maintains autonomy and prevents, reduces, or eliminates dependency.*

(10) *Promote the maintenance and improvement of the physical well-being and mental health of elderly persons.*

(11) *Promote opportunities for volunteerism among the elderly population.*

(12) *Promote the prevention of neglect, abuse, or exploitation of elderly persons unable to protect their own interests.*

(13) *Eliminate and prevent inappropriate institutionalization of elderly persons by promoting community-based care, home-based care, or other forms of less intensive care.*

(14) *Aid in the support of families and other care-givers of elderly persons.*

(15) *Promote intergenerational relationships.*

(16) *Oversee aging research conducted or funded by any state agency to ensure that such activities are coordinated and directed to fulfill the intent and purposes of this act.*

430.04 410.505 *Duties and responsibilities of the Department of Elderly Affairs.—The Department of Elderly Affairs shall: The Pepper Commission on Aging.—*

(1) ~~There is created the Florida Commission on Aging, which is assigned to the Executive Office of the Governor for administrative purposes; however, the actions of the commission shall be independent of the Governor for all other purposes. The commission shall be a separate budget entity for purposes of chapter 216. The commission shall serve as an advisory body to the Governor, each Cabinet member, the Department of Health and Rehabilitative Services, and the Legislature on all matters relating to policies on aging. Reports and recommendations of the commission shall be made available to the Governor, each Cabinet member, the Legislature, and other appropriate government officials.~~

(2) ~~The commission shall be composed of 18 members of the general public. Six members shall be appointed by the Governor, six members by the President of the Senate, two of whom shall be members of the Senate; and six members by the Speaker of the House of Representatives, two of whom shall be members of the House of Representatives. A minimum of six members shall be over 60 years of age. At least two of the Governor's six appointees, two of the President of the Senate's six appointees, and two of the Speaker of the House of Representatives' six appointees must be 60 years of age or older. Members shall be appointed to 2-year terms; however, of the initial appointees, three of the Governor's six appointees, three of the President of the Senate's six appointees and three of the Speaker of the House of Representatives' six appointees shall be appointed to 1-year terms. The Governor shall annually designate a member of the commission to serve as chairman. Vacancies shall be filled in the same manner as the original appointment. The secretary of the Department of Health and Rehabilitative Services shall serve as an ex officio member of the commission.~~

(3) ~~The commission shall meet as often as it deems necessary to carry out its duties and responsibilities.~~

(4) ~~The commission shall appoint an executive director to serve at its pleasure, who shall 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 employees and staff members of the commission, who shall serve under his direction and control.~~

(5) ~~Members of the commission shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.~~

(6) ~~The commission shall:~~

(1)(a) ~~Prepare and submit to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representa-~~

~~tives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees and the Legislature a master plan for policies and programs in the state related to aging. The plan shall identify and assess the needs of the elderly population in the areas of housing, employment, education and training, medical care, long-term care, preventive care, protective services, social services, mental health, transportation, insurance, and other areas as deemed appropriate by the department commission. The plan shall assess the needs of particular subgroups of the population and evaluate the capacity of existing programs, both public and private and in state and local agencies, to respond effectively to identified needs. The plan shall include policy goals and program strategies designed to respond efficiently to current and projected needs. The plan shall also include policy goals and program strategies to promote intergenerational relationships and activities. Public hearings and other appropriate processes shall be utilized by the department to solicit input for the development and updating of the master plan from parties including, but not limited to, the following:~~

(a) ~~Elderly citizens and their families and caregivers.~~

(b) ~~Local level public and private service providers, advocacy organizations, and other organizations relating to the elderly.~~

(c) ~~Local governments.~~

(d) ~~All state agencies that provide services to the elderly.~~

(e) ~~University centers on aging.~~

(2) ~~Serve as an information clearinghouse at the state level, and assist local-level information and referral resources as a repository, and means for dissemination, of information regarding all federal, state, and local resources for assistance to the elderly in the areas of, but not limited to, health, social welfare, long-term care, protective services, consumer protection, education and training, housing, employment, recreation, transportation, insurance, and retirement.~~

(3)(b) ~~Recommend guidelines for the development of roles for state agencies that provide services for the aging, review plans of agencies that provide such services, and relay these plans to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees and the Legislature.~~

(4)(e) ~~Recommend to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees and the Legislature an organizational framework for the planning, coordination, implementation, and evaluation of programs related to aging, with the purpose of expanding and improving programs and opportunities available to the state's elderly population and enhancing a continuum of long-term care. This framework shall assure that:~~

(a) ~~Performance objectives are established.~~

(b)1. ~~Program reviews are conducted statewide.~~

(c)2. ~~Each major program related to aging is reviewed every 3 years.~~

(d)3. ~~Agency budget requests reflect the results and recommendations of such program reviews.~~

(e)4. ~~Program decisions lead to the distinctive roles established for state agencies that provide aging services.~~

(5)(d) ~~Advise the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees and the Legislature regarding the need for and location of programs related to aging.~~

(6) ~~Review and coordinate aging research plans of all state agencies to ensure the conformance of research objectives to issues and needs addressed in the master plan for policies and programs related to aging. Research activities to be reviewed and coordinated by the department shall include, but be limited to, contracts with academic institutions, development of educational and training curriculums, Alzheimer's disease and other medical research, studies of long-term care and other personal assistance needs, and design of adaptive or modified living environments.~~

(7)(e) Review budget requests for programs related to aging for compliance with the master plan for policies and programs related to aging before submission to the Governor and the Legislature.

(8)(f) Update the master plan for policies and programs related to aging every 3 years.

(9)(g) Review implementation of the master plan for programs and policies related to aging and annually report to the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees and the Legislature the progress towards implementation of the plan.

(10) Request other departments that administer programs affecting the state's elderly population to amend their plans, rules, policies, and research objectives as necessary to conform with the master plan for policies and programs related to aging.

~~(h) Administratively house the State Nursing Home and Long Term Care Facility Ombudsman Council through a contract with the Department of Health and Rehabilitative Services.~~

(11)(i) Hold public meetings on a regular basis throughout the state for purposes of receiving information and maximizing the visibility of important issues.

(12)(j) Conduct policy analysis and program evaluation studies assigned by the Legislature ~~or approved by the commission.~~

(13)(k) Assist the Governor, each Cabinet member, the President of the Senate, the Speaker of the House of Representatives, the minority leaders of the House and Senate, and chairpersons of appropriate House and Senate committees and the Legislature in the conduct of their responsibilities in such capacities as they deem appropriate.

~~(14)(7) The commission may~~ Call upon appropriate agencies of state government for such assistance as is needed in the discharge of its duties. All agencies shall cooperate in assisting the ~~department commission~~ in carrying out its responsibilities as prescribed by this section. *However, no provision of law with respect to confidentiality of information may be violated.*

~~(8) The Commission on Aging established in subsection (1) shall be named the Claude Denson Pepper Commission on Aging and shall be known as the Pepper Commission on Aging.~~

430.05 Department of Elderly Affairs Advisory Council.—

(1) There is created the Department of Elderly Affairs Advisory Council which shall be located for administrative purposes in the Department of Elderly Affairs. It is the intent of the Legislature that the advisory council shall be an independent nonpartisan body and shall not be subject to control, supervision, or direction by the department.

(2) The council shall serve in an advisory capacity to the Secretary of Elderly Affairs to assist the secretary in carrying out the purposes, duties, and responsibilities of the department, as specified in this chapter. The council may make recommendations to the secretary, the Governor, the Speaker of the House of Representatives, and the President of the Senate regarding organizational issues and additions or reductions in the department's duties and responsibilities.

(3)(a) The advisory council shall be composed of one member appointed by the Governor from each of the state's planning and service areas, which are designated in accordance with the Older Americans Act, two additional members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed by the Speaker of the House of Representatives. The members shall be appointed in the following manner:

1. The Governor shall appoint one member from each planning and service area and shall select each appointment from a list of three nominations submitted by the designated area agency on aging in each planning and service area. Nominations submitted by an area agency on aging shall be solicited from a broad cross-section of the public, private, and volunteer sectors of each county in the respective planning and service area. At least one of the three nominations submitted by an area agency on aging shall be a person 60 years of age or older.

2. The Governor shall appoint two additional members, one of whom shall be 60 years of age or older.

3. The President of the Senate shall appoint two members, one of whom shall be 60 years of age or older.

4. The Speaker of the House of Representatives shall appoint two members, one of whom shall be 60 years of age or older.

5. The Governor shall ensure that a majority of the members of the advisory council shall be 60 years of age or older and that there shall be balanced minority and gender representation.

6. The Governor shall designate annually a member of the advisory council to serve as chairman.

7. The Secretary of Elderly Affairs shall serve as an ex officio member of the advisory council.

(b) Members shall be appointed to 3-year terms in the following manner:

1. In order to stagger the terms of office, one of the initial appointees of the President of the Senate shall be appointed to a 2-year term and one of the initial appointees of the Speaker of the House of Representatives shall be appointed to a 2-year term. Additionally, one-third of the total initial appointees of the Governor shall be appointed to 1-year terms, one-third shall be appointed to 2-year terms, and one-third to 3-year terms. If the initial appointments of the Governor are not of a number divisible into thirds, and there results one additional appointee, that appointee shall be appointed to a 2-year term. If the initial appointments of the Governor are not of a number divisible into thirds, and there results two additional appointees, one of the additional appointees shall be appointed to a 1-year term and the other appointee shall be appointed to a 2-year term.

2. Vacancies occurring during an appointee's initial term shall be filled in the same manner as the initial appointments, pursuant to subparagraph 1. After the terms referred to in subparagraph 1. have expired, members shall be appointed to 3-year terms.

(4) In order to enhance its understanding of the various needs of the state's elderly population and to avoid unnecessary duplication of effort, the advisory council shall identify any council, committee, task force, or similar group that is statutorily mandated to represent the interest of older persons, and shall invite a member aged 60 years or older, or a younger member if there are no members aged 60 years or older, from each identified group to serve as a nonvoting ex officio member of the advisory council.

(5) The advisory council shall meet at least quarterly, or more frequently as needed.

(6) The Department of Elderly Affairs shall provide staff support to assist the advisory council in the performance of its duties.

(7) Members of the advisory council shall receive no salary, but are entitled to reimbursement for travel and per diem expenses, as provided in s. 112.061, while performing their duties under this section.

430.06 Plan for improving the provision of social services and long-term care to elderly population.—

(1) **LEGISLATIVE INTENT.**—The Legislature finds that the large percentage of elderly in the state's population is growing and that the elderly population's need for social services and long-term care is expected to increase. The Legislature also finds that the present administrative structure for community social services and long-term care for the elderly duplicates local and state agency bureaucracies and increases the cost of program administration and that management is excessively vested at the state level. Further, the Legislature finds that responsiveness to the needs of the elderly can be maximized through greater local level responsibility and authority in planning, coordination, funding, and delivery of services. Therefore, it is the intent of the Legislature to make improvements in the state's service delivery systems presently administered by the Department of Health and Rehabilitative Services to achieve greater efficiency and effectiveness in meeting the social services and long-term care needs of the state's elderly population.

(2) **DEVELOPMENT OF PLAN.**—

(a) No later than January 1, 1992, the Department of Elderly Affairs and the Department of Health and Rehabilitative Services shall jointly prepare and submit to the Legislature one plan for the implementation of improvements to the state's social services and long-term care systems serving the elderly population.

(b) Adequate opportunities, including public hearings, to contribute input and make recommendations for the plan shall be provided to parties including, but not limited to, the following:

1. Elderly citizens and their families and caregivers.
2. Area agencies on aging.
3. Community care for the elderly lead agencies.
4. Public and private service and long-term care providers and associations.
5. Local governments.
6. Representatives of the religious community.
7. University centers on aging.

(c) Areas for improvement to be addressed in the plan shall include, but not be limited to, the following:

1. Designs for service delivery systems that are unified and centered on the persons seeking assistance.
2. Local-level responsibility, authority, and accountability.
3. Local-level comprehensive planning.
4. Consolidation of responsibility and accountability for program development, coordination, funding of services, and performance monitoring.
5. Availability and accessibility of assistance, including a continuum of both noninstitutional and institutional services and care, preventive activities, and opportunities for volunteerism.
6. Improvement in the availability and dissemination of information about services and opportunities for elderly persons, including the availability of local-level centralized information and referral telephone helpline services.
7. Utilization of federal, state, and local resources to expand and maximize the array and capacity of community-based services.
8. Equitable distribution and control of resources.
9. Identification and targeting of persons in greatest need.
10. Emphasis on achievement and evaluation of service outcomes.
11. Elimination or reduction of administrative duplication to streamline delivery of services.
12. Contract management systems, information systems, and accountability.
13. Assessment and collections of fees for services.
14. Regulatory activities.

(d) The plan shall include recommendations for organizational changes necessary to accomplish these objectives. The department and the Department of Health and Rehabilitative Services shall consider the need for organizational changes that include, but are not limited to, intradepartmental, interdepartmental, state-level, and local-level transfers and elimination, strengthening, or reduction of roles and functions. Recommendations for organizational changes shall specify interdepartmental transfer of programs and consequent intradepartmental organizational changes. Organizational changes shall enhance or facilitate improvements in the delivery of social services and long-term care through federal and state programs to the state's elderly population. The plan shall also include specific recommendations for the implementation of any organizational changes, including timeframes for transfer actions and specific recommendations for transferring or abolishing existing positions. When positions are to be abolished, the individuals affected shall be given priority consideration for any new positions created by the reorganization or for other vacant positions in state government, when the affected individuals are qualified for those positions.

(e) If the plan recommends redesignation of geographic planning and service areas and area agencies on aging, through which federal and state social services and long-term care programs for the elderly are administered, the department and the Department of Health and Rehabilitative Services shall ensure that geographic boundaries for planning and service areas, area agencies on aging, and service districts of the Department of Health and Rehabilitative Services are identical.

(f) If the plan recommends the transfer of any program or service from the Department of Health and Rehabilitative Services to another state department, the plan shall also include recommendations that provide for an independent third-party mechanism, as currently exists in the human rights advocacy committees established in ss. 402.165 and 402.166, for protecting the constitutional and human rights of recipients of departmental services.

430.07 Office of Volunteer Community Service.—There is created within the Department of Elderly Affairs the Office of Volunteer Community Service. The office shall:

- (1) Compile an inventory of services needed by elderly persons.
- (2) Compile an inventory of services being provided to elderly persons to meet those needs.
- (3) Determine which services needed by elderly persons are not being provided.
- (4) Determine which services currently not being provided can be provided by older persons acting as volunteers.
- (5) Identify those state rules and policies which restrict volunteer service by or for older persons and propose corrective actions.
- (6) Identify methods of promoting volunteer service by and for older persons.
- (7) Develop a comprehensive volunteer program that includes an intergenerational component and draws on the strengths and skills of the state's older population and, to the extent possible, implements the volunteer service credit program.
- (8) Encourage contributions and grants through private, state, and federal sources for the purpose of promoting, implementing, or evaluating volunteer programs by or for older persons.

430.08 Rulemaking.—The department shall adopt, amend, or rescind such rules as it deems necessary to carry out the provisions of this chapter.

Section 6. It is the intent of the Legislature that the Secretary of Elderly Affairs shall not be paid a salary equivalent to secretaries of other state agencies until the Department of Elderly Affairs provides, or contracts for the provision of, services to the elderly.

Section 7. Section 4 of chapter 89-294, Laws of Florida, is hereby repealed.

Section 8. Section 430.05, Florida Statutes, is repealed on October 1, 2001, and the Department of Elderly Affairs Advisory Council shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 9. The Statutory Revision Division of the Joint Legislative Management Committee is hereby directed to search for all statutory cross references affected by this act and to make all necessary statutory revisions.

Section 10. Effective January 1, 1992, the Department of Elderly Affairs shall become the State Unit on Aging as defined in the Older Americans Act of 1965, as amended. Programs funded under the Older Americans Act, the Community Care for the Elderly Act, and the Alzheimer's Disease Initiative program and funds administered under the federal low-income energy assistance program for the elderly shall be transferred to the Department of Elderly Affairs by a type four transfer, as defined in s. 20.06, Florida Statutes.

Section 11. Except as otherwise provided herein, this act shall take effect October 1, 1991.

House Amendment 2—In title, on page 1, line 1, through page 3, line 22, strike all of said lines and insert: A bill to be entitled An act relating to governmental reorganization; creating s. 20.41, F.S.; creating a Department of Elderly Affairs; providing for its organization; transfer-

ring specified powers, duties and functions, records, personnel, property and funds from the Pepper Commission on Aging to the department; transferring the state and district nursing home and long-term care facility ombudsman councils from the Pepper Commission on Aging to the department; amending ss. 400.304 and 400.307, F.S., relating to the state and district nursing home and long-term care facility ombudsman councils, to conform; adding provisions relating to council duties and positions; amending s. 410.016, F.S.; requiring coordination of Department of Health and Rehabilitative Services' activities with the Department of Elderly Affairs; amending s. 410.505, F.S., and repealing section 4 of chapter 89-294, Laws of Florida; deleting the Pepper Commission on Aging; conforming provisions and saving such section from Sundown repeal; creating chapter 430, F.S.; providing a short title; providing legislative intent; specifying the purposes of the Department of Elderly Affairs; establishing duties and responsibilities of the department; creating the Department of Elderly Affairs Advisory Council; providing duties and membership; requiring a plan to improve the provision of social services and long-term care; creating an Office of Volunteer Community Service; providing duties; providing rulemaking authority; providing legislative intent; providing for review and repeal; directing the Statutory Revision Division to complete statutory cross referencing; designating the Department of Elderly Affairs as the State Unit on Aging; providing for the transfer of certain functions; providing effective dates.

POINT OF ORDER

Senator Scott raised a point of order that pursuant to Rule 4.8 the bill should be referred to the Committee on Appropriations.

RULING ON POINT OF ORDER

The President ruled the point not well taken.

MOTIONS

Senator Forman moved that the Senate concur in the House amendments. The motion failed. The vote was:

Yeas—18 Nays—18

Senator Walker moved that the Senate reconsider the vote by which the motion to concur in the House amendments failed. The motion failed. The vote was:

Yeas—18 Nays—20

The Senate refused to concur in the House amendments and the House was requested to recede and in the event the House refused to recede a conference committee was requested.

CONFEREES ON CS FOR SB'S 58 AND 2294 APPOINTED

The President appointed Senators Forman, Weinstock, Meek, Weinstein and Souto.

The action of the Senate was certified to the House.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 96 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 96—A bill to be entitled An act relating to easements; amending s. 704.01, F.S.; revising criteria for determining when a statutory way of necessity exists; providing that such an easement may run under the servient tenement; amending s. 704.04, F.S.; deleting the provision that a statutory way of necessity awarded by court order is temporary; providing for judicial determination of the duration of the easement in certain circumstances; providing for judicial determination of attorney's fees and costs; deleting a provision permitting either party to request a jury trial to determine compensation; providing an effective date.

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

Section 1. Subsection (2) of section 704.01, Florida Statutes, is amended to read:

704.01 Common-law and statutory easements defined and determined.—

(2) STATUTORY WAY OF NECESSITY EXCLUSIVE OF COMMON-LAW RIGHT.—Based on public policy, convenience, and necessity, a statutory way of necessity exclusive of any common-law right exists when any land or portion thereof outside any municipality which is being used or desired to be used for as a dwelling or dwellings or for agricultural or for timber raising or cutting or stockraising purposes shall be shut off or hemmed in by lands, fencing, or other improvements of other persons so that no practicable route of egress or ingress shall be available therefrom to the nearest practicable public or private road. The owner or tenant thereof, or anyone in their behalf, lawfully may use and maintain an easement for persons, vehicles, stock, franchised cable television service, and any utility service, including, but not limited to, water, wastewater, reclaimed water, natural gas, electricity, and telephone service, over, under, through, and upon the lands which lie between the said shut-off or hemmed-in lands and such public or private road by means of the nearest practical route, considering the use to which said lands are being put; and the use thereof, as aforesaid, shall not constitute a trespass; nor shall the party thus using the same be liable in damages for the use thereof; provided that such easement shall be used only in an orderly and proper manner.

Section 2. Section 704.04, Florida Statutes, is amended to read:

704.04 Judicial remedy and compensation to servient owner.—When the owner or owners of such lands across which a statutory way of necessity under s. 704.01(2) is claimed, exclusive of the common-law right, objects or refuses to permit the use of such way under the conditions set forth herein or until he receives compensation therefor, either party or the board of county commissioners of such county may file suit in the circuit court of the county wherein the land is located in order to determine if the claim for said easement exists, and the amount of compensation to which said party is entitled for use of such easement. Where said easement is awarded to the owner of the dominant tenement, it shall be in compliance with s. 704.01(2) temporary and shall exist so long as such easement is reasonably necessary for the purposes stated herein. The court, in its discretion, shall determine all questions, including the type, duration, extent, and location of the easement, and the amount of compensation, and the attorney's fees and costs to be awarded to either party for unreasonable refusal to comply with the provisions of s. 704.01(2) provided that if either of said parties so requests in his original pleadings, the amount of compensation may be determined by a jury trial. The easement shall date from the time the award is paid.

Section 3. This act shall take effect upon becoming a law.

House Amendment 2—On page 1, lines 1-15, strike the entire title and insert: A bill to be entitled An act relating to easements; amending s. 704.01, F.S.; revising criteria for determining when a statutory way of necessity exists; providing that such an easement may run under the servient tenement; amending s. 704.04, F.S.; deleting the provision that a statutory way of necessity awarded by court order is temporary; providing for judicial determination of attorney's fees and costs; providing an effective date.

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

CS for SB 96 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives returns, as requested, CS for SB 162.

John B. Phelps, Clerk

CS for SB 162—A bill to be entitled An act relating to historic preservation; creating preservation boards of trustees within the Department of State; placing the boards under the administrative supervision of the department; providing for the sale of property by the preservation boards; directing the department to adopt certain rules; creating the Historic St. Augustine Preservation Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; authorizing annual appropriations; permitting the board of trustees to authorize a direct-support organization to operate for certain

purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; creating the Historic Pensacola Preservation Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; amending s. 266.107, F.S.; revising cross-references; permitting the board of trustees to authorize a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; creating the Historic Tallahassee Preservation Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; amending s. 226.117, F.S., permitting the board of trustees to authorize a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; creating the Historic Florida Keys Preservation Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; amending s. 266.207, F.S.; revising cross-references; permitting the board of trustees to authorize a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; creating the Historic Palm Beach Preservation Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; amending s. 266.308, F.S.; revising cross-references; permitting the board of trustees to authorize a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; creating the Historic Tampa-Hillsborough County Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; amending s. 266.407, F.S.; revising cross-references; creating the Ybor City Historic District and Barrio Latino Commission; providing for membership, powers, and duties; authorizing annual appropriations; permitting the board of trustees to authorize a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; creating the Historic Broward County Preservation Board of Trustees; providing definitions; providing for membership; providing certain powers and procedures for operation; permitting the board of trustees to authorize a direct-support organization to operate for certain purposes; providing that the direct-support organization must operate under a contract and specifying the terms of the contract; providing public records exemptions; providing for determining local governments' share of cost of historic preservation services provided by boards; providing for expiration of portions of the act and for review under s. 11.611, F.S., the Sundown Act; providing for future review and repeal of public records exemptions pursuant to s. 119.14, F.S., the Open Government Sunset Review Act; repealing ss. 266.01, 266.02, 266.03, 266.04, 266.05, 266.06, 266.07, 266.08, 266.101, 266.102, 266.103, 266.104, 266.105, 266.106, 266.109, 266.110, 266.111, 266.112, 266.113, 266.114, 266.115, 266.118, 266.201, 266.202, 266.203, 266.204, 266.205, 266.206, 266.2095, 266.301, 266.302, 266.303, 266.304, 266.305, 266.306, 266.309, 266.401, 266.402, 266.403, 266.404, 266.405, 266.406, 266.408, 266.409, 266.410, 266.411, 266.501, 266.502, 266.503, 266.504, 266.505, 266.506, 266.507, and 266.508, F.S., as amended, relating to historic preservation boards; providing an effective date.

RECONSIDERATION

On motion by Senator Bankhead, the rules were waived and the Senate reconsidered the vote by which **CS for SB 162** passed April 24.

On motion by Senator Bankhead, the Senate reconsidered the vote by which the Senate concurred in **House Amendment 1**.

Senator Bankhead moved the following amendment which was adopted:

Senate Amendment 1 to House Amendment 1—On page 2, strike line 3 and insert:

(4) *A majority of the board members must be qualified through the*

On motions by Senator Bankhead, the Senate concurred in **House Amendment 1** as amended and the House was requested to concur in the Senate amendment to the House amendment; concurred in **House Amendment 2**; and refused to concur in **House Amendments 3, 4 and 5** and the House was requested to recede.

CS for SB 162 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—29 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments **CS for SB 724** and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 724—A bill to be entitled An act relating to regulation of professions and occupations; amending s. 455.213, F.S.; authorizing denial of license pending certain investigations; amending s. 455.217, F.S.; authorizing the Department of Professional Regulation to share licensing examinations with other state's licensing authorities under certain conditions; amending s. 455.2175, F.S.; prohibiting the theft of examinations; providing penalties; amending s. 455.219, F.S.; providing for fees for duplicate licenses, research, certified copies, and duplication; amending s. 455.223, F.S.; authorizing the Department of Professional Regulation to make certain inspections and to serve subpoenas and other process; creating s. 455.224, F.S.; authorizing the department to issue citations; providing procedures; providing for penalties; amending s. 455.225, F.S.; authorizing the department to dismiss cases based upon determination of insufficient credible evidence to support prosecution; specifying circumstances in which a formal hearing is required; including all regulated professionals in summary order procedures; requiring the department to give the subject of an investigation a copy of the investigative file, upon request; providing for a written response; amending s. 455.227, F.S.; authorizing disciplinary action where a licensee has had certain action taken against his license in any jurisdiction, or where a civil judgment against the licensee relating to the practice of his profession has not been satisfied; increasing the maximum penalty for violations; amending s. 455.2275, F.S.; expanding applicability of prohibitions against giving false information to the department or a board; amending s. 455.229, F.S.; authorizing the department to require the payment of attorney's fees, costs, and court costs by a person who defaults on an examination hearing in certain circumstances; amending s. 455.241, F.S.; providing that the furnishing of reports or copies of patient records not be conditional upon payment of a fee; amending s. 464.004, F.S.; revising the membership of the Board of Nursing; amending s. 463.0055, F.S.; revising membership and appointment provisions of the committee responsible for reviewing requests for changes to the formulary of topical ocular pharmaceutical agents that certified optometrists may administer and prescribe; revising provisions governing establishment of and changes to the formulary; providing an effective date.

House Amendment 1—On page 12, line 14, through page 13, line 23, strike all of said lines and insert:

Section 13. Effective October 1, 1991, paragraph (c) of subsection (3) of section 466.006, Florida Statutes, 1990 Supplement, is amended to read:

466.006 Examination of dentists.—

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, he shall not be entitled to take the examinations required in this section to practice dentistry until he meets the following requirements:

(c) Satisfies one of the following:

1. Completes a program of study, as defined by the board by rule, at an accredited American dental school and demonstrates receipt of a D.D.S. or D.M.D., ~~or the equivalent~~, from said school; ~~or~~

2. Completes a 2-year supplemental dental education program at an accredited dental school and receives a dental diploma, degree, or certificate as evidence of program completion; or

3. Exhibits manual skills on a laboratory model pursuant to rules of the board. The board may charge a reasonable fee, not to exceed \$250, to cover the costs of administering the exhibition of competency in manual skills. If the applicant fails to exhibit competent clinical skills in two attempts, he shall not be entitled to take the examinations authorized in subsection (4). Effective ~~December 31 October 1~~, 1991, no applicant may fulfill the requirements of this paragraph by taking the laboratory model exam. On or after said date, applicants must complete the educational requirements set forth in ~~subparagraphs~~ ~~subparagraph~~ 1. or 2.

The provisions of paragraph (a) and subparagraph (c)3 2. notwithstanding, an applicant who is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) and who has failed to pass part I or part II of the national board examination in two attempts may take the laboratory model exam required in subparagraph (c)3 2. if the board finds that he has taken remedial training in the subject areas in which he tested below standard on said national board examination and that he has subsequently passed that part of such exam which he had previously failed, provided that no applicant shall be entitled to this exception who fails either part of the national board examination a total of three times. Further, an applicant who has failed to pass the laboratory model exam required in subparagraph (c)3 2. in two attempts may be allowed by the board to make a third and final attempt if the board finds that he has taken remedial training in clinical subjects in which he tested below standard. Upon passing said laboratory model exam, the applicant may take the licensure examinations required in subsection (4). Further, the educational requirements found in subparagraph (b)1. do not apply to persons who began dental education prior to October 1, 1983, and such persons shall be governed by the educational requirements in existence on September 30, 1983.

Section 14. Subsection (3) is added to section 466.019, Florida Statutes, to read:

466.019 Advertising by dentists.—

(3) For purposes of this section, *D.D.S.* or *D.M.D.* are synonymous and may be used interchangeably by licensed dentists who have graduated from an accredited American dental school with a *D.D.S.* or *D.M.D.* degree, when advertising dental services.

Section 15. Paragraph (h) of subsection (2) of section 287.055, Florida Statutes, 1990 Supplement, is amended to read:

287.055 Acquisition of professional architectural, engineering, landscape architectural, or land-surveying services; definitions; procedures; contingent fees prohibited; penalties.—

(2) DEFINITIONS.—For purposes of this section:

(h) A "design-build firm" means a partnership, corporation, or other legal entity which:

1. Is certified under s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or and

2. Is certified under s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

Section 16. Section 373.117, Florida Statutes, is amended to read:

373.117 Certification by professionals regulated by the Department of Professional Regulation professional engineer.—

(1) ~~Nothing in this section shall be construed as specific authority for a water management district or the department to require certification by a professional engineer licensed under chapter 471, a professional land surveyor licensed under chapter 472, a professional landscape architect licensed under part II of chapter 481, or a professional geologist licensed under chapter 492 for an activity that is not within the definition or scope of practice of the regulated profession. Applications submitted to the district or department by persons exempt from licensure pursuant to chapters 471, 472, 481, or 492 shall not require certification. If an application for a permit or license to conduct an activity regulated under this chapter requires the services of a professional engineer as regulated and defined by chapter 471, the department or governing board of a water management district may require, as a condition of granting a permit or license, that a professional engineer licensed under chapter 471 certify upon completion of the permitted or licensed activity that such activity has been completed in substantial conformance with the plans and specifications approved by the department or board.~~

(2) *If an application for a permit or license to conduct an activity regulated under this chapter, chapter 376, chapter 403, or any permitting program delegated to a water management district by a state agency, or to undertake corrective action of such activity or program ordered by the department or a water management district, requires the services of a professional as enumerated in subsection (1), the depart-*

ment or governing board of the water management district may require, by rule, in conjunction with such an application or any submittals required as a condition of granting a permit or license, or in conjunction with the order of corrective action, such certification by the professional as is necessary to ensure that the proposed activity or corrective action is designed, constructed, operated, and maintained in accordance with applicable law and rules of the department or district and in conformity with proper and sound design principles, or other such certification by the professional as may be necessary to ensure compliance with applicable law or rules of the department or district. The department or governing board of a water management district may further require as a condition of granting a permit or license, or in conjunction with ordering corrective action, that the professional certify, upon completion of the permitted or licensed activity or corrective action, that such activity or corrective action has, to the best of his knowledge, been completed in substantial conformance with the plans and specifications approved by the department or the board. The cost of such certification by a professional engineer shall be borne by the permittee.

(3) ~~A permitted or licensed activity or corrective action that is required to be so certified upon completion of the activity or action may not be placed into use or operation until the professional's certificate is filed with the department or the board. No permitted or licensed activity which is required to be so certified shall be placed into use or operation until the professional engineer's certificate is filed with the department or board.~~

Section 17. Section 455.242, Florida Statutes, is amended to read:

455.242 Disposition of records of deceased practitioners or practitioners relocating or terminating practice.—Each board created under the provisions of chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, chapter 464, chapter 465, chapter 466, chapter 474, part I or part II of chapter 484, chapter 486, chapter 490, or chapter 491, and the department under the provisions of chapter 462, shall provide by rule for the disposition, under said chapter, of the medical records or records of a psychological nature of practitioners which are in existence at the time the practitioner dies, terminates his practice, or relocates and is no longer available to his patients and which records pertain to the practitioner's patients. The rules shall provide that the records be retained for at least 2 years after the practitioner's death, termination of practice, or relocation. In the case of the death of the practitioner, the rules shall provide for the disposition of such records by the estate of the practitioner.

Section 18. Paragraph (e) of subsection (1) of section 470.006, Florida Statutes, is repealed, and subsection (3) is added to that section to read:

470.006 Licensure as an embalmer by examination.—

(3) *No applicant shall be granted a license until he has completed a 1-year internship under a licensed embalmer.*

Section 19. Subsection (1) of section 470.008, Florida Statutes, is amended to read:

470.008 Registration of an embalmer intern.—

(1) Any person desiring to become an embalmer intern shall make application to the department on forms provided by the department, together with a \$25 nonrefundable fee *not to exceed \$100*. The application shall indicate the name and address of the licensed embalmer under whose supervision the intern will receive training and the name of the licensed funeral establishment where such training is to be conducted. The embalmer intern shall intern under the supervision of a licensed embalmer.

Section 20. Section 470.009, Florida Statutes, is amended to read:

470.009 Licensure as a funeral director by examination.—

(1) Any person desiring to be licensed as a funeral director shall apply to the department to take the licensure examination. The department shall examine each applicant who the board certifies has met the requirements to qualify to take the examination to be a licensed embalmer pursuant to s. 470.006(1)(a)-(c) *and*, has been granted an Associate of Arts degree in mortuary science. *No applicant shall be granted a license until such person, and has completed a 1-year internship under a licensed funeral director.*

(2) If the department finds that the applicant meets the requirements of subsection (1) and any other provisions of this chapter, it shall license the person as a funeral director if he has passed an examination prepared by the department on the following subjects:

~~(a) The signs of death.~~

~~(b) The manner by which death may be determined.~~

~~(c) The laws and rules of the state and Federal Government concerning funeral directing and embalming, disposition of dead human bodies, vital statistics, medical examiners, *preneed funeral merchandise or service burial insurance and contracts*, offenses concerning dead human bodies, and the *transportation, storage, and disinterment of dead human bodies shipment and care of bodies that died from infectious and contagious diseases.*~~

Section 21. Subsection (1) of section 470.012, Florida Statutes, is amended to read:

470.012 Registration of a funeral director intern.—

(1) Any person desiring to become a funeral director intern shall make application to the department on forms provided by the department, together with a \$25 nonrefundable fee not to exceed \$100. The application shall indicate the name and address of the licensed funeral director under whose supervision the intern will receive training and the name of the licensed funeral establishment where such training is to be conducted. The funeral director intern shall intern under the supervision of a licensed funeral director.

Section 22. Subsection (11) is added to section 470.024, Florida Statutes, to read:

470.024 Funeral establishment; licensure.—

(11) A change in ownership of a funeral establishment shall be promptly reported to the department and may require the relicensure of the funeral establishment, including reinspection and payment of applicable fees.

Section 23. Subsection (4) of section 470.025, Florida Statutes, is amended to read:

470.025 Cinerator facility; licensure.—

(4) A change in ownership of a cinerator facility shall be promptly reported to the department and may require the relicensure of the cinerator facility, including reinspection and payment of applicable fees.

Section 24. Section 473.303, Florida Statutes, is amended to read:

473.303 Board of Accountancy.—

(1) There is created in the Department of Professional Regulation a Board of Accountancy. The board shall consist of nine members, seven of whom must be certified public accountants and two of whom must be lay persons who are not and have never been certified public accountants or members of any closely related profession or occupation. The members who are certified public accountants must have practiced public accounting on a substantially full-time basis for at least 5 years. At least one member of the board must be 60 years of age or older. Each member shall be appointed by the Governor, subject to confirmation by the Senate.

(2) Notwithstanding the provisions of s. 455.225(4), the probable cause panel of the board may be composed of at least one board member who shall serve as chairman and additional board members or one past member of the board who is a licensee in good standing. The past board member shall be appointed to the panel for a maximum of 2 years by the chairman of the board with the approval of the secretary of the department.

Section 25. Subsection (2) of section 473.314, Florida Statutes, is amended to read:

473.314 Temporary license.—

(2) Each application for a temporary license shall state the names of all persons who are to enter this state and shall be accompanied by a fee in an amount established by the board not to exceed \$400 \$200.

Section 26. Paragraph (c) of subsection (3) of section 473.323, Florida Statutes, is amended to read:

473.323 Disciplinary proceedings.—

(3) When the board finds any licensee guilty of any of the grounds set forth in subsection (1), it may enter an order imposing one or more of the following penalties:

(c) Imposition of an administrative fine not to exceed \$5,000 \$1,000 for each count or separate offense.

Section 27. Subsection (1) of section 481.217, Florida Statutes, is amended to read:

481.217 Inactive status.—

(1) A license which has become inactive may be reactivated pursuant to s. 481.215 ~~this section~~ upon application to the department and payment of an inactive status application fee and a reactivation fee.

(a) The board may prescribe by rule continuing education requirements as a condition of reactivating a license. The continuing education requirements for reactivating a license for a registered architect shall not exceed 12 contact hours for each year the license was inactive. The *minimum* continuing education requirement for reactivating a license for a registered interior designer shall be *those of the most recent biennium plus one-half of the requirements in s. 481.215 for each year or part thereof during which the license was inactive not exceed 12 hours approved by the board for each year the license was inactive.* The board shall only approve continuing education that builds upon the basic knowledge of interior design.

(b) Any such license which has been inactive for more than 4 years shall automatically expire if the licensee has not made application for reactivation of such license. Once a license expires, it becomes null and void without any further action by the board or department. One year prior to expiration of the inactive license, the department shall give notice to the licensee at the licensee's last address of record.

Section 28. Subsection (4) of section 484.042, Florida Statutes, 1990 Supplement, is amended to read:

484.042 Board of Hearing Aid Specialists; membership, appointment, terms.—

(4) All provisions of chapter 455 relating to activities of regulatory boards apply to the board. *However, notwithstanding the requirement of s. 455.225(4) that the board provide by rule for the determination of probable cause by a panel composed of its members or by the department, the board may provide by rule that its probable cause panel may be composed of one current member of the board and one past member of the board, as long as the past member is a licensed hearing aid specialist in good standing. The past board member shall be appointed to the panel for a maximum of 2 years by the chairman of the board with the approval of the secretary.*

Section 29. Section 484.0447, Florida Statutes, 1990 Supplement, is amended to read:

484.0447 Fees.—The board shall by rule establish fees to be paid as follows:

- (1) Examination application fee, not to exceed \$150;
- (2) Examination fee, not to exceed \$175, which is refundable if the applicant is found to be ineligible to take the examination;
- (3) Reexamination fee, not to exceed \$175;
- ~~(4) Inactive status fee, not to exceed \$50;~~
- ~~(4)(5) Initial licensure fee, not to exceed \$600;~~
- ~~(6) Endorsement fee, not to exceed \$600;~~
- ~~(5)(7) Trainee registration fee, not to exceed \$100; and~~
- ~~(6)(8) Biennial renewal fee, not to exceed \$600; and~~
- ~~(9) One-time assessment of \$375 to be assessed and paid by January 1, 1990.~~

Section 30. Section 484.046, Florida Statutes, is repealed.

Section 31. Subsections (3) and (4) of section 484.047, Florida Statutes, 1990 Supplement, are amended, present subsection (5) is renumbered as subsection (6), and a new subsection (5) is added to that section, to read:

484.047 Renewal of license.—

(3) Any active license which is not renewed at the end of the biennium as prescribed by the department shall automatically *expire and,*

~~unless reinstated within 12 months, become null and void revert to an inactive status. Such license may be reactivated only if the licensee meets the other qualifications for reactivation in s. 484.048. Any license which has not been renewed at the end of the biennium, and has automatically expired, may be reinstated within 12 months thereafter upon payment of the current renewal fee and a late fee set by rule of the board not to exceed \$100. The board shall notify by certified mail to the last address of record of the licensee at least 60 days prior to the end of the 12-month reinstatement period those licensees who have not renewed their licenses that they may have their expired licenses reinstated. Any expired license which has not been reinstated within such 12-month period shall become null and void without any further action by the board or the department.~~

(4) Sixty days prior to the automatic placing of a license on ~~expired~~ inactive status, the department shall send notice by mail to the last known address of the licensee.

(5) A licensee shall notify the board in writing of any change of address.

(6)(5) The board may promulgate rules to require no more than 30 approved hours of mandatory continuing education for the renewal of a hearing aid specialist's license.

Section 32. Section 484.048, Florida Statutes, is repealed.

Section 33. Section 484.054, Florida Statutes, is amended to read:

484.054 Sale or distribution of hearing aids through mail; penalty.—It is unlawful for any person to ~~sell or distribute offer for sale or distribution~~ hearing aids through the mail to the ultimate consumer. Any violation of this section constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or, s. 775.083, ~~or s. 775.084~~.

Section 34. Paragraph (d) of subsection (1) of section 484.056, Florida Statutes, is amended to read:

484.056 Disciplinary proceedings.—

(1) The following acts relating to the practice of dispensing hearing aids shall be grounds for both disciplinary action against a hearing aid specialist as set forth in this section and cease and desist action by the department as set forth in s. 455.228 against any person owning or operating a hearing aid establishment who engages in, aids, or abets any such violation:

(d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of dispensing hearing aids or the ability to practice dispensing hearing aids, including violations of any federal laws or regulations regarding hearing aids. *For the purposes of this paragraph, a plea of nolo contendere shall create a rebuttable presumption of guilt to the underlying criminal charges.*

Section 35. Subsection (1) of section 489.103, Florida Statutes, 1990 Supplement, is amended to read:

489.103 Exemptions.—This part does not apply to:

(1) Contractors in work on bridges, roads, streets, highways, or railroads, ~~or utilities~~ and services incidental thereto.

Section 36. Subsection (6) of section 489.105, Florida Statutes, 1990 Supplement, is amended to read:

489.105 Definitions.—As used in this part:

(6) "Contracting" means, except as exempted in this part, engaging in business as a contractor and includes, but is not limited to, performance of any of the acts as set forth in subsection (3) which define types of contractors. The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure or agent qualification, the offering, negotiation for a bid, or attempted sale of these services requires the corresponding licensure. However, the term "contracting" shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this chapter have been or will be retained for the purpose of constructing such residences ~~business organizations which retain~~

~~or engage the services of a qualified contractor certified or registered pursuant to the requirements of this chapter; nor shall such business organizations, themselves, be subject to agent qualification as a contracting business in accordance with the provisions of s. 489.119 and rules of the board.~~

Section 37. Subsection (7) is added to section 489.107, Florida Statutes, to read:

489.107 Construction Industry Licensing Board.—

(7) *The Construction Industry Licensing Board and the Electrical Contractors' Licensing Board shall meet in joint session at least twice a year.*

Section 38. Paragraph (a) of subsection (2) of section 489.119, Florida Statutes, 1990 Supplement, is amended to read:

489.119 Business organizations; qualifying agents.—

(2)(a) If the applicant proposes to engage in contracting as a partnership, corporation, business trust, or other legal entity, *or in any name other than his legal name*, the applicant must apply through a qualifying agent. The application must state the name of the partnership and of its partners; the name of the corporation and of its officers and directors and the name of each of its stockholders who is also an officer or director; the name of the business trust and its trustees; or the name of such other legal entity and its members. In addition, the applicant must furnish evidence of statutory compliance if a fictitious name is used, *the provisions of s. 865.09(7) notwithstanding*. Such application must also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its contracting business and that he has authority to supervise construction undertaken by such business organization. A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that must be qualified in accordance with board rules. The registration or certification, when issued upon application of a business organization, must be in the name of the qualifying agent, and the name of the business organization must be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department.

Section 39. Section 489.127, Florida Statutes, 1990 Supplement, is amended to read:

489.127 Prohibitions; penalties.—

(1) No person shall:

(a) Falsely hold himself or a business organization out as a licensee, certificateholder, or registrant;

(b) Falsely impersonate a certificateholder or registrant;

(c) Present as his own the certificate or registration of another;

(d) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a certificate or registration;

(e) Use or attempt to use a certificate or registration which has been suspended or revoked;

(f) Engage in the business or act in the capacity of a contractor or advertise himself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered or certified; ~~or~~

(g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another primary qualifying agent;

(h) *Commence or perform work for which a building permit is required pursuant to an adopted state minimum building code without such building permit being in effect; or*

(i) *Willfully or deliberately disregard or violate any municipal or county ordinance relating to uncertified or unregistered contractors.*

(2) Any person who violates any of the provisions of subsection (1) ~~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.~~

(3) Each county or municipality may, at its option, designate one or more of its code enforcement officers ~~inspectors~~, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of ~~subsection paragraph (1)(f) and s. 489.132(1)~~ against persons who engage in activity for which county or municipal certification or registration under this part is required.

(a) A code enforcement officer ~~inspector~~ designated pursuant to this subsection may issue a citation for any violation of ~~subsection paragraph (1)(f) or s. 489.132(1)~~ whenever, based upon personal investigation, the code enforcement officer has reasonable and probable grounds to believe that such a violation has occurred.

(b) A citation issued by a code enforcement officer ~~shall inspector~~ must be in a form prescribed by the local governing body of the county or municipality and ~~shall~~ must state:

1. The time and date of issuance,;
2. The name and address of the person to whom the citation is issued. ~~violation,~~
3. The time and date of the violation,;
4. A brief description of the violation and the facts constituting reasonable cause,;
5. The name of the code enforcement officer ~~inspector~~, and the time frame during which the person charged must appear in court if the citation is appealed.
6. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
7. The applicable civil penalty if the person elects not to contest the citation.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officer. The maximum civil penalty which may be levied shall not exceed \$500.

(d)(e) The act for which the citation is issued ~~shall~~ must be ceased upon receipt of the citation; and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, ~~or other person designated in writing by the person charged, may~~, within 10 ~~3~~ days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the enforcement or licensing board or designated special master to appeal the issuance of the citation by the code enforcement officer ~~submit a written request to the enforcement or licensing board for an appearance before the enforcement or licensing board to challenge the validity of the citation, to show that the violation has been corrected, or to establish a time before which the violation must be corrected.~~

1. Hearings shall be held before an enforcement or licensing board or designated special master as established by s. 162.03(2) and such hearings shall be conducted pursuant to the requirements of ss. 162.07 and 162.08.

2. Failure of a violator to appeal the decision of the code enforcement officer within the time period set forth in this paragraph shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

3. If the person issued the citation ~~charged~~, or his designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board or designated special master, the enforcement or licensing board or designated special master shall dismiss the citation unless the violation is irreparable or irreversible. If the violation is corrected within the time set by the enforcement or licensing board for correction, the enforcement or licensing board shall dismiss the citation; but if the violation has not been corrected within that time, the provisions of paragraph (d) apply.

3. If the enforcement or licensing board determines that the violation is irreparable or irreversible in nature, the enforcement or licensing board shall impose a civil penalty pursuant to paragraph (e).

4. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(e)(d)1. A person cited for a violation pursuant to this subsection is deemed to be charged with a noncriminal infraction and ~~cited to appear in court, unless the citation is dismissed pursuant to the provisions of paragraph (e).~~

2. ~~A person cited for a violation pursuant to this subsection may post a bond equal in amount to the applicable civil penalty established pursuant to paragraph (e) or sign and accept a citation indicating a promise to appear. If he refuses to post a bond or accept and sign the citation and does not submit a written request to the enforcement or licensing board for an appearance before the enforcement or licensing board pursuant to the provisions of paragraph (e), he is in violation of this act and shall be punished in accordance with paragraph (e).~~

3. ~~If a person cited for a violation pursuant to this subsection pays the applicable civil penalty established pursuant to paragraph (e) before the date he is to appear in court, he shall have the option to admit the commission of the infraction or to indicate that he does not wish to contest the citation. If such a person forfeits the bond he has posted by not appearing at the designated time and location, he is deemed to have admitted the commission of the infraction.~~

(f)(e) If the enforcement or licensing board or designated special master finds that a violation exists, the enforcement or licensing board or designated special master may order the violator to pay a civil penalty of not less than the amount set forth on the citation but not more than \$500 per day for each violation. The civil penalty required for the disposition of violations of this subsection shall be a fine not to exceed \$500. An enforcement or licensing board, upon notification by the code inspector that an order of the enforcement or licensing board has not been complied with by the set time or upon finding that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed \$250 for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order. In determining the amount of the penalty fine, if any, the enforcement or licensing board or designated special master shall consider the following factors:

1. The gravity of the violation,;
2. Any actions taken by the violator to correct the violation,; and
3. Any previous violations committed by the violator.

(g) Upon written notification by the code enforcement officer that a violator had not contested the citation or paid the civil penalty within the timeframe allowed on the citation, or if a violation has not been corrected within the timeframe set forth on the notice of violation, the enforcement or licensing board or the designated special master shall enter an order ordering the violator to pay the civil penalty set forth on the citation or notice of violation, and a hearing shall not be necessary for the issuance of such order.

(h)(f) A certified copy of an order imposing a civil penalty against an uncertified contractor ~~fine~~ may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against the personal property; however, but such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After 3 months from the filing of any such lien which remains unpaid, the enforcement board or licensing board or designated special master may authorize the local governing body's ~~body~~ attorney to foreclose on the lien. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

(i)(g) This subsection does not authorize or permit a code enforcement officer to perform any function or duty of a law enforcement officer other than a function or duty that is authorized in this subsection.

(h) The local governing body of the county or municipality may enact an ordinance establishing procedures for implementing this subsection.

(j)(4) An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board or licensing board or designated special master to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board or licensing board or designated special master. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(k)(4) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer or code enforcement officer; ~~inspector~~; or by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.

(l)(4) For those counties which enact ordinances to implement this subsection and which have local construction licensing boards or local government code enforcement boards, the local construction licensing board or local government code enforcement board shall be responsible for the administration of such citation program and training of code enforcement officers ~~investigators~~. The local governing body of the county shall enter into interlocal agreements with any municipalities in the county so that such municipalities may by ordinance, resolution, policy, or administrative order, authorize individuals to enforce the provisions of this section. Such individuals shall be subject to the requirements of training as specified by the local construction licensing board.

(m)(4) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer ~~commits shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

(n)(4) Nothing contained in this section shall prohibit a county or municipality from enforcing its codes or ordinances by any other means.

(o) *Nothing in this subsection shall be construed to authorize local jurisdictions to exercise disciplinary authority or procedures established in this subsection against an individual holding a proper valid certificate issued pursuant to this part.*

Section 40. Subsections (1) and (8) of section 489.129, Florida Statutes, 1990 Supplement, are amended to read:

489.129 Disciplinary proceedings.—

(1) The board may revoke, suspend, or deny the issuance or renewal of the certificate or registration of a contractor, require financial restitution to a consumer, impose an administrative fine not to exceed \$5,000, place a contractor on probation, require continuing education, assess costs associated with investigation and prosecution, or reprimand or censure a contractor if the contractor, or if the business organization for which the contractor is a primary qualifying agent or is a secondary qualifying agent responsible under s. 489.1195, is found guilty of any of the following acts:

(a) Obtaining a certificate or registration by fraud or misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(c) Violating chapter 455.

(d) Willfully or deliberately disregarding and violating the applicable building codes or laws of the state or of any municipalities or counties thereof.

(e) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered.

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his certificate or registration to be used by the uncertified or unregistered person with intent to evade the provisions of this part. When a certificateholder or registrant allows his certificate or registration to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this part.

(g) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificateholder or registrant as set forth on the issued certificate or registration, or in accordance with the personnel of the certificateholder or registrant as set forth in the application for the certificate or registration, or as later changed as provided in this part.

(h) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 75 days after the date of such liens;

2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned; or

3. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

(i) Being disciplined by any municipality or county for an act or violation of this part, ~~which discipline shall be reviewed by the state board before the state board takes any disciplinary action of its own.~~

(j) Failing in any material respect to comply with the provisions of this part.

(k) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project is to be considered abandoned after 90 days if the contractor terminates the project ~~without notification to the prospective owner and without just cause or without proper notification to the prospective owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days.~~

(l) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(m) ~~Committing~~ ~~Being found guilty of~~ fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting.

(n) Proceeding on any job without obtaining applicable local building department permits and inspections.

(o) Intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under part I of chapter 713 or a notice to contractor under chapter 255 or part I of chapter 713.

(p) *Failing to satisfy within a reasonable time, the terms of a civil judgment obtained against the licensee relating to the practice of the licensee's profession.*

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

(8) If the board finds any certified or registered contractor guilty of a violation ~~involving financial or general business practices~~, the board may, as part of its disciplinary action, require such contractor to obtain continuing education in the areas of *contracting affected by such violation* ~~financial or general business practices~~.

Section 41. Subsection (3) of section 489.131, Florida Statutes, is amended to read:

489.131 Applicability.—

(3) Nothing in this part limits the power of a municipality or county:

(a) To regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which is designed to secure compliance with and aid in the implementation of state and local building laws.

(b) To enforce other laws for the protection of the public health and safety.

(c) To collect occupational license and inspection fees for engaging in contracting or examination fees from persons who are registered with the board pursuant to local examination requirements. However, nothing in this part shall be construed to require general contractors, building contractors, or residential contractors to obtain additional occupational licenses for specialty work when such specialty work is performed by employees of such contractors on projects for which they have substantially full responsibility and such contractors do not hold themselves out to the public as being specialty contractors.

(d) To adopt any system of permits requiring submission to and approval by the municipality or county of plans and specifications for work to be performed by contractors before commencement of the work.

(e) To require one bond for each contractor in an amount not to exceed \$5,000, which bond shall be conditioned only upon compliance with the applicable state minimum building code and applicable local building code requirements adopted pursuant to s. 553.73. Any such bond must be equally available to all contractors without regard to the period of time a contractor has been certified or registered and without regard to any financial responsibility requirements. Any such bonds shall be payable to the Governor and filed in each county or municipality in which a building permit is requested. Bond reciprocity shall be granted statewide. All such bonds shall be included in meeting any financial responsibility requirements imposed by any statute or rule. Any contractor who provides a third party insured warranty policy in connection with a new building or structure for the benefit of the purchaser or owner shall be exempt from the bond requirements under this subsection with respect to such building or structure.

(f) To refuse to issue permits or issue permits with specific conditions to a contractor who has committed multiple violations, when he has been disciplined for each of them by the board and when each disciplinary action has involved revocation or suspension of a license, imposition of an administrative fine of at least \$1,000, or probation; or to issue permits with specific conditions to a contractor who, within the previous 12 months, has had final action taken against him by the department or by a local board or agency which licenses contractors and has reported the action pursuant to paragraph (6)(c), for engaging in the business or acting in the capacity of a contractor without a license. *However, this subsection does not supersede the provisions of s. 489.113(4), and no county or municipality may require any certificateholder to obtain a local professional license or pay a local professional license fee as a condition of performing any services within the scope of the certificateholder's statewide license as established under this part.*

Section 42. Section 489.133, Florida Statutes, is amended to read:

489.133 Pollutant storage systems specialty contractors; definitions; certification; restrictions.—

(1) As used in this part:

(a) "Pollutant storage systems specialty contractor" means a contractor who installs or removes a pollutant storage tank.

(b) "Pollutant storage tank" means a tank, together with associated piping or dispensing facilities, which is or could be used for the storage or supply of pollutants as defined in s. 376.301 and which is required to be registered under chapter 17-61 of the Florida Administrative Code or for which notification must be submitted under Subtitle I of the Resource Conservation and Recovery Act.

(c) "Tank" means any container other than on which is aboveground and either elevated or situated upon an impermeable surface, or which is located in an accessible underground area and either elevated or situated upon an impermeable surface therein, in such manner that any leak in such container may be readily detected.

(d) "Registered internal pollutant storage tank lining applicator" means any person who has registered with the department pursuant to

subsection (3). This registration is exempt from the provisions of prior municipality, county, or development district registration, as required under s. 489.117, and is on a statewide basis.

(e)(d) "Registered precision tank tester" means any person ~~precision tank tester~~ who has registered with the department pursuant to subsection (2). This registration is ~~shall be~~ exempt from the provisions of prior municipality, county, or development district registration, as required under s. 489.117, and is ~~shall be registered~~ on a statewide basis.

(2) The board shall adopt rules providing standards for registration of precision tank testers who precision test a pollutant storage tank. The Department of Environmental Regulation shall *approve the methodology, procedures, and equipment used and shall approve the applicant as being eligible for registration as a registered precision tank tester. A registered precision tank tester is subject to the provisions of ss. 489.129 and 489.132 and is considered a contractor operating as a primary qualifying agent for the business entity employing him, which is considered a contracting firm for the purposes of ss. 489.129 and 489.132* ~~review and comment on such rules prior to adoption.~~

(3) *The board shall adopt rules providing standards for registration of internal pollutant storage tank lining applicators who internally line pollutant storage tanks as a method of upgrading or repairing pollutant storage tanks to prevent discharge of pollutants. The Department of Environmental Regulation shall approve the methodology, procedures, and equipment used and shall approve the applicant as being eligible for registration as a registered internal pollutant storage tank lining applicator. A registered internal pollutant storage tank lining applicator is subject to the provisions of ss. 489.129 and 489.132 and is considered a contractor operating as a primary qualifying agent for the business entity employing him, which is considered a contracting firm for the purposes of ss. 489.129 and 489.132.*

(4)(3) The board shall adopt rules providing standards for certification of pollutant storage systems specialty contractors and, by July 1, 1988, amend such rules to include persons who remove such systems. The board shall provide the proposed rules to the Department of Environmental Regulation for review and comment prior to adoption. The rules shall include, but not be limited to:

(a) Standards for operating as a pollutant storage systems specialty contractor.

(b) Requirements for certification as a pollutant storage systems specialty contractor.

(c) Requirements for certification without examination of pollutant storage systems specialty contractors for any person who has passed a local licensure examination, a licensure examination in another state, or a licensure examination of a national organization, which is at least as stringent as the examination adopted by the board.

(d) Requirements for certification without examination of pollutant storage systems specialty contractors for any certified mechanical contractor, any certified plumbing contractor, and any registered mechanical or plumbing contractor who has passed a local examination judged by the board to be at least as stringent as the equivalent state mechanical or plumbing contractor's examination, provided that such contractor has been certified prior to July 1, 1986, or has been registered and passed such local examination prior to July 1, 1986.

(e) Requirements for certification by practical examination, demonstrating the ability to competently install or remove pollutant storage tanks, of pollutant storage systems specialty contractors for any person who has received a temporary certificate under paragraph (5)(4)(a) and has operated as a pollutant storage systems specialty contractor since September 1, 1981, provided that such person pays for the actual cost of the practical examination.

(f) Requirements for certification without examination of pollutant storage systems specialty contractors for any person who satisfactorily shows to the board evidence of having operated as a pollutant storage systems specialty contractor continuously for 10 years prior to July 1, 1990: statements from local officials in the areas where the person performs most of his work that such work has been competently and safely performed; and a statement from the Department of Environmental Regulation that it has taken no legal or administrative action against such person related to public health and safety issues resulting from pollutant storage systems. Application for certification without examination of pollutant storage systems specialty contractor shall be made to the board prior to July 1, 1990.

The board may use standards and examinations of national organizations if such standards and examinations are adequate to ensure competent installation and removal of pollutant storage tanks. All such standards and examinations shall be designed to ensure that leaks and other discharges are eliminated to the greatest extent possible.

(5)(4)(a) Any person who has operated as a pollutant storage systems specialty contractor during the 5 years preceding September 1, 1986, shall receive within 30 days after written request a temporary certificate permitting such person to continue operating without certification until July 1, 1990, if such person:

1. Notifies the department in writing that he intends to continue such operation and submits an application fee set by the board not to exceed \$50.

2. Provides a history of successful operation as a pollutant storage systems specialty contractor within such time period.

(b) A contractor seeking to be certified pursuant to paragraph (4)(3)(d) shall receive within 30 days after written request a temporary certificate permitting such contractor to continue operating without certification until the board determines whether he qualifies for a certificate under paragraph (4)(3)(d), provided that such contractor:

1. Notifies the department in writing that he intends to apply for certification under paragraph (4)(3)(d).

2. Provides the board sufficient information to determine that such contractor qualifies on the basis of certification or registration and the passage of an examination.

The board may revoke or refuse to issue such temporary certificate for violation of s. 489.127 or s. 489.129.

(6)(5)(a) Notwithstanding any provision of this part to the contrary, no person shall engage in contracting as a pollutant storage systems specialty contractor unless such person is certified as a pollutant storage systems specialty contractor pursuant to this part, nor shall any official authorized to issue building or other related permits issue a permit or permits for the installation or removal of a pollutant storage tank unless such official ascertains that the applicant for such permit or permits is certified as a pollutant storage systems specialty contractor.

(b) Any person installing a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s. 376.303.

(7)(6) Any person who operates as a pollutant storage systems specialty contractor, *precision tank tester*, or *internal pollutant storage tank lining applicator* in violation of this section or any person who violates subsection (6) commits ~~(5) is guilty~~ of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 43. Subsection (6) of section 489.503, Florida Statutes, 1990 Supplement, is amended to read:

489.503 Exemptions.—This part does not apply to:

(6) An owner of property making application for permit, supervising, and doing the work in connection with the construction, maintenance, repair, and alteration of and addition to a single-family or duplex residence for his own use and occupancy and not intended for sale or an owner of property when acting as his own electrical contractor and providing all material supervision himself, when building or improving a single-family or duplex residence on such property for the occupancy or use of such owner and not offered for sale or lease, or building or improving a commercial building with aggregate construction costs of under \$25,000 on such property for the occupancy or use of such owner and not offered for sale or lease. In an action brought under this subsection, proof of the sale or lease, or offering for sale or lease, of more than one such structure by the owner-builder within 1 year after completion of same is prima facie evidence that the construction was undertaken for purposes of sale or lease. This subsection does not exempt any person who is employed by such owner and who acts in the capacity of a contractor. For the purpose of this subsection, the term "owner of property" includes the owner of a mobile home situated on a leased lot. To qualify for exemption under this subsection, an owner shall personally appear and sign the building permit application. The local permitting agency shall provide the owner with a disclosure statement in substantially the following form:

Disclosure Statement

State law requires electrical contracting to be done by licensed electrical contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own electrical contractor even though you do not have a license. You may install electrical wiring for a farm outbuilding or a single-family or duplex residence. You may install electrical wiring in a commercial building the aggregate construction costs of which are under \$25,000. The home or building must be for your own use and occupancy. It may not be built for sale or lease. If you sell or lease more than one building you have wired yourself within 1 year after the construction is complete, the law will presume that you built it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person as your electrical contractor. Your construction shall be done according to building codes and zoning regulations. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

Section 44. Subsection (4) is added to section 489.507, Florida Statutes, to read:

489.507 Electrical Contractors' Licensing Board.—

(4) *The Electrical Contractors' Licensing Board and the Construction Industry Licensing Board shall meet in joint session at least twice a year.*

Section 45. Section 489.515, Florida Statutes, is amended to read:

489.515 Issuance of certificates; registrations.—

(1)(a) The department shall issue a certificate to a person who the board certifies is qualified to become a certified contractor.

(b) The board shall certify as qualified for certification any person who satisfies the requirements of s. 489.511, who successfully passes the certification examination administered by the department, achieving a passing grade as established by board rule, and who submits satisfactory evidence that he has obtained public liability and property damage insurance for the safety and welfare of the public in amounts determined by rule of the board, and furnishes evidence of financial responsibility, credit, and business reputation of either himself or the business organization he desires to qualify.

(c) Upon compliance with the provisions of this section and payment of the certification fee, the department shall issue the person a certificate.

(2) The department shall issue a registration to a person who is in compliance with the provisions of s. 489.513 and who the board certifies is qualified to be registered.

(3) *As a prerequisite to the initial issuance or the renewal of a certificate or registration, the applicant shall submit an affidavit on a form provided by the board attesting to the fact that the applicant has obtained public liability and property damage insurance for the health, safety, and welfare of the public in amounts determined by rule of the board. The board shall by rule establish a procedure to verify the accuracy of such affidavits based upon a random audit method.*

(4)(3) The board may refuse to certify any applicant who has violated any of the provisions of ss. 489.533 and 489.535.

(5)(4) A certificate or registration is not transferable.

Section 46. Paragraph (a) of subsection (2) of section 489.521, Florida Statutes, is amended to read:

489.521 Business organizations; qualifying agents.—

(2)(a)1. If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, other than a sole proprietorship, the application shall state the name of the partnership and its partners; the name of the corporation and of its officers and directors and the name of each of its stockholders who is also an officer or director; the name of the business trust and its trustees; or the name of such other legal entity and its members. In addition, the applicant and shall furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the qualifying agent is legally qualified to act for the business organization in all matters connected with its electrical or alarm contracting business and that he has authority to supervise electrical or alarm contracting undertaken by

such business organization. A joint venture, including a joint venture composed of qualified business organizations, is itself a separate and distinct organization that shall be qualified in accordance with board rules. The registration or certification when issued upon application of a business organization shall be in the name of the qualifying agent, and the name of the business organization shall be noted thereon. If there is a change in any information that is required to be stated on the application, the business organization shall, within 45 days after such change occurs, mail the correct information to the department.

2. Any person certified or registered pursuant to this part who has had his license revoked shall not be eligible for a 5-year period to be a partner, officer, director, or trustee of a business organization as defined by this section. Such person shall also be ineligible to reapply for certification or registration under this part for a period of 5 years.

Section 47. Section 489.531, Florida Statutes, is amended to read:

489.531 Prohibitions; penalties.—

- (1) No person shall:
 - (a) Practice contracting unless the person is certified or registered;
 - (b) Use the name or title "electrical contractor" or "alarm system contractor" or words to that effect, or advertise himself or a business organization as available to practice electrical or alarm contracting, when the person is not then the holder of a valid certification or registration issued pursuant to this part;
 - (c) Present as his own the certificate or registration of another;
 - (d) Use or attempt to use a certificate or registration which has been suspended, revoked, or placed on inactive status;
 - (e) Employ persons who are not certified or registered to practice contracting;
 - (f) Give false or forged evidence to the department, the board, or a member thereof for the purpose of obtaining a certificate or registration;
 - (g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another primary qualifying agent; ~~or~~
 - (h) Conceal information relative to violations of this part;
 - (i) Commence or perform work for which a building permit is required pursuant to an adopted state minimum building code without such building permit being in effect; or
 - (j) Willfully or deliberately disregard or violate any municipal or county ordinance relating to uncertified or unregistered contractors.

(2) Any person who violates any provision of subsection (1) commits ~~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.~~

(3) Each county or municipality may, at its option, designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(a) A code enforcement officer designated pursuant to this subsection may issue a citation for any violation of subsection (1) whenever, based upon personal investigation, the code enforcement officer has reasonable and probable grounds to believe that such a violation has occurred.

(b) A citation issued by a code enforcement officer shall be in a form prescribed by the local governing body of the county or municipality and shall state:

1. The time and date of issuance.
2. The name and address of the person to whom the citation is issued.
3. The time and date of the violation.
4. A brief description of the violation and the facts constituting reasonable cause.
5. The name of the code enforcement officer.

6. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

7. The applicable civil penalty if the person elects not to contest the citation.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officers. The maximum civil penalty which may be levied shall not exceed \$500.

(d) The act for which the citation is issued shall be ceased upon receipt of the citation; and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within 10 days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the enforcement or licensing board or designated special master to appeal the issuance of the citation by the code enforcement officer.

1. Hearings shall be held before an enforcement or licensing board or designated special master as established by s. 162.03(2) and such hearings shall be conducted pursuant to ss. 162.07 and 162.08.

2. Failure of a violator to appeal the decision of the code enforcement officer within the time period set forth in this paragraph shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

3. If the person issued the citation, or his designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the enforcement or licensing board or designated special master, the enforcement or licensing board or designated special master shall dismiss the citation unless the violation is irreparable or irreversible.

4. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

(e) A person cited for a violation pursuant to this subsection is deemed to be charged with a noncriminal infraction.

(f) If the enforcement or licensing board or designated special master finds that a violation exists, the enforcement or licensing board or designated special master may order the violator to pay a civil penalty of not less than the amount set forth on the citation but not more than \$500 per day for each violation. In determining the amount of the penalty, the enforcement or licensing board or designated special master shall consider the following factors:

1. The gravity of the violation.
2. Any actions taken by the violator to correct the violation.
3. Any previous violations committed by the violator.

(g) Upon written notification by the code enforcement officer that a violator had not contested the citation or paid the civil penalty within the timeframe allowed on the citation, or if a violation has not been corrected within the timeframe set forth on the notice of violation, the enforcement or licensing board or the designated special master shall enter an order ordering the violator to pay the civil penalty set forth on the citation or notice of violation, and a hearing shall not be necessary for the issuance of such order.

(h) A certified copy of an order imposing a civil penalty against an uncertified contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first. After 3 months from the filing of any such lien which remains unpaid, the enforcement or licensing board or designated special master may authorize the local governing body's attorney to foreclose on the lien. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution.

(i) This subsection does not authorize or permit a code enforcement officer to perform any function or duty of a law enforcement officer other than a function or duty that is authorized in this subsection.

(j) An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement or licensing board or special designated master to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement or licensing board or designated special master. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(k) All notices required by this subsection shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer or code enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.

(l) For those counties which enact ordinances to implement this subsection and which have local construction licensing boards or local government code enforcement boards, the local construction licensing board or local government code enforcement board shall be responsible for the administration of such citation program and training of code enforcement officers. The local governing body of the county shall enter into interlocal agreements with any municipalities in the county so that such municipalities may by ordinance, resolution, policy, or administrative order, authorize individuals to enforce the provisions of this section. Such individuals shall be subject to the requirements of training as specified by the local construction licensing board.

(m) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(n) Nothing contained in this section shall prohibit a county or municipality from enforcing its codes or ordinances by any other means.

(o) Nothing in this subsection shall be construed to authorize local jurisdictions to exercise disciplinary authority or procedures established in this subsection against an individual holding a proper valid certificate issued pursuant to this part.

Section 48. Subsection (1) of section 489.533, Florida Statutes, 1990 Supplement, is amended to read:

489.533 Disciplinary proceedings.—

(1) The following acts shall constitute grounds for disciplinary actions as provided in subsection (2):

- (a) Violating any provision of s. 489.531 or chapter 455.
- (b) Attempting to procure a certificate or registration to practice electrical or alarm system contracting by bribery or fraudulent misrepresentations.
- (c) Having a certificate or registration to practice contracting revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.
- (d) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of electrical or alarm system contracting or the ability to practice electrical or alarm system contracting.
- (e) Making or filing a report or record which the certificateholder or registrant knows to be false, willfully failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing, or inducing another person to impede or obstruct such filing. Such reports or records shall include only those which are signed in the capacity of a certified electrical or alarm system contractor.
- (f) ~~Committing~~ ~~Being found guilty~~ of fraud or deceit, or of negligence, incompetency, or misconduct in the practice of electrical or alarm system contracting.

(g) Violating chapter 633 or the rules of the State Fire Marshal.

(h) Practicing on a revoked, suspended, or inactive certificate or registration.

(i) Willfully or deliberately disregarding and violating the applicable building codes or laws of the state or any municipality or county thereof.

(j) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered.

(k) Knowingly combining or conspiring with any person by allowing one's certificate to be used by any uncertified person with intent to evade the provisions of this part. When a certificateholder allows his certificate to be used by one or more companies without having any active participation in the operations or management of said companies, such act constitutes prima facie evidence of an intent to evade the provisions of this part.

(l) Acting in the capacity of a contractor under any certificate or registration issued hereunder except in the name of the certificateholder or registrant as set forth on the issued certificate or registration or in accordance with the personnel of the certificateholder or registrant as set forth in the application for the certificate or registration or as later changed as provided in this part.

(m) Committing financial mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs if:

1. A valid lien has been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job, the contractor has received funds from the customer to pay for the supplies or services, and the contractor has not had the lien removed from the property, by payment or by bond, within 75 30 days after the date of the lien;

2. A contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price that had been paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain the excess funds under the terms of the contract or refunds the excess funds within 30 days after the date of abandonment; or

3. The contractor's job has been completed and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.

(n) Being disciplined by any municipality or county for an act that is a violation of this section, ~~which disciplinary action shall be reviewed by the board before the board takes any disciplinary action of its own.~~

(o) Failing in any material respect to comply with the provisions of this part.

(p) Abandoning a project which the contractor is engaged in or is under contractual obligation to perform. *A project is to be considered abandoned after 90 days if the contractor terminates the project without just cause or without proper notification to the prospective owner, including the reason for termination, or fails to perform work without just cause for 90 consecutive days. The failure of a contractor to perform work without just cause for 90 consecutive days shall create a presumption that the contractor has abandoned the job.*

(q) Failing to affix a registration or certification number as required by s. 489.521(7).

(r) Proceeding on any job without obtaining applicable local building department permits and inspections.

(s) Practicing beyond the scope of a certification or registration.

For the purposes of this subsection, construction is considered to be commenced when the contract is executed and the contractor has accepted funds from the customer or lender.

Section 49. Section 489.539, Florida Statutes, is created to read:

489.539 Adoption of electrical standards.—For the purpose of establishing minimum electrical standards in this state, the following standards are adopted:

- (1) "National Electrical Code 1990," NFPA No. 70-1990.
- (2) Underwriters' Laboratories, Inc., "Standards for Safety, Electrical Lighting Fixtures, and Portable Lamps," UL 57-1982, and UL 153-1983.
- (3) Underwriters' Laboratories, Inc., "Standard for Electric Signs," UL 48-1982.
- (4) The provisions of the following which prescribe minimum electrical standards:
 - (a) NFPA No. 56A-1978, "Inhalation Anesthetics 1978."
 - (b) NFPA No. 56B-1982, "Respiratory Therapy 1982."
 - (c) NFPA No. 56C-1980, "Laboratories in Health-related Institutions 1980."
 - (d) NFPA No. 56D-1982, "Hyperbaric Facilities."
 - (e) NFPA No. 56F-1983, "Nonflammable Medical Gas Systems 1983."
 - (f) NFPA No. 76A-1984, "Essential Electrical Systems for Health Care Facilities 1984."
- (5) Chapter 10D-29 of the rules of the Department of Health and Rehabilitative Services, entitled "Nursing Homes and Related Facilities Licensure."
- (6) The minimum standards for grounding of portable electric equipment, chapter 8C-27, as recommended by the Industrial Standards Section of the Division of Workers' Compensation of the Department of Labor and Employment Security.

Section 50. Subsection (5) is amended, and subsections (7) and (8) are added to section 492.104, Florida Statutes, to read:

492.104 Authority to make rules.—The Board of Professional Geologists is authorized to make such rules not inconsistent with law as may be necessary to carry out the duties and authority conferred upon the board by ss. 492.101-492.1165. Every licensee shall be governed and controlled by ss. 492.101-492.1165 and the rules adopted by the board. The board is authorized to set, by rule, fees for application, examination, certificate of authorization, late renewal, initial licensure, and license renewal. These fees should not exceed the cost of implementing the application, examination, initial licensure, and license renewal or other administrative process.

(5) The fee for a certificate of authorization shall not exceed \$350 and the fee for renewal of the certificate shall not exceed \$350.

(7) The fee for a provisional license shall not exceed \$400.

(8) The fee for application, examination, and licensure for a license by endorsement shall be as provided in this section for licenses in general.

Section 51. Section 492.106, Florida Statutes, is amended to read:

492.106 Provisional licenses.—The department may provide a provisional license to any person who is not a resident of and has not established a place of business in this state, and who is duly licensed in another state, territory, or possession of the United States, or in the District of Columbia, and who has qualifications under provisions which the board, upon advice of a committee of the board, deems comparable to those required of professional geologists in of this state, upon written application accompanied by the proper application fee, offered prior to the practice of professional geology in this state, under the following restrictions:

(1) Satisfactory proof of licensure as required above shall include the name, residence address, business address, and certification the number of the license of the applicant from the issuing state, together with the name and address of the authority issuing such license.

(2) The practice of professional geology under a provisional license shall not exceed 1 year.

(3) The practice of professional geology under a provisional license shall be confined to one specified project. Such license may not be renewed or reissued for 5 years from the date of original issuance.

(4) A written statement shall be furnished to the department within 60 days of completion of the work, indicating the time engaged and the nature of the work. A person holding a provisional license shall exhibit such provisional license each time and on each occasion that an indication of licensure is required.

Section 52. Section 492.108, Florida Statutes, is amended to read:

492.108 Licensure by endorsement; requirements; fees.—

(1) The department shall issue a license by endorsement to any applicant who, upon applying to the department and remitting an application fee, has been certified by the board that he:

(a) ~~Has met the qualifications for licensure in s. 492.105(1)(b)-(e) Is at least 18 years of age.~~

(b) ~~Is the holder of Holds an active valid license in good standing in a state, trust, territory, or possession of the United States in at least one jurisdiction in the United States in which the current requirements for licensure are equivalent to or more stringent than those in ss. 492.101-492.1165.~~

(c) ~~Was licensed through written examination in at least one state, trust, territory, or possession of the United States, the examination requirements of which have been approved by the board as substantially equivalent to or more stringent than those of this state, and has received a score on such examination which is equal to or greater than the score required by this state for licensure by examination.~~

(d) ~~Has taken and successfully passed the laws and rules portion of the examination required for licensure as a professional geologist in this state.~~

(e) ~~Has not committed any act or offense in any jurisdiction which would constitute the basis for disciplining a professional geologist licensed pursuant to ss. 492.101-492.1165.~~

(2) The department shall issue a license to practice professional geology to any applicant who successfully complies with the requirements of this section. The department shall not issue a license to any applicant who is under investigation in any jurisdiction for an offense which would constitute a violation of ss. 492.101-492.1165. Upon completion of the investigation, the disciplinary provisions of s. 492.113 shall apply.

Section 53. Subsections (1) and (2) of section 492.111, Florida Statutes, are amended to read:

492.111 Practice of professional geology by a firm, corporation, or partnership; certificate of authorization.—The practice of, or offer to practice, professional geology by individual professional geologists licensed under the provisions of ss. 492.101-492.1165 through a firm, corporation, or partnership offering geological services to the public through individually licensed professional geologists as agents, employees, officers, or partners thereof is permitted subject to the provisions of ss. 492.101-492.1165, provided that:

(1) One or more of the principal officers, employees, or agents of such firm or corporation, or partners, employees, or agents of such partnership, who act in its behalf as professional geologists in this state are licensed as provided in ss. 492.101-492.1165.

(2) The firm, corporation, or partnership has been issued a certificate of authorization by the department as provided in ss. 492.101-492.1165. For purposes of this section, a certificate of authorization shall be required of any firm, corporation, partnership, association, or person practicing under a fictitious name and offering geological services to the public; except that, when an individual is practicing geology in his own name, he shall not be required to obtain a certificate of authorization under this section. Such certificate of authorization shall be renewed every 2 years.

Section 54. Each section which is added to part II of chapter 489, Florida Statutes, by this act is repealed October 1, 1998, and shall be reviewed by the Legislature pursuant to section 11.61, Florida Statutes.

Section 55. Effective October 1, 1991, section 893.04, Florida Statutes, 1990 Supplement, is amended to read:

893.04 Pharmacist and practitioner.—

(1) A pharmacist, in good faith and in the course of professional practice only, may dispense controlled substances upon a written or oral prescription of a practitioner, under the following conditions:

(a) Oral prescriptions must be promptly reduced to a written record writing by the pharmacist, which must indicate the time and date of the oral prescription.

(b) Within 72 hours after authorizing an oral prescription, the prescribing practitioner shall deliver to the pharmacist, by facsimile, mail, or hand delivery, a written confirmation of the oral prescription containing the information required by paragraph (d), on the face of which shall be written: "Written confirmation of oral prescription given on...(date)." No such written confirmation shall be considered a valid prescription. The failure of the prescribing practitioner to deliver the subsequent written confirmation of the oral prescription shall not serve to invalidate the original oral prescription.

(c)(b) The written prescription must be dated and signed by the prescribing practitioner on the day when issued.

(d)(e) There shall appear on the face of the prescription or written record thereof for the controlled substance the following information:

1. The full name and address of the person for whom, or the owner of the animal for which, the controlled substance is dispensed.

2. The full legible name, and address, telephone number, and, if a written prescription, the handwritten signature of the prescribing practitioner and his federal controlled substance registry number shall be printed thereon. The written prescription shall indicate if the prescription is a follow-up to a prior oral order.

3. If the prescription is for an animal, the species of animal for which the controlled substance is prescribed.

4. The name of the controlled substance prescribed and the strength, quantity, and directions for use thereof.

5. The number of the prescription, as recorded in the prescription files of the pharmacy in which it is filled.

6. The initials of the pharmacist filling the prescription and the date filled.

(e)(d) The written prescription, written confirmation, or written record shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of 2 years.

(f)(e) Affixed to the original container in which a controlled substance is delivered upon a prescription or authorized refill thereof, as hereinafter provided, there shall be a label bearing the following information:

1. The name and address of the pharmacy from which such controlled substance was dispensed.

2. The date on which the prescription for such controlled substance was filled.

3. The number of such prescription, as recorded in the prescription files of the pharmacy in which it is filled.

4. The name of the prescribing practitioner.

5. The name of the patient for whom, or of the owner and species of the animal for which, the controlled substance is prescribed.

6. The directions for the use of the controlled substance prescribed in the prescription.

7. A clear, concise warning that it is a crime to transfer the controlled substance to any person other than the patient for whom prescribed.

(g) Except as provided in paragraph (h) of this section, no oral prescription shall be made for a quantity of a controlled substance which would exceed a 30-day supply if the substance were used according to the directions as specified on the prescription. No additional prescriptions for a controlled substance may be issued by a practitioner to an ultimate user within 30 days of the date of any prescription previously issued unless and until the ultimate user has exhausted all but a 7-day supply of that controlled substance provided by a previously issued prescription. A practitioner may not prescribe nor may a pharmacist dispense more than a 72-hour supply of a controlled substance by oral prescription if such oral prescription is prescribed outside the regular office hours generally maintained by the medical community.

(h) A practitioner may prescribe up to a 60-day supply of a controlled substance, to be used in accordance with the directions as specified on the prescription, provided that the controlled substance has been prescribed for the treatment of:

1. Minimal brain dysfunction (hyperkinesia) in patients not more than 16 years of age;
2. Convulsive disorders;
3. Relief of pain in patients suffering from diseases known to be chronic and incurable;
4. Narcolepsy; or
5. Panic disorders.

It is not the responsibility of the pharmacist to ensure that the controlled substance was prescribed in accordance with this paragraph.

(i)(f) A prescription for a controlled substance listed in Schedule II may be dispensed only upon a written prescription of a practitioner, except that in an emergency situation, as defined by regulation of the Department of Health and Rehabilitative Services, such controlled substance may be dispensed upon oral prescription. No prescription for a controlled substance listed in Schedule II may be refilled.

(j)(g) No prescription for a controlled substance listed in Schedules III, IV, or V may be filled or refilled more than five times within a period of 6 months after the date on which the prescription was written unless the prescription is renewed by a practitioner.

(2) Notwithstanding the provisions of subsection (1), a pharmacist may dispense a one-time emergency refill of up to a 72-hour supply of the prescribed medication for any medicinal drug other than a medicinal drug listed in Schedule II, in compliance with the provisions of s. 465.0275.

(3) The legal owner of any stock of controlled substances in a pharmacy, upon discontinuance of dealing in controlled substances, may sell said stock to a manufacturer, wholesaler, or pharmacy. Such controlled substances may be sold only upon an order form, when such an order form is required for sale by the drug abuse laws of the United States or this state, or regulations pursuant thereto.

Section 56. Section 454.18, Florida Statutes, is amended to read:

454.18 Officers not allowed to practice.—No sheriff or clerk of any court, or deputy thereof ~~of either~~, shall practice in this state, nor shall any person not of good moral character, or who has been convicted of an infamous crime be entitled to practice. But no person shall be denied the right to practice on account of sex, race, or color. And any person, whether an attorney or not, or whether within the exceptions mentioned above or not, may conduct his own cause in any court of this state, or before any public board, committee, or officer, subject to the lawful rules and discipline of such court, board, committee, or officer. *The provisions of this section restricting the practice of law by a sheriff or clerk, or deputy thereof, shall not apply in a case where such person is representing the office or agency in the course of his duties as an attorney.*

Section 57. Section 461.017, Florida Statutes, as created by chapters 88-205 and 88-392, Laws of Florida, is hereby repealed.

Section 58. Section 22 of chapter 87-394, Laws of Florida, is amended to read:

Section 22. Sections 455.301-455.309, Florida Statutes, Sections 14 through 20 of this act are repealed on October 1, 1997 1996, and shall be reviewed pursuant to the Regulatory Sunset Act, section 11.61, Florida Statutes.

Section 59. Section 14 of chapter 86-265, Laws of Florida, is amended to read:

Section 14. Chapter 457, Florida Statutes, is repealed on October 1, 1997 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 60. Section 18 of chapter 86-284, Laws of Florida, is amended to read:

Section 18. Chapter 464, Florida Statutes, is repealed on October 1, 1997 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 61. Section 27 of chapter 86-256, Laws of Florida, is amended to read:

Section 27. Chapter 465, Florida Statutes, is repealed on October 1, 1997 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 62. Section 24 of chapter 86-291, Laws of Florida, is amended to read:

Section 24. Chapter 466, Florida Statutes, is repealed on October 1, 1997 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 63. Section 17 of chapter 86-223, Laws of Florida, is amended to read:

Section 17. Part II of chapter 468, Florida Statutes, is repealed on October 1, 1997 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.

Section 64. Section 14 of chapter 86-119, Laws of Florida, is amended to read:

Section 14. *Part VI of chapter 468, Florida Statutes, Sections 1-12 of this act and section 20.30(4)(c)(d), Florida Statutes, as added by this act, are repealed on October 1, 1995 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 65. Section 15 of chapter 86-292, Laws of Florida, is amended to read:

Section 15. *Part VII of chapter 468, Florida Statutes This act is repealed October 1, 1997 1996, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes.*

Section 66. Subsection (7) of section 1 of chapter 89-296, Laws of Florida is amended to read:

Section 1.

(7) Sections 466.0275 and 466.0283, Florida Statutes, relating to the practice of dentistry, are repealed *October 1, 1997 October 1, 1996*, and shall be reviewed by the Legislature prior to that date pursuant to the *Regulatory Sunset Act*, section 11.61, Florida Statutes.

Section 67. Section 19 of chapter 88-378, Laws of Florida, section 19 of chapter 89-374, Laws of Florida, section 9 of chapter 87-210, Laws of Florida, and section 4 of chapter 89-66, Laws of Florida, are repealed.

Section 68. The introductory paragraph of subsection (3) of section 489.105, Florida Statutes, 1990 Supplement, is amended, and a new paragraph (o) is added to said subsection, to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for and responsible for the entire project contracted for and means, except as exempted in this part, the person who, for compensation, undertakes to, submits a bid to, or does himself or by others construct, repair, alter, remodel, add to, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others. Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(o)(n):

(o) "Solar contractor" means a contractor whose services consist of the installation, alteration, repair, maintenance, relocation, or replacement of solar panels for potable solar water heating systems, swimming pool solar heating systems, and photovoltaic systems and any appurtenances, apparatus, or equipment used in connection therewith, whether public, private, or otherwise, regardless of use. A contractor, certified or registered pursuant to the provisions of chapter 489, is not required to become a certified or registered solar contractor or to contract with a solar contractor in order to provide any services enumerated in this paragraph that are within the scope of the services such contractors may render under this part.

Section 69. Subsection (3) of section 489.113, Florida Statutes, 1990 Supplement, is amended to read:

489.113 Qualifications for practice; restrictions.—

(3) A contractor shall subcontract the electrical, mechanical, plumbing, roofing, sheet metal, swimming pool, and air conditioning work for which a local examination for a certificate of competency or a license is

required, unless such contractor holds a state certificate of competency or license of the respective trade category, as required by the appropriate local authority. However, a general, building, or residential contractor shall not be required to subcontract the installation of wood shingles, wood shakes, or asphalt or fiberglass shingle roofing materials on a new building of his own construction, and a general contractor shall not be required to subcontract structural swimming pool work. Further, a general contractor, on new site development work, site redevelopment work, mobile home parks, and commercial properties, shall not be required to subcontract the construction of the main sanitary sewer collection system, the storm collection system, and the water distribution system, not including the continuation of utility lines from the mains to the buildings. Further, as to mobile home parks, the general contractor shall not be required to subcontract the continuation of utility lines from the mains, and the continuations are to be considered a part of the main sewer collection and main water distribution systems. *Further, a solar contractor shall not be required to subcontract minor, as defined by board rule, electrical, mechanical, plumbing, or roofing work so long as that work is within the scope of the license held by the solar contractor and where such work exclusively pertains to the installation of residential solar energy equipment as defined by rules the board adopted in conjunction with the Electrical Contracting Licensing Board.* This subsection does not apply if the local authority does not require a certificate of competency or license for such trade. However, no general, building, or residential contractor certified after 1973 shall act as, hold himself out to be, or advertise himself to be a roofing contractor unless he is certified or registered as a roofing contractor. Any general contractor currently qualifying as a swimming pool company shall have a period of 2 years from the effective date of this act in which to obtain either a registered or certified commercial or residential pool license.

Section 70. Subsection (5) of section 489.103, Florida Statutes, 1990 Supplement, is amended to read:

489.103 Exemptions.—This part does not apply to:

(5) Public utilities, including telecommunications companies as defined in s. 364.02(7), on construction, maintenance, and development work performed by their employees, which work, including but not limited to work on bridges, roads, streets, highways, or railroads, is incidental to their business.

Section 71. Paragraphs (a) and (b) of subsection (4) of section 463.0055, Florida Statutes, are amended, and a new paragraph (c) is created to said subsection, to read:

463.0055 Administration and prescription of topical ocular pharmaceutical agents; certification; fees; committee.—

(4)(a) There is hereby created a committee composed of two optometrists licensed pursuant to this chapter, appointed by the Board of Optometry, two board-certified ophthalmologists ~~physicians or osteopathic physicians~~ licensed pursuant to chapter 458 or chapter 459, appointed by the Board of Medicine, and one additional person with a doctorate degree in pharmacology who is not licensed pursuant to chapter 458, chapter 459, or this chapter, appointed by the secretary. ~~The members of the committee shall be appointed by the secretary.~~ The committee shall review requests for additions to, deletions from, or modifications of submit to the secretary a formulary of topical ocular pharmaceutical agents for administration and prescription by certified optometrists and shall provide to the board advisory opinions and recommendations on such requests. The formulary shall consist of those topical ocular pharmaceutical agents which the certified optometrist is qualified pursuant to this section to use in the practice of optometry. The board department shall establish, add to, delete from, or modify the formulary by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall become effective 60 days from the date it is filed with the Secretary of State, ~~unless the Board of Pharmacy, pursuant to notice as provided for in s. 120.54, holds a hearing within 30 days from its receipt of the rule, at which hearing the Board of Pharmacy rejects the rule in whole or in part. If the Board of Pharmacy rejects the rule in whole or in part, the secretary shall transmit notice to the Secretary of State of the withdrawal of that portion of the rule rejected.~~

(b) The formulary may be added to, or deleted from, or modified according to the procedure described in paragraph (a). Any person who requests an addition, deletion, or modification of an authorized topical ocular pharmaceutical agent shall have the burden of proof to show cause why such addition, deletion, or modification should be made.

(c) *The secretary of the department shall have standing to challenge any rule or proposed rule of the board pursuant to ss. 120.54 and 120.56. In addition to challenges for any invalid exercise of delegated legislative authority, the hearing officer, upon such a challenge by the secretary, may declare all or part of a rule or proposed rule invalid if it:*

1. *Does not protect the public from any significant and discernible harm or damages;*
2. *Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or*
3. *Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.*

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

Section 72. Subsection (9) is added to section 463.0135, Florida Statutes, to read:

463.0135 Standards of Practice.—

(9) *A licensed practitioner who believes a patient may have glaucoma shall promptly advise the patient of the serious nature of glaucoma. The licensed practitioner shall place in the patient's permanent record that the practitioner provided such advice to the patient.*

Section 73. Except as otherwise provided herein, this act shall take effect upon becoming a law.

House Amendment 2—Strike the entire title and insert: A bill to be entitled An act relating to regulation of professions and occupations; amending s. 455.213, F.S.; authorizing denial of license pending certain investigations; amending s. 455.217, F.S.; authorizing the Department of Professional Regulation to share licensing examinations with other states' licensing authorities under certain conditions; amending s. 455.2175, F.S.; prohibiting the theft of examinations; providing penalties; amending s. 455.219, F.S.; providing for fees for duplicate licenses, research, certified copies, and duplication; amending s. 455.223, F.S.; authorizing the Department of Professional Regulation to make certain inspections and to serve subpoenas and other process; creating s. 455.224, F.S.; authorizing the department to issue citations; providing procedures; providing for penalties; amending s. 455.225, F.S.; authorizing the department to dismiss cases based upon determination of insufficient credible evidence to support prosecution; specifying circumstances in which a formal hearing is required; including all regulated professionals in summary order procedures; requiring the department to give the subject of an investigation a copy of the investigative file, upon request; providing for a written response; amending s. 455.227, F.S.; authorizing disciplinary action where a licensee has had certain action taken against his license in any jurisdiction, or where a civil judgment against the licensee relating to the practice of his profession has not been satisfied; increasing the maximum penalty for violations; amending s. 455.2275, F.S.; expanding applicability of prohibitions against giving false information to the department or a board; amending s. 455.229, F.S.; authorizing the department to require the payment of attorney's fees, costs, and court costs by a person who defaults on an examination hearing in certain circumstances; amending s. 455.241, F.S.; providing that the furnishing of reports or copies of patient records not be conditional upon payment of a fee; amending s. 464.004, F.S.; revising the membership of the Board of Nursing; amending s. 466.006, F.S.; revising requirements applicable to applicants to practice dentistry who are graduates of certain colleges or schools not accredited or approved; amending s. 466.019, F.S.; providing that licensed dentists may use D.D.S. or D.M.D. interchangeably when advertising dental services; amending s. 287.055, F.S.; providing that a design-build firm includes certain practitioners; amending s. 373.117, F.S.; providing for certification by professionals regulated by the Department of Professional Regulation; amending s. 455.242, F.S.; deleting requirement relating to disposition of records of deceased hearing aid specialists; amending s. 470.006, F.S.; requiring an internship in order to be granted a license as an embalmer; amending s. 470.008, F.S.; revising fee for application to become an embalmer intern; amending s. 470.009, F.S.; requiring an internship in order to be granted a license as a funeral director; revising contents of examination for funeral directors; amending s. 470.012, F.S.; revising fee for application to become a funeral director intern; amending s. 470.024, F.S.; providing requirement for a change in ownership of a funeral establishment; amending s. 470.025, F.S.; providing requirement for change in ownership of a cinerator facility; amending s. 473.303, F.S.; providing

requirements relating to the probable cause panel of the Board of Accountancy; amending s. 473.314, F.S.; revising application fee for temporary licenses for certified public accountants; amending s. 473.323, F.S.; increasing administrative fine for violations relating to certified public accountants; amending s. 481.217, F.S.; revising requirements for reactivating a registered interior designer license; amending s. 484.042, F.S.; providing requirements relating to the probable cause panel of the Board of Hearing Aid Specialists; amending s. 484.0447, F.S.; revising fees relating to hearing aid specialists; repealing s. 484.046, F.S.; relating to licensure by endorsement to practice dispensing of hearing aids; amending s. 484.047, F.S.; revising requirements relating to renewal of hearing aid specialist licenses; repealing s. 484.048, F.S., relating to inactive status of such licenses; amending s. 484.054, F.S.; revising provisions relating to the unlawful sale or distribution of hearing aids through the mail; amending s. 484.056, F.S.; revising provisions relating to disciplinary proceedings relating to the dispensing of hearing aids; amending s. 489.103, F.S.; deleting an exemption from application of requirements relating to construction contracting; amending s. 489.105, F.S.; revising the definition of contracting; amending s. 489.107, F.S.; providing for meetings of the Construction Industry Licensing Board with the Electrical Contractors' Licensing Board; amending s. 489.119, F.S.; revising provisions relating to the use of fictitious names; amending s. 489.127, F.S.; adding prohibitions with respect to contractors; revising provisions relating to enforcement and issuance of citations; providing additional penalties; revising provisions relating to hearings and orders; amending s. 489.129, F.S.; revising provisions relating to acts for which disciplinary proceedings are taken; amending s. 489.131, F.S.; revising provisions with respect to applicability of provisions relating to contractors; amending s. 489.133, F.S.; revising definitions; providing for approval by the Department of Environmental Regulation of precision tank testers, tank lining applicators, procedures, and equipment; providing requirements for certain registrants; providing penalties; amending s. 489.503, F.S.; providing an exemption from application of requirements relating to electrical and alarm system contracting; providing a disclosure statement; amending s. 489.507, F.S.; providing for meetings of the Electrical Contractors' Licensing Board with Construction Industry Licensing Board; amending s. 489.515, F.S.; providing additional requirement for issuance of certificates or registrations; amending s. 489.521, F.S.; providing additional requirements with respect to business organizations and their qualifying agents; amending s. 489.531, F.S.; adding prohibitions with respect to electrical contractors or alarm system contractors; providing for enforcement and issuance of citations; providing additional penalties; providing for hearings, orders, and appeals; providing for liens on property; providing for administration of citation programs and training of code enforcement officers; providing a penalty for refusal to sign and accept a citation; amending s. 489.533, F.S.; revising provisions relating to acts for which disciplinary proceedings are taken; creating s. 489.539, F.S.; providing for adoption of electrical standards; amending s. 492.104, F.S.; revising provisions relating to fees for licensure of professional geologists; amending s. 492.106, F.S.; revising provisions relating to provisional licensure of professional geologists; amending s. 492.108, F.S.; revising requirements for licensure by endorsement; amending s. 492.111, F.S.; revising requirements relating to practice of professional geology by a firm, corporation, or partnership; providing for review and repeal; amending s. 893.04, F.S.; providing procedures for calling in oral prescriptions for controlled substances; conforming provisions to comply with written prescription procedures; prohibiting practitioners from calling in schedule III, IV, or V drugs in excess of a 30-day supply; providing exceptions; amending s. 454.18, F.S.; eliminating a provision that prohibits a sheriff or deputy sheriff from practicing law; repealing s. 461.017, F.S.; relating to special certification provisions for podiatric technicians, pursuant to scheduled repeal; repealing s. 19 of chapter 88-378, s. 19 of chapter 89-374, s. 9 of chapter 87-210, and s. 4 of chapter 89-66, Laws of Florida; amending chapters 89-296, 87-394, 86-265, 86-284, 86-256, 86-291, 86-223, 86-119, and 86-292, Laws of Florida, relating to sunset review and repeal; rescheduling Sunset review and repeal of provisions relating to asbestos contractors and consultants, acupuncture, nursing, pharmacy, dentistry, nursing home administrators, auctioneers, and talent agencies; amending s. 489.105, F.S.; providing definition for "solar contractor"; amending s. 489.113, F.S.; exempting solar contractors from certain subcontracting requirements; amending s. 489.103, F.S.; amending public utilities exemption; amending s. 463.0055, F.S.; revising membership and appointment provisions of the committee responsible for reviewing requests for changes to the formulary of topical ocular pharmaceutical agents that certified optometrists may administer and prescribe; revising provisions governing establishment of and changes to the formulary; amending s. 463.0135, F.S., relating to standards of practice for licensed optometrists; providing effective dates.

Senator Myers moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1—On page 54, line 12, through page 58, line 9, strike all of said lines

Senate Amendment 1 to House Amendment 2—In title, on page 6, line 26, through page 7, line 1, strike all of said lines and insert: amending s.

Senator Myers moved the following amendment which failed to receive the required two-thirds vote:

Senate Amendment 2 to House Amendment 1—On page 65, strike all of lines 12-17 and insert:

463.0135 Standards of practice.—

(9) *A licensed practitioner who believes a patient may have glaucoma shall promptly advise the patient of the serious nature of glaucoma. The licensed practitioner shall also promptly advise the patient of the option of seeking further evaluation by a physician skilled in diseases of the eye licensed under chapter 458 or chapter 459 for diagnosis and possible treatment. The licensed practitioner shall place in the patient's permanent record a form, signed by the patient, indicating that the practitioner provided such advice to the patient. In cases where a patient has a significant loss of visual field or deterioration of the optic nerve, the licensed practitioner shall promptly refer the patient to a physician skilled in diseases of the eye licensed under chapter 458 or chapter 459. The licensed practitioner shall place in the patient's permanent record information describing the patient's condition and the date and to whom such referral was made.*

The vote was:

Yeas—17 Nays—14

Senator Grant moved the following amendment:

Senate Amendment 3 to House Amendment 1—On page 54, between lines 11 and 12, insert:

Section 55. Section 766.205, Florida Statutes, is amended to read:

766.205 Presuit discovery of medical negligence claims and defenses.—

(1) Upon the completion of presuit investigation pursuant to s. 766.203, which investigation has resulted in the mailing of a notice of intent to initiate litigation in accordance with s. 766.106, corroborated by medical expert opinion that there exist reasonable grounds for a claim of negligent injury, each party shall provide to the other party reasonable access to information within its possession or control in order to facilitate evaluation of the claim.

(2) Such access shall be provided without formal discovery, pursuant to s. 766.106, and failure to so provide shall be grounds for dismissal of any applicable claim or defense ultimately asserted.

(3) *As an exception to s. 455.241, any health care provider noticed pursuant to s. 766.106 (hereinafter referred to as prospective defendant), or the prospective defendant's legal representative or insurer, may request and obtain during the presuit period, or any time thereafter prior to verdict, medical information and records about the patient from any former or current treating health care provider of the patient, and such health care provider may furnish such medical information and records if such health care provider is willing to furnish such information and records voluntarily. Nothing in this subsection shall be interpreted to require that a former or current treating health care provider furnish such medical information or records. Written notice of the furnishing of any such information or records must be provided to the patient or the patient's legal representative by the requestor within three business days after any such information or records are obtained. Nothing in this subsection shall affect other rights or obligations of the parties or any former or current treating health care providers except as provided in this subsection.*

(4)(3) Failure of any party to comply with this section shall constitute evidence of failure of that party to comply with good-faith discovery requirements and shall waive the requirement of written medical corroboration by the party seeking production.

(5)(4) No statement, discussion, written document, report, or other work product generated solely by the presuit investigation process is dis-

coverable or admissible in any civil action for any purpose by the opposing party. All participants, including, but not limited to, hospitals and other medical facilities, and the officers, directors, trustees, employees, and agents thereof, physicians, investigators, witnesses, and employees or associates of the defendant, are immune from civil liability arising from participation in the presuit investigation process. Such immunity from civil liability includes immunity for any acts by a medical facility in connection with providing medical records pursuant to s. 766.204(1) regardless of whether the medical facility is or is not a defendant.

(Renumber subsequent sections.)

On motion by Senator Kirkpatrick, further consideration of CS for SB 724 with pending Senate Amendment 3 to House Amendment 1 was deferred.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 764 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 764—A bill to be entitled An act relating to the regulation of vacation plans; amending s. 718.401, F.S.; allowing a shorter lease term on lands leased for a commercial condominium or a time-share condominium; changing the short title of chapter 721, F.S., to the Florida Vacation Plan and Time-Sharing Act; amending s. 721.02, F.S.; providing legislative purpose; amending s. 721.03, F.S.; providing for the scope of the chapter; including the regulation of personal property time sharing; amending s. 721.05, F.S.; providing definitions; amending s. 721.07, F.S.; revising provisions with respect to public offering statements; providing fees; authorizing the Division of Florida Land Sales, Condominiums, and Mobile Homes to provide by rule for summary statements of public offerings under certain circumstances; amending s. 721.11, F.S.; revising provisions with respect to advertising materials; amending s. 721.111, F.S.; revising provisions regarding game promotions to permit certain drawings; amending s. 721.13, F.S.; revising the duties of a managing entity; amending s. 721.27, F.S.; providing for the assessment of a penalty against managing entities who fail to file a required annual fee; repealing s. 721.30, F.S.; eliminating obsolete language with respect to the operation of certain laws of Florida; amending s. 192.037, F.S.; revising language with respect to escrow accounts for taxes and assessments for fee time-share real property; creating s. 509.512, F.S.; providing for a time-share plan developer and exchange company exemption to the Florida Membership Campground Act; amending s. 559.927, F.S.; providing for a time-share plan developer and exchange company exemption to regulation as sellers of travel; providing an effective date.

House Amendment 1—On page 34, line 10, through page 35, line 20, strike all of said lines and insert:

Section 14. Paragraphs (d), (e), (i), and (j) of subsection (9) of section 559.927, Florida Statutes, 1990 Supplement, are amended, and paragraphs (k) and (l) are added to subsection (9) of said section, to read:

559.927 Sellers of travel; registration; disclosures; bonding; violation; penalties; exemptions; preemption; enforcement.—

(9) EXEMPTIONS.—This section does not apply to:

(d) Hotels, motels, or other places of public accommodation selling public accommodations, or employees of such hotels, motels, or other places of public accommodation, when engaged solely in making arrangements for lodging, accommodations, or sightseeing tours within the state, or taking reservations for the traveler with times, dates, locations, and accommodations certain at the time the reservations are made, ~~except as regulated under chapter 721;~~

(e) Persons involved solely in the rental, leasing, or sale of residential property, ~~except as regulated under chapter 721;~~

(i) Persons who have contracted with flag or domestic carriers certified pursuant to 14 C.F.R. part 121 and who directly issue airline tickets on behalf of those carriers; ~~or~~

(j) Persons who have professional liability, errors and omissions insurance in the amount of \$1 million annually;

(k) *A developer of a time-share plan or an exchange company approved by the Division of Florida Land Sales, Condominiums, and*

Mobile Homes pursuant to chapter 721, but only to the extent that the developer or exchange company engages in conduct regulated under chapter 721; or

(l) *Persons or entities engaged solely in offering diving services, including classes and sales or rentals of equipment, when engaged in making any accommodations in conjunction with a primarily dive-related event.*

However, a person covered under paragraph (i) or paragraph (j) must, and a person covered under paragraph (h) may, annually register with the division by providing to the division the legal business name, mailing address, and business locations of such person and the names and addresses of all proprietors of the business or, if a corporation, the name and mailing address of the corporate office and branches and the names and mailing addresses of the corporate officers and the Florida agent of the corporation and by paying a registration fee not to exceed \$100.

House Amendment 2—In title, on page 2, between lines 8 and 9, insert: providing a diving-related services exemption to regulation as seller of travel;

On motions by Senator Diaz-Balart, the Senate concurred in the House amendments.

CS for SB 764 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 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 1932 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1932—A bill to be entitled An act relating to dissolution of marriage; amending s. 61.052, F.S.; providing that evidence establishing residency at a marriage dissolution hearing may be corroborated by an affidavit; amending s. 61.075, F.S.; revising language with respect to the equitable distribution of marital assets to include a reference to retaining the marital home; providing for vesting of awards made for equitable distribution; providing for specific findings of fact with respect to the judgment distributing assets; amending s. 61.08, F.S.; providing, with respect to dissolution actions, that the court shall include certain findings of fact; amending s. 61.13, F.S.; providing for equal consideration in determining the primary residence of a child; amending s. 61.30, F.S.; increasing the coverage of the child support guidelines; amending s. 742.031, F.S.; providing that child support payments ordered by a court must comply with the guidelines in s. 61.30, F.S.; creating s. 742.045, F.S.; providing for the award of attorney's fees and costs and providing that such award may be made directly to the attorney; amending s. 743.07, F.S.; revising rights and privileges of dependents over 18 years of age; providing effective dates.

House Amendment 1—On page 4, lines 14-15, strike all of said lines and insert:

(3) *In any contested dissolution action wherein a stipulation and agreement has not been entered and filed, any distribution of*

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

CS for SB 1932 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 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for CS for SB 2306 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for CS for SB 2306—A bill to be entitled An act relating to the Department of Health and Rehabilitative Services; prescribing additional functions to be served by the children, youth, and families client and management information system; amending s. 20.19, F.S.; redefining the purposes of the department; providing for the appointment of ad hoc advisory committees; redefining the authority of the secretary; transferring responsibilities for operations to the secretary; delineating responsibilities of Deputy Secretary for Health; deleting the reference to the Office of Restaurant Programs; deleting Advisory Council on Health; renaming the Deputy Secretary for Programs as the Deputy Secretary for Human Services; delineating responsibilities; providing conforming name changes throughout the section; deleting specific reference to children's mental health outcome report; deleting program office advisory councils; deleting the Medicaid Advisory Council; providing for regional administration centers; prescribing counties that comprise the subdistricts in District 4; providing changes in the responsibilities of the district administrators; changing the budget entities; providing for departmental budget requests to be based on costs of units of service; deleting provisions requiring program evaluation; providing requirements for the department's information systems; deleting management fellows program; requiring a report on departmental monitoring requirements; providing for outcome evaluation in the department; providing intent; providing definitions; requiring the department to establish a system of outcome evaluation of services provided by all programs; providing additional requirements of the Children, Youth, and Families Program Office under the system; providing for reports; requiring periodic evaluations and reports by the Auditor General; providing for a budget assessment to fund evaluation activities; amending s. 20.04, F.S.; conforming language; amending ss. 39.021, 39.025, F.S.; correcting cross-references; creating s. 110.1097, F.S.; providing intent; prescribing duties of the Department of Administration with respect to assisting in, and examining, a review of the personnel system of the Department of Health and Rehabilitative Services; requiring examination of specified items; requiring reports; creating s. 381.297, F.S.; establishing the Office of Restaurant Programs with the department; providing for appointment of district supervisors; providing duties of the office; amending ss. 402.167, 402.47, F.S.; conforming language; creating s. 402.50, F.S.; providing for review of administrative infrastructure needs; providing intent; requiring the development of administrative infrastructure standards; requiring a report; requiring analysis based upon standards; creating s. 402.55, F.S.; providing for the Management Fellows Program; amending s. 409.146, F.S.; correcting a cross-reference; providing for reporting; providing for staff training; requiring an analysis of documentation and reporting requirements for all programs of the Department of Health and Rehabilitative Services; requiring specific distribution of analysis; directing the department to develop a plan for implementing a continuity of care management system; providing for the establishment of local health and human services planning groups; providing for appointment of members to planning groups; providing duties; requiring the department to develop a formula for equally funding service districts; providing for the appointment of an advisory committee to assist the department in developing the formula; requiring a report; requiring the Department of Health and Rehabilitative Services to establish a mediation process to resolve disputes between contract agencies and the department; providing for the appointment of mediation panels; providing that final decisions of mediation panels may not be administratively appealed; repealing s. 381.0615, F.S., relating to the Children, Youth, and Families Program Office; amending s. 393.063, F.S.; defining the term "supported living"; amending s. 393.066, F.S.; including supported living among the range of community services and treatments for persons who are developmentally disabled; amending s. 393.068, F.S.; clarifying that certain payment methods and rate schedules do not apply to the provision of in-home subsidies through the family care program; creating s. 393.069, F.S.; requiring the Department of Health and Rehabilitative Services to develop a plan for paying in-home subsidies; providing guidelines for the uses of in-home subsidies; providing requirements for the subsidies; providing an effective date.

House Amendment 1—On page 17, between lines 17 and 18, insert:

a. **Child Support Enforcement Program Office.**—The responsibilities of this program office encompass the administration of the child support enforcement program established in Title IV-D of the Social Security Act, 42 U.S.C. s. 1302, in accordance with the provisions of ss. 409.2551-409.2597.

(Redesignate subsequent sub-subparagraphs.)

House Amendment 2—On page 7, between lines 10 and 11, insert:

(c) *In accordance with the provisions of s. 20.055, the chief internal auditor shall report directly to the secretary.*

(d)1. *There is created under the Secretary of Health and Rehabilitative Services the Office of Evaluation. The Office of Evaluation shall have the following responsibilities:*

a. *Technical support and coordinated management of the department's outcome evaluation and program effectiveness efforts within each program office.*

b. *Development of policies and procedures to ensure the validity, reliability, and utility of the department's evaluations.*

c. *Ensuring the integrity and quality of program evaluations conducted by the department.*

d. *Development of procedures for the competitive procurement of external evaluations, including detailed specifications for all evaluation contracts.*

e. *Development of the budget for the department's evaluation efforts and identification of future evaluation needs, including infrastructure needs to support the outcome evaluation function.*

f. *Such other duties relating to evaluation that may be assigned to the Office of Evaluation by the secretary.*

2. *The secretary is authorized to annually assess the budgets of each budget entity an amount not to exceed 0.5 percent for the purpose of creating a fund from which the outcome evaluation and program effectiveness activities of the Office of Evaluation can be financed. The expenses of the department for independent contracting or consultation, and the expenses associated with such staff as are authorized in the general appropriations act for outcome evaluation and program effectiveness functions, shall be paid for from the fund created by this assessment.*

(Redesignate subsequent paragraphs.)

House Amendment 3—On page 49, lines 19-28, strike all said lines

House Amendment 4—On page 73, before line 1, insert:

Section 22. It is the specific intent of the Legislature that reorganizational efforts within the department's Alcohol, Drug Abuse and Mental Health Program Office to collapse data and fiscal management shall not be implemented until the Legislature has reviewed and approved such program office reorganization.

(Renumber subsequent sections.)

House Amendment 5—On page 72, between lines 29 and 30, insert:

Section 21. Subsections (7) and (14) of section 381.702, Florida Statutes, are amended to read:

381.702 Definitions.—As used in ss. 381.701-381.715, the term:

(7) "Health care facility" means a hospital, skilled nursing facility, or intermediate care facility, or intermediate care facility for the developmentally disabled. A facility relying solely on spiritual means through prayer for healing is not included as a health care facility.

(14) "Intermediate care facility" means an institution, other than an intermediate care facility for the developmentally disabled which has six beds or less, which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who, because of their mental or physical condition, require health-related care and services above the level of room and board.

Section 22. Paragraph (a) of subsection (3) of section 381.703, Florida Statutes, is amended to read:

381.703 Local and state health planning.—

(3) FUNDING.—

(a) The Legislature intends that the cost of local health councils and the Statewide Health Council be borne by application fees for certificates of need and by assessments on selected health care facilities subject to facility licensure by the department, including abortion clinics, adult con-

gregate living facilities, ambulatory surgical centers, birthing centers, clinical laboratories except community nonprofit blood banks, home health agencies, hospices, hospitals, intermediate care facilities for the developmentally disabled ~~mentally-retarded~~, nursing homes, and multiphasic testing centers and by assessments on organizations subject to certification by the department pursuant to chapter 641, part IV, including health maintenance organizations and prepaid health clinics.

Section 23. Subsections (15), (17), and (18) of section 393.067, Florida Statutes, 1990 Supplement, are amended to read:

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

(15) In addition to the requirements in subsection (4), the initial license application for an intermediate care facility for the ~~mentally-retarded~~ or developmentally disabled of six beds or less shall also include:

(a) The provider's proposal, on forms provided by the department, including a pro forma budget which shall also serve as the basis for establishing an initial interim Medicaid reimbursement rate.

(b) Approval and selection of the provider's proposal by the district and the Developmental Services Program in accordance with paragraph (17)(c).

(17) The department shall only accept proposals for intermediate care facilities for the ~~mentally-retarded~~ or developmentally disabled of six beds or less in response to the publication of projected bed need.

(a) Projected bed need shall be published by the department at least annually and shall identify:

1. The district in which the beds are to be located.
2. The maximum per diem cost which shall be in accordance with the Florida Title XIX ICF/MR Reimbursement Plan.
3. The maximum size of the facility.
4. The level of care of clients to be served, including demographic and programmatic characteristics of the client population.

To the maximum extent possible, Projected bed need shall be directed towards clients who have severe disabilities, who have extensive service needs, and who require extensive active treatment services, and who can only be adequately served in a cost-effective manner in an intermediate care facility for the developmentally disabled.

(b) Projected bed need shall be determined by the department on the basis of:

1. ~~Overall need for residential services by clients, including residents in intermediate care facilities for the mentally-retarded or developmentally disabled of greater than six beds who are in need of less restrictive or specialized environments, as well as persons who are in need of residential services, but are not yet receiving them.~~
2. ~~Client eligibility for intermediate care facility for the mentally-retarded or developmentally disabled services.~~
3. ~~client need for extensive active treatment services that can only be delivered in a cost-effective manner in an intermediate care facility for the developmentally disabled.~~
4. ~~Overall Developmental Services Program residential services bed capacity.~~
5. ~~Occupancy rate of current bed capacity.~~
6. ~~Growth of alternative residential environments.~~
7. ~~Growth of the state's general population.~~
8. ~~Growth of the state's population of people with developmental disabilities.~~

(c) The department shall approve and select from provider proposals that respond to published projected bed need, based on the following weighted criteria in order of importance:

1. Adequacy and quality of services that address the published bed need projections, especially the client demographic and programmatic characteristics.
2. Completeness of the proposal and adherence to time frames.

3. Demonstration of financial ability to operate the facility in relation to published bed need projections.

4. Appropriateness of per diem cost to provide quality services.

(18) Any license granted for intermediate care facilities for the ~~mentally-retarded or~~ developmentally disabled under the provisions of subsections (15) and (17) shall be valid only while the provider operates the facility in compliance with the conditions in the proposal that were approved by the department, as well as with all other applicable laws, rules, and regulations related to the operation of such facilities.

Section 24. (1) Residential services for the developmentally disabled; study group.—

(1) There is hereby created a study group to examine the continuum of residential services for the developmentally disabled. It shall be composed of two members of the House of Representatives appointed by the Speaker of the House of Representatives and two members of the Senate appointed by the President of the Senate. The health and rehabilitative services and appropriations committees of the Senate and House of Representatives, the Office of Planning and Budgeting within the Executive Office of the Governor, the Division of Economic and Demographic Research of the Joint Legislative Management Committee, the Department of Health and Rehabilitative Services, and the Health Care Commission shall provide staff support to the study group as necessary. However, the provision of staff support by the Health Care Commission is contingent on legislation creating said commission becoming law.

(2) The study group shall examine the current system of residential services for the developmentally disabled and shall explore alternative strategies for the future development of such services. Pursuant thereto, the study group shall provide the department, the President of the Senate, and the Speaker of the House of Representatives with recommendations designed to ensure that future development of such services will serve to further the dual goals of being cost effective while providing services in the least restrictive settings possible. Such recommendations shall include:

(a) Strategies to better align existing residential capacity with the needs of clients in order to ensure that current resources and future investments are utilized in the most efficient manner possible.

(b) Strategies designed to allow for and encourage developmentally disabled individuals to live in their own homes, either independently or with their families.

(c) Strategies to ensure family involvement and support in developing residential placements for those clients who cannot remain in their own homes.

(d) Strategies to ensure that community-based organizations that provide residential services to the developmentally disabled are aware of and can access federal and other resources available for the development and operation of such services.

(e) Any other recommendations that the study group determines will be helpful in achieving the dual goals set forth in this subsection.

(3)(a) In addition, the study group shall develop appropriate criteria for use by the department in determining and publishing projected bed need for intermediate care facilities for the developmentally disabled pursuant to s. 393.067, Florida Statutes. Upon request of the study group, the department shall submit to the study group any rule change necessary to incorporate the criteria developed by the study group for determining and publishing such projected bed need. Any rule revision that results from the provisions of this subsection must be approved by the study group before being filed with the Secretary of State for inclusion in the Florida Administrative Weekly.

(b) Any publication of projected bed need for intermediate care facilities for the developmentally disabled adopted prior to this subsection becoming law is hereby nullified. The department shall not license any new intermediate care facility for the developmentally disabled that would be granted pursuant to a publication of projected bed need nullified by this paragraph and shall rescind any license that has already been granted pursuant to a publication of projected bed need nullified by this paragraph. The department may resume the licensing of intermediate care facilities for the developmentally disabled when the study group, by consensus of its members, certifies that all rule revisions necessary to adopt the criteria for determining and publishing projected bed need

developed by the study group pursuant to paragraph (a) have received approval of the study group and have been formally adopted into the Florida Administrative Code.

(4) After submission of the recommendations required by subsection (2) and development of the criteria required by subsection (3), the study group is hereby abolished.

(Renumber subsequent sections.)

House Amendment 6—On page 65, line 15, through page 68, line 15, strike all said lines and insert:

Section 14. (1) The Legislature finds that effective working partnerships between the Department of Health and Rehabilitative Services and local communities are essential to ensure responsiveness to local priorities and accountability for effective service delivery. The Legislature finds that the demographic changes that have occurred in Florida since 1975 have diminished the effectiveness and responsiveness of the current number and configuration of service districts of the Department of Health and Rehabilitative Services. The Legislature further finds that changes in federal and state laws since 1980, including major sources of federal funding for child welfare services, have necessitated a coordinated and integrated working relationship between the Department of Health and Rehabilitative Services and the judicial system in Florida.

(2) It is the goal of the Legislature to seek the broadest possible input from the public concerning specific measures that the Legislature can take to improve the quality, efficiency and delivery of health and human services. Based upon that public input, it is the goal of the Legislature to reorganize the service districts of the Department of Health and Rehabilitative Services into units that meet the following criteria: are of a size no smaller than one county; in the case of multi-county districts, group contiguous counties whose health and social services needs and resources are complementary and interdependent; are of sufficient size to be fiscally efficient; are not so large geographically as to make citizen participation difficult or impractical; and, are developed after consideration of boundaries that are identical to or nearly identical to the judicial circuits as defined in s. 26.021. It is the further goal of the Legislature to create within each of the newly designated service districts a body composed of representative of diverse elements within the community, or to designate an existing entity, and to empower that body, in cooperation with the district administrator, to assess the health and human service needs and resources of the district, to establish local priorities for the delivery of health and human services, to develop the service delivery plan for the district, and to develop mechanisms for assuring local accountability for administration of the service delivery plan.

(3) The Legislature intends that local communities be as closely involved as possible in planning and developing their health and human services delivery systems. In order to facilitate the local planning process, the district administrator of each service district of the Department of Health and Rehabilitative Services shall convene one or more interim planning groups for the purpose of developing and submitting to the Legislature on or before October 1, 1991, specific recommendations with respect to the reconfiguration of service districts into units that will be more responsive to local needs and the creation, composition and range of authority of the local health and human services planning body for each service district.

(a) Each district administrator shall invite each of the following organizations or entities within the service district to designate one or more representatives to serve on each of the interim planning groups that are organized within the district:

1. boards of county commissioners;
2. district school boards;
3. judicial circuits;
4. medical societies;
5. United Way organizations;
6. Chambers of Commerce;
7. community colleges or universities;
8. local health planning groups;

9. local organizations that fund health or human services programs in the community; and

10. clients and organizations that represent clients or relatives of clients of the department.

(b) Existing public, private or governmental entities, such as juvenile welfare boards, childrens' services councils, hospital boards, or similar organizations shall, upon written request to the district administrator, be invited to participate on each interim planning group that is organized within the existing service district.

(c) The district administrator may invite additional individuals or organizations to participate in order to assure that all elements of the community are represented on each interim planning group organized within the service district.

(d) At any time during the planning process an interim planning group may decide to consolidate with another interim planning group or divide itself into multiple interim planning groups.

(4) Each interim planning group shall hold well advertised public hearings at hours and sites convenient to the public. Notices of the hearings shall specify that the purpose of the hearings is to receive testimony or information that will assist the interim planning group in developing formal recommendations to the Legislature concerning, at a minimum, the following matters:

(a) revision of the boundaries of the current eleven service districts;

(b) the criteria that the Legislature should use in deciding new boundaries for the service districts;

(c) the creation of a local health and human services planning body that will participate in the planning and managing of the delivery of health and human services within the boundaries of newly defined districts;

(d) whether existing advisory or planning bodies, including District Advisory Councils, should be abolished, incorporated, or redefined in relation to the new health and human services planning body;

(e) the membership, or membership criteria, for the new health and human services planning body;

(f) the precise authority and responsibility that should be vested in the new health and human services planning body; and

(g) the relationship that should be established between the district administrator and the health and human services planning body.

(5) Each district administrator, with the assistance of the department, shall prepare and submit a timely report of each meeting, public hearing, and the final report of each interim planning group to the secretary and the appropriate committees of the Senate and the House of Representatives.

(6) The secretary shall review the recommendations of the interim planning groups and develop comprehensive recommendations and proposed implementing legislation for submission to the Legislature on or before November 15, 1991. After the 1992 legislative session, the secretary shall report to each interim planning group on legislation enacted during the session relating to the recommendations submitted by the interim planning groups.

(7) The interim planning group shall be in existence through June 30, 1991 in order to fulfill the purposes of this section and to assist the district administrator in the implementation of legislative and administrative directives resulting from recommendations made pursuant to subsections (4) and (6).

(8) Notwithstanding any other provision of this act, this section shall be effective upon becoming law.

House Amendment 7—On page 73, before line 1, insert:

Section 22. The Statutory Revision Division of the Joint Legislative Management Committee is hereby directed to prepare, with the assistance of the staffs of the appropriate substantive committees of the House of Representatives and the Senate, and in consultation with the Department of Health and Rehabilitative Services, appropriate legislation as needed to correct cross references and any other inconsistencies which may be found in the Florida Statutes as a result of the provisions of this act, in order to properly implement the legislative intent expressed herein, for submission to the 1992 Regular Session of the Legislature.

(Renumber subsequent sections.)

House Amendment 8—On page 73, line 1, before "this" insert: Except as otherwise provided,

House Amendment 9—In title, on page 1, line 2, through page 4, line 13, strike all of said lines and insert: An act relating to the Department of Health and Rehabilitative Services; prescribing additional functions to be served by the children, youth, and families client and management information system; amending s. 20.19, F.S.; redefining the purposes of the department; providing for the appointment of ad hoc advisory committees; redefining the authority of the secretary; creating the Office of Evaluation; delineating responsibilities; authorizing an internal assessment to fund evaluation activities; transferring responsibilities for operations to the secretary; delineating responsibilities of Deputy Secretary for Health; deleting the reference to the Office of Restaurant Programs; deleting Advisory Council on Health; renaming the Deputy Secretary for Programs as the Deputy Secretary for Human Services; delineating responsibilities; providing conforming name changes throughout the section; creating the Child Support Enforcement Program Office; deleting specific reference to children's mental health outcome report; deleting program office advisory councils; deleting the Medicaid Advisory Council; providing for regional administration centers; prescribing counties that comprise the subdistricts in District 4; providing changes in the responsibilities of the district administrators; changing the budget entities; providing for departmental budget requests to be based on costs of units of service; deleting provisions requiring program evaluation; providing requirements for the department's information systems; deleting management fellows program; requiring a report on departmental monitoring requirements; providing for outcome evaluation in the department; providing intent; providing definitions; requiring the department to establish a system of outcome evaluation of services provided by all programs; providing additional requirements of the Children, Youth, and Families Program Office under the system; providing for reports; requiring periodic evaluations and reports by the Auditor General; amending s. 20.04, F.S.; conforming language; amending ss. 39.021, 39.025, F.S.; correcting cross-references; creating s. 110.1097, F.S.; providing intent; prescribing duties of the Department of Administration with respect to assisting in, and examining, a review of the personnel system of the Department of Health and Rehabilitative Services; requiring examination of specified items; requiring reports; creating s. 381.297, F.S.; establishing the Office of Restaurant Programs with the department; providing for appointment of district supervisors; providing duties of the office; amending ss. 402.167, 402.47, F.S.; conforming language; creating s. 402.50, F.S.; providing for review of administrative infrastructure needs; providing intent; requiring the development of administrative infrastructure standards; requiring a report; requiring analysis based upon standards; creating s. 402.55, F.S.; providing for the Management Fellows Program; amending s. 409.146, F.S.; correcting a cross-reference; providing for reporting; providing for staff training; requiring an analysis of documentation and reporting requirements for all programs of the Department of Health and Rehabilitative Services; requiring specific distribution of analysis; directing the department to develop a plan for implementing a continuity of care management system; providing for the establishment of local health and human services planning groups; providing for designation of members to planning groups; providing duties; requiring the department to develop a formula for equally funding service districts; providing for the appointment of an advisory committee to assist the department in developing the formula; requiring a report; requiring the Department of Health and Rehabilitative Services to establish a mediation process to resolve disputes between contract agencies and the department; providing for the appointment of mediation panels; providing that final decisions of mediation panels may not be administratively appealed; repealing s. 381.0615, F.S., relating to the Children, Youth, and Families Program Office; amending s. 393.063, F.S.; defining the term "supported living"; amending s. 393.066, F.S.; including supported living among the range of community services and treatments for persons who are developmentally disabled; amending s. 393.068, F.S.; clarifying that certain payment methods and rate schedules do not apply to the provision of in-home subsidies through the family care program; creating s. 393.069, F.S.; requiring the Department of Health and Rehabilitative Services to develop a plan for paying in-home subsidies; providing guidelines for the uses of in-home subsidies; providing requirements for the subsidies; amending s. 381.702, F.S.; revising the definitions of "health care facility" and "intermediate care facility"; amending s. 381.703, F.S.; conforming terminology; amending s. 393.067, F.S.; revising provisions relating to projected bed need for certain intermediate care facilities for the developmentally disabled; conforming terminology; cre-

ating a study group to examine the continuum of residential services for the developmentally disabled; providing for members and staff support; requiring the submission of certain recommendations to the department, the President of the Senate, and the Speaker of the House of Representatives; requiring the study group to develop appropriate criteria for use by the department in determining and publishing projected bed need for intermediate care facilities for the developmentally disabled; nullifying prior publications thereof and denying or rescinding licensure based thereon; authorizing the resumption of licensing of such facilities under certain circumstances; authorizing the licensing of a specified number of beds at certain of such facilities contingent on funding and directions in the appropriations act; providing for abolishment of the study group, subsequent to authorized extensions; prohibiting specific reorganization of the Alcohol, Drug Abuse, and Mental Health Program Office until reviewed; providing a directive to statute editors; providing effective dates.

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

CS for CS for CS for SB 2306 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—31 Nays—None

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 268, SB 292, CS for SB 310, SB 422, CS for SB 626, CS for SB 674, SB 918 CS for SB 992, SB 1062, CS for SB 1116, CS for SB 1142, CS for SB 1148, SB 1462, CS for SB 1536, CS for SB 1622, CS for SB 1624, SB 1634, CS for SB 1702, CS for SB 2058, SB 2210, CS for SB 2250, Senate Bills 2388 and 2454.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments to House Amendments to SB 238 and passed as further amended.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed as amended CS for HB 207, HB 741, HB 1221 and CS for HB 1411.

John B. Phelps, Clerk

AMENDMENTS TO SENATE BILLS

CS for SB 74

Senator Malchon moved the following amendment which was adopted:

Amendment 1—On page 3, line 1, after “within”, strike everything through the period on line 3 and insert: 2 years after discovering that the alleged retaliatory personnel action was taken, or within four years after the personnel action was taken, whichever is earlier.

CS for SB 76

Senator Weinstein moved the following amendments which were adopted:

Amendment 1—On page 11, between lines 12 and 13, insert:

Section 4. Paragraph (a) of subsection (3) of section 932.704, Florida Statutes, 1990 Supplement, is amended to read:

932.704 Forfeiture proceedings.—

(3)(a) Whenever the head of the law enforcement agency effecting the forfeiture deems it necessary or expedient to sell the property forfeited

rather than to retain it for the use of the law enforcement agency, or if the property is subject to a lien which has been preserved by the court, he shall cause a notice of the sale to be made by publication as provided by law and thereafter shall dispose of the property at public auction to the highest bidder for cash without appraisal. In lieu of the sale of the property, the head of the law enforcement agency, whenever he deems it necessary or expedient, may salvage the property or transfer the property to any public or nonprofit organization, provided such property is not subject to a lien preserved by the court as provided in s. 932.703(3). The proceeds of sale shall be applied: first, to payment of the balance due on any lien preserved by the court in the forfeiture proceedings; second, to payment of the cost incurred by the seizing agency in connection with the storage, maintenance, security, and forfeiture of such property; third, to payment of court costs incurred in the forfeiture proceeding.

1. The remaining proceeds shall be deposited in a special law enforcement trust fund established by the board of county commissioners or the governing body of the municipality, and such proceeds and interest earned therefrom shall be used for school resource officer, crime prevention, or drug abuse education and prevention programs or for other law enforcement purposes. These funds may be expended only upon request by the sheriff to the board of county commissioners or by the chief of police to the governing body of the municipality, accompanied by a written certification that the request complies with the provisions of this subsection, and only upon appropriation to the sheriff's office or police department by the board of county commissioners or the governing body of the municipality. *An agency or organization that wishes to receive such funds must apply to the sheriff or chief of police for an appropriation and must accompany its application with a written certification that the moneys will be used for an authorized purpose.* Such requests for expenditures shall include a statement describing anticipated recurring costs for the agency for subsequent fiscal years. *An agency or organization that receives moneys pursuant to this subparagraph must provide an accounting for such moneys and must furnish the same reports as an agency of the county or municipality that receives public funds. Such funds may be expended in accordance with the following procedures:*

a. Such funds may be expended only to defray the costs of protracted or complex investigations; to provide additional technical equipment or expertise, which may include automated fingerprint identification equipment and an automated uniform offense report and arrest report system; to provide matching funds to obtain federal grants; or for school resource officer, crime prevention, or drug abuse education and prevention programs or such other law enforcement purposes as the board of county commissioners or governing body of the municipality deems appropriate; and

b. *Such funds shall not be a source of revenue to meet normal operating needs of the law enforcement agency; and-*

c. *Twenty-five percent of such funds acquired after the effective date of this act and during a fiscal or calendar year shall be expended for drug abuse education, drug prevention, or crime prevention programs. A law enforcement agency whose forfeiture proceeds do not exceed \$10,000 in any given fiscal or calendar year shall not be required to meet the twenty-five percent drug abuse education threshold established herein. Notwithstanding the twenty-five percent drug abuse education or crime prevention threshold established herein, the sheriff and the board of county commissioners or the chief of police and the governing body of the municipality may agree to expend such funds over a period of years if expenditure of such twenty-five percent in any given fiscal or calendar year would exceed the reasonable needs of the county or municipality for such drug abuse education or crime prevention. Nothing herein shall preclude the expenditure of such funds for drug abuse education or crime prevention in excess of the twenty-five percent threshold established herein.*

2. ~~If in the event that~~ the seizing law enforcement agency is a state agency, all remaining proceeds shall be deposited into the state General Revenue Fund. However, ~~if in the event~~ the seizing law enforcement agency is the Department of Law Enforcement, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Forfeiture and Investigative Support Trust Fund; ~~if in the event~~ the seizing agency is the Division of Alcoholic Beverages and Tobacco, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Alcoholic Beverages Forfeiture and Investigative Support Trust Fund; if the seizing law enforcement agency is the Department of Natural Resources, the proceeds accrued pursuant to the provisions of this chap-

ter shall be deposited into the Motorboat Revolving Trust Fund to be used for law enforcement purposes; if the seizing law enforcement agency is a state attorney's office acting within its judicial circuit, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the State Attorney's Forfeiture and Investigative Support Trust Fund to be used for the investigation of crime and prosecution of criminals within the judicial circuit; and, if the seizing law enforcement agency is the Game and Fresh Water Fish Commission, the proceeds accrued pursuant to the provisions of this chapter shall be deposited into the Wildlife Law Enforcement Trust Fund.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 21, after the semicolon (;) insert: amending s. 932.704, F.S.; authorizing counties and municipalities to appropriate certain proceeds from the sale of forfeited property for use in providing specified services and programs; providing application requirements for receiving such funds;

Senator Grant moved the following amendment which failed:

Amendment 3—On page 11, between lines 12 and 13, insert:

Section 4. The sale of fireworks and sparklers as defined in section 791.01, Florida Statutes, is prohibited for sale at retail or wholesale from a tent, trailer, or any building that is not a permanent structure.

(Renumber subsequent section.)

CS for SB 298

The Committee on Governmental Operations recommended the following amendment which was moved by Senator Forman and adopted by two-thirds vote:

Amendment 1—On page 2, line 9, after the period (.) insert: This exemption from s. 119.07(1), Florida Statutes, is subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes.

SB 426

The Committee on Education recommended the following amendments which were moved by Senator Meek and adopted:

Amendment 1—On page 1, line 26, strike "at" and insert: by

Amendment 2—In title, on page 1, line 5, strike "at" and insert: by

CS for SB's 434 and 532

Senator Forman moved the following amendments which were adopted:

Amendment 1—On page 28, between lines 24 and 25, insert:

Section 24. Subsection (5) of section 210.05, Florida Statutes, 1990 Supplement, is amended to read:

210.05 Preparation and sale of stamps; discount.—

(5) Agents or wholesale dealers may sell stamped but untaxed cigarettes to the Seminole Indian Tribe or the Miccosukee Tribe of Indians, Inc., or to members of either tribe thereof, for retail sale. Agents or wholesale dealers shall treat such cigarettes and the sale thereof in the same manner, with respect to reporting and stamping, as other sales under this part, but agents or wholesale dealers shall not collect from the purchaser the tax imposed by s. 210.02. The purchaser hereunder shall be responsible to the agent or wholesale dealer for the services and expenses incurred in affixing the stamps and accounting therefor.

Section 25. The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation may adopt rules to implement section 1 of this act.

(Renumber subsequent sections.)

Amendment 2—In title, on page 2, line 28, after "1999;" insert: amending s. 210.05, F.S.; allowing the Miccosukee Tribe of Indians, Inc., to purchase stamped but untaxed cigarettes for retail sale; providing for rulemaking;

SB 620

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

Amendment 1—On page 2, line 23, after "university" insert: , as approved by the Board of Regents,

CS for SB 688

Senator Thurman moved the following amendment:

Amendment 1—On page 2, strike all of lines 7-20 and insert:

(b) Upon successful completion of the probationary period, the employee's performance may be reviewed and employment renewed for successive periods as provided in the collective bargaining agreement when one exists or school board rule when a collective bargaining agreement does not exist, for not more than five annual periods from the date of employment.

(c) After the completion of the probationary period in paragraph (a) or after the completion of the annual renewal process in paragraph (b), the employee's status shall continue from year to year unless the superintendent terminates the employee for reasons stated in the collective bargaining agreement, or in school board rule in cases where a collective bargaining agreement does not exist, or reduces the number of employees on a districtwide basis.

(d) In the event a superintendent seeks termination of an employee, the school board may suspend the employee with or without pay. The employee shall receive written notice and shall have the opportunity to formally appeal the termination. The appeals process shall be determined by the appropriate collective bargaining process or by school board rule in the event there is no collective bargaining agreement.

(3) This provision establishes minimum standards of employment status for all educational support employees. Any and all standards may be enhanced in the appropriate collective bargaining agreement or by school board rule in cases where a collective bargaining agreement does not exist.

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

Amendment 1A—On page 1, line 26, strike the period (.) and insert: for financial reasons.

Amendment 1 as amended was adopted.

Senator Thurman moved the following amendment which was adopted:

Amendment 2—In title, on page 1, line 9, after the semicolon (;) insert: providing for enhancement of minimum standards of employment;

SB 1482

The Committee on Criminal Justice recommended the following amendment which was moved by Senator Grant and failed:

Amendment 1—On page 2, between lines 7 and 8, insert:

(3) *It shall be an essential element of this section that the record reflect that the defendant knew or had reasonable grounds to know that the victim was within the class delineated herein.*

Senator Bruner moved the following amendment which failed:

Amendment 2—On page 1, line 22, after "orientation" insert: sex,

Senator Dantzler moved the following amendment:

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

Section 3. Section 876.18, Florida Statutes, is amended to read:

876.18 Placing burning or flaming cross on property of another.—It shall be unlawful for any person or persons to place or cause to be placed on the property of another in the state a burning or flaming cross or any manner of exhibit in which a burning or flaming cross, real or simulated, is a whole or part without first obtaining written permission of the owner or occupier of the premises to so do. *Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.*

Section 4. Section 876.21, Florida Statutes, is amended to read:

876.21 Penalty.—Any person or persons violating ss. 876.11-876.20, except as provided in s. 876.18, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(Renumber subsequent section.)

CS for SB 1672

Senator Gordon moved the following amendments which were adopted:

Amendment 1—On page 6, line 8, insert:

Section 8. Section 110.121, Florida Statutes, is amended to read:

110.121 Sick leave pool.—Each department or agency of the state which has authority to adopt rules governing the accumulation and use of sick leave for employees and which maintains accurate and reliable records showing the amount of sick leave which has been accumulated and is unused by employees may, in accordance with guidelines which shall be established by the Department of Administration, ~~adopt promulgate~~ *adopt* rules for the establishment of a plan allowing participating full-time employees to pool sick leave and allowing any sick leave thus pooled to be used by any participating employee who has used all of the sick leave that has been personally accrued by him. Although not limited to the following, such rules shall provide:

(1) That full-time employees shall be eligible for participation in the sick leave pool after 1 year of employment with the state or agency of the state; provided that such employee has accrued a minimum amount of unused sick leave, which minimum shall be established by rule.

(2) That participation in the sick leave pool shall, at all times, be voluntary on the part of the employees.

(3) That any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing such leave.

(4) That any sick leave in the pool which leave is used by a participating employee shall be used only for the employee's personal illness, accident, or injury.

(5) That a participating employee shall not be eligible to use sick leave accumulated in the pool until all of his personally accrued sick, annual, and compensatory leave has been used.

(6) A maximum number of days of sick leave in the pool which any one employee may use.

(7) That a participating employee who uses sick leave from the pool shall not be required to reconstitute such sick leave to the pool, except as otherwise provided herein.

(8) That an employee who cancels his membership in the sick leave pool shall not be eligible to withdraw the days of sick leave he has contributed to the pool.

(9) That an employee who transfers from one position in state government to another position in state government may transfer from one pool to another if the eligibility criteria of the pools are comparable or the administrators of the pools have agreed on a formula for transfer of credits.

(10) That alleged abuse of the use of the sick leave pool shall be investigated, and, on a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn from the sick leave pool and shall be subject to such other disciplinary action as is determined by the agency head.

(11) That sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis.

(Renumber subsequent section.)

Amendment 2—In title, on page 1, line 23, after the semicolon (;) insert: amending s. 110.121, F.S.; authorizing part-time employees to participate in the state sick leave pool;

CS for SB 1850

Senator Bruner moved the following amendments which were adopted:

Amendment 1—On page 12, between lines 4 and 5, insert:

Section 10. There is hereby appropriated to the Division of Purchasing, Department of General Services, for fiscal year 1991-1992, from the Grants and Donations Trust Fund, \$90,598 from Salaries and Benefits and 3 FTE, \$53,522 in Expenses (\$6,986 non-recurring) and \$11,529 in Operating Capital Outlay. The appropriations and the provisions of sections 2 and 6 shall become effective upon agreement by the corporation designated in chapter 946, Florida Statutes, to remit to the Department of General Services in equal amounts, at least quarterly, the sum of \$155,649 commencing July 1, 1991.

(Renumber subsequent sections.)

Amendment 2—In title, on page 2, line 18, after the semicolon (;) insert: providing an appropriation;

CS for SB 1852

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 6, strike all of lines 18-21 and renumber subsequent sections.

Amendment 2—In title, on page 1, lines 2 and 3, strike "providing for prekindergarten program expenditures;"

Amendment 3—On page 30, line 20, through page 33, line 20, strike all of said lines and renumber subsequent sections.

Amendment 4—In title, on page 2, strike all of lines 2-8 and insert: amending s. 229.808, F.S.; correcting a

Amendment 5—On page 88, strike all of lines 11-22 and renumber subsequent sections.

Amendment 6—In title, on page 5, strike all of lines 11-14 and insert: cross-references; amending s. 240.402,

Amendment 7—On page 88, line 23, through page 89, line 21, strike all of said lines and renumber subsequent sections.

Amendment 8—In title, on page 5, strike all of lines 14-16 and insert: apprenticeship programs;

Amendment 9—On page 97, line 31, insert:

Section 69. Paragraph (k) of subsection (1) of section 246.041, Florida Statutes, is amended to read:

246.041 Powers and duties of board.—

(1) The board shall:

(a) Hold such meetings as are necessary to administer efficiently the provisions of ss. 246.011-246.151;

(b) Select annually a chairperson and a vice chairperson;

(c) Adopt and use an official seal in the authentication of its acts;

(d) Make rules for its own government;

(e) Adopt rules necessary to carry out its functions;

(f) Administer ss. 246.011-246.151;

(g) Appoint, on the recommendation of its chairperson, executives, deputies, clerks, and employees of the board;

(h) Maintain a record of its proceedings;

(i) Cooperate with other state and federal agencies in administering the provisions of ss. 246.011-246.151;

(j) Prepare an annual budget;

(k) Transmit all fees, donations, or other receipts of money *through the Department of Education to the Treasurer* to be deposited in the *Institutional Assessment Trust Fund created by s. 246.31 General Revenue Fund of the state*;

(l) Transmit to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives on July 1, 1989, and each succeeding year an annual report which shall include, but not be limited to:

1. A detailed accounting of all funds received and expended.
2. The number of complaints received and investigated, by type.
3. The number of findings of probable cause.
4. A description of disciplinary actions taken, by statutory classification.
5. A description of all administrative hearings and court actions.

6. A description of the board's major activities during the previous year; and

(m) Serve as a central agency for collection and distribution of current information regarding institutions licensed by the board, institutions exempt from licensure by the board pursuant to s. 246.085(2)(a) or (c), and any other nonpublic colleges eligible to participate in state student financial aid programs or eligible to receive federal Title IV funds. Aggregate information collected shall be compatible with the comprehensive educational data base developed by the Florida Center for Educational Statistics pursuant to s. 229.552.

1. The data collected by the board shall include information relating to the college administration, calendar system, admissions requirements, student costs and financial obligations, financial aid information, refund policy, placement services, number of full-time and part-time faculty, student enrollment and demographic figures, degree programs, and off-campus academic programs. Other information shall be collected in response to specific needs or inquiries. Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. The board shall provide to each participating institution annually the format, definitions, and instructions for submitting the required information.

3. The data submitted by each institution shall be accompanied by a letter of certification signed by the chief administrative officer of the institution, affirming that the information submitted is accurate.

4. A summary of the data collected by the board shall be included in the annual report to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives. The information collected by the board may also be used by the Department of Education for such purposes as statewide master planning, state financial aid programs, and publishing directories; by the Legislature; and to respond to consumer inquiries received by the board.

Section 70. Section 246.061, Florida Statutes, is amended to read:

246.061 Expenditures.—The Treasurer shall pay out all moneys and funds provided for in ss. 246.011-246.151 upon proper warrant issued by the Comptroller, drawn upon vouchers approved by the Department of Education for all lawful purposes necessary to the administration of ss. 246.011-246.151. The board shall make annual reports to the Governor showing in detail amounts received and all expenditures. All fees, donations, or other receipts of money by the board shall be paid into the Institutional Assessment Trust Fund created by s. 246.31 State Treasury, and the funds appropriated for the purposes of ss. 246.011-246.151 shall be from the Institutional Assessment Trust Fund and other state fund sources as appropriate General Revenue Fund, based on an appropriate budget approved by the board and submitted to the Legislature through the Governor in accordance with chapter 216. The board shall include in its annual report to the Governor a statement of major activities during the period covered by such report.

Section 71. Section 246.101, Florida Statutes, is amended to read:

246.101 Fees.—

(1)(a) For activities related to licensure, the board shall establish a fee for initial application for institutional licensure, annual reviews, special reviews, 1-day committee visits, multi-day committee visits, late application and material submission, initial agent licensure, and renewal agent licensure. charge the following fees:

- 1. Initial application for institutional licensure: \$800
- 2. Annual review fee: \$250
- 3. Special review fee: \$150
- 4. One-day committee visit: \$200
- 5. Each additional day of committee visit: \$ 50
- 6. Late fee for materials sent after due date: \$100
- 7. Licensure of agent:
 - a. Initial license: \$ 50
 - b. Annual renewal of license: \$ 25

(b) For activities related to fair consumer practices for licensed or accredited nonpublic colleges as directed by s. 246.085(5), data collection for nonpublic colleges eligible to participate in state student financial aid programs as directed by s. 246.041, and authorization to operate in Florida without offering educational programs, the board shall establish a fee for initial application and annual review. charge the following fees:

- 1. Initial application: \$100
- 2. Annual review: \$ 50

(c) For activities related to approval to use the term "college" or "university," the board shall establish a fee for initial application and annual review. charge the following fees:

- 1. Initial application: \$100
- 2. Review: \$ 50

(2) All fees shall be submitted through the Department of Education to the Treasurer, to be deposited in the Institutional Assessment Trust Fund created by s. 246.31 General Revenue Fund of the state.

(3) All fees authorized to be collected are considered to be administrative fees and shall not be refundable.

Section 72. Section 246.219, Florida Statutes, is amended to read:

246.219 License fees.—

(1) Each initial application for a license to operate a school shall be accompanied by a license fee of not less than \$500, and each application for the renewal of such license shall be accompanied by an annual license fee of at least not less than \$300, provided that the fee for a biennial license shall be at least not less than \$600. A fee shall be charged for a supplementary application for the approval of any additional field or course of instruction. Such fees shall be delineated, by rule, by the board.

(2) Fees for agents representing schools shall be at least \$50 for the initial license and at least \$25 for renewal of the license, excluding the cost of obtaining criminal justice information. Applicants shall bear the cost of obtaining such information.

(3) The board shall adopt rules establishing a charge of at least not less than \$250 for a delinquent application for license renewal.

(4) All license fees shall be transmitted by the board through the Department of Education to the State Treasurer to be deposited in the Institutional Assessment Trust Fund created by s. 246.31 General Revenue Fund.

Section 73. Section 246.224, Florida Statutes, is transferred, renumbered as section 246.31, Florida Statutes, and amended to read:

246.31 246.224 Institutional Assessment Trust Fund.—

(1) There is created an Institutional Assessment Trust Fund to be administered by the Department of Education State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools pursuant to this section and rules of the State Board of Education. The trust fund shall consist of all fees and fines imposed upon nonpublic colleges and schools pursuant to chapter 246 ss. 246.201-246.231. The department shall maintain separate revenue accounts for the State Board of Independent Colleges and Universities and the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

(2) Funds from the trust fund shall be used for purposes including, but not limited to, the following:

(a) Authorized board expenses of the respective boards in carrying out their required duties.

(b) Financial assistance programs for students who attend nonpublic institutions licensed by the board.

(c) Educational programs for the benefit of current and prospective owners, administrators, agents, and faculty of institutions licensed by the board.

(3) The board may utilize other individuals or entities to administer the programs authorized in subsection (2).

(Renumber subsequent section.)

Amendment 10—In title, on page 5, line 21, following the semicolon (;) insert: amending ss. 246.041, 246.061, F.S.; revising provisions related to the deposit and appropriation of certain funds related to the State Board of Independent Colleges and Universities; amending s. 246.101, F.S.; revising the schedule for fees collected by the State Board of Independent Colleges and Universities; amending s. 246.219, F.S.; revising the schedule for fees collected for school agents by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; revising provisions related to the deposit of fees collected by said board; transferring, renumbering, and amending s. 246.224, F.S.; revising provisions related to the administration and use of the Institutional Assessment Trust Fund;

Amendment 11—On page 94, line 25, after "schools" insert: which demonstrate a racially nondiscriminatory student admission policy

Amendment 12—On page 95, strike line 1 and insert: school and the school has submitted the information required pursuant to this section and the most recent school

Amendment 13—On page 97, line 31, insert:

Section 69. Subsection (6) of section 237.211, Florida Statutes, is amended to read:

237.211 School depositories; payments into and withdrawals from depositories.—

(6) EXEMPTION FOR SELF-INSURANCE PROGRAMS AND THIRD-PARTY ADMINISTERED EMPLOYEES' FRINGE BENEFIT PROGRAMS.—

(a) The school board is authorized to contract with an approved service organization to provide self-insurance services, including, but not limited to, the evaluation, settlement, and payment of self-insurance claims on behalf of the school board. Pursuant to such contract, the school board may advance money to the service organization to be deposited in a special checking account for paying claims against the school board under its self-insurance program. The special checking account shall be maintained in a designated district school depository. The school board may replenish such account as often as necessary upon the presentation by the service organization of documentation for claims paid equal to the amount of the requested reimbursement. Such replenishment shall be made by a warrant signed by the chairman of the board and countersigned by the superintendent. Such replenishment may be made by electronic, telephonic, or other medium, and each transfer shall be confirmed in writing and signed by the superintendent or his designee.

(b) *The school board is authorized to contract with an insurance company or administrator who holds a valid certificate of authority or license issued by the Department of Insurance to provide any or all services that a third-party administrator is authorized by law to perform. Pursuant to the contract, the school board may advance or remit money to the administrator to be deposited in a designated special checking account for paying claims against the school board under its self-insurance programs and for remitting premiums to the providers of insured benefits on behalf of the school board and the participants in the programs, and otherwise fulfilling the obligations imposed upon the administrator by law and by the contractual agreements between the school board and the administrator. The special checking account must be maintained in a designated district school depository. The school board may replenish the account as often as necessary upon the presentation by the service organization of documentation for claims or premiums due or paid equal to the amount of the requested reimbursement. The replenishment must be made by a warrant signed by the chairman of the board and countersigned by the superintendent. The replenishment may be made by electronic, telephonic, or other medium, and each transfer must be confirmed in writing and signed by the superintendent or his designee.*

(c) *The provisions of strict accountability of all funds and an annual audit by an independent certified public accountant as provided in s. 230.23(10)(l) apply to this subsection.*

(Renumber subsequent section.)

Amendment 14—In title, on page 6, line 13, after the semicolon (;) insert: amending s. 237.211, F.S.; allowing school boards to contract with a third-party administrator to handle employees' fringe benefit programs;

Senator Meek moved the following amendment which was adopted:

Amendment 15—On page 22, strike all of lines 17 and 18 and insert:

(1) The Commissioner of Education shall select three community colleges and three public school districts to

CS for CS for SB 2040

Senator Kiser moved the following amendment:

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

Section 1. Subsection (6) of section 212.20, Florida Statutes, 1990 Supplement, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this part shall be as follows:

(a) Proceeds from the convention development taxes authorized under s. 212.0305 shall be reallocated to the Convention Development Tax Clearing Trust Fund.

(b) Proceeds from discretionary sales surtaxes imposed pursuant to ss. 212.054 and 212.055 shall be reallocated to the Discretionary Sales Surtax Clearing Trust Fund.

(c) Fifty percent of the proceeds from the tax on controlled and other substances imposed pursuant to s. 212.0505 shall be transferred to the Drug Enforcement Trust Fund, and the remaining 50 percent shall be transferred to the Drug Abuse Education Trust Fund.

(d) Proceeds from the tax imposed pursuant to s. 212.06(5)(a)2. shall be reallocated to the Mail Order Sales Tax Clearing Trust Fund.

(e) Proceeds from the fee imposed pursuant to s. 212.18(5) shall be transferred to the Solid Waste Management Trust Fund.

(f) Proceeds from the fee imposed pursuant to s. 212.18(3) shall remain with the General Revenue Fund.

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

1. The greater of five percent or the sums sufficient to provide the maximum amount specified in s. 212.235(1) shall be transferred to the State Infrastructure Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. ~~After the distribution under subparagraphs 1. and 2. Of the remaining proceeds,~~ 9.888 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. *Beginning July 1, 1992, of the remaining proceeds, \$166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" pursuant to s. 288.1162 and \$41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years.*

5.4. All other proceeds shall remain with the General Revenue Fund.

Section 2. Section 288.1161, Florida Statutes, is amended to read:

288.1161 Sports Advisory Council; duties.—The Sports Advisory Council, created within the Department of Commerce pursuant to s. 20.17, shall serve in an advisory capacity to the Secretary of Commerce to assist the secretary, as he may require, in carrying out the requirements of s. 288.1162 ~~this act~~ and in adopting appropriate rules.

Section 3. Section 288.1162, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 288.1162, F.S., for present text.)

288.1162 Professional sports franchises; spring training franchises; duty of Department of Commerce; procedure.—

(1) The Department of Commerce shall serve as the state agency for screening applicants for state funding pursuant to s. 212.20 and for certifying an applicant as a "facility for a new professional sports franchise" or a "new spring training franchise facility."

(2) The Department of Commerce shall develop rules for the receipt and processing of applications for funding pursuant to s. 212.20.

(3) As used in this section, the term "new professional sports franchise" means a professional sports franchise that is not based in this state prior to July 1, 1990.

(4) Prior to certifying an applicant as a "facility for a new professional sports franchise," the Department of Commerce must determine that:

(a) A "unit of local government" as defined in s. 218.369 is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 5 years.

(c) The applicant has a verified copy of the approval from the governing authority of the league in which the professional sports franchise exists authorizing the location of the professional sports franchise in this state after July 1, 1990. The term "league" means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.

(d) The applicant has projections, verified by the Department of Commerce, which demonstrate that the new professional sports franchise will attract a paid attendance of more than 300,000 annually.

(e) The applicant has an independent analysis or study, verified by the department, which demonstrates that the amount of the revenues generated by the taxes imposed under part I of chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed \$2 million annually.

(f) The municipality in which the facility for a new professional sports franchise is located, or the county if the facility for a new professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application is in the best interest of the public.

(g) The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.

(5) As used in this section, the term "new spring training franchise" means a spring training franchise that is not based in this state prior to July 1, 1990.

(6) Prior to certifying an applicant as a "new spring training franchise facility," the Department of Commerce must determine that:

(a) A "unit of local government" as defined in s. 218.369 is responsible for the construction, management, or operation of the new spring training franchise facility or holds title to the property on which the new spring training franchise facility is located.

(b) The applicant has a verified copy of a signed agreement with a new spring training franchise for the use of the facility for a term of at least 15 years.

(c) The applicant has a financial commitment to provide 50 percent or more of the funds required by an agreement for the use of the facility by the new spring training franchise.

(d) The proposed facility for the new spring training franchise is located within 20 miles of an interstate or other limited-access highway system.

(e) The applicant has projections, verified by the Department of Commerce, which demonstrate that the new spring training franchise facility will attract a paid attendance of at least 50,000 annually.

(f) The new spring training franchise facility is located in a county that is levying a tourist development tax pursuant to s. 125.0104(3)(b),

(c), (d), and (l), at the rate of 4 percent by March 1, 1992, and, 87.5 percent of the proceeds from such tax are dedicated for the construction of a spring training complex.

(7) An applicant certified as a facility for a new professional sports franchise or as a new spring training franchise facility may use funds provided pursuant to s. 212.20 only for the public purpose of paying for the construction, reconstruction, or renovation of a facility for a new professional sports franchise or new spring training franchise facility or to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(8) The Department of Commerce shall notify the Department of Revenue of any facility certified as a facility for a new professional sports franchise or as a new spring training franchise facility. The department may certify no more than six facilities as facilities for a new professional sports franchise or as new spring training franchise facilities. The department may make no more than one certification for any facility.

(9) The Department of Revenue may audit as provided in s. 213.34 to verify that the distributions pursuant to this section have been expended as required in this section. Such information is subject to the confidentiality requirements of chapter 213.

Section 4. Section 288.1167, Florida Statutes, is amended to read:

288.1167 Sports franchise contract provisions for food and beverage concession and contract awards to minority business enterprises.—Any applicant who receives funding pursuant to the provisions of this act s. 212.20 must demonstrate ~~shall include a provision in any contract with a sports franchise facility agreeing that:~~

(1) At least 15 percent of funds and facilities with respect to food and beverage and related concessions shall be awarded to minority business enterprises as defined in s. 288.703 on the same terms and conditions as the general food and beverage concessionaire;

(2) At least 15 percent of a company contracted to manage a professional sports franchise facility or a spring training franchise facility is owned by minority business enterprises or by a minority person as those terms are defined in s. 288.703; or

(3) At least 15 percent of all operational service contracts with a professional sports franchise facility or a spring training franchise facility are awarded to minority business enterprises or to a minority person as those terms are defined in s. 288.703.

Section 5. Sections 288.1163, 288.1164, and 288.1165, Florida Statutes, are repealed.

Section 6. This act shall take effect upon becoming a law.

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

Amendment 1A—On page 5, line 3, strike "is in the best interest of the public" and insert: serves a public purpose

Amendment 1 as amended was adopted.

Senator Kiser 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 professional sports; amending s. 212.20, F.S.; providing for the distribution of tax revenue to facilities for new professional sports franchises and new spring training franchise facilities; amending s. 288.1162, F.S.; revising application procedures to qualify for distribution; providing uses of distributed funds; allowing audits by the Department of Revenue; providing for confidentiality; amending s. 288.1161, F.S., to conform; amending s. 288.1167, F.S.; providing alternative methods to meet minority business participation requirements; repealing s. 288.1163, F.S., relating to allowing a county to impose a tourist development tax for payment of debt service on bonds related to a professional sports franchise facility; repealing s. 288.1164, F.S., relating to providing for a state funding program for professional sports franchises; repealing s. 288.1165, F.S., relating to the creation of the Professional Sports/Economic Trust Fund; providing an effective date.

AMENDMENTS TO HOUSE BILLS

CS for HB 257

The Committee on Agriculture recommended the following amendment which was moved by Senator Dantzler and adopted:

Amendment 3—On page 2, strike all of lines 1-5

Senator Dantzler moved the following amendments which were adopted:

Amendment 4—On page 1, strike all of lines 15-17 and insert:

Section 1. Subsection (1) of section 504.31, Florida Statutes, 1990 Supplement, is amended to read:

Amendment 5—In title, on page 1, lines 6 and 7, strike “and eliminating per diem and travel expense allowances”

Amendment 6—On page 2, between lines 15 and 16, insert:

Section 1. Subsection (16) is added to section 531.41, Florida Statutes, 1990 Supplement, to read:

531.41 Powers and duties of the department.—The department shall:

(16) *The provisions of chapter 531, and the rules adopted thereunder notwithstanding, scales routinely used by providers of weight control services shall not be considered commercial weights and measures when used to determine human weight or to compute charges or payments for services rendered by such providers on the basis of said weight, measure, or count.*

Amendment 7—In title, on page 1, line 10, after the semicolon (;) insert: amending s. 531.41, F.S.; providing for exemption of scales used for determining human weight;

CS for CS for HB 365

Senator Bruner moved the following amendments which were adopted:

Amendment 1—On page 27, between lines 12 and 13, insert:

Section 15. Paragraph (a) of subsection (27) of section 370.16, Florida Statutes, is amended to read:

370.16 Oysters and shellfish; regulation.—

(27) OYSTER AND CLAM SHELLS PROPERTY OF DIVISION.—

(a) Except for oysters used directly in the half-shell trade, 50 percent of all shells from oysters and clams shucked commercially in the state shall be and remain the property of the Division of Marine Resources when such shells are needed and required for rehabilitation projects and planting operations, when sufficient resources and facilities exist for handling and planting said shell, and when the collection and handling of such shell is practical and useful, except that bona fide holders of leases and grants ~~may who desire to retain 75 percent of such shell as they produce for planting purposes may do so~~ by obtaining a special activity license from the division pursuant to s. 370.06. Storage, transportation, and planting of shells so retained by lessees and grantees shall be carried out under the surveillance of agents of the division and be subject to such reasonable time limits as the division may fix. In the event of an accumulation of an excess of shells, the division is authorized to sell shells only to private growers for use in oyster or clam cultivation on bona fide leases and grants. No profit shall accrue to the division in these transactions, and shells are to be sold for the estimated moneys spent by the division to gather and stockpile the shells. Planting of shells obtained from the division by purchase shall be subject to the surveillance of the division if the division chooses to exercise its right of supervision. Any shells not claimed and used by private oyster cultivators 10 years after shells are gathered and stockpiled, may be sold at auction to the highest bidder for any private use.

(Renumber subsequent section.)

Amendment 2—In title, on page 2, line 12, following the semicolon (;) insert: amending s. 370.16, F.S.; prescribing the amount of oyster and clam shells which becomes the property of the state;

Amendment 3—On page 27, between lines 12 and 13, insert:

Section 16. Subsection (5) of section 370.06, Florida Statutes, 1990 Supplement, is reenacted to read:

370.06 Licenses.—

(5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.—

(a) For purposes of this section, the following definitions shall apply:

1. “Person” means an individual.

2. “Resident” means a citizen of the United States who has continuously resided in this state for 1 year immediately preceding the making of his application for an Apalachicola Bay oyster harvesting license.

(b) No person shall harvest oysters from the Apalachicola Bay without a valid Apalachicola Bay oyster harvesting license issued by the department. This requirement shall not apply to anyone harvesting non-commercial quantities of oysters in accordance with chapter 46-27 of the Florida Administrative Code or to any person less than 18 years old.

(c) Any person wishing to obtain an Apalachicola Bay oyster harvesting license shall submit an annual fee for the license during a 45-day period from May 17 to June 30 of each year preceding the license year for which the license is valid. Failure to pay the annual fee within the required time period shall result in a \$500 late fee being imposed before issuance of the license. The provisions of this paragraph shall expire on July 1, 1994.

(d) The department shall collect an annual fee of \$100 from residents and \$500 from nonresidents for the issuance of an Apalachicola Bay oyster harvesting license. The license year shall begin on July 1 of each year and end on June 30 of the following year. However, in 1989, the license application period shall begin September 1 and end on October 15, and first-year license fees shall be prorated. The license shall be valid only for the licensee. Only bona fide residents of Florida may obtain a resident license pursuant to this subsection.

(e) Each person who applies for an Apalachicola Bay oyster harvesting license shall, before receiving the license, attend an educational seminar of not more than 16 hours length, developed and conducted jointly by the Apalachicola National Estuarine Research Reserve, the department's Division of Law Enforcement, and the department's Apalachicola District Shellfish Environmental Assessment Laboratory. The seminar shall address, among other things, oyster biology, conservation of the Apalachicola Bay, sanitary care of oysters, small business management, and water safety. The seminar shall be offered five times per year and each person attending shall receive a certificate of participation to present when obtaining an Apalachicola Bay oyster harvesting license.

(f) Each person, while harvesting oysters in Apalachicola Bay, shall have in possession a valid Apalachicola Bay oyster harvesting license, or proof of having applied for a license within the required time period, and shall produce such license or proof of application upon request of any law enforcement officer.

(g) Each person who obtains an Apalachicola Bay oyster harvesting license shall prominently display the license number upon any vessel he owns which is used for the taking of oysters, in numbers which are at least 10 inches high and 1 inch wide, so that the permit number is readily identifiable from the air and water. Only one vessel displaying a given number may be used at any time. A licensee may harvest oysters from the vessel of another licensee.

(h) Any person holding an Apalachicola Bay oyster harvesting license shall receive credit for the license fee against the saltwater products license fee.

(i) The proceeds from Apalachicola Bay oyster harvesting license fees shall be deposited in the Apalachicola Bay Conservation Trust Fund and, less reasonable administrative costs, shall be used or distributed by the department for the following purposes in Apalachicola Bay:

1. Relaying and transplanting live oysters.

2. Shell planting to construct or rehabilitate oyster bars.

3. Education programs for licensed oyster harvesters on oyster biology, aquaculture, boating and water safety, sanitation, resource conservation, small business management, and other relevant subjects.

4. Research directed toward the enhancement of oyster production in the bay and the water management needs of the bay.

(j) Any person violating any of the provisions of paragraphs (b) and (d)-(g) shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 and s. 775.083. Nothing in this subsection shall limit the application of existing penalties.

(Renumber subsequent section.)

Amendment 4—In title, on page 2, line 12, following the semicolon (:) insert: reenacting s. 370.06(5), F.S., relating to Apalachicola Bay Oyster Harvesting Licenses;

Senator Dantzler offered the following amendment which was moved by Senator Bruner:

Amendment 5—On page 18, strike all of lines 23-28 and insert:

Section 12. Paragraph (a) of subsection (1), subsection (2), subsection (5), paragraph (a) of subsection (6), and subsection (8) of section 370.0605, Florida Statutes, 1990 Supplement, are amended, paragraph (c) is added to subsection (1), paragraph (i) is added to subsection (3), paragraph (a) and (d) are amended and paragraph (h) is added to subsection (13) of said section, to read:

CS for CS for CS for HB's 2157 and 1871

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Kirkpatrick:

Amendment 1—On page 2, line 8, strike everything after the enacting clause and insert:

Section 1. Section 373.4592, Florida Statutes, is created to read:

373.4592 Everglades improvement and management.—

(1) FINDINGS AND INTENT.—

(a) The Legislature finds that the Everglades ecological system not only contributes to South Florida's water supply, flood control, and recreation, but serves as the habitat for diverse species of wildlife and plant life. The system is unique in the world and one of Florida's great treasures.

(b) The Legislature further recognizes the efforts of the South Florida Water Management District to implement a comprehensive plan pursuant to the Surface Water Improvement and Management Act which will provide strategies, programs, and projects for the restoration and protection of water quality in the Everglades. The Legislature does not intend by this section to limit the authority of the district in the implementation of such plan.

(c) It is the intent of the Legislature to facilitate the surface water improvement and management process, to assist the district and the Department of Environmental Regulation in the performance of their duties and responsibilities, and to provide funding mechanisms which will contribute to the implementation of the strategies incorporated in the Everglades Surface Water Improvement and Management Plan or contribute to projects or facilities determined necessary to meet water quality requirements established by rulemaking or permit proceedings.

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

(a) "District" means the South Florida Water Management District.

(b) "Everglades Agricultural Area" shall have the meaning set forth in the Everglades Surface Water Improvement and Management Plan or interim permit issued pursuant to subsection (6).

(c) "Everglades Protection Area" means Water Conservation Areas 1, 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park.

(d) "Master permit" means a single permit issued to a legally responsible entity defined by rule authorizing the construction, alteration, maintenance, or operation of multiple stormwater management systems which may be owned or operated by different persons and which provides an opportunity to achieve collective compliance with applicable department and district rules and the provisions of this section.

(e) "Plan" shall, except as otherwise indicated, refer to the Everglades Surface Water Improvement and Management Plan adopted by the South Florida Water Management District, as amended from time to time.

(f) "Stormwater management program" shall have the meaning set forth in s. 403.031(14).

(g) "Stormwater utility" shall have the meaning set forth in s. 403.031(16).

(3) ADOPTION OF SWIM PLAN.—

(a) The district shall adopt the Everglades Surface Water Improvement and Management Plan pursuant to the provisions of ss. 373.451-373.456. In addition to the criteria contained in s. 373.453, the plan shall include:

1. Strategies for developing programs and projects designed to bring facilities into compliance with applicable water quality standards and restore the Everglades hydroperiod, including the identification and acquisition of lands for the purpose of water treatment or implementation of stormwater management systems, the development of funding mechanisms, and the development of a permitting system for discharges into waters managed by the district.

2. Specific goals for stormwater management systems funded pursuant to subsection (5) and a periodic evaluation process to determine whether such goals are being achieved.

3. Strategies for establishing monitoring protocols to ensure the accuracy of data.

4. Strategies for establishing research programs to measure program and project effectiveness.

(b) The plan shall not be reviewable as a rule under s. 120.54 or s. 120.56. However, the final agency action of the governing board of the district under s. 373.456(4) or (5)(b) shall constitute an order of the district subject to review as provided in s. 373.456(5)(b). The order shall also be subject to the provisions of s. 120.57. If a provision of the plan is to be implemented through permits for which there is no existing rule requirement, the district shall engage in rulemaking procedures pursuant to chapter 120 for the adoption of the requirement. To the extent feasible, any review proceeding under chapter 373 or any administrative proceeding under s. 120.57, with respect to a challenge to the plan, shall be expedited and shall be consolidated with any pending review proceedings relating to an interim permit issued pursuant to subsection (6).

(c) This section shall not be construed to prohibit the district prior to approval of the plan from pursuing interim permits pursuant to subsection (6) or from engaging in restoration or protection measures, including the acquisition, construction, or operation of the Everglades Nutrient Removal Project or the project referred to as Water Management Area 3, as identified in the September 28, 1990, draft of the Everglades Surface Water Improvement and Management Plan. The department may release funds under ss. 373.451-373.456 for such projects.

(4) ACQUISITION OF LANDS.—

(a) The Legislature declares that it is necessary for the public health and welfare that the Everglades water and water-related resources be conserved and protected. The Legislature further declares that certain lands may be needed for the treatment or storage of water prior to its release into the Everglades Protection Area. The acquisition of real property for this objective constitutes a public purpose for which public funds may be expended. In addition to other authority pursuant to this chapter to acquire real property, the governing board of the district is empowered and authorized to acquire fee title or easements by eminent domain for the limited purpose of implementing stormwater management systems, identified and described in the plan or determined necessary to meet water quality requirements established by rule or permit.

(b) In addition to the acquisition of lands by eminent domain pursuant to paragraph (a), the Board of Trustees of the Internal Improvement Trust Fund and the district may enter into cooperative agreements with property owners within a stormwater management system area to provide for the exchange of property subject to condemnation under paragraph (a) for state-owned property which the owner or an affiliate of such owner leases from the board of trustees or other agency of the state and which was used for agricultural production on January 1, 1991. Any such agreement shall include the following:

1. The landowner shall acquire property covered by the lease by paying any deficiency in cash or by transferring other private lands which the district or any other agency of the state has sought to acquire, or by a combination of land transfer and cash payment.

2. The exchange shall be made on the basis of appraisals performed in a manner consistent with the provisions of s. 253.025(7).

3. Title to any land conveyed to the Board of Trustees of the Internal Improvement Trust Fund as a result of such an exchange shall be conveyed to the South Florida Water Management District, upon payment of the appraised value thereof by the district to the board of trustees.

(5) **STORMWATER FUNDING; DEDICATED FUNDS FOR STORMWATER MANAGEMENT.**—In addition to any other funding mechanism legally available to the district to plan, acquire, construct, finance, operate, or maintain stormwater management systems, the district may:

(a) Create one or more stormwater utilities within or without the Everglades Agricultural Area and adopt stormwater utility fees not to exceed an amount sufficient to plan, acquire, construct, finance, operate, and maintain stormwater management systems where such utilities and systems are identified and described in the plan or permits issued pursuant to subsection (6). If adopted, stormwater utility fees shall be charged to property owners in the district based on the relative contribution of each property owner to the need for stormwater management systems and programs. The district may establish stormwater utility fees adopted pursuant to this paragraph in accordance with the procedures set forth in s. 120.54, and may enforce the payment of such fees through actions or proceedings in any court of competent jurisdiction for unpaid deposits and charges, or through the imposition of liens upon real property for which utility fees are charged and unpaid.

(b) Establish and set aside, as a continuing source of revenue, other funds sufficient to plan, acquire, construct, finance, operate, and maintain stormwater management systems identified and described in the plan or permits issued pursuant to subsection (6). Such funds may include contributions from the Everglades Agricultural Area Environmental Protection District, created pursuant to chapter 89-423, Laws of Florida, as amended. The district shall apply any such contributions as a credit against any fee imposed pursuant to paragraph (a) or assessment levied pursuant to paragraph (c).

(c) Create, alone or in cooperation with counties, municipalities, and special districts pursuant to s. 163.01, the Florida Interlocal Cooperation Act of 1969, one or more stormwater management system benefit areas within the Everglades Agricultural Area or any other area of the district identified and described in the plan or permits issued pursuant to subsection (6). The district may levy upon property owners within said benefit areas a per acreage assessment to fund the planning, acquisition, construction, financing, operation, maintenance, and administration of stormwater management systems for the benefitted areas. Any benefit area in which property owners receive substantially different levels of stormwater management system benefits shall include stormwater management system benefit subareas within which different per acreage assessments shall be levied from subarea to subarea based upon a reasonable relationship to benefits received. The assessments shall be calculated to generate sufficient funds to plan, acquire, construct, finance, operate, and maintain the stormwater management systems identified and described in the plan or permits issued pursuant to subsection (6). The district may use the non-ad valorem levy, collection, and enforcement method as provided in chapter 197 for assessments levied pursuant to this paragraph. The district shall publish notice of the certification of the non-ad valorem assessment roll pursuant to chapter 197 in a newspaper of general circulation in the counties wherein the assessment is being levied, within 1 week after the district certifies the non-ad valorem assessment roll to the tax collector pursuant to s. 197.3632(5). The assessments so levied shall be final and conclusive as to each lot or parcel unless the owner thereof shall, within 90 days of certification of the non-ad valorem assessment roll pursuant to s. 197.3632(5), commence an action in circuit court. Absent such commencement of an action within such period of time by an owner of a lot or parcel, such owner shall thereafter be estopped to raise any question related to the special benefit afforded the property or the reasonableness of the amount of the assessment. Except with respect to an owner who has commenced such an action, the non-ad valorem assessment roll as finally adopted and certified by the South Florida Water Management District to the tax collector pursuant to s. 197.3632(5) shall be competent and sufficient evidence that the assessments were duly levied and that all other proceedings adequate to the adoption of the non-ad valorem assessment roll were duly held, taken, and performed as required by s. 197.3632. If any assessment is abated in whole or in part by the court, the amount by which the assessment is so reduced may, by resolution of the governing board of the district, be payable from funds of the district legally available for that purpose, or at the discretion of the governing board of the district, assessments may be increased in the manner provided in s. 197.3632.

(d) In no event shall the amount of funds collected for stormwater management facilities pursuant to paragraphs (a) or (c) or any combination thereof exceed the cost of providing water management attributable

to water quality treatment required by department permits or by the plan, if the permits have not been issued, and resulting from the operation of stormwater management systems of the landowners to be charged. Such determination may be included in the plan or permit issued pursuant to subsection (6). Prior to the imposition of fees or assessments pursuant to paragraphs (a) or (c) for construction of new stormwater management systems or the acquisition of necessary land, the district shall establish the general purpose, design, and function of the new system sufficient to make a fair and reasonable determination of the estimated costs of water management attributable to water quality treatment resulting from operation of stormwater management systems of the landowners to be charged. This determination shall establish the proportion of the total anticipated costs attributable to the landowners. In determining the costs to be imposed by fees or assessments, the district shall consider the extent to which nutrients originate from external sources beyond the control of the landowners to be charged. Costs for hydroperiod restoration shall be provided by funds other than those authorized by this subsection. The proportion of total anticipated costs attributable to the landowners shall be apportioned to individual landowners considering the factors specified in paragraph (e).

(e) In determining the amount of any fee or assessment imposed on an individual landowner to be charged under paragraph (a) or (c), the district shall consider the quality and quantity of the stormwater discharged by the landowner, the amount of treatment provided to the landowner, and whether the landowner has provided equivalent treatment or retention prior to discharge to the district's system.

(f) No fee or assessment shall be imposed under paragraphs (a) or (c) for the operation or maintenance of a stormwater management system or facility for which construction has been completed on or before July 1, 1991, except to the extent that the operation or maintenance, or any modification of such system or facility, is required to provide water quality treatment.

(g) The district shall suspend, terminate, or modify projects and funding for such projects, as appropriate, if the projects are not achieving applicable goals specified in the plan.

(h) The Legislature hereby determines that any property owner who contributes to the need for stormwater management systems and programs, as determined for each individual property owner either through the plan or through permits issued to the district pursuant to subsection (6) or to the property owner, is deemed to benefit from such systems and programs, and such benefits are deemed to be directly proportional to the relative contribution of the property owner to such need. The Legislature also determines that the issuance of a master permit provides benefits, through the opportunity to achieve collective compliance, for all persons within the area of the master permit which may be considered by the district in the imposition of fees or assessments under this section.

(6) **PERMITS.**—The department and the district shall develop a permitting program consistent with the plan, if adopted. Pursuant to such program:

(a) The district shall apply to the department by October 1, 1991, for 5-year interim permits for the construction, operation, and maintenance of stormwater management systems for district structures discharging into or within the Everglades Protection Area. In addition to the requirements of ss. 373.413 and 373.416 the applications shall include the following:

1. To the extent information is available, recommended ambient concentration levels and discharge limitations for phosphorus appropriate to achieve and maintain compliance with applicable state water quality standards.

2. Proposed interim concentration levels designed to achieve such compliance to the maximum extent practicable.

3. Strategies for achieving and maintaining compliance with such interim concentration levels, including the acquisition of lands and the construction and operation of facilities for the purpose of water treatment, the development of funding mechanisms, and the development of a regulatory program to improve the quality of water entering the stormwater management systems. Such regulatory program shall include the identification of structures or systems requiring permits or modifications of existing permits and the development, where appropriate, of a master permit for a specified area, such as the Everglades Agricultural Area. The department shall to the greatest extent possible delegate to the district the authority to implement this regulatory program.

4. Appropriate schedules to carry out such strategies.

5. A monitoring program to ensure the accuracy of data and measure progress toward achieving interim concentration levels and applicable water quality standards.

(b) The department shall issue such interim permits to the district upon the district's demonstration of reasonable assurance that such permits will achieve compliance with interim concentration levels to the maximum extent practicable and otherwise comply with the provisions of ss. 373.413 and 373.416. The district shall also apply for an interim permit or for the modification of an existing permit, as provided in paragraph (a), for any new structure or for any modification of an existing structure subsequent to October 1, 1991.

(c) For stormwater management systems existing on July 1, 1991 within the Everglades Agricultural Area, the district shall, prior to requiring new permits or permit modifications, adopt rules allowing for a master permit or permits authorizing discharges from landowners within that area served by the structures identified as S-5A, S-6, S-7, S-8, and S-150. The district's rules shall also establish conditions or requirements allowing for a single master permit for the Everglades Agricultural Area including those structures and water releases subject to Rule 40E-61, Florida Administrative Code. No later than the adoption of rules allowing for a single master permit, the department and the district shall provide appropriate procedures for incorporating into a master permit separate permits issued by the department under chapter 373. The district's rules authorizing master permits for the Everglades Agricultural Area shall provide requirements consistent with the Everglades Surface Water Improvement and Management Plan and with interim or other permits issued by the department to the district. Such a master permit shall not preclude the requirement that individual permits be obtained for persons within the master permit area for activities not authorized by and in compliance with the master permit. Nothing in this paragraph shall limit the authority of the department or district to enforce existing permit requirements, existing rules, or to require permits for new structures or to develop rules for master permits for other areas.

(d) Permits issued pursuant to paragraph (b) shall be consistent with the plan, if adopted. Applications for modifications necessary to maintain consistency with the plan shall be filed within 90 days of the adoption of any change to the plan necessitating such modifications.

(e) At least 60 days prior to expiration of any interim permit issued pursuant to paragraph (b), the district may apply for a renewal thereof for a period of 5 years for the purpose of achievement and maintenance of applicable water quality standards.

(f) Nothing in this subsection shall relieve any person from the need to obtain any permit required by the department or the district pursuant to any other provision of law.

(7) APPLICABILITY OF LAWS AND WATER QUALITY STANDARDS; AUTHORITY OF DISTRICT AND DEPARTMENT.—

(a) Nothing in this section shall be construed to limit, detract from, or compromise the application or implementation of the Surface Water Improvement and Management Act, ss. 373.451-373.4595. This section shall be construed, in all respects, to enhance and strengthen the provisions of the act as applied to the Everglades Protection Area. As provided in ss. 373.451-373.4595, the plan shall include recommendations and schedules for bringing all pollution sources into compliance with state water quality standards. This section does not, nor shall the plan, authorize any existing or future violation of any applicable statute, rule, or permit requirement, nor diminish the authority of the department or the district.

(b) Except to the extent authorized in subsection (6), nothing in this section shall be construed as altering any currently applicable state water quality standards in the areas impacted by this section.

(c) The provisions of this section shall not be construed to limit or restrict the authority granted the district and the department pursuant to this chapter or chapter 403 to control, regulate, permit, construct, or operate a stormwater management system, or to plan, design, or implement a surface water improvement and management plan, and the provisions of this section shall be deemed to be supplemental to the authority granted pursuant to this chapter and chapter 403.

(8) ANNUAL REPORTS.—Beginning January 1, 1992, the district shall submit to the department, the Governor, the Speaker of the House

of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate annual progress reports regarding implementation of the plan.

Section 2. Paragraph (c) is added to subsection (1) of section 253.01, Florida Statutes, to read:

253.01 Internal Improvement Trust Fund established.—

(1)

(c) Notwithstanding the provisions of s. 253.034, proceeds from the sale of state-owned lands located in the Everglades Agricultural Area shall be deposited into the Internal Improvement Trust Fund. The principal amount derived from such sales shall be held in escrow and invested in the manner described in s. 215.49. The interest earnings derived from such investments shall be used for purposes authorized in this section.

Section 3. Subsection (6) of section 253.111, Florida Statutes, is amended to read:

253.111 Notice to board of county commissioners before sale.—The Board of Trustees of the Internal Improvement Trust Fund of the state may not sell any land to which they hold title unless and until they afford an opportunity to the county in which such land is situated to receive such land on the following terms and conditions:

(6) The provisions of this section do not apply to:

(a) Any land exchange approved by the board; or-

(b) Lands conveyed pursuant to the provisions of s. 373.4592(4)(b).

Section 4. Paragraphs (f) and (g) of subsection (4) of section 253.115, Florida Statutes, are amended, and paragraph (h) is added to said subsection, to read:

253.115 Public notice and hearings.—

(4) This section does not apply to:

(f) The conversion of existing marina licenses to sovereignty land leases; or

(g) Sovereignty land leases for existing structures built on or after March 27, 1982, if all required federal, state, or local permits have been obtained; or-

(h) The conveyance of lands pursuant to the provisions of s. 373.4592(4)(b).

Section 5. Subsections (1) and (2) of section 373.584, Florida Statutes, are amended, and subsection (4) is added to said section, to read:

373.584 Revenue bonds.—

(1) In addition to issuing general obligation bonds as provided in s. 373.563, districts may also, from time to time, issue revenue bonds to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution, to pay the costs and expenses incurred in carrying out the purposes of this chapter, or to refund revenue bonds of the district issued pursuant to this section. In anticipation of the sale of such revenue bonds, the district may issue negotiable bond anticipation notes and may renew the same from time to time; but the maximum maturity of any such note, including renewals thereof, shall not exceed 5 years from the date of issue of the original note. Such notes shall be paid from the revenues hereinafter provided or from the proceeds of sale of the revenue bonds of such district in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds.

~~(2) The revenue bonds and notes shall be payable solely out of Revenues derived by the district from the Water Management Lands Trust Fund as provided in s. 373.59 or any other revenues of the district may be pledged to the payment of such revenue bonds; however, the ad valorem taxing powers of the district may not be pledged to the payment of such revenue bonds without prior compliance with the requirements of the State Constitution as to the affirmative vote of the electors of the district and with the requirements of s. 373.563, and bonds payable from the Water Management Lands Trust Fund shall be issued solely for the purposes set forth in s. 373.59.~~ Revenue bonds and notes shall be, and shall be deemed to be, for all purposes, negotiable instru-

ments, subject only to the provisions of the revenue bonds and notes for registration. *The powers and authority of districts to issue revenue bonds, including, but not limited to, bonds to finance a stormwater management system as defined by s. 373.403, and to enter into contracts incidental thereto, and to do all things necessary and desirable in connection with the issuance of revenue bonds, shall be coextensive with the powers and authority of municipalities to issue bonds under state law. The provisions of this section constitute full and complete authority for the issuance of revenue bonds and shall be liberally construed to effectuate its purpose.*

(4) *As used in this section:*

(a) *"Bonds" means bonds, debentures, notes, certificates of indebtedness, certificates of participation, mortgage certificates, or other obligations or evidences of indebtedness of any type or character.*

(b) *"Project" means a governmental undertaking approved by the governing body of a water management district and includes all property rights, easements, and franchises relating thereto and deemed necessary or convenient for the construction, acquisition, or operation thereof, and embraces any capital expenditure which the governing body of a water management district shall deem to be made for a public purpose, including the refunding of any bonded indebtedness which may be outstanding on any existing project.*

(c) *"Revenue bonds" means bonds of a water management district to the payment of which the full faith and credit and power to levy ad valorem taxes are not pledged.*

Section 6. Paragraph (b) of subsection (3) of section 259.101, Florida Statutes, is amended to read:

259.101 Florida Preservation 2000 Act.—

(3) **LAND ACQUISITION PROGRAMS SUPPLEMENTED.**—Less the costs of issuance, the costs of funding reserve accounts, and other costs with respect to the bonds, the proceeds of bonds issued pursuant to this act shall be deposited into the Florida Preservation 2000 Trust Fund created by s. 375.045. No bonds shall be issued in fiscal year 1990-1991 pursuant to this act unless there is specific authorization for the issuance of such bonds in the act implementing the 1990-1991 General Appropriations Act. The proceeds of any bonds deposited into the Preservation 2000 Trust Fund shall be distributed by the Department of Natural Resources in the following manner:

(b) Thirty percent to the Department of Environmental Regulation for the purchase of water management lands pursuant to s. 373.59, to be distributed among the water management districts as provided in that section. *Funds available pursuant to this paragraph may be used for the acquisition of lands necessary for implementing surface water improvement and management plans approved in accordance with ss. 373.456 and 373.457, or s. 373.4592.*

Section 7. This act shall take effect July 1, 1991.

Senators Kirkpatrick and Scott offered the following amendments to **Amendment 1** which were moved by Senator Kirkpatrick and adopted:

Amendment 1A—On page 8, line 22, through page 9, line 18, strike all of said lines and insert:

(d) In no event shall the amount of funds collected for stormwater management facilities pursuant to paragraphs (a) or (c) or any combination thereof exceed the cost of providing water management attributable to water quality treatment resulting from the operation of stormwater management systems of the landowners to be charged. Such water quality treatment may be required by the plan or permits issued pursuant to subsection (6). Prior to the imposition of fees or assessments pursuant to paragraphs (a) or (c) for construction of new stormwater management systems or the acquisition of necessary land, the district shall establish the general purpose, design, and function of the new system sufficient to make a fair and reasonable determination of the estimated costs of water management attributable to water quality treatment resulting from operation of stormwater management systems of the landowners to be charged. This determination shall establish the proportion of the total anticipated costs attributable to the landowners. In determining the costs to be imposed by fees or assessments, the district shall consider the extent to which nutrients originate from external sources beyond the control of the landowners to be charged. Costs for hydroperiod restoration within the Everglades Protection Area shall be provided by funds other

than those authorized by this paragraphs (a) or (c). The proportion of total anticipated costs attributable to the landowners shall be apportioned to individual landowners considering the factors specified in paragraph (e). Any determination made pursuant to this paragraph or paragraph (e) may be included in the plan or permits issued pursuant to subsection (6).

Amendment 1B—On page 11, strike all of lines 17-20 and insert: specified area, such as the Everglades Agricultural Area.

Amendment 1C—On page 12, strike all of lines 3-29 and redesignate subsequent paragraphs.

Amendment 1D—On page 13, line 13, insert:

(7) The district shall publish notice of rulemaking pursuant to chapter 120 by October 1, 1991, allowing for a master permit or permits authorizing discharges from landowners within that area served by structures identified as S-5A, S-6, S-7, S-8, and S-150. For discharges within this area, the district shall not initiate any proceedings to require new permits or permit modifications for nutrient limitations prior to the adoption of the master permit rule by the governing board of the district or prior to April 1, 1992, whichever first occurs. The district's rules shall also establish conditions or requirements allowing for a single master permit for the Everglades Agricultural Area including those structures and water releases subject to Rule 40E-61, Florida Administrative Code. No later than the adoption of rules allowing for a single master permit, the department and the district shall provide appropriate procedures for incorporating into a master permit separate permits issued by the department under chapter 373. The district's rules authorizing master permits for the Everglades Agricultural Area shall provide requirements consistent with the Everglades Surface Water Improvement and Management Plan and with interim or other permits issued by the department to the district. Such a master permit shall not preclude the requirement that individual permits be obtained for persons within the master permit area for activities not authorized by or not in compliance with, the master permit. Nothing in this subsection shall limit the authority of the department or district to enforce existing permit requirements or existing rules, to require permits for new structures, or to develop rules for master permits for other areas. To the greatest extent possible the department shall delegate to the district any authority necessary to implement this subsection which is not already delegated.

(Renumber subsequent subsection.)

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

Amendment 1E—On page 18, strike all of lines 7-11 and insert: districts as provided in that section. *Funds received by each district may also be used for acquisition of lands necessary to implement surface water improvement and management plans approved in accordance with s. 373.456 or s. 373.4592.*

Senators Plummer, Kirkpatrick, Margolis, Casas, Diaz-Balart, Gordon, Meek and Souto offered the following amendment to **Amendment 1** which was moved by Senator Plummer and adopted:

Amendment 1F—On page 2, line 7, insert:

Section 1. This act may be cited as the "Marjory Stoneman Douglas Everglades Protection Act."

(Renumber subsequent sections.)

Senator Grizzle moved the following amendment to **Amendment 1** which failed:

Amendment 1G—On page 2, between lines 15 and 16, insert a new paragraph (c) of subsection (2):

(c) *"Everglades Nutrient Removal Project" shall mean the S. N. Knight tract project described in the September 28, 1990 draft of the Everglades Surface Water Improvement and Management Plan, and up to 3,400 acres of land contiguous thereto.*

(Reletter subsequent paragraphs.)

Amendment 1 as amended was adopted.

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Kirkpatrick:

Amendment 2—In title, on pages 1 and 2, strike everything before the enacting clause and insert: A bill to be entitled An act relating to water resources; creating s. 373.4592, F.S.; providing findings and intent; providing definitions; providing for the adoption of an Everglades Surface Water Improvement and Management Plan by the South Florida Water Management District; providing limited eminent domain authority to the district; authorizing certain exchange of land; providing the district with alternative funding mechanisms, including the creation of stormwater utilities and stormwater management system benefit areas; providing procedures and requirements for the levy and collection of stormwater utility fees and stormwater assessments; providing for the issuance of interim permits to the district; authorizing the district to issue a master permit within an area served by certain structures; providing for the applicability of certain standards and laws; providing for annual reports; amending s. 253.01, F.S.; providing for deposit and use of proceeds from the sale of lands in the Everglades Agricultural Area; amending ss. 253.111 and 253.115, F.S.; providing an exemption from certain notice and hearing requirements for the conveyance of certain lands; amending s. 373.584, F.S.; providing definitions; providing additional purposes for which revenue bonds may be issued by water management districts; specifying revenues that may be pledged for such bonds and providing requirements with respect thereto; providing that the power of districts to issue revenue bonds is coextensive with the power of municipalities to issue bonds; amending s. 259.101, F.S.; authorizing funds available to water management districts under the Florida Preservation 2000 Act to be used for acquisition of lands needed for implementing surface water improvement and management plans; providing an effective date.

Senators Plummer, Kirkpatrick, Margolis, Casas, Diaz-Balart, Gordon, Meek and Souto offered the following amendment to **Amendment 2** which was moved by Senator Plummer and adopted:

Amendment 2A—In title, on page 1, line 2, after the semicolon (;) insert: providing a short title;

Amendment 2 as amended was adopted.

HB 2397

Senator Girardeau moved the following amendments which were adopted:

Amendment 1—On page 2, lines 29 and 30, strike “one of whom shall be a member of the Senate”

Amendment 2—On page 3, lines 2 and 3, strike “one of whom shall be a member of the House of Representatives”

Amendment 3—On page 3, strike line 12

CS for HB 2497

The Committee on Appropriations recommended the following amendment which was moved by Senator Johnson:

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

Section 1. (1) *There is hereby established in Southwest Florida the tenth university of the State University System of Florida. The Board of Regents shall take all actions necessary to implement the establishment of the university in Southwest Florida, including any transfer of positions and resources. The acquisition and donation of lands, buildings, and equipment for the purpose of establishing the university in Southwest Florida are hereby authorized and shall be deemed for a public purpose.*

(2) *For purposes of this section, Southwest Florida is defined as Charlotte, Collier, Glades, Hendry, and Lee Counties.*

(3)(a) *Upon appropriation by the Legislature of funds for the new university in Southwest Florida, the Southwest Florida Site Selection Committee is established to advise the Board of Regents on all matters relating to site selection for the new university in Southwest Florida. The committee shall be composed of the Chairman of the Board of Regents or his designee and eight members appointed by the Governor as follows: three members from Lee County; two members from Collier County; two members from Charlotte County; and one member from either Hendry or Glades Counties, representing the interest of both counties. The Chairman of the Board of Regents shall serve as the chair of the committee. Members of the committee shall not be provided with per diem or compensation. Members of the site selection committee*

shall be appointed within 1 month of the effective date of this act. Within 2 weeks of the appointment of its members, the site selection committee shall hold its first meeting, organize itself, and begin to address the issues set forth in this section. The site selection committee shall meet at least once a month, or more often as appropriate. The Board of Regents shall use existing resources to staff the site selection committee.

(b) *The Southwest Florida Regional Planning Council shall assist the site selection committee in determining the most feasible site. The Southwest Florida Regional Planning Council shall provide to the site selection committee a report on each site which considers:*

1. *Whether, and the extent to which, the site will serve the existing and forecasted future population of the area, consistent with any recommendations of the Postsecondary Education Planning Commission.*
2. *Whether, and the extent to which, the site is likely to contain species listed by the Game and Fresh Water Fish Commission, and whether impacts are mitigable.*
3. *Whether, and the extent to which, the site can be developed consistent with the regulations of the appropriate water management district.*
4. *Whether, and the extent to which, the site furthers the employment and job training programs of the Florida Department of Commerce and Department of Labor and Employment Security.*
5. *Whether, and the extent to which, the site has transportation impacts which can be mitigated by the Florida Department of Transportation and appropriate metropolitan planning organization planning programs.*
6. *Whether, and the extent to which, the site can be initially deemed consistent with the State Comprehensive Plan, the appropriate regional policy plan, and the local comprehensive plan of jurisdiction.*
7. *Whether, and the general extent to which, the area housing market can provide for the needs of students and whether there will be a demand for on-site housing.*

This report shall compare the advantages of each site in contrast to each other, based on the criteria specified in this paragraph as well as other criteria described by the committee. Council costs for this report may be considered part of the cost of the site selection.

(c) *In reviewing alternative sites, the committee shall:*

1. *Consider and compare the cost of acquisition and development of alternative sites, with special consideration given to sites which are to be donated as opposed to purchased.*
2. *Consider the long-term benefits of alternative sites.*
3. *Consider the infrastructure costs of alternative sites.*
4. *Consider the willingness of local governments to waive impact fees and otherwise cooperate with the development of the new university.*
5. *Work with cities to explore coordination with urban renewal or redevelopment plans.*
6. *Consider the impact of local comprehensive plans on the proposed development of alternative sites.*
7. *Assess the need for a development of regional impact or the eligibility of the proposed development to qualify under an existing development of regional impact.*

(d) *Local governments shall cooperate with the committee in determining the feasibility of alternative proposed sites and in determining the availability of funding from government and private sources to offset fees and other costs associated with the development of a university in Southwest Florida.*

(e) *The committee shall recommend a site or alternative sites, within the region designated by the Legislature, to the Board of Regents by January 1, 1992. The Board of Regents shall, within 2 months of the recommendation by the site selection committee, approve a proposed site for acquisition. Upon approval of the proposed site, the Board of Regents shall begin immediate negotiations to acquire and receive property. The Board of Regents shall recommend additional funds for plan-*

ning, acquisition, construction, and operations related to the new university, as appropriate to provide for the orderly development of the university. The committee may use funds appropriated for site selection or planning to defray the cost of site selection.

(4) Upon certification by the Board of Regents of a direct-support organization to serve as the foundation of the state university in South-west Florida, the Board of Regents, in conjunction with the University of South Florida Foundation, shall develop and implement a plan to transfer to the new foundation assets derived from donations intended for the enhancement of the Ft. Myers branch of the University of South Florida.

Section 2. Paragraphs (n) and (o) of subsection (2) of section 229.053, Florida Statutes, are amended, and paragraph (p) is added to said subsection, to read:

229.053 General powers of state board.—

(2) The board has the following duties:

(n) To constitute the State Board for Vocational Education or other structures as may be required by federal law; and

(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; and:

(p) To adopt, based on recommendations of the Postsecondary Education Planning Commission, criteria for the establishment of new community colleges and state universities.

Section 3. Subsection (3) of section 235.195, Florida Statutes, 1990 Supplement, is amended to read:

235.195 Cooperative development and use of facilities by two or more boards.—

(3) Included in all proposals for joint-use facilities which result in the creation of one or more new campuses for public postsecondary educational institutions must be documentation that the proposed campus has been reviewed by the Postsecondary Education Planning Commission, recommended to the State Board of Education, and has been formally requested for authorization by the Legislature in accordance with s. 240.147(8)(7).

Section 4. Subsections (7) through (13) of section 240.147, Florida Statutes, 1990 Supplement, are renumbered as subsections (8) through (14), respectively, and a new subsection (7) is added to said section to read:

240.147 Powers and duties of the commission.—The commission shall:

(7) Recommend to the State Board of Education for adoption criteria for the establishment of new community colleges and state universities, which criteria shall address:

(a) Proximity to existing institutions and assessment of the impact on existing institutions.

(b) Potential program duplication.

(c) Regional demographic characteristics.

(d) The efficient use of resources.

Section 5. Section 240.214, Florida Statutes, is created to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process shall provide for the adoption of systemwide performance standards and performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. The accountability process shall be implemented in incremental phases, as follows:

(1) By October 1, 1991, the Board of Regents shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a plan for the implementation of the State University System accountability process. The plan shall be designed in consultation with the Legislature, the Governor's Office, and the Office of the Auditor General. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year and shall provide for full implementation of the accountability process by December 31, 1993. The plan shall also identify the data files which will be used to substantiate achievement of performance goals. If it is necessary to develop new data files or modify existing files, the plan shall describe the content of such files and include a sample file format. The plan shall include, at a minimum, data on the following performance standards:

(a) Total student credit hours produced, by institution and by discipline;

(b) Total number of degrees awarded, by institution and by discipline;

(c) Total number of contact hours of instruction produced by faculty, by institution, rank, and course level;

(d) Pass rates on professional licensure examinations, by institution;

(e) Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;

(f) Length of time and number of academic credits required to complete an academic degree, by institution and by degree.

(g) Enrollment, progression, retention, and graduation rates by race, gender, and disability;

(h) Student course demand analysis; and

(i) Classroom utilization.

(2) Beginning December 1, 1992, the Board of Regents shall submit an annual accountability report providing information on the implementation of performance standards and achievement of performance goals during the prior year and initiatives to be undertaken during the next year. The accountability reports shall be designed in consultation with the Governor's Office, the Office of the Auditor General, and the Legislature.

Section 6. The Office of the Auditor General shall conduct an assessment of the State University System accountability plan provided for in section 240.214, Florida Statutes, which must include the following components:

(1) Evaluation of the extent to which the performance standards included in the plan are valid, reliable, and can be measured;

(2) Assessment of controls and procedures to be established to ensure the accuracy and completeness of the performance standards and supporting data files which will be used as the basis for measuring progress toward accomplishment of the performance goals;

(3) Evaluation of the year, established by the State University System, which shall serve as the data base line for each performance standard; and

(4) Assessment of the basis of the weighted value formula, established by the State University System, for each performance standard.

The Office of the Auditor General shall submit the assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 1991.

Section 7. Beginning January 1, 1993, the Board of Regents shall conduct an annual evaluation of the performance of the Chancellor and the state university presidents in achieving the performance goals established in the State University System accountability plan provided in section 240.214, Florida Statutes.

Section 8. Subsection (11) is added to section 240.2011, Florida Statutes, to read:

240.2011 State University System defined.—The State University System shall consist of the following:

(11) A university with a main campus in Southwest Florida.

Section 9. Subsection (3) is added to section 240.207, Florida Statutes, to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(3) To create an orderly succession of Regents and the appointment of two Regents each year, one additional Regent shall be appointed in 1991 to serve a 6-year term, and one additional Regent shall be appointed in 1992 to serve a 6-year term. For the four seats with terms ending in 1993, the Governor shall make one appointment for a 3-year term and two appointments for regular 6-year terms. For 1 year, from January 1992 to January 1993, there shall be a total of 15 Regents. All the members of the Board of Regents serving on the effective date of this act shall complete their regular terms, as prescribed by the Secretary of State.

Section 10. Present paragraphs (a) through (r) of subsection (3) of section 240.209, Florida Statutes, 1990 Supplement, are redesignated as paragraphs (b) through (s), respectively, a new paragraph (a) is added to that subsection, present paragraphs (d) and (e), of that subsection are amended, paragraph (d) is added to subsection (5), and subsection (7) of that section is amended, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(a) Develop a plan for the future expansion of the State University System and recommend the establishment of new universities consistent with the criteria adopted by the State Board of Education pursuant to s. 229.053. The plan shall include a procedure for the periodic assessment of the need for a new state university and specific standards for the minimum acreage, building space, staffing, and programmatic mix of state universities.

(e)(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. The board shall specify specific limits on the amount not greater than 40 percent of the fees collected in a fiscal year which may be carried forward unexpended to the following fiscal year. A minimum of 50 percent of these funds from the student financial aid fee 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.

(f)(e) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Administration or its secretary over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules delegating its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Administration for other state employees. The Department of Administration shall retain authority over State University System employees for programs established in ss. 110.116, 110.123, 110.1231, 110.1232, 110.1234, 110.1235, and 110.1238 and in chapters 121, 122, and 238. The board shall adopt only those rules necessary to provide for a coordinated, efficient systemwide program and shall delegate to the universities all authority necessary for implementation of the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. Notwithstanding the provisions of s. 216.181(4), the salary rate controls for positions in budgets under the Board of Regents shall separately delineate be in the categories of general faculty, university support personnel, and all other categories.

(5) The Board of Regents is responsible for:

(d) Advising the Legislature concerning opportunities for bonding university revenues, including certificate of participation bonds.

(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 11. Section 240.2094, Florida Statutes, is created to read:

240.2094 State University System management flexibility.—

(1) Notwithstanding the provisions of ss. 216.031, 216.181, 216.262, and 240.271 to the contrary and pursuant to the provisions of s. 216.351, funds for the operation of the State University System shall be requested and appropriated within budget entities, program components, program categories, lump sums, or special categories. Funds appropriated to the State University System for each program category, lump sum, or special category may be transferred to traditional categories for expenditure by the Board of Regents for expenditure. The Board of Regents shall provide each university an approved budget based upon the appropriations act and the universities shall develop an annual operating budget which allocates funds by program component and traditional expenditure category.

(2) Notwithstanding the provisions of s. 216.181 and pursuant to the provisions of s. 216.351, no lump sum plan shall be required to implement the special categories, program categories, or lump sum appropriations. Upon release of the special categories, program categories, or lump sum appropriations by the Executive Office of the Governor to the Board of Regents, the State Comptroller, upon the request of the Board of Regents, shall transfer or reallocate funds to or among accounts established for each university within each budget entity, for disbursement purposes. The Board of Regents shall maintain records to account for the original appropriation.

(3) Notwithstanding the provisions of ss. 216.031, 216.181, 216.251, and 216.262 to the contrary and pursuant to the provisions of 216.351, the Board of Regents shall establish the authorized positions and initial approved salary rate and may amend such positions and rate, within the maximum number of total positions and salary rate authorized annually in the appropriations act.

Section 12. Community college accountability.—

(1) It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the State Community College System. Accordingly, the State Board of Community Colleges and the boards of trustees of the community colleges shall develop and implement a plan to improve the efficiency and effectiveness of the State Community College System in providing educational opportunities. This plan shall address the following issues:

(a) Graduation rates of AA and AS degree-seeking students compared to first-time enrolled students seeking the associate degree.

(b) Minority student enrollment and retention rates.

(c) Student performance, including student performance rates on College Level Academic Skills Tests, mean grade point averages for community college AA transfer students, and community college student performance on state licensure examinations.

(d) Job placement rates of community college vocational students.

(2) Beginning December 31, 1992, the State Board of Community Colleges shall submit an annual report to the Governor and Legislature which contains the results of initiatives taken during the prior year and the initiatives and related objective performance measures proposed for the next year. The Postsecondary Education Planning Commission shall assist the State Board of Community Colleges in the development of measuring student and institutional outcomes as specified in the 1992-1993 General Appropriations Act.

Section 13. Section 240.20941, Florida Statutes, is created to read:

240.20941 Vacant faculty positions.—Notwithstanding the provisions of s. 216.181(3), (4), and (5), and pursuant to the provisions of s.

216.351, actions to reduce positions, rate, or salaries and benefits taken by the Legislature, by the Executive Office of the Governor, or by the Administration Commission which relate specifically to vacant positions, and which are applied on a uniform basis to all state employee positions, shall affect the positions within the faculty pay plan approved and administered by the Board of Regents only to the extent that they do so by express reference to this section.

Section 14. Paragraph (a) of subsection (2) of section 240.299, Florida Statutes, 1990 Supplement, is amended to read:

240.299 Direct-support organizations; use of property; board of directors; audit; status.—

(2) USE OF PROPERTY.—

(a) The Board of Regents is authorized to permit the use of property, facilities, and personal services at any state university by any university direct-support organization, and, subject to the provisions of this section, direct-support organizations may establish accounts with the State Board of Administration for investment of funds pursuant to part IV of chapter 218.

Section 15. Subsection (3) of section 240.2097, Florida Statutes, 1990 Supplement, 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:

~~(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. *Each student handbook shall include a statement displayed prominently which provides that the university will not tolerate the sale, possession, or use of controlled substances, with the exception of medication prescribed by a physician and taken in accordance with the prescribed usage, nor will the university tolerate the consumption of alcoholic beverages by students younger than 21 years of age or the sale of alcoholic beverages to students younger than 21 years of age. Each student handbook shall also list the legal and university-specific sanctions that will be imposed upon students who violate the law or university policies regarding controlled substances and alcoholic beverages.*

Section 16. Section 240.272, Florida Statutes, 1990 Supplement, is amended to read:

240.272 Carryforward of unexpended funds.—*Notwithstanding the provisions of s. 216.301 to the contrary, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated for the State University System. Any unexpended funds in the current year operating budget, including unexpended student fee revenues, shall be carried forward by the Board of Regents for use by the university to which the funds were allocated. The Board of Regents shall seek to maintain an unencumbered fund balance of between 4 percent and 10 percent of the funds available in the current general fund of the operating budget of each university.*

~~(1) Such carryforward shall not exceed 5 percent of the total operating budget of the university. Funds carried forward pursuant to this section shall be expended for nonrecurring expenses as approved by the Board of Regents.~~

(2) No university shall be penalized in the allocation of subsequent funds as a result of the carryforward of an unexpended balance.

Section 17. Subsection (5) of section 240.531, Florida Statutes, is amended to read:

240.531 Establishment of educational research centers for child development.—

(5) Each educational research center for child development shall be funded by a portion of the Capital Improvement Trust Fund fee established by the Board of Regents pursuant to s. 240.209(3)(h)(e). Each university which establishes a center shall receive a portion of such fees collected from the students enrolled at that university, usable only at that university, equal to 22.5 cents per student per credit hour taken per term, based on the summer term and fall and spring semesters. This allocation shall be used by the university only for the establishment and operation of a center as provided by this section and rules promulgated hereunder. Said allocation may be made only after all bond obligations required to be paid from such fees have been met.

Section 18. Paragraph (g) of subsection (5) of section 240.551, Florida Statutes, 1990 Supplement, is amended to read:

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.

(g) The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before March 31 of each year. In addition, the board shall make the report available to purchasers of advance payment contracts. *The board shall provide to the Board of Regents and the State Board of Community Colleges by March 31 each year complete advance payment contract sales information including projected postsecondary enrollments of qualified beneficiaries.* The accounts of the fund shall be subject to annual audits by the Auditor General or his designee.

Section 19. Section 240.552, Florida Statutes, 1990 Supplement, is amended to read:

240.552 Florida Prepaid Tuition Scholarship Program.—The Florida Prepaid Tuition Scholarship Program is hereby established with the intent to provide economically disadvantaged youth with prepaid postsecondary tuition scholarships. The direct-support organization established pursuant to s. 240.551 shall administer the program with the assistance and cooperation of the Department of Education school districts and the Florida Association of School Administrators to achieve the following objectives:

(1) Provide an incentive for economically disadvantaged youth to improve school attendance and academic performance in order to graduate and pursue a postsecondary education.

(2) Obtain the commitment and involvement of private sector entities by virtue of funding matches with a ratio of 50 percent provided by the private sector and 50 percent provided by the state.

(3) Purchase prepaid tuition scholarships for students designated and certified by the Department of Education school districts to the direct-support organization who meet minimum economic and school requirements and remain drug free and crime free.

(a) For the purpose of this subsection, "drug free" means not being convicted of, or adjudicated delinquent for, any violation of chapter 893 after being designated a recipient of a Florida prepaid tuition scholarship.

(b) For the purpose of this subsection, "crime free" means not being convicted of, or adjudicated delinquent for, any felony or first degree misdemeanor as defined in ss. 775.08 and 775.081 after being designated a recipient of a Florida prepaid tuition scholarship.

Section 20. Subsection (2) of section 282.308, Florida Statutes, 1990 Supplement, is amended to read:

282.308 State University System information resources management plan.—

(2) The Chancellor of the Board of Regents shall review, recommend modifications to, and approve each university plan and shall provide a copy of each university's approved plan and a copy of the approved State University System Strategic Information Resources Management Plan to the commission by May 1 of each even-numbered year. Such plans are not subject to approval by the commission, but shall support and further the goals and objectives of the master plan required pursuant to s. 240.209(3)(j)(4), the policies and objectives of the functional plan prepared by the Department of Education pursuant to s. 186.021, and the goals and policies of the State Strategic Plan for Information Resources Management specified in s. 282.3061.

Section 21. Subsection (2) of section 447.203, Florida Statutes, 1990 Supplement, is amended to read:

447.203 Definitions.—As used in this part:

(2) "Public employer" or "employer" means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. With respect to all public employees determined by the commission as properly belonging to a statewide bargaining unit composed of State Career Service System employees or Selected Professional Service employees, the Governor shall be deemed to be the public employer; and the Board of Regents shall be deemed to be the public employer with respect to all public employees within the State University System as provided in s. 240.209(3)(f)(e), except that such employees shall have the right, in elections to be conducted at each university by the commission pursuant to its rules, to elect not to participate in collective bargaining. In the event that a majority of such voting employees at any university elect not to participate in collective bargaining, they shall be removed from the applicable Board of Regents bargaining unit. If, thereafter, by election conducted by the commission pursuant to its rules, a majority of such voting employees elect to participate in collective bargaining, they shall be included again in the applicable Board of Regents bargaining unit for such purpose. The board of trustees of a community college shall be deemed to be the public employer with respect to all employees of the community college. The district school board shall be deemed to be the public employer with respect to all employees of the school district. The Board of Trustees of the Florida School for the Deaf and the Blind shall be deemed to be the public employer with respect to the academic and academic administrative personnel of the Florida School for the Deaf and the Blind. The Board of Correctional Education shall be deemed to be the public employer with respect to all officers and employees of the Correctional Education School Authority.

Section 22. Subsection (3) and paragraph (a) of subsection (5) of section 240.409, Florida Statutes, 1990 Supplement, are amended to read:

240.409 Florida Public Student Assistance Grant Fund; eligibility for grants.—

(3) Based on the unmet financial need of an eligible applicant, the full amount of a Florida public student assistance grant shall be between \$200 and \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award on a pro rata basis. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments. Priority in the awarding of state student assistance grants to first-time applicants shall be given to entering first-year freshman students and then to community college transfer students. Eligibility for grant renewal shall be limited to students who meet the provisions of s. 240.404. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.

(5)(a) Payment of Florida public student assistance grants may be transmitted to the president of the state university or community college which the recipient is attending, or to his representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

Section 23. Subsection (3) and paragraph (a) of subsection (5) of section 240.4095, Florida Statutes, are amended to read:

240.4095 Florida Private Student Assistance Grant Fund; eligibility for grants.—

(3) Based on the unmet financial need of an eligible applicant, the full amount of a Florida private student assistance grant shall be between \$200 and \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award on a pro rata basis. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments. Priority in the awarding of student assistance grants to first-time applicants shall be given to entering first-year freshman students and then to community college transfer students. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.

(5)(a) Payment of Florida private student assistance grants may be transmitted to the president of the college or university which the recipient is attending, or to his representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

Section 24. Subsection (3) and paragraph (a) of subsection (5) of section 240.4097, Florida Statutes, 1990 Supplement, are amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Fund; eligibility for grants.—

(3) Based on the unmet financial need of an eligible applicant, the full amount of a Florida postsecondary student assistance grant shall be between \$200 and \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award on a pro rata basis. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments. Priority in the awarding of student assistance grants to first-time applicants shall be given to entering first-year freshman students and then to community college transfer students. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.

(5)(a) Payment of Florida postsecondary student assistance grants may be transmitted to the president of the eligible institution which the recipient is attending, or to his representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

Section 25. During the 1991-1992 academic year, full-time State University System faculty members shall fulfill their public service

assignments by developing and implementing strategies to improve public education. During the fall and spring terms of the 1991-1992 academic year, no other activity may be used to satisfy any faculty member's public service assignment. Recommended strategies shall be related to faculty members' academic disciplines and areas of expertise and shall include, but not be limited to, activities to improve public education in the following areas: pedagogy; curriculum content; educational technology; assessment, testing and evaluation; student advisement and counseling; educational facility design and construction; school finance; personnel policies and staff development; and educational management. The chairman of each academic department and the director of each institute within each state university shall be responsible for coordinating the development and overseeing the implementation of strategies recommended by the members of his department. Strategies recommended by each academic department or institute shall be submitted by the department chairman or institute director to the president of the university, who shall compile this information into an institutional report that shall be forwarded to the Board of Regents. The Board of Regents shall compile the institutional reports into a systemwide report that shall be submitted to the Legislature, the State Board of Education, and the superintendent of each public school district by February 1, 1992. The president of the university may authorize a maximum of 10 percent of the affected faculty to receive public service assignments for activities other than those described in this section if, in the president's opinion, the public service is as important as service to the public schools. The name of each faculty member provided such an exemption and a description of the faculty member's public service activities shall be included in the report submitted by the Board of Regents to the Legislature and State Board of Education by February 1, 1992. By February 1, 1993, the Board of Regents shall submit a report to the Legislature and State Board of Education which describes the extent to which strategies recommended by university faculty have been implemented in the public schools.

Section 26. Subsection (3) of section 229.805, Florida Statutes, is amended to read:

229.805 Educational television.—

(3) POWERS OF DEPARTMENT OF EDUCATION.—

(a) The Department of Education is authorized to encourage:

1. ~~The activation of unused reserve educational television channels;~~
- 1.2. The extension of educational television network facilities;
- 2.3. The coordination of Florida's educational television with that of other states and with the Federal Government; and
- 3.4. The further development of educational television within the state.

(b) The department shall provide through educational television and other electronic media a means of extending educational services to all the state system of public education, except the State University System as defined in s. 240.2011, which provision by the department shall be limited by paragraph (c) and by s. 229.8051(1). The department shall recommend to the state board rules and regulations necessary to provide such services.

(c) The department is authorized to provide equipment, funds, and other services to extend and update both the existing and the proposed educational television and radio systems of tax-supported and nonprofit, corporate-owned facilities; ~~except that no new system shall be funded where the result thereof is a substantial duplication of any system specified in s. 229.8051(1).~~ All stations funded must be qualified by the Corporation for Public Broadcasting. New stations eligible for funding shall provide a first service to an audience that is not currently receiving a broadcast signal or provide a significant new program service as defined by State Board of Education rules. Funds appropriated to the department for educational television and funds appropriated to the department for educational radio may be used by the department for either educational television or educational radio, or for both.

Section 27. Section 229.8051, Florida Statutes, is amended to read:

229.8051 Public broadcasting program system.—

(1) There is created a public broadcasting program system for the state. This program system shall be administered by the Department of

Education pursuant to policies adopted by the State Board of Education and shall complement and share resources with the instructional programming service of the Department of Education and educational UHF, VHF, ITFS, and FM stations in the state. This program system shall include:

(a) Support for existing Corporation for Public Broadcasting qualified program system educational radio and television stations and new stations meeting Corporation for Public Broadcasting qualifications and providing a first service to an audience that does not currently receive a broadcast signal or providing a significant new program service as defined by State Board of Education rules ~~all educational radio and television stations broadcasting and receiving state programming support grants as of July 1, 1980.~~

(b) Maintenance of quality broadcast capability for educational stations which are part of the program system.

(c) Interconnection of all educational stations which are part of the program system for simultaneous broadcast and of such stations with all universities and other institutions as necessary for sharing of resources and delivery of programming.

(d) Establishment and maintenance of a capability for statewide program distribution with facilities and staff, provided such facilities and staff complement and strengthen existing or future educational television and radio stations in accordance with paragraph (a) and s. 229.805(3)(c) ~~and except that no systems or services will be created where there will be a substantial duplication of any system specified in paragraph (a).~~

(e) Provision of both statewide programming funds and station programming support for educational television and educational radio to meet statewide priorities. Priorities for station programming need not be the same as priorities for programming to be used statewide. Station programming may include, but shall not be limited to, citizens' participation programs, music and fine arts programs, coverage of public hearings and governmental meetings, equal air time for political candidates, and other public interest programming.

(2) The Department of Education is assigned responsibility for implementing the provisions of this section pursuant to part III of chapter 287 and is authorized to employ personnel, acquire equipment and facilities, and perform all duties necessary for carrying out the purposes and objectives of this section.

(3) *The State Board of Education shall adopt rules for the proper enforcement and carrying out of these provisions.*

Section 28. Subsection (3) of section 159.703, Florida Statutes, is amended to read:

159.703 Creation of research and development authorities.—

(3) The resolution shall designate not less than five persons who are residents and electors of, or have their principal place of employment in, the county as members of the authority created for said county. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, and the remainder for 4 years and in each case until his successor is appointed and has qualified. Thereafter, the board shall appoint for terms of 4 years each a member or members to succeed those whose terms expire, *except that with respect to an authority that owns, occupies, or maintains a research development park, as defined in s. 159.27(7), within which is located a substantial capital project that is funded, in whole or in part, by the state and is a part of, or directly affiliated with, the National High Magnetic Field Laboratory, the first two such vacancies that occur on or after July 1, 1991, shall not be filled.* In addition to the other members, the president of each affiliated institution of higher education, or the president's designee, shall be a member of the authority and shall serve ex officio; *provided, further, that with respect to an authority that owns, occupies, or maintains a research development park, as defined in s. 159.27(7), within which is located a substantial capital project that is funded, in whole or in part, by the state, and is a part of, or directly affiliated with, the National High Magnetic Field Laboratory, the Chancellor of the State University System or the Chancellor's designee, the Director of the National High Magnetic Field Laboratory or the Director's designee, one resident of the county in which the research development park is located appointed by the President of the Senate to serve at the pleasure of the President of the Senate, and one resident of the county in which the research development park is located appointed by the Speaker of the House of Representatives to*

serve at the pleasure of the Speaker of the House of Representatives shall be members of the authority and shall serve *ex officio*. Except as to members who serve *ex officio*, the board shall fill any vacancy for an unexpired term. A member of the authority shall be eligible for reappointment. Any member of the authority may be removed by the board for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority before entering upon his duties shall take and subscribe the oath or affirmation required by the State Constitution. A record of each such oath shall be filed with the Department of State and with the clerk of the circuit court.

Section 29. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 30. This act shall take effect upon becoming a law.

Senator Johnson moved the following substitute amendment:

Amendment 2—On page 3, line 6, strike everything after the enacting clause and insert:

Section 1. (1) There is hereby established in Southwest Florida the 10th university of the State University System of Florida. The Board of Regents shall take all actions necessary to implement the establishment of the university in Southwest Florida, including any transfer of positions and resources. The acquisition and donation of lands, buildings, and equipment for the purpose of establishing the university in Southwest Florida are hereby authorized and shall be deemed for a public purpose.

(2) For purposes of this section, Southwest Florida is defined as Charlotte, Collier, Glades, Hendry, and Lee Counties.

(3)(a) Upon appropriation by the Legislature of funds for the new university in Southwest Florida, the Southwest Florida Site Selection Committee is established to advise the Board of Regents on all matters relating to site selection for the new university in Southwest Florida. The committee shall be composed of the Chairman of the Board of Regents or his designee and eight members appointed by the Governor as follows: three members from Lee County; two members from Collier County; two members from Charlotte County; and one member from either Hendry or Glades Counties, representing the interest of both counties. The Chairman of the Board of Regents shall serve as the chair of the committee. Members of the committee shall not be provided with per diem or compensation. Members of the site selection committee shall be appointed within 1 month of the effective date of this act. Within 2 weeks of the appointment of its members, the site selection committee shall hold its first meeting, organize itself, and begin to address the issues set forth in this section. The site selection committee shall meet at least once a month, or more often as appropriate. The Board of Regents shall use existing resources to staff the site selection committee.

(b) The Southwest Florida Regional Planning Council shall assist the site selection committee in determining the most feasible site. The Southwest Florida Regional Planning Council shall provide to the site selection committee a report on each site which considers:

1. Whether, and the extent to which, the site will serve the existing and forecasted future population of the area, consistent with any recommendations of the Postsecondary Education Planning Commission.

2. Whether, and the extent to which, the site is likely to contain species listed by the Game and Fresh Water Fish Commission, and whether impacts are mitigable.

3. Whether, and the extent to which, the site can be developed consistent with the regulations of the appropriate water management district.

4. Whether, and the extent to which, the site furthers the employment and job training programs of the Department of Commerce and Department of Labor and Employment Security.

5. Whether, and the extent to which, the site has transportation impacts which can be mitigated by the Department of Transportation and appropriate metropolitan planning organization planning programs.

6. Whether, and the extent to which, the site can be initially deemed consistent with the State Comprehensive Plan, the appropriate regional policy plan, and the local comprehensive plan of jurisdiction.

7. Whether, and the general extent to which, the area housing market can provide for the needs of students and whether there will be a demand for on-site housing.

This report shall compare the advantages of each site in contrast to each other, based on the criteria specified in this paragraph as well as other criteria described by the committee. Council costs for this report may be considered part of the cost of the site selection.

(c) In reviewing alternative sites, the committee shall:

1. Consider and compare the cost of acquisition and development of alternative sites, with special consideration given to sites which are to be donated as opposed to purchased.

2. Consider the long-term benefits of alternative sites.

3. Consider the infrastructure costs of alternative sites.

4. Consider the willingness of local governments to waive impact fees and otherwise cooperate with the development of the new university.

5. Work with cities to explore coordination with urban renewal or redevelopment plans.

6. Consider the impact of local comprehensive plans on the proposed development of alternative sites.

7. Assess the need for a development of regional impact or the eligibility of the proposed development to qualify under an existing development of regional impact.

(d) Local governments shall cooperate with the committee in determining the feasibility of alternative proposed sites and in determining the availability of funding from government and private sources to offset fees and other costs associated with the development of a university in Southwest Florida.

(e) The committee shall recommend a site or alternative sites, within the region designated by the Legislature, to the Board of Regents by January 1, 1992. The Board of Regents shall, within 2 months of the recommendation by the site selection committee, approve a proposed site for acquisition. Upon approval of the proposed site, the Board of Regents shall begin immediate negotiations to acquire and receive property. The Board of Regents shall recommend additional funds for planning, acquisition, construction, and operations related to the new university, as appropriate to provide for the orderly development of the university. The committee may use funds appropriated for site selection or planning to defray the cost of site selection.

(4) Upon certification by the Board of Regents of a direct-support organization to serve as the foundation of the state university in Southwest Florida, the Board of Regents, in conjunction with the University of South Florida Foundation, shall develop and implement a plan to transfer to the new foundation assets derived from donations intended for the enhancement of the Ft. Myers branch of the University of South Florida.

Section 2. Paragraphs (n) and (o) of subsection (2) of section 229.053, Florida Statutes, are amended, and paragraph (p) is added to that subsection, to read:

229.053 General powers of state board.—

(2) The board has the following duties:

(n) To constitute the State Board for Vocational Education or other structures as may be required by federal law; and

(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; and

(p) To adopt, based on recommendations of the Postsecondary Education Planning Commission, criteria for the establishment of new community colleges and state universities.

Section 3. Subsection (3) of section 235.195, Florida Statutes, 1990 Supplement, is amended to read:

235.195 Cooperative development and use of facilities by two or more boards.—

(3) Included in all proposals for joint-use facilities which result in the creation of one or more new campuses for public postsecondary educational institutions must be documentation that the proposed campus has been reviewed by the Postsecondary Education Planning Commission, recommended to the State Board of Education, and has been formally requested for authorization by the Legislature in accordance with s. 240.147(8)(7).

Section 4. Subsections (7) through (13) of section 240.147, Florida Statutes, 1990 Supplement, are renumbered as subsections (8) through (14), respectively, and a new subsection (7) is added to said section to read:

240.147 Powers and duties of the commission.—The commission shall:

(7) Recommend to the State Board of Education for adoption criteria for the establishment of new community colleges and state universities, which criteria shall address:

- (a) Proximity to existing institutions and assessment of the impact on existing institutions.
- (b) Potential program duplication.
- (c) Regional demographic characteristics.
- (d) The efficient use of resources.

Section 5. Section 240.214, Florida Statutes, is created to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process shall provide for the adoption of systemwide performance standards and performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. The accountability process shall be implemented in incremental phases, as follows:

(1) No later than December 31, 1991, and annually thereafter, the board shall submit to the Legislature an evaluation of the production of classroom contact hours at each university pursuant to s. 240.243. The evaluation must include a specific analysis of the contact-hour expectations resulting from the multiplication of the requirements of s. 240.243 by the instructional man-years generated through the legislative enrollment formula. The analysis must, in addition, include the contact-hour expectations resulting from the multiplication of 84 percent of the positions provided for undergraduate enhancement by the contact-hour requirements of s. 240.243. The board may also conduct this analysis using alternative formulas. The board shall recommend to the Legislature any appropriate modifications to this section, s. 240.243, or other current policies. These recommendations shall be included in the annual accountability report submitted pursuant to subsection (3). The reports developed pursuant to this section shall be designed in consultation with the Legislature.

(2) By October 1, 1991, the Board of Regents shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a plan for the implementation of the balance of the State University System accountability process. The plan shall be designed in consultation with the Legislature, the Governor's Office, and the Office of the Auditor General. The plan must provide a timetable that identifies the specific performance standards and related goals to be implemented each year and must provide for full implementation of the accountability process by December 31, 1993. The plan must also identify the data files that will be used to substantiate achievement of performance goals. If it is necessary to develop new data files or modify existing files, the plan must describe the content of such files and include a sample file format. The plan must include, at a minimum, data on the following performance standards:

- (a) Total student credit hours produced, by institution and by discipline;
- (b) Total number of degrees awarded, by institution and by discipline;
- (c) Total number of contact hours of instruction produced by faculty, by institution, rank, and course level;
- (d) Pass rates on professional licensure examinations, by institution;
- (e) Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;
- (f) Length of time and number of academic credits required to complete an academic degree, by institution and by degree.
- (g) Enrollment, progression, retention, and graduation rates by race, gender, and disability;
- (h) Student course demand analysis; and
- (i) Classroom utilization.

(3) Beginning December 1, 1992, the Board of Regents shall submit an annual accountability report providing information on the implementation of performance standards and achievement of performance goals during the prior year and initiatives to be undertaken during the next year. The accountability reports shall be designed in consultation with the Governor's Office, the Office of the Auditor General, and the Legislature.

Section 6. The Office of the Auditor General shall conduct an assessment of the State University System accountability plan provided for in section 240.214, Florida Statutes, which must include the following components:

- (1) Evaluation of the extent to which the performance standards included in the plan are valid, reliable, and can be measured;
- (2) Assessment of controls and procedures to be established to ensure the accuracy and completeness of the performance standards and supporting data files which will be used as the basis for measuring progress toward accomplishment of the performance goals;
- (3) Evaluation of the year, established by the State University System, which shall serve as the data base line for each performance standard; and
- (4) Assessment of the basis of the weighted value formula, established by the State University System, for each performance standard.

The Office of the Auditor General shall submit the assessment to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 1991.

Section 7. Beginning January 1, 1993, the Board of Regents shall conduct an annual evaluation of the performance of the Chancellor and the state university presidents in achieving the performance goals established in the State University System accountability plan provided in section 240.214, Florida Statutes.

Section 8. Subsection (11) is added to section 240.2011, Florida Statutes, to read:

240.2011 State University System defined.—The State University System shall consist of the following:

- (11) A university with a main campus in Southwest Florida.

Section 9. Subsection (3) is added to section 240.207, Florida Statutes, to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(3) To create an orderly succession of Regents and the appointment of two Regents each year, one additional Regent shall be appointed in 1991 to serve a 6-year term, and one additional Regent shall be appointed in 1992 to serve a 6-year term. For the four seats with terms ending in 1993, the Governor shall make one appointment for a 3-year term and two appointments for regular 6-year terms. For 1 year, from January 1992 to January 1993, there shall be a total of 15 Regents. All

the members of the Board of Regents serving on the effective date of this act shall complete their regular terms, as prescribed by the Secretary of State.

Section 10. Present paragraphs (a) through (r) of subsection (3) of section 240.209, Florida Statutes, 1990 Supplement, are redesignated as paragraphs (b) through (s), respectively; and a new paragraph (a) is added to that subsection, present paragraphs (d) and (e) of that subsection are amended, and subsections (5) and (7) of that section are amended, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(a) Develop a plan for the future expansion of the State University System and recommend the establishment of new universities consistent with the criteria adopted by the State Board of Education pursuant to s. 229.053. The plan must include a procedure for the periodic assessment of the need for a new state university and specific standards for the minimum acreage, building space, staffing, and programmatic mix of state universities.

(e)(d) By December 1 of each year, set the resident undergraduate matriculation and financial aid fees for the subsequent fall term, which will produce no more than 25 percent of the prior year's cost of undergraduate programs. Fees charged for graduate, medical, veterinary, and dental programs may be increased by the Board of Regents in the same percentage as the increase in fees for resident undergraduates. However, in the absence of legislative action to the contrary in an appropriations act, the board may not approve annual fee increases for resident students in excess of 10 percent. The sum of nonresident student matriculation and tuition fees must be sufficient to defray the full cost of undergraduate education. Graduate, medical, veterinary, and dental fees charged to nonresidents may be increased by the board in the same percentage as the increase in fees for nonresident undergraduates. However, in implementing this policy and in the absence of legislative action to the contrary in an appropriations act, annual fee increases for nonresident students may not exceed 25 percent. In the absence of legislative action to the contrary in the General Appropriations Act, the fees shall go into effect for the following fall term. If the Legislature provides for an alternative fee calculation in an appropriations act, the board shall establish a fee schedule required to produce the fee revenue established in the appropriations act based on the assigned enrollment. The board may approve the expenditure of any fee revenues resulting from the product of the fee schedule adopted pursuant to this section and the assigned enrollment unless otherwise provided in the General Appropriations Act. 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. The board shall specify specific limits on the amount not greater than 40 percent of the fees collected in a fiscal year which may be carried forward unexpended to the following fiscal year. A minimum of 50 percent of these funds from the student financial aid fee 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.

(f)(e) Establish and maintain systemwide personnel programs for all State University System employees, including a systemwide personnel classification and pay plan, notwithstanding provisions of law that grant authority to the Department of Administration or its secretary over such programs for state employees. The board shall consult with the legislative appropriations committees regarding any major policy changes related to classification and pay which are in conflict with those policies in effect for career service employees with similar job classifications and responsibilities. The board may adopt rules delegating its authority to the Chancellor or the universities. The board shall submit, in a manner prescribed by law, any reports concerning State University System personnel programs as shall be required of the Department of Administration for other state

employees. The Department of Administration shall retain authority over State University System employees for programs established in ss. 110.116, 110.123, 110.1231, 110.1232, 110.1234, 110.1235, and 110.1238 and in chapters 121, 122, and 238. The board shall adopt only those rules necessary to provide for a coordinated, efficient systemwide program and shall delegate to the universities all authority necessary for implementation of the program consistent with these coordinating rules so adopted and applicable collective bargaining agreements. Notwithstanding the provisions of s. 216.181(4), the salary rate controls for positions in budgets under the Board of Regents shall separately delineate ~~be in the categories of~~ general faculty, university support personnel, and all other categories.

(5) The Board of Regents is responsible for:

(a) Adopting a rule specifying the definitions and procedures to be used in the calculation of the percentage of cost paid by students. The rule must provide for the calculation of the full cost of education and general programs by levels of instruction and of other programs as separately identified in the annual expenditure analysis. The rule shall be developed in consultation with the Legislature.

~~(a) Considering the relationship between tuition and general revenue appropriations in recommending tuition levels to the Legislature.~~

(b) Coordinating with the Postsecondary Education Planning Commission the programs, including doctoral programs, to be reviewed every 5 years or whenever the board determines that the effectiveness or efficiency of a program is jeopardized. The board shall define the indicators of quality and the criteria for program review for every program. Such indicators shall include need, student demand, and resources available to support continuation. The results of the program reviews shall be tied to the university budget requests.

(c) Coordinating the roles of the universities in order to best meet state needs and reflect cost-effective use of state resources.

(d) Advising the Legislature concerning opportunities for bonding university revenues, including certificate of participation bonds.

(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 11. Section 240.2094, Florida Statutes, is created to read:

240.2094 State University System management flexibility.—

(1) Notwithstanding the provisions of ss. 216.031, 216.181, 216.262, and 240.271 to the contrary and pursuant to the provisions of s. 216.351, funds for the operation of the State University System shall be requested and appropriated within budget entities, program components, program categories, lump sums, or special categories. Funds appropriated to the State University System for each program category, lump sum, or special category may be transferred to traditional categories for expenditure by the Board of Regents. The Board of Regents shall provide each university an approved budget based upon the appropriations act, and the universities shall develop an annual operating budget that allocates funds by program component and traditional expenditure category.

(2) Notwithstanding the provisions of s. 216.181 and pursuant to the provisions of s. 216.351, no lump-sum plan is required to implement the special categories, program categories, or lump-sum appropriations. Upon release of the special categories, program categories, or lump-sum appropriations by the Executive Office of the Governor to the Board of Regents, the Comptroller, upon the request of the Board of Regents, shall transfer or reallocate funds to or among accounts established for each university within each budget entity, for disbursement purposes. The Board of Regents shall maintain records to account for the original appropriation.

(3) Notwithstanding the provisions of ss. 216.031, 216.181, 216.251, and 216.262 to the contrary and pursuant to the provisions of 216.351, the Board of Regents shall establish the authorized positions and initial approved salary rate and may amend such positions and rate, within the maximum number of total positions and salary rate authorized annually in the appropriations act.

Section 12. Section 240.324, Florida Statutes, is created to read:

240.324 Community college efficiency and effectiveness.—

(1) *It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the State Community College System. Accordingly, the State Board of Community Colleges and the community college boards of trustees shall develop and implement a plan to improve and evaluate the instructional and administrative efficiency and effectiveness of the State Community College System. This plan must address the following issues:*

(a) *Graduation rates of AA and AS degree-seeking students compared to first-time enrolled students seeking the associate degree.*

(b) *Minority student enrollment and retention rates.*

(c) *Student performance, including student performance rates on college level academic skills tests, mean grade-point averages for community college AA transfer students, and community college student performance on state licensure examinations.*

(d) *Job placement rates of community college vocational students.*

(e) *Student progression by admission status and program.*

(f) *Other measures as identified by the Postsecondary Education Planning Commission and approved by the State Board of Community Colleges.*

(2) *By January 1, 1992, the State Board of Community Colleges shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for addressing these issues. The plan must provide a specific timetable that identifies specific issues to be addressed each year and must provide for full implementation by December 31, 1994. Beginning December 31, 1992, the State Board of Community Colleges shall submit an annual interim report providing the results of initiatives taken during the prior year and the initiatives and related objective performance measures proposed for the next year. The initial plan and each interim plan shall be designed in consultation with staff of the Governor and the Legislature.*

(3) *Beginning January 1, 1993, the State Board of Community Colleges shall address within the annual evaluation of the performance of the executive director, and the boards of trustees shall address within the annual evaluation of the presidents, the achievement of the performance goals established in the community college accountability plan.*

Section 13. Section 240.20941, Florida Statutes, is created to read:

240.20941 Vacant faculty positions.—Notwithstanding the provisions of s. 216.181(3), (4), and (5), and pursuant to the provisions of s. 216.351, actions to reduce positions, rate, or salaries and benefits, excluding salary lapse calculations, taken by the Legislature, by the Executive Office of the Governor, or by the Administration Commission which relate specifically to vacant positions, and which are applied on a uniform basis to all state employee positions, may affect the positions within the faculty pay plan approved and administered by the Board of Regents only to the extent that they do so by express reference to this section.

Section 14. Paragraph (a) of subsection (2) of section 240.299, Florida Statutes, 1990 Supplement, is amended to read:

240.299 Direct-support organizations; use of property; board of directors; audit; status.—

(2) **USE OF PROPERTY.—**

(a) *The Board of Regents is authorized to permit the use of property, facilities, and personal services at any state university by any university direct-support organization, and, subject to the provisions of this section, direct-support organizations may establish accounts with the State Board of Administration for investment of funds pursuant to part IV of chapter 218.*

Section 15. Subsection (3) of section 240.2097, Florida Statutes, 1990 Supplement, 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:

(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. Each student handbook must include a statement displayed prominently which provides that the university will not tolerate the sale, possession, or use of controlled substances, with the exception of medication prescribed by a physician and taken in accordance with the prescribed usage, nor will the university tolerate the consumption of alcoholic beverages by students younger than 21 years of age or the sale of alcoholic beverages to students younger than 21 years of age. Each student handbook must also list the legal and university-specific sanctions that will be imposed upon students who violate the law or university policies regarding controlled substances and alcoholic beverages.*

Section 16. Section 240.272, Florida Statutes, 1990 Supplement, is amended to read:

240.272 Carryforward of unexpended funds.—Notwithstanding the provisions of s. 216.301 to the contrary, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated for the State University System. Any unexpended funds in the current year operating budget, including unexpended student fee revenues, shall be carried forward by the Board of Regents for use by the university to which the funds were allocated. The Board of Regents shall seek to maintain an unencumbered fund balance of between 4 percent and 10 percent of the funds available in the current general fund of the operating budget of each university.

~~(1) Such carryforward shall not exceed 5 percent of the total operating budget of the university. Funds carried forward pursuant to this section shall be expended for nonrecurring expenses as approved by the Board of Regents.~~

(2) *No university shall be penalized in the allocation of subsequent funds as a result of the carryforward of an unexpended balance.*

Section 17. Subsection (5) of section 240.531, Florida Statutes, is amended to read:

240.531 Establishment of educational research centers for child development.—

(5) *Each educational research center for child development shall be funded by a portion of the Capital Improvement Trust Fund fee established by the Board of Regents pursuant to s. 240.209(3)(h)(e). Each university which establishes a center shall receive a portion of such fees collected from the students enrolled at that university, usable only at that university, equal to 22.5 cents per student per credit hour taken per term, based on the summer term and fall and spring semesters. This allocation shall be used by the university only for the establishment and operation of a center as provided by this section and rules promulgated hereunder. Said allocation may be made only after all bond obligations required to be paid from such fees have been met.*

Section 18. Paragraph (g) of subsection (5) of section 240.551, Florida Statutes, 1990 Supplement, is amended to read:

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.

(g) The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before March 31 of each year. In addition, the board shall make the report available to purchasers of advance payment contracts. *The board shall provide to the Board of Regents and the State Board of Community Colleges by March 31 each year complete advance payment contract sales information including projected postsecondary enrollments of qualified beneficiaries.* The accounts of the fund shall be subject to annual audits by the Auditor General or his designee.

Section 19. Section 240.552, Florida Statutes, 1990 Supplement, is amended to read:

240.552 Florida Prepaid Tuition Scholarship Program.—The Florida Prepaid Tuition Scholarship Program is hereby established with the intent to provide economically disadvantaged youth with prepaid postsecondary tuition scholarships. The direct-support organization established pursuant to s. 240.551 shall administer the program with the assistance and cooperation of the *Department of Education school districts and the Florida Association of School Administrators* to achieve the following objectives:

(1) Provide an incentive for economically disadvantaged youth to improve school attendance and academic performance in order to graduate and pursue a postsecondary education.

(2) Obtain the commitment and involvement of private sector entities by virtue of funding matches with a ratio of 50 percent provided by the private sector and 50 percent provided by the state.

(3) Purchase prepaid tuition scholarships for students ~~designated and certified by the Department of Education school districts~~ to the direct-support organization who meet minimum economic and school requirements and remain drug free and crime free.

(a) For the purpose of this subsection, “drug free” means not being convicted of, or adjudicated delinquent for, any violation of chapter 893 after being designated a recipient of a Florida prepaid tuition scholarship.

(b) For the purpose of this subsection, “crime free” means not being convicted of, or adjudicated delinquent for, any felony or first degree misdemeanor as defined in ss. 775.08 and 775.081 after being designated a recipient of a Florida prepaid tuition scholarship.

Section 20. Subsection (2) of section 282.308, Florida Statutes, 1990 Supplement, is amended to read:

282.308 State University System information resources management plan.—

(2) The Chancellor of the Board of Regents shall review, recommend modifications to, and approve each university plan and shall provide a copy of each university’s approved plan and a copy of the approved State University System Strategic Information Resources Management Plan to the commission by May 1 of each even-numbered year. Such plans are not subject to approval by the commission, but shall support and further the goals and objectives of the master plan required pursuant to s. 240.209(3)(j)(4), the policies and objectives of the functional plan prepared by the Department of Education pursuant to s. 186.021, and the goals and policies of the State Strategic Plan for Information Resources Management specified in s. 282.3061.

Section 21. Subsection (2) of section 447.203, Florida Statutes, 1990 Supplement, is amended to read:

447.203 Definitions.—As used in this part:

(2) “Public employer” or “employer” means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. With respect to all public employees determined by the commission as properly belonging to a statewide bargaining unit composed of State Career Service System employees or Selected Professional Service employees, the Governor shall be deemed to be the public employer; and the Board of Regents shall be deemed to be the public employer with respect to all public employees within the State University System as provided in s. 240.209(3)(f)(6), except that such employees shall have the right, in elections to be conducted at each university by the commission pursuant to its rules, to elect not to participate in collective bargaining. In the event that a majority of such voting employees at any university elect not to participate in collective bargaining, they shall be removed from the applicable Board of Regents bargaining unit. If, thereafter, by election conducted by the commission pursuant to its rules, a majority of such voting employees elect to participate in collective bargaining, they shall be included again in the applicable Board of Regents bargaining unit for such purpose. The board of trustees of a community college shall be deemed to be the public employer with respect to all employees of the community college. The district school board shall be deemed to be the public employer with respect to all employees of the school district. The Board of Trustees of the Florida School for the Deaf and the Blind shall be deemed to be the public employer with respect to the academic and academic administrative personnel of the Florida School for the Deaf and the Blind. The Board of Correctional Education shall be deemed to be the public employer with respect to all officers and employees of the Correctional Education School Authority.

Section 22. Subsection (3) and paragraph (a) of subsection (5) of section 240.409, Florida Statutes, 1990 Supplement, are amended to read:

240.409 Florida Public Student Assistance Grant Fund; eligibility for grants.—

(3) ~~Based on the unmet financial need of an eligible applicant, the full amount of a Florida public student assistance grant must be between \$200 and \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient’s grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments. Priority in the awarding of state student assistance grants to first-time applicants shall be given to entering first-year freshman students and then to community college transfer students. Eligibility for grant renewal shall be limited to students who meet the provisions of s. 240.404. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.~~

(5)(a) Payment of Florida public student assistance grants may be transmitted to the president of the state university or community college which the recipient is attending, or to his representative, in advance of the registration period. *Institutions shall notify students of the amount of their awards.*

Section 23. Subsection (3) and paragraph (a) of subsection (5) of section 240.4095, Florida Statutes, are amended to read:

240.4095 Florida Private Student Assistance Grant Fund; eligibility for grants.—

(3) *Based on the unmet financial need of an eligible applicant, the full amount of a Florida private student assistance grant must be between \$200 and \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments. Priority in the awarding of student assistance grants to first-time applicants shall be given to entering first-year freshman students and then to community college transfer students. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.*

(5)(a) Payment of Florida private student assistance grants may be transmitted to the president of the college or university which the recipient is attending, or to his representative, in advance of the registration period. *Institutions shall notify students of the amount of their awards.*

Section 24. Subsection (3) and paragraph (a) of subsection (5) of section 240.4097, Florida Statutes, 1990 Supplement, are amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Fund; eligibility for grants.—

(3) *Based on the unmet financial need of an eligible applicant, the full amount of a Florida postsecondary student assistance grant must be between \$200 and \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments. Priority in the awarding of student assistance grants to first-time applicants shall be given to entering first-year freshman students and then to community college transfer students. Renewal grants shall take precedence over new awards in any year in which funds are not sufficient to meet the total need.*

(5)(a) Payment of Florida postsecondary student assistance grants may be transmitted to the president of the eligible institution which the recipient is attending, or to his representative, in advance of the registration period. *Institutions shall notify students of the amount of their awards.*

Section 25. Paragraph (c) of subsection (8) of section 228.072, Florida Statutes, 1990 Supplement, is amended to read:

228.072 Adult general education.—

(8) FINANCING.—

(c)1. No matriculation or tuition fees shall be charged for adult basic instruction for students who demonstrate literacy skills below the eighth-grade level or for adult basic or secondary education instruction for students who have not obtained high school diplomas. All other students with high school diplomas or the equivalent who are taking adult basic or secondary education instruction must pay matriculation and tuition fees in accordance with s. 230.645 and the rules adopted by the State Board of Education.

~~2. All students enrolled in vocational preparatory programs shall be charged fees equivalent to the fees charged for postsecondary adult vocational instruction, except that students enrolled in vocational preparatory programs who have not obtained high school diplomas or the equivalent or who have basic skills which have been determined to be at or below the eighth grade level as provided by State Board of Education rule are exempt from this requirement. When college preparatory and vocational preparatory instruction are provided in the same class section, the community college may charge a single fee for both types of instruction.~~

~~3. All students enrolled in college preparatory programs shall be charged fees equivalent to the fees charged for credit courses at the community college.~~

~~4. Fees collected annually for recreation and leisure time programs shall be equal to, but not exceed, the cost of providing such programs by a school district or community college.~~

Section 26. Present subsections (6), (7), (8), (9), (10), (11), and (12) of section 230.645, Florida Statutes, are renumbered as subsections (10), (11), (12), (13), (14), (15), and (16), respectively; and new subsections (5), (6), (7), and (8) are added to that section, and subsection (5) of that section is renumbered as subsection (9) and is amended, to read:

230.645 Postsecondary student fees.—

(5) *The Commissioner of Education shall recommend to the State Board of Education no later than December 31 of each year a schedule of fees for adult job-preparatory and vocational supplemental programs. The fee schedule must be based on the amount of student fees necessary to produce 10 percent of the prior year's cost of adult job-preparatory programs and 25 percent of the average prior year's cost of vocational supplemental programs. However, the commissioner's recommended annual increase in fees charged to resident students may not exceed 10 percent. The sum of nonresident student fees must be sufficient to defray the full cost of education. However, in implementing this policy, the commissioner may not recommend annual fee increases for nonresident students which exceed 25 percent.*

(6) *The State Board of Education shall adopt a fee schedule to produce the required fee revenues calculated pursuant to subsection (5). In the absence of a provision to the contrary in the General Appropriations Act, the fee schedule shall take effect. If the Legislature provides for an alternative fee calculation in an appropriations act, the state board shall establish a fee schedule required to produce the amount of fee revenue established in the appropriations act.*

(7) *The State Board of Education shall adopt a rule specifying the definitions and procedures to be used in the calculation of the percentage of cost paid by students. The rule must provide for the calculation of the full cost of educational programs as the product of the base student allocation times the weighted enrollment of the programs. The rule shall be developed in consultation with the Legislature.*

(8) *Each district school board may collect for financial aid purposes an additional amount up to, but not exceeding, 5 percent of the total fees collected for adult job-preparatory, vocational-preparatory, and vocational supplemental instruction. The revenues from these fees shall be used to provide financial aid on the basis of student need. Such funds shall be disbursed to students as quickly as possible.*

~~(9)(5) Required fees shall be set annually in the General Appropriations Act. The General Appropriations Act shall specify a single range of fees for postsecondary adult vocational and supplemental vocational instruction, respectively, that shall be maintained by both community colleges and school districts. School districts shall establish a fee for each other program specified in subsection (1) which may vary no more than 10 percent from the fee amount established in the General Appropriations Act. However, any school board-administered area vocational-technical center may conduct customized supplemental vocational instruction if the instruction is requested by a private employer solely for the benefit of his employees. Such instruction may not be made available for public enrollment. The school board shall charge the private employer the full cost of the provision of such instruction, and enrollment may not be counted for state funding purposes. Nonresident fees shall be twice the amount of resident fees.~~

Section 27. Present subsections (6), (7), (8), (9), and (10) of section 240.35, Florida Statutes, 1990 Supplement, are renumbered as subsections (10), (11), (12), (13), and (14), respectively; and present subsections (5) and (11) of that section are renumbered as subsections (7) and (15), respectively, and are amended, and new subsections (5), (6), (8), and (9) are added to that section, to read:

240.35 Student fees.—

(5) *Subject to review and final approval by the State Board of Education, the State Board of Community Colleges shall adopt by December 31 of each year a resident fee schedule for the following fall for advanced and professional programs, postsecondary vocational programs, and college-preparatory programs which produces revenues in*

the amount of 25 percent of the full prior year's cost of these programs. The State Board of Community Colleges shall establish a resident fee schedule that produces 10 percent of the prior year's cost of adult vocational programs and a resident fee schedule that produces 25 percent of the prior year's cost of vocational supplemental programs. However, the board may not adopt an annual fee increase in any program for resident students which exceeds 10 percent. Beginning with Fiscal Year 1992-1993 and, in the absence of a provision to the contrary in an appropriations act, the fee schedule shall take effect and the colleges shall expend the funds on instruction. If the Legislature provides for an alternative fee calculation in an appropriations act, the board shall establish a fee schedule that produces the fee revenue established in the appropriations act based on the assigned enrollment.

(6) Fees collected annually for recreation and leisure-time programs must equal the full cost of providing such programs by a community college.

~~(7)(5) Unless specifically provided in the General Appropriations Act, the State Board of Community Colleges shall establish the average matriculation and tuition fees required to generate at least the amount of revenue established annually in the General Appropriations Act for credit and noncredit instruction programs, as defined in this section; however, fees for postsecondary adult vocational and supplemental vocational instruction shall be established pursuant to s. 230.645. Each community college board of trustees shall establish matriculation, tuition, and noncredit fees, which may vary no more than 10 percent from the fee schedule adopted by the State Board of Community Colleges. However, any community college may conduct customized supplemental vocational instruction if the instruction is requested by a private employer solely for the benefit of his employees. Such instruction may not be made available for public enrollment. The community college board of trustees shall charge the private employer the full cost of the provision of such instruction, and enrollment may not be counted for state funding purposes this statewide average rounded to the nearest one-fourth dollar for all instruction except postsecondary adult vocational and supplemental vocational instruction. Adult basic, general equivalency diploma, and secondary discipline data may not be used in the calculation in these averages. Tuition for an out-of-state resident shall be at least twice the amount of tuition for a state resident for both credit programs and noncredit programs.~~

(8) The sum of nonresident student matriculation and tuition fees must be sufficient to defray the full cost of each program. Beginning with Fiscal Year 1992-1993, the annual fee increases for nonresident students established by the board, in the absence of legislative action to the contrary in an appropriations act, may not exceed 25 percent.

(9) The State Board of Community Colleges shall adopt a rule specifying the definitions and procedures to be used in the calculation of the percentage of cost paid by students. The rule must provide for the calculation of the full cost of educational programs based on the allocation of all funds provided through the general current fund to programs of instruction, and other activities as provided in the annual expenditure analysis. The rule shall be developed in consultation with the Legislature.

~~(15)(11)~~ Each community college board of trustees may establish a separate fee for capital improvements which may not exceed \$1 per credit hour or credit-hour equivalent for residents and which equals or exceeds \$3 per credit hour for nonresidents. Funds collected through these fees may not be bonded. The fee shall be collected as a component part of the registration and tuition fees, paid into a separate account, and expended only to maintain, improve, or enhance the educational facilities of the community college. Projects funded through the use of the capital improvement fee shall meet the survey and construction requirements of chapter 235. Pursuant to s. 216.0158, each community college shall identify each project, including maintenance projects, proposed to be funded in whole or in part by such fee. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the community college.

Section 28. Paragraph (c) of subsection (3) of section 240.359, Florida Statutes, is amended to read:

240.359 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313 shall be as follows:

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(c) The apportionment to each community college from the community college program fund for current operations shall be based on an assigned full-time equivalent enrollment as determined in paragraphs (a), (b), and (d) and shall consider the cost level of each field of study and the matriculation and tuition fee revenues provided for in s. 240.35 or in the General Appropriations Act. However, students in community education service programs shall not be counted for full-time equivalent enrollment. There shall be an adult basic skills education program adjustment, the total amount of which shall be determined annually in the General Appropriations Act. The apportionment of the adjustment to each community college providing adult basic skills education shall be determined as the difference between 105 percent of the appropriation per full-time equivalent student and the actual reported expenditures per full-time equivalent student for the adult basic skills education program times the assigned number of full-time equivalent students for a given year; provided that should the appropriation be less than the total computed adjustment for all colleges, each community college shall receive its proportionate share of the appropriation. For the purpose of determining program costs, the adult basic skills education program costs shall be reported separately from the adult secondary program costs.

Section 29. Paragraph (a) of subsection (5) of section 240.605, Florida Statutes, is amended to read:

240.605 State tuition vouchers.—

(5)(a) The annual percentage adjustment in the State Tuition Voucher Fund must equal the percentage adjustment of state funding in the Instruction and Research/Educational and General Appropriation Category in the State University System, but the adjustment may not exceed 10 percent in a given year. However, the amount of the tuition voucher issued to a full-time student shall be no less than \$1,150 and no more than 40 percent of the full cost to the state \$2,000 per academic year of an undergraduate student in public postsecondary education established pursuant to s. 240.209 or as specified in the General Appropriations Act. The tuition voucher may be paid on a prorated basis in advance of the registration period. The department shall make such payments to the college or university in which the student is enrolled for credit to the student's account for payment of tuition and fees. Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances or refunds within 60 days of the end of regular registration. Students shall not be eligible to receive the award for more than 9 semesters or 14 quarters, except as otherwise provided in s. 240.404(3).

Section 30. Subsection (3) of section 229.805, Florida Statutes, is amended to read:

229.805 Educational television.—

(3) POWERS OF DEPARTMENT OF EDUCATION.—

(a) The Department of Education is authorized to encourage:

- ~~1.—The activation of unused reserve educational television channels;~~
- 1.2. The extension of educational television network facilities;
- 2.3. The coordination of Florida's educational television with that of other states and with the Federal Government; and
- 3.4. The further development of educational television within the state.

(b) The department shall provide through educational television and other electronic media a means of extending educational services to all the state system of public education, except the State University System as defined in s. 240.2011, which provision by the department shall be limited by paragraph (c) and by s. 229.8051(1). The department shall recommend to the state board rules and regulations necessary to provide such services.

(c) The department is authorized to provide equipment, funds, and other services to extend and update both the existing and the proposed educational television and radio systems of tax-supported and nonprofit, corporate-owned facilities; ~~except that no new system shall be funded where the result thereof is a substantial duplication of any system specified in s. 229.8051(1). All stations funded must be qualified by the Corporation for Public Broadcasting. New stations eligible for funding shall~~

provide a first service to an audience that is not currently receiving a broadcast signal or provide a significant new program service as defined by State Board of Education rules. Funds appropriated to the department for educational television and funds appropriated to the department for educational radio may be used by the department for either educational television or educational radio, or for both.

Section 31. Section 229.8051, Florida Statutes, is amended to read:

229.8051 Public broadcasting program system.—

(1) There is created a public broadcasting program system for the state. This program system shall be administered by the Department of Education pursuant to policies adopted by the State Board of Education and shall complement and share resources with the instructional programming service of the Department of Education and educational UHF, VHF, ITFS, and FM stations in the state. This program system shall include:

(a) Support for *existing Corporation for Public Broadcasting qualified program system educational radio and television stations and new stations meeting Corporation for Public Broadcasting qualifications and providing a first service to an audience that does not currently receive a broadcast signal or providing a significant new program service as defined by State Board of Education rules* ~~all educational radio and television stations broadcasting and receiving state programming support grants as of July 1, 1980.~~

(b) Maintenance of quality broadcast capability for educational stations which are part of the program system.

(c) Interconnection of all educational stations which are part of the program system for simultaneous broadcast and of such stations with all universities and other institutions as necessary for sharing of resources and delivery of programming.

(d) Establishment and maintenance of a capability for statewide program distribution with facilities and staff, provided such facilities and staff complement and strengthen existing or future educational television and radio stations in accordance with paragraph (a) and s. 229.805(3)(c) ~~and except that no systems or services will be created where there will be a substantial duplication of any system specified in paragraph (a).~~

(e) Provision of both statewide programming funds and station programming support for educational television and educational radio to meet statewide priorities. Priorities for station programming need not be the same as priorities for programming to be used statewide. Station programming may include, but shall not be limited to, citizens' participation programs, music and fine arts programs, coverage of public hearings and governmental meetings, equal air time for political candidates, and other public interest programming.

(2) The Department of Education is assigned responsibility for implementing the provisions of this section pursuant to part III of chapter 287 and is authorized to employ personnel, acquire equipment and facilities, and perform all duties necessary for carrying out the purposes and objectives of this section.

(3) *The State Board of Education shall adopt rules for the proper enforcement and carrying out of these provisions.*

Section 32. Subsection (3) of section 159.703, Florida Statutes, is amended to read:

159.703 Creation of research and development authorities.—

(3) The resolution shall designate not less than five persons who are residents and electors of, or have their principal place of employment in, the county as members of the authority created for said county. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, and the remainder for 4 years and in each case until his successor is appointed and has qualified. Thereafter, the board shall appoint for terms of 4 years each a member or members to succeed those whose terms expire, *except that with respect to an authority that owns, occupies, or maintains a research development park, as defined in s. 159.27(7), within which is located a substantial capital project that is funded, in whole or in part, by the state and is a part of, or directly affiliated with, the National High Magnetic Field Laboratory, the first two such vacancies that occur on or after July 1, 1991, shall not be filled.* In addition to the other members, the president of each affiliated institution of higher education, or the president's designee, shall be a member of the

authority and shall serve ex officio; *provided, further, that with respect to an authority that owns, occupies, or maintains a research development park, as defined in s. 159.27(7), within which is located a substantial capital project that is funded, in whole or in part, by the state, and is a part of, or directly affiliated with, the National High Magnetic Field Laboratory, the Chancellor of the State University System or the Chancellor's designee, the Director of the National High Magnetic Field Laboratory or the Director's designee, one resident of the county in which the research development park is located appointed by the President of the Senate to serve at the pleasure of the President of the Senate, and one resident of the county in which the research development park is located appointed by the Speaker of the House of Representatives to serve at the pleasure of the Speaker of the House of Representatives shall be members of the authority and shall serve ex officio. Except as to members who serve ex officio, the board shall fill any vacancy for an unexpired term. A member of the authority shall be eligible for reappointment. Any member of the authority may be removed by the board for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority before entering upon his duties shall take and subscribe the oath or affirmation required by the State Constitution. A record of each such oath shall be filed with the Department of State and with the clerk of the circuit court.*

Section 33. *During the 1991-1992 academic year, full-time State University System faculty members shall fulfill their public service assignments by developing and implementing strategies to improve public education. During the fall and spring terms of the 1991-1992 academic year, no other activity may be used to satisfy any faculty member's public service assignment. Recommended strategies must be related to faculty members' academic disciplines and areas of expertise and must include, but need not be limited to, activities to improve public education in the following areas: pedagogy; curriculum content; educational technology; assessment, testing, and evaluation; student advisement and counseling; educational facility design and construction; school finance; personnel policies and staff development; and educational management. The chairman of each academic department, and the director of each institute within each state university, shall be responsible for coordinating the development and overseeing the implementation of strategies recommended by the members of his department. Strategies recommended by each academic department or institute shall be submitted by the department chairman or institute director to the president of the university, who shall compile this information into an institutional report that shall be forwarded to the Board of Regents. The Board of Regents shall compile the institutional reports into a systemwide report that shall be submitted to the Legislature, the State Board of Education, and the superintendent of each public school district by February 1, 1992. The president of the university may authorize a maximum of 10 percent of the affected faculty to receive public service assignments for activities other than those described in this section if, in the president's opinion, the public service is as important as service to the public schools. The name of each faculty member provided such an exemption and a description of the faculty member's public service activities must be included in the report submitted by the Board of Regents to the Legislature and State Board of Education by February 1, 1992. By February 1, 1993, the Board of Regents shall submit a report to the Legislature and State Board of Education which describes the extent to which strategies recommended by university faculty have been implemented in the public schools.*

Section 34. *If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 35. This act shall take effect upon becoming a law.

Senator Johnson moved the following amendments to **Amendment 2** which were adopted:

Amendment 2A—On page 41, lines 5-31, and on page 42, lines 1-14, strike all of said lines and insert:

Section 33. *It is the intent of the Legislature that full-time State University System faculty members be encouraged to fulfill their public service assignments by developing and implementing strategies to improve public schools. By October 1, 1993, the Board of Regents shall submit a report to the Legislature and the State Board of Education which describes the level of service to the public schools, and any strategies developed by these faculty members which have been implemented in the public schools.*

Amendment 2B—On page 20, strike all of lines 8-19 and insert: current year operating budget, including unexpended student fee revenues, shall be carried forward by the Board of Regents for use by the university to which the funds were allocated.

(1) Such carryforward shall not exceed 5 percent of the total operating budget of the university. Funds carried forward pursuant to this section shall be expended for nonrecurring expenses as approved by the Board of Regents.

(2) No university shall be penalized in the allocation

Senator Gordon moved the following amendment to **Amendment 2** which failed:

Amendment 2C—On page 36, lines 3-26, strike all of Section 29

Amendment 2 as amended was adopted.

The Committee on Appropriations recommended the following amendment which was moved by Senator Johnson:

Amendment 3—In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to postsecondary education; establishing in Southwest Florida a tenth university in the State University System; providing for establishment of a site selection committee and providing duties thereof; providing duties of the Southwest Florida Regional Planning Council; providing duties of the Board of Regents; providing for transfer of certain donations; amending ss. 229.053, 240.147, F.S.; providing a duty of the State Board of Education and the Postsecondary Education Planning Commission relating to the establishment of new community colleges and state universities; amending s. 235.195, F.S.; correcting a cross-reference; creating s. 240.214, F.S.; providing for state university accountability; requiring plans; amending s. 240.2011, F.S.; providing for a new university in the State University System; amending s. 240.207, F.S.; providing for an orderly succession of regents; amending s. 240.209, F.S.; providing a duty of the Board of Regents relating to expansion of the State University System; revising Board of Regents' duties relating to financial aid fees; revising provisions relating to salary rate controls; providing an additional responsibility of the Board of Regents relating to bonding; authorizing tuition-free courses; creating s. 240.2094, F.S.; providing procedures for requesting and appropriating funds for the State University System; requiring the Board of Regents to establish the authorized positions and approved salary rate; directing the State Board of Community Colleges and the boards of trustees of the community colleges to develop a plan to improve and assess the state community college system; creating s. 240.20941, F.S.; providing a procedure for actions related to vacant university faculty positions; amending s. 240.299, F.S.; authorizing direct-support organizations to establish accounts; amending s. 240.2097, F.S.; deleting a requirement that the Board of Regents produce a Systemwide Counseling Manual; requiring state university handbooks to include information relating to controlled substances; amending s. 240.273, F.S.; revising provisions relating to carryforward of unexpended funds; amending s. 240.531, F.S.; correcting a cross-reference; amending s. 240.551, F.S.; providing a duty of the Prepaid Postsecondary Education Expense Board; amending s. 240.552, F.S.; revising provisions relating to the Florida Prepaid Tuition Scholarship Program; amending s. 282.308, F.S.; correcting a cross-reference; amending ss. 240.409, 240.4095, 240.4097, F.S.; revising provisions relating to the amount of awards of the Florida Public Student Assistance Grant Fund, the Florida Private Student Assistance Grant Fund, and the Florida Postsecondary Student Assistance Grant Fund; providing a severability clause; requiring state university faculty members to provide public service to the public school system; requiring the Board of Regents to report to the Legislature and State Board of Education; amending s. 229.805, F.S.; revising Department of Education powers relating to educational television; providing requirements for funding of stations; amending s. 229.8051, F.S.; revising requirements of the public broadcasting program system; providing for rules; amending s. 159.703, F.S.; changing the membership of certain research and development authorities; providing an effective date.

Senator Johnson moved the following substitute amendment:

Amendment 4—In title, on page 1, lines 1-31; on page 2, lines 1-31; and on page 3, lines 1-3, strike all of said lines and insert: A bill to be entitled An act relating to postsecondary education; establishing in Southwest Florida a tenth university in the State University System; providing for establishment of a site selection committee and providing

duties thereof; providing duties of the Southwest Florida Regional Planning Council; providing duties of the Board of Regents; providing for transfer of certain donations; amending ss. 229.053, 240.147, F.S.; providing a duty of the State Board of Education and the Postsecondary Education Planning Commission relating to the establishment of new community colleges and state universities; amending s. 235.195, F.S.; correcting a cross-reference; creating s. 240.214, F.S.; providing for state university accountability; requiring plans; amending s. 240.2011, F.S.; providing for a new university in the State University System; amending s. 240.207, F.S.; providing for an orderly succession of regents; amending s. 240.209, F.S.; providing a duty of the Board of Regents relating to expansion of the State University System; revising Board of Regents' duties relating to matriculation and financial aid fees; providing for adoption of a rule prescribing the manner of calculating the percentage cost paid by students; revising provisions relating to salary rate controls; providing an additional responsibility of the Board of Regents relating to bonding; authorizing tuition-free courses; creating s. 240.2094, F.S.; providing procedures for requesting and appropriating funds for the State University System; requiring the Board of Regents to establish the authorized positions and approved salary rate; creating s. 240.324, F.S.; directing the State Board of Community Colleges and the boards of trustees of the community colleges to develop a plan to improve and assess the state community college system; creating s. 240.20941, F.S.; providing a procedure for actions related to vacant university faculty positions; amending s. 240.299, F.S.; authorizing direct-support organizations to establish accounts; amending s. 240.2097, F.S.; deleting a requirement that the Board of Regents produce a Systemwide Counseling Manual; requiring state university handbooks to include information relating to controlled substances; amending s. 240.272, F.S.; revising provisions relating to carryforward of unexpended funds; amending s. 240.531, F.S.; correcting a cross-reference; amending s. 240.551, F.S.; providing a duty of the Prepaid Postsecondary Education Expense Board; amending s. 240.552, F.S.; revising provisions relating to the Florida Prepaid Tuition Scholarship Program; amending s. 282.308, F.S.; correcting a cross-reference; amending s. 447.203, F.S.; correcting a cross-reference; amending ss. 240.409, 240.4095, 240.4097, F.S.; revising provisions relating to the amount of awards of the Florida Public Student Assistance Grant Fund, the Florida Private Student Assistance Grant Fund, and the Florida Postsecondary Student Assistance Grant Fund; amending s. 228.072, F.S.; revising provisions relating to financing of adult general education; amending ss. 230.645, 240.35, F.S.; revising provisions relating to postsecondary student fees; amending s. 240.359, F.S.; revising procedures for annual apportionment of state funds to community college districts; amending s. 240.605, F.S.; providing for the annual percentage adjustment in the State Tuition Voucher Fund; amending s. 229.805, F.S.; revising Department of Education powers relating to educational television; providing requirements for funding of stations; amending s. 229.8051, F.S.; revising requirements of the public broadcasting program system; providing for rules; amending s. 159.703, F.S.; changing the membership of certain research and development authorities; requiring state university faculty members to provide public service to the public school system; requiring the Board of Regents to report to the Legislature and State Board of Education; providing severability; providing an effective date.

Senator Johnson moved the following amendment to **Amendment 4** which was adopted:

Amendment 4A—In title, on page 4, strike all of lines 5-9 and insert: providing that state university faculty members be encouraged to provide public service to improve the public school system and requiring the Board of Regents to report to the Legislature and the State Board of Education with respect thereto; providing severability; providing an

Amendment 4 as amended was adopted.

ROLL CALLS ON SENATE BILLS

**CS for SB's 58 and 2294
Motion to Concur in House Amendments**

Yeas—18

Madam President	Diaz-Balart	Meek	Weinstein
Beard	Forman	Plummer	Weinstock
Brown	Gardner	Souto	Wexler
Bruner	Jenne	Thomas	
Casas	Kurth	Thurman	

Nays—18

Bankhead	Dudley	Kiser	Scott
Crenshaw	Gordon	Langley	Walker
Crotty	Grant	Malchon	Yancey
Dantzler	Grizzle	McKay	
Davis	Johnson	Myers	

CS for SB's 58 and 2294

Motion to Reconsider Vote by Which Previous Motion Failed

Yeas—18

Madam President	Gardner	Plummer	Weinstein
Brown	Girardeau	Souto	Weinstock
Bruner	Jenne	Thomas	Wexler
Childers	Kurth	Thurman	
Forman	Meek	Walker	

Nays—20

Bankhead	Dantzler	Grizzle	Malchon
Beard	Davis	Jennings	McKay
Casas	Dudley	Johnson	Myers
Crenshaw	Gordon	Kiser	Scott
Crotty	Grant	Langley	Yancey

CS for SB 74

Yeas—31

Madam President	Dudley	Kiser	Thomas
Bankhead	Forman	Kurth	Thurman
Beard	Girardeau	Langley	Walker
Brown	Gordon	Malchon	Weinstein
Casas	Grizzle	Meek	Weinstock
Crotty	Jenne	Myers	Wexler
Dantzler	Jennings	Scott	Yancey
Diaz-Balart	Johnson	Souto	

Nays—1

Bruner

Vote after roll call:

Yea—Childers

Yea to Nay—Crotty, Jennings

CS for SB 76

Yeas—36

Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Scott
Brown	Forman	Kiser	Souto
Bruner	Gardner	Kurth	Thomas
Casas	Girardeau	Langley	Thurman
Childers	Gordon	Malchon	Walker
Crotty	Grant	McKay	Weinstein
Dantzler	Grizzle	Meek	Weinstock
Davis	Jennings	Myers	Yancey

Nays—None

CS for SB 96

Yeas—30

Madam President	Dantzler	Kiser	Souto
Bankhead	Diaz-Balart	Kurth	Thomas
Beard	Dudley	Langley	Thurman
Brown	Girardeau	Malchon	Weinstein
Bruner	Gordon	Meek	Weinstock
Casas	Grizzle	Myers	Yancey
Childers	Jennings	Plummer	
Crotty	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 124

Yeas—35

Madam President	Dantzler	Grizzle	Plummer
Bankhead	Davis	Jennings	Souto
Beard	Diaz-Balart	Johnson	Thurman
Brown	Dudley	Kirkpatrick	Walker
Bruner	Forman	Kiser	Weinstein
Casas	Gardner	Kurth	Weinstock
Childers	Girardeau	Langley	Wexler
Crenshaw	Gordon	Meek	Yancey
Crotty	Grant	Myers	

Nays—None

Vote after roll call:

Yea—Malchon

CS for SB 162—After Reconsideration

Yeas—29

Madam President	Diaz-Balart	Kiser	Thurman
Bankhead	Dudley	Kurth	Walker
Beard	Forman	Langley	Weinstock
Brown	Girardeau	Malchon	Wexler
Bruner	Gordon	Myers	Yancey
Casas	Grizzle	Scott	
Crotty	Jennings	Souto	
Dantzler	Johnson	Thomas	

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick, Meek, Weinstein

CS for SB 298

Yeas—29

Beard	Diaz-Balart	Johnson	Thurman
Brown	Forman	Kiser	Walker
Bruner	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Childers	Gordon	Malchon	Wexler
Crotty	Grant	Meek	
Dantzler	Grizzle	Myers	
Davis	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Bankhead, Kirkpatrick, Souto

CS for SB 298—After Reconsideration

Yeas—28

Bankhead	Davis	Grizzle	Meek
Beard	Diaz-Balart	Johnson	Plummer
Brown	Dudley	Kiser	Scott
Bruner	Forman	Kurth	Souto
Casas	Girardeau	Langley	Thomas
Crotty	Gordon	Malchon	Weinstock
Dantzler	Grant	McKay	Wexler

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick, Thurman

SB 426

Yeas—33

Bankhead	Casas	Diaz-Balart	Girardeau
Beard	Crotty	Dudley	Gordon
Brown	Dantzler	Forman	Grant
Bruner	Davis	Gardner	Grizzle

Jennings Langley Souto
 Johnson Meek Thomas
 Kirkpatrick Myers Thurman
 Kiser Plummer Walker
 Kurth Scott Weinstein

Wexler
 Yancey

Nays—14

Bankhead Girardeau Langley Thurman
 Brown Kirkpatrick McKay Walker
 Davis Kiser Plummer
 Dudley Kurth Thomas

Nays—1

CS for CS for SB 748

McKay

Yeas—36

Vote after roll call:

Yea—Malchon

Madam President Davis Jennings Plummer
 Bankhead Diaz-Balart Johnson Scott
 Beard Dudley Kirkpatrick Souto
 Brown Forman Kiser Thomas
 Bruner Gardner Kurth Thurman
 Casas Gordon Langley Weinstein
 Crenshaw Grant Malchon Weinstock
 Crotty Grizzle Meek Wexler
 Dantzler Jenne Myers Yancey

Yea to Nay—Langley

CS for SB's 434 and 532

Yeas—38

Madam President Davis Jennings Souto
 Bankhead Diaz-Balart Johnson Thomas
 Beard Dudley Kirkpatrick Thurman
 Brown Forman Kiser Walker
 Bruner Gardner Kurth Weinstein
 Casas Girardeau Langley Weinstock
 Childers Gordon Malchon Wexler
 Crenshaw Grant Meek Yancey
 Crotty Grizzle Myers
 Dantzler Jenne Plummer

Nays—None

Vote after roll call:

Yea—Childers

CS for SB 764

Nays—None

Yeas—39

SB 620

Madam President Diaz-Balart Johnson Scott
 Bankhead Dudley Kirkpatrick Souto
 Beard Forman Kiser Thomas
 Brown Gardner Kurth Thurman
 Bruner Girardeau Langley Walker
 Casas Gordon Malchon Weinstein
 Childers Grant McKay Weinstock
 Crotty Grizzle Meek Wexler
 Dantzler Jenne Myers Yancey
 Davis Jennings Plummer

Nays—None

CS for CS for SB 998

Yeas—34

Madam President Diaz-Balart Jennings Souto
 Bankhead Dudley Johnson Thurman
 Beard Forman Kirkpatrick Walker
 Bruner Gardner Kurth Weinstein
 Casas Girardeau Langley Weinstock
 Childers Gordon Malchon Wexler
 Crenshaw Grant Meek Yancey
 Crotty Grizzle Myers
 Dantzler Jenne Plummer

Yeas—32

Bankhead Diaz-Balart Jennings Meek
 Beard Dudley Johnson Myers
 Brown Forman Kirkpatrick Plummer
 Bruner Gardner Kiser Souto
 Casas Girardeau Kurth Thurman
 Childers Gordon Langley Walker
 Dantzler Grant Malchon Weinstein
 Davis Grizzle McKay Yancey

Nays—None

Vote after roll call:

Yea—Weinstock

CS for SB 1578

Nays—None

Vote after roll call:

Yea—Davis

CS for SB 688

Yeas—32

Bankhead Diaz-Balart Jennings Meek
 Beard Dudley Johnson Myers
 Brown Forman Kirkpatrick Plummer
 Bruner Gardner Kiser Souto
 Casas Girardeau Kurth Thurman
 Crotty Gordon Langley Walker
 Dantzler Grant Malchon Weinstein
 Davis Grizzle McKay Yancey

Yeas—34

Madam President Dantzler Grizzle Plummer
 Bankhead Davis Jennings Souto
 Beard Diaz-Balart Johnson Thomas
 Brown Dudley Kirkpatrick Thurman
 Bruner Forman Kiser Walker
 Casas Gardner Kurth Weinstein
 Childers Girardeau Langley Yancey
 Crenshaw Gordon Malchon
 Crotty Grant Myers

Nays—None

Nays—None

Vote after roll call:

Yea—Childers

CS for SB 724—Amendment 2

Yeas—17

Madam President Grant Meek Wexler
 Beard Grizzle Myers Yancey
 Bruner Jennings Scott
 Dantzler Johnson Souto
 Gordon Malchon Weinstein

CS for SB 1672

Yeas—37

Madam President	Davis	Johnson
Bankhead	Diaz-Balart	Kirkpatrick
Beard	Dudley	Kiser
Brown	Forman	Kurth
Bruner	Gardner	Langley
Casas	Girardeau	Malchon
Childers	Gordon	Meek
Crenshaw	Grant	Myers
Crotty	Grizzle	Plummer
Dantzler	Jennings	Souto

Nays—None

CS for SB 1804

Yeas—33

Madam President	Diaz-Balart	Kirkpatrick	Thurman
Bankhead	Dudley	Kiser	Walker
Beard	Gardner	Langley	Weinstein
Brown	Girardeau	Malchon	Weinstock
Bruner	Grant	McKay	Wexler
Childers	Grizzle	Meek	Yancey
Crotty	Jenne	Myers	
Dantzler	Jennings	Souto	
Davis	Johnson	Thomas	

Nays—None

CS for SB 1834

Yeas—23

Madam President	Gardner	Kirkpatrick	Scott
Casas	Girardeau	Malchon	Souto
Crenshaw	Gordon	McKay	Weinstein
Diaz-Balart	Grizzle	Meek	Weinstock
Dudley	Jenne	Myers	Wexler
Forman	Johnson	Plummer	

Nays—14

Bankhead	Dantzler	Kurth	Walker
Brown	Davis	Langley	Yancey
Childers	Grant	Thomas	
Crotty	Jennings	Thurman	

Vote after roll call:

Nay—Beard

CS for SB 1850

Yeas—36

Madam President	Davis	Johnson	Scott
Bankhead	Diaz-Balart	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Brown	Forman	Kurth	Thurman
Bruner	Girardeau	Langley	Walker
Casas	Gordon	Malchon	Weinstein
Childers	Grant	Meek	Weinstock
Crotty	Grizzle	Myers	Wexler
Dantzler	Jennings	Plummer	Yancey

Nays—None

CS for SB 1852

Yeas—38

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Brown	Forman	Kurth	Walker
Bruner	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Childers	Gordon	Meek	Wexler
Crenshaw	Grant	Myers	Yancey
Crotty	Grizzle	Plummer	
Dantzler	Jennings	Scott	

Nays—None

CS for SB 1932

Yeas—36

Madam President	Diaz-Balart	Jennings	Plummer
Bankhead	Dudley	Johnson	Scott
Brown	Forman	Kiser	Souto
Bruner	Gardner	Kurth	Thomas
Casas	Girardeau	Langley	Thurman
Childers	Gordon	Malchon	Weinstein
Crotty	Grant	McKay	Weinstock
Dantzler	Grizzle	Meek	Wexler
Davis	Jenne	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for CS for SB 2040

Yeas—28

Madam President	Crotty	Grant	Malchon
Bankhead	Dantzler	Grizzle	Meek
Beard	Diaz-Balart	Jennings	Myers
Bruner	Dudley	Kirkpatrick	Thomas
Casas	Forman	Kiser	Thurman
Childers	Girardeau	Kurth	Walker
Crenshaw	Gordon	Langley	Yancey

Nays—5

Brown	Gardner	Plummer
Davis	Johnson	

CS for SB 2214

Yeas—33

Bankhead	Dudley	Johnson	Souto
Beard	Forman	Kirkpatrick	Thurman
Brown	Gardner	Kiser	Weinstein
Bruner	Girardeau	Kurth	Weinstock
Casas	Gordon	Langley	Wexler
Crenshaw	Grant	Malchon	Yancey
Crotty	Grizzle	Meek	
Davis	Jenne	Myers	
Diaz-Balart	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Childers

CS for CS for CS for SB 2306

Yeas—31

Madam President	Dudley	Kurth	Souto
Bankhead	Forman	Langley	Thurman
Brown	Gardner	Malchon	Walker
Casas	Girardeau	McKay	Weinstein
Crotty	Gordon	Meek	Weinstock
Dantzler	Grizzle	Myers	Wexler
Davis	Jennings	Plummer	Yancey
Diaz-Balart	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick

ROLL CALLS ON HOUSE BILLS

CS for CS for HB 109

Yeas—22

Madam President	Gardner	Kurth	Thurman
Beard	Gordon	Meek	Walker
Brown	Grant	Myers	Weinstock
Casas	Grizzle	Plummer	Yancey
Davis	Johnson	Scott	
Dudley	Kiser	Souto	

Nays—2

Bruner Langley

CS for HB 257

Yeas—35

Madam President	Diaz-Balart	Jennings	Plummer
Bankhead	Dudley	Johnson	Scott
Beard	Forman	Kiser	Souto
Brown	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crotty	Grant	McKay	Weinstock
Dantzler	Grizzle	Meek	Wexler
Davis	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 309

Yeas—34

Bankhead	Dudley	Kiser	Souto
Beard	Forman	Kurth	Thomas
Bruner	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Walker
Childers	Gordon	McKay	Weinstein
Crotty	Grant	Meek	Weinstock
Dantzler	Grizzle	Myers	Wexler
Davis	Jenne	Plummer	
Diaz-Balart	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Yancey

CS for HB 771

Yeas—34

Madam President	Dantzler	Grizzle	Plummer
Bankhead	Davis	Jennings	Souto
Beard	Diaz-Balart	Johnson	Thomas
Brown	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Casas	Gardner	Langley	Weinstein
Childers	Girardeau	Malchon	Yancey
Crenshaw	Gordon	Meek	
Crotty	Grant	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for HB 803

Yeas—37

Madam President	Brown	Childers	Davis
Bankhead	Bruner	Crotty	Diaz-Balart
Beard	Casas	Dantzler	Dudley

Forman	Jennings	Meek	Weinstein
Gardner	Johnson	Myers	Weinstock
Girardeau	Kiser	Plummer	Wexler
Gordon	Kurth	Scott	Yancey
Grant	Langley	Souto	
Grizzle	Malchon	Thurman	
Jenne	McKay	Walker	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 845

Yeas—30

Madam President	Davis	Grizzle	Myers
Bankhead	Diaz-Balart	Jennings	Souto
Beard	Dudley	Johnson	Thurman
Brown	Forman	Kirkpatrick	Walker
Bruner	Gardner	Kiser	Weinstein
Crenshaw	Girardeau	Kurth	Yancey
Crotty	Gordon	Langley	
Dantzler	Grant	Meek	

Nays—None

Vote after roll call:

Yea—Childers

CS for CS for HB 1265

Yeas—32

Madam President	Davis	Grizzle	Meek
Bankhead	Diaz-Balart	Jennings	Myers
Brown	Dudley	Johnson	Plummer
Bruner	Forman	Kirkpatrick	Scott
Casas	Gardner	Kiser	Souto
Crenshaw	Girardeau	Kurth	Thurman
Crotty	Gordon	Langley	Walker
Dantzler	Grant	Malchon	Weinstein

Nays—None

Vote after roll call:

Yea—Childers

CS for HB 1613

Yeas—34

Madam President	Davis	Kiser	Thomas
Bankhead	Dudley	Kurth	Thurman
Beard	Gardner	Langley	Walker
Brown	Girardeau	Malchon	Weinstein
Bruner	Gordon	Meek	Weinstock
Casas	Grant	Myers	Wexler
Childers	Grizzle	Plummer	Yancey
Crotty	Jennings	Scott	
Dantzler	Johnson	Souto	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for CS for HB 1681

Yeas—32

Madam President	Davis	Grizzle	Myers
Bankhead	Diaz-Balart	Johnson	Plummer
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kurth	Thomas
Bruner	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	McKay	Weinstock
Crotty	Grant	Meek	Yancey

Nays—None

HB 1809

Yeas—28

Madam President	Diaz-Balart	Jennings	Plummer
Bankhead	Dudley	Johnson	Souto
Beard	Forman	Kiser	Walker
Brown	Girardeau	Kurth	Weinstein
Bruner	Grant	Langley	Weinstock
Dantzler	Grizzle	Malchon	Wexler
Davis	Jenne	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick

CS for HB 1983

Yeas—37

Madam President	Davis	Johnson	Thomas
Bankhead	Diaz-Balart	Kirkpatrick	Thurman
Beard	Dudley	Kiser	Walker
Brown	Forman	Kurth	Weinstein
Bruner	Gardner	Malchon	Weinstock
Casas	Girardeau	Meek	Wexler
Childers	Gordon	Myers	Yancey
Crenshaw	Grant	Plummer	
Crotty	Grizzle	Scott	
Dantzler	Jennings	Souto	

Nays—1

Langley

CS for CS for CS for HB's 2157 and 1871

Yeas—40

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Scott
Beard	Dudley	Kirkpatrick	Souto
Brown	Forman	Kiser	Thomas
Bruner	Gardner	Kurth	Thurman
Casas	Girardeau	Langley	Walker
Childers	Gordon	Malchon	Weinstein
Crenshaw	Grant	McKay	Weinstock
Crotty	Grizzle	Meek	Wexler
Dantzler	Jenne	Myers	Yancey

Nays—None

HB 2397

Yeas—36

Madam President	Davis	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Brown	Forman	Kiser	Thurman
Bruner	Gardner	Langley	Walker
Casas	Girardeau	Malchon	Weinstein
Childers	Gordon	Meek	Weinstock
Crotty	Grant	Myers	Wexler
Dantzler	Grizzle	Plummer	Yancey

Nays—None

CS for HB 2497

Yeas—35

Madam President	Davis	Jennings	Plummer
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thurman
Brown	Forman	Kiser	Walker
Bruner	Gardner	Kurth	Weinstein
Casas	Girardeau	Langley	Weinstock
Crenshaw	Grant	Malchon	Wexler
Crotty	Grizzle	Meek	Yancey
Dantzler	Jenne	Myers	

Nays—1

Gordon

HB 2511

Yeas—33

Madam President	Davis	Jennings	Thurman
Bankhead	Diaz-Balart	Johnson	Walker
Brown	Dudley	Kirkpatrick	Weinstein
Bruner	Forman	Kiser	Weinstock
Casas	Gardner	Kurth	Wexler
Childers	Girardeau	Langley	Yancey
Crenshaw	Grant	Malchon	
Crotty	Grizzle	Meek	
Dantzler	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Souto

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 24 was corrected and approved.

CO-SPONSORS

Senator Thurman withdrew as a co-sponsor of SB 1482.

RECESS

On motion by Senator Thomas, the Senate recessed at 4:06 p.m. to reconvene at 9:00 a.m., Friday, April 26, or upon call of the President.