



Journal of the Senate

Number 8—Special Session H

Thursday, June 18, 1992

CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—37:

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

Excused: Senators Gordon and Grizzle

PRAYER

The following prayer was offered by James C. Vaughn, Jr., Reading Clerk:

Almighty God, unto whom all hearts are known and from whom no secrets are hidden, before beginning the business of the day, we pause to present ourselves to you as bad children before a good parent and as an empty pitcher before a full fountain, asking that you consecrate our hearts, purify our motives, sanctify our actions and constrain our selfishness through the inspiration of thy Holy Spirit.

Lord, use this legislative body as an instrument of your will, as a conduit of your grace, as a channel of your love and as an everflowing stream of your righteousness.

In the beneficent name of Elohim, Shalom.

COMMUNICATION FROM THE GOVERNOR

June 18, 1992

The Honorable Gwen Margolis
President of the Florida Senate

The Honorable T. K. Wetherell
Speaker of the Florida House
of Representatives

Dear Madam President and Mr. Speaker:

Pursuant to the provisions of Section 11.011, Florida Statutes, I request that the purpose of the Special Session of the Legislature of the State of Florida, convened by your Joint Proclamation, dated April 29, 1992, include, in addition to the matters set forth in your Joint Proclamation and my requests of May 29, 1992, June 1, 1992, and June 4, 1992, the following:

Changing the effective date of Chapter 92-279, Laws of Florida, from January 1, 1993, to July 1, 1992, except Sections 322, 323, 324, and 325 thereof, which became effective upon Chapter 92-279 becoming a law.

Thank you for including this additional matter in this Special Session.

With kind regards, I am

Respectfully,
Lawton Chiles
Governor

CONSIDERATION OF RESOLUTION

On motion by Senator Souto, by the required constitutional two-thirds vote of the Senate the following resolution was admitted for introduction:

By Senator Souto—

SR 262-H—A resolution honoring Jose A. "Pepin" Prieto, an active member of the Lions International Club for over 50 years and of many other civic organizations.

WHEREAS, Jose A. "Pepin" Prieto enrolled more than 300 members in the Lions Club in Cuba, held numerous positions as a Lion, from member to governor, and was the Vice President of the Governor's Council Board, and

WHEREAS, the Board of Directors of the International Lions Club granted Mr. Prieto the lifetime title of "International Counselor," and

WHEREAS, Mr. Prieto was very active in sports in Cuba where he cofounded an amateur baseball league team, organized sports parks for baseball games, helped athletes to get into sports, had an amateur boxing team, won many boxing championships, was an outstanding boxing manager, and was President of the Boxing Managers Union, and

WHEREAS, Mr. Prieto came to Miami in 1960, founded 15 Lions Clubs, enrolled over 250 new members, and helped many fellow Cubans begin new lives in this country, and

WHEREAS, Mr. Prieto organized toy drives for disadvantaged children, helped the visually impaired, helped sick and disadvantaged people, and helped abused and neglected children and many other people, and

WHEREAS, Mr. Prieto founded the City of Miami Youth Athletic Association, cofounded the Miami Amateur Baseball Association, and founded the Florida Lions Athletic Association, and

WHEREAS, Mr. Prieto is Chapter President of the Miami-Havana Lions Club; Secretary of the Miami-Havana Lions Club; Chairman of the Sports Project of the Lions District 35A; President of the Sunburn National Baseball Association; President of the City of Miami Youth Baseball Academy; Executive Director of the Miami Amateur Baseball Association; President of the Florida Lions Athletic Association; Extension Chairman of the Lions District 35A; President of the Past Governors of the Lions International; Board Member of the Past Governors District 35A; Past Goodwill Ambassador of the Lions Club District 35A; and Past President of the Council of Cuban Governors in Exile, and

WHEREAS, Mr. Prieto is in "El Hall de la fama del Boxeo Cubano" and won "La Copa Dorada Deportiva," and

WHEREAS, Mr. Prieto has received over 150 Lions merit medals, NOW, THEREFORE,

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

That this legislative body does express its appreciation of the many and lengthy civic contributions by Jose A. "Pepin" Prieto.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Mr. Prieto in recognition of his service to the Lions and to other civic organizations.

—was introduced out of order and read by title. On motion by Senator Souto, SR 262-H was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thomas, by two-thirds vote **CS for HB 109-H** was withdrawn from the Committees on Criminal Justice and Appropriations; **CS for HB 241-H** was withdrawn from the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations; **HB 317-H** was withdrawn from the Committees on Education; and Finance, Taxation and Claims; **CS for SB 100-H** was withdrawn from the Committee on Appropriations; and **SB 198-H** was withdrawn from the Committee on Education.

On motions by Senator Gardner, by two-thirds vote **HB 21-H**, **CS for SB 178-H**, **CS for SB 66-H**, **SB 162-H** and **SB 188-H** were withdrawn from the Committee on Appropriations.

On motions by Senator Malchon, by two-thirds vote **SB 148-H** was withdrawn from the committees of reference and further consideration.

On motion by Senator Dudley, by two-thirds vote **CS for SB 30-H** was withdrawn from the Committee on Community Affairs.

On motions by Senator Grant, by two-thirds vote **SB 254-H** was withdrawn from the committees of reference and further consideration.

On motion by Senator Thomas, by two-thirds vote **HB 145-H** was withdrawn from the Committee on Rules and Calendar.

MOTIONS

On motions by Senator Thomas, by two-thirds vote the following bills were placed on the Special Order Calendar for this day; and provisions of Rule 2.39 relating to two-hour notice of amendments to be considered by a committee were waived: **CS for CS for SB 208-H**, **CS for HB 109-H**, **CS for HB 241-H**, **HB 317-H**, **HB 367-H**, **CS for SB 100-H**, **CS for SB 196-H** and **SB 198-H**.

On motion by Senator Thomas, by two-thirds vote, all bills remaining on the Special Order Calendar this day were placed on the Special Order Calendar for Monday, June 22.

SPECIAL ORDER

Senator Weinstock moved that consideration of **CS for CS for SB 50-H** be deferred. The motion failed.

CS for CS for SB 50-H—A bill to be entitled An act relating to medical practice; amending s. 7, ch. 92-178, Laws of Florida; providing definitions; providing for disciplinary proceedings and penalties against certain hospitals; amending s. 8, ch. 92-178, Laws of Florida; prohibiting kickbacks; providing for administrative penalties and disciplinary actions; amending s. 9, ch. 92-178, Laws of Florida; prohibiting markups; providing for administrative penalties and disciplinary actions; amending s. 10, ch. 92-178, Laws of Florida; providing for licensure of facilities providing specified health care services; exempting certain licensed facilities and certain licensed professionals; amending s. 455.25, F.S., as amended by s. 13, ch. 92-178, Laws of Florida; prohibiting health care providers from referring patients to certain entities under certain conditions; amending s. 15, ch. 92-178, Laws of Florida; providing for applicability of ss. 7-16, ch. 92-178, Laws of Florida, to certain referrals for designated health services; directing the Agency for Health Care Administration to conduct annual studies relating to fees charged by certain health care facilities for certain services; requiring a report on the agency's findings and recommendations; repealing s. 16, ch. 92-178, Laws of Florida, which imposes a fee schedule for certain designated health services; revising the priority for adoption of practice parameters developed pursuant to ch. 92-178, Laws of Florida, for providers of certain services; exempting hospitals licensed under ch. 395, F.S., and certain affiliated health services from this act and from ch. 92-178, Laws of Florida, providing certain services as specified; exempting certain entities that provide diagnostic imaging services from ch. 92-178, Laws of Florida; requiring the exempted entities to submit to rate review and utilization review by the Agency for Health Care Administration; prescribing duties of the Agency for Health Care Administration with respect to the act; requiring a study of physician ownership of hospitals and related issues pursuant to s. 408.061, F.S.; directing the Agency for Health Care Administration to conduct annual study of charges by certain radiation therapy providers; requiring the Agency for Health Care Administration to establish fees for radiation therapy procedures performed by certain radiation therapy providers

upon a finding that charges for such procedures exceed a specified amount; establishing a maximum fee schedule for radiation therapy procedures for certain radiation therapy providers; providing penalties for charging fees that exceed fees contained in the established fee schedule; repealing s. 11 of ch. 92-178, Laws of Florida, relating to fee schedules for radiation therapy health care providers; amending s. 14 of ch. 92-178, Laws of Florida, revising an appropriation; providing for severability; repealing ss. 458.327(2)(c), 459.013(3)(b) and (c), F.S., which provide criminal penalties for a physician who makes certain referrals; repealing s. 458.331(1)(i), F.S., relating to grounds for disciplinary action with respect to a physician who makes certain referrals; transferring and renumbering s. 407.61, F.S., as created by s. 12 of ch. 92-178, Laws of Florida; providing an effective date.

—was read the second time by title.

Senator Weinstock moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Subsections (3) and (4) of section 7 of chapter 92-178, Laws of Florida, are amended to read:

Section 7. Financial arrangements between referring health care providers and providers of health care services.—

(3) DEFINITIONS.—As used in this section and sections 7, 8, 9, 10, and 15 of chapter 92-178, Laws of Florida, as amended by this act ~~For the purpose of this section, the word, phrase, or term:~~

(a) "Board" means any of the following boards relating to the respective professions: the Board of Medicine as created in section 458.307, Florida Statutes; the Board of Osteopathic Medical Examiners as created in section 459.004, Florida Statutes; the Board of Chiropractic as created in section 460.404, Florida Statutes; the Board of Podiatric Medicine as created in section 461.004, Florida Statutes; the Board of Optometry as created in section 463.003, Florida Statutes; the Board of Pharmacy as created in section 465.004, Florida Statutes; and the Board of Dentistry as created in section 466.004, Florida Statutes.

(b) "Comprehensive rehabilitation services" means services that are provided by health care professionals licensed under part I or part III of chapter 468 or chapter 486 to provide speech, occupational, or physical therapy services on an outpatient or ambulatory basis.

(c) "Department" means the Department of Professional Regulation.

(d) "Designated health services" means, ~~for purposes of this section,~~ clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic imaging services, and radiation therapy services.

(e) "Entity" means any individual, partnership, firm, corporation, or other business entity.

(f) "Fair market value" means value in arms length transactions, consistent with the general market value, and, with respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use, and, in the case of a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor where the lessor is a potential source of patient referrals to the lessee.

(g) "Group practice" means a group of two or more health care providers legally organized as a partnership, professional corporation, *foundation*, *not-for-profit corporation*, or similar association:

1. In which each health care provider who is a member of the group practice provides substantially the full range of services ~~that each~~ ~~which~~ the health care provider routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

2. For which substantially all of the services of the health care providers who are members of the group practice are provided through the group practice and are billed in the name of the group practice and amounts so received are treated as receipts of the group practice; and

3. In which the overhead expenses of and the income from the group practice are distributed in accordance with methods previously determined by members of the group practice ~~and the distribution of income is not based on the referral of patients for designated services.~~

Health care providers practicing different medical specialties who organize into a multi-specialty group practice meet the definition of group practice if they meet the requirements of subparagraphs 2. and 3.

~~(h) "HCCCB" means the Health Care Cost Containment Board as created in section 407.01, Florida Statutes.~~

~~(h)(i) "Health care provider" means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, or any health care provider licensed under chapter 463 or chapter 466, Florida Statutes.~~

~~(i)(j) "Immediate family member" means a health care provider's spouse, child, child's spouse, grandchild, grandchild's spouse, parent, parent-in-law, or sibling.~~

~~(j)(k) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. Except for purposes of section 13 19 of chapter 92-178, Laws of Florida, as amended by this act, the following investment interests are excluded shall be excepted from this definition:~~

1. An investment interest in an entity that is the sole provider of designated health services in a rural area;

2. An investment interest in notes, bonds, debentures, or other debt instruments issued by an entity ~~that which~~ provides designated health services, as an integral part of a plan by such entity to acquire such investor's equity investment interest in the entity, provided that the interest rate is consistent with fair market value, and that the maturity date of the notes, bonds, debentures, or other debt instruments issued by the entity to the investor is not later than October 1, 1996.

3. An investment interest in real property resulting in a landlord-tenant relationship between the health care provider and the entity in which the equity interest is held, unless the rent is determined, in whole or in part, by the business volume or profitability of the tenant or exceeds fair market value.;

4. An investment interest obtained before May 1, 1992, in an entity ~~that which~~ owns and operates, or leases and operates, a hospital licensed under chapter 395, Florida Statutes, or a nursing home facility licensed under chapter 400, Florida Statutes, but only if the investor owning that investment interest is prohibited by the entity from referring patients for any designated health service that the hospital first begins to provide, or expands, after May 1, 1992.

5. An investment interest in an entity that owns and operates, or leases and operates, a hospital licensed under chapter 395, Florida Statutes, or a nursing home facility licensed under chapter 400, Florida Statutes, if the investment interest is limited to registered securities as described in subparagraph (4)(b)1.

~~(k)(l) "Investor" means a person or entity that owns owning a legal or beneficial ownership or investment interest in an entity, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. subsection 413.17, in an entity.~~

~~(l)(m) "Referral" means any referral of a patient by a health care provider for health care services, including, without limitation:~~

1. The forwarding of a patient by a health care provider to another health care provider or to an entity ~~that which~~ provides or supplies designated health services or any other health care item or service; or

2. The request or establishment of a plan of care by a health care provider, which includes the provision of designated health services or other health care item or service.

3. Except for the purposes of section 13 19 of chapter 92-178, Laws of Florida, as amended by this act, ~~the following~~ orders, recommendations, or plans of care do ~~shall~~ not constitute a referral by a health care provider if made:

a. By a radiologist for diagnostic imaging services.;

b. By a physician specializing in the provision of radiation therapy services for such services.;

c. By a medical oncologist for drugs and solutions to be prepared and administered intravenously to such oncologist's patient, as well as for the supplies and equipment used in connection therewith to treat such patient for cancer or ~~and~~ the complications thereof.;

d. By a cardiologist for cardiac catheterization services.;

~~e. By a pathologist for diagnostic clinical laboratory tests and pathological examination services, if furnished by or under the supervision of such pathologist pursuant to a consultation requested by another physician; or~~

f. By a health care provider who is the sole provider or member of a group practice for designated health services or other health care items or services that are prescribed or provided solely for such referring health care provider's or group practice's own patients, and that are provided or performed by or under the direct supervision of such referring health care provider or group practice.

g. By a health care provider for services provided by an ambulatory surgical center licensed under chapter 395, Florida Statutes, so long as those services are performed by that provider.

~~h. By a health care provider for diagnostic clinical laboratory services that where such services~~ are directly related to renal dialysis.

i. By a urologist for lithotripsy services.

j. By a dentist for dental services performed by an employee of or health care provider who is an independent contractor with the dentist or group practice of which the dentist is a member.

k. By a physician for infusion therapy services to a patient of that physician or a member of that physician's group practice.

l. By a nephrologist for renal dialysis services and supplies.

~~(m)(n) "Rural area" means a county that has with a population density of no greater than 100 persons per square mile, as defined by the United States Census.~~

~~(4) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as provided in this section:~~

~~(a) Except as provided in this section, a health care provider may not refer a patient for the provision of designated health services to an entity in which the health care provider is an investor or has an investment interest.~~

~~(b) Except as provided in this section, a health care provider may not refer a patient for the provision of any other health care item or service to an entity in which the health care provider is an investor unless:~~

1.a. The provider's investment interest is in registered securities purchased on a national exchange or over-the-counter market and issued by a publicly held corporation:

~~(I)a. Whose shares are traded on a national exchange or on the over-the-counter market; and~~

~~(II)b. Whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million; or~~

~~b.2. With respect to an entity other than a publicly held corporation described in sub-subparagraph a. subparagraph 1., and with respect to a referring provider's investment interest in such entity, each of the following requirements are met:~~

~~(I)a. No more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the entity.;~~

~~(II)b. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are no different from the terms offered to investors who are not in a position to make such referrals.;~~

~~(III)c. The terms under which an investment interest is offered to an investor who is in a position to make referrals to the entity are not related to the previous or expected volume of referrals from that investor to the entity; and;~~

~~(IV)d. There is no requirement that an investor make referrals or be in a position to make referrals to the entity as a condition for becoming or remaining an investor; and;~~

2.3. With respect to either such entity or publicly held corporation:

a. The entity or corporation does not loan funds to or guarantee a loan for an investor who is in a position to make referrals to the entity or corporation if the investor uses any part of such loan to obtain the investment interest; and-

b. The amount distributed to an investor representing a return on the investment interest is directly proportional to the amount of the capital investment, including the fair market value of any preoperational services rendered, invested in the entity or corporation by that investor.

(c)4. Each board and, in the case of hospitals, the Department of Health and Rehabilitative Services ~~must, shall~~ encourage the use by licensees of the declaratory statement procedure to determine the applicability of this section or any rule adopted pursuant to this section as it applies solely to the licensee. Boards shall submit to the Department of Health and Rehabilitative Services the name of any entity in which a provider investment interest has been approved pursuant to this section, and the Department of Health and Rehabilitative Services shall adopt rules providing for periodic quality assurance and utilization review of such entities.

(d)(e) A No claim for payment may *not* be presented by an entity to any individual, third-party payor, or other entity for a service furnished pursuant to a referral prohibited under this section.

(e)(d) If an entity collects any amount that was billed in violation of this section, the entity ~~must shall~~ refund such amount ~~on a timely basis~~ to the payor or individual, ~~as whichever is applicable~~.

(f)(e) Any person that presents or causes to be presented a bill or a claim for service that such person knows or should know is for a service for which payment may not be made under paragraph (d)(e), or for which a refund has not been made under paragraph (e)(d), ~~is shall~~ be subject to a civil penalty of not more than \$15,000 for each such service. *This civil penalty is to be imposed and collected by the appropriate board.*

(g)(f) Any health care provider or other entity that enters into an arrangement or scheme, such as a cross-referral arrangement, which the physician or entity knows or should know has a principal purpose of assuring referrals by the physician to a particular entity which, if the physician directly made referrals to such entity, would be in violation of this section, ~~is shall~~ be subject to a civil penalty of not more than \$100,000 for each such circumvention arrangement or scheme. *This civil penalty is to be imposed and collected by the appropriate board.*

(h)(g) A violation of this section by a health care provider ~~constitutes shall constitute~~ grounds for disciplinary action to be taken by the applicable board pursuant to section 458.331(2), section 459.015(2), section 460.413(2), section 461.013(2), section 463.016(2), or section 466.028(2), Florida Statutes. Any hospital licensed under chapter 395, Florida Statutes, found in violation of this section ~~is shall~~ be subject to the rules adopted by the Department of Health and Rehabilitative Services pursuant to section 395.0185(2), Florida Statutes.

(i)(h) Any hospital licensed under chapter 395, Florida Statutes, that discriminates against or otherwise penalizes a health care provider for compliance with *this section, is subject to the imposition of an administrative penalty not to exceed \$15,000 and the initiation of other disciplinary proceedings, including revocation of its license, brought by the governmental agency authorized to issue its license this act.*

(j)(i) ~~The provision of Paragraph (a) does shall~~ not apply to referrals to the offices of radiation therapy centers managed by an entity or subsidiary or general partner thereof, which performed radiation therapy services at those same offices ~~before prior to~~ April 1, 1991, and ~~does shall~~ not apply also to referrals for radiation therapy to be performed at no more than one additional office of any entity qualifying for the foregoing exception which, ~~before prior to~~ February 1, 1992, had a binding purchase contract on and a nonrefundable deposit paid for a linear accelerator to be used at the additional office. The physical site of the radiation treatment centers affected by ~~this paragraph provision~~ may be relocated as a result of the following factors: acts of God,; fire,; strike,; accident,; war,; eminent domain actions by any governmental body,; or refusal by the lessor to renew a lease. A relocation for the foregoing reasons is limited to relocation of an existing facility to a replacement location within the county of the existing facility upon written notification to the Office of Licensure and Certification.

(k)(j) A health care provider who meets the requirements of paragraphs (b) and (j)(i) ~~must disclose his investment interest to his patients as provided in section 455.25, Florida Statutes s. 455.25.~~

Section 2. Section 8 of chapter 92-178, Laws of Florida, is amended to read:

Section 8. Kickbacks prohibited.—

(1) As used in this section, the term "kickback" means a remuneration or payment back pursuant to an investment interest, compensation arrangement, or otherwise, by a provider of health care services or items, of a portion of the charges for services rendered to a referring health care provider as an incentive or inducement to refer patients for future services or items, when the payment is not tax deductible as an ordinary and necessary expense.

(2)(a) It is unlawful for any health care provider *licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, or any provider of health care services* to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.

(b) *A health care provider who violates this section is subject to an administrative penalty to be imposed and collected by the board licensing the provider. The penalty must not exceed \$15,000 for each kickback. A health care provider who violates this section is also subject to disciplinary action, including license revocation, by its licensing board.*

Section 3. Section 9 of chapter 92-178, Laws of Florida, is amended to read:

Section 9. Markup on charges prohibited.—

(1) A health care provider *licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, is prohibited from charging a markup or commission may not charge an additional amount for ancillary services rendered by others an entity outside of that provider's practice. A health care provider may charge an acquisition fee or professional interpretation and processing. However, a handling fee, or both, for each patient referred of no more than \$2 may be charged as long as the fee or fees are each charge is separately disclosed and itemized as part of the provider's bill for services.*

(2) *A health care provider who violates this section is subject to an administrative penalty to be fixed, imposed, and collected by the board licensing the provider. The penalty must not exceed \$15,000 for each markup. A health care provider who violates this section is also subject to disciplinary action, including license revocation, by its licensing board.*

Section 4. Section 10 of chapter 92-178, Laws of Florida, is amended to read:

Section 10. *Facilities providing designated health care services; licensure required.—*

(1) *Effective October 1, 1992, the Agency for Health Care Administration shall license pursuant to this section a facility in which radiation therapy services, diagnostic imaging services, or physical therapy services are provided unless these services are provided by:*

(a) *A hospital licensed under chapter 395, Florida Statutes;*

(b) *A nursing home licensed under chapter 400, Florida Statutes;*

(c) *An individual physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes; or*

(d) *A facility that is wholly owned and operated by physicians who are licensed pursuant to chapter 458, chapter 459, chapter 460, or chapter 461, Florida Statutes, and who practice in the same group practice.*

(2)(1) ~~A facility that An entity, as defined in section 7 of this act, which furnishes services as provided in subsection (1) must be designated health care services may not operate in this state unless licensed under this section to operate in this state by the Department of Health and Rehabilitative Services pursuant to subsection (2).~~

(3)(2) ~~The Agency for Health Care Administration department shall adopt rules for licensing the facility requirements for designated health care services including, but not limited to, rules providing for:~~

(a) A licensure fee of not less than \$400 and not more than \$1,500, to be assessed annually;

(b) Parameters of quality with respect to the provision of ancillary services by respective entities;

(c) Periodic inspection of the facilities of an entity for the purpose of evaluating the premises, operation, supervision, and procedures of the entity to ensure compliance with quality parameters as established by rule in department rules; and

(d) The submission by an entity of information on its ownership, including identification of both direct and indirect the owners who are health care providers, as defined in section 455.251, Florida Statutes, and their each investor's percentage of ownership.

(4) A facility that operates in violation of this section is subject to an administrative penalty to be imposed and collected by the agency. The penalty must not exceed \$15,000 for each violation.

Section 5. Section 455.25, Florida Statutes, as amended by section 13 of chapter 92-178, Laws of Florida, is amended to read:

455.25 Disclosure of financial interest by practitioner production.—

(1) A health care provider may shall not refer a patient to an entity in which such provider is an investor, as defined in section 7 of chapter 92-178, Laws of Florida, as amended by this act, unless, prior to the referral, the provider furnishes the patient with a written disclosure form, informing the patient of:

(a) The existence of the investment interest, as defined in section 7 of chapter 92-178, Laws of Florida, as amended by this act.

(b) The name and address of each applicable entity in which the referring health care provider is an investor.

(c) When applicable, the requirement to limit charges as provided in this act.

(d)(e) The patient's right to obtain the items or services for which the patient has been referred at the location or from the provider or supplier of the patient's choice, including the entity in which the referring provider is an investor.

(e)(d) The names and addresses of at least two alternative sources of such items or services available to the patient.

(2) An entity, other than a hospital licensed under chapter 395 or a nursing home licensed under chapter 400, may not provide items or services to a patient unless, before providing the item or service, the entity obtains the signature of the patient on a written disclosure form informing the patient of:

(a) The existence or nonexistence of any financial relationship with the health care provider who referred the patient;

(b) A schedule of typical fees for items or services usually provided by the entity or, if impracticable because of the nature of the treatment, a written estimate specific to the patient;

(c) The patient's right to obtain the items or services for which the patient has been referred at a location or from a supplier of the patient's choice, including an entity with which the referring health care provider may have a financial relationship.

(d) The names, addresses, and telephone numbers of at least two reasonable alternative sources of such items or services available to the patient.

(3) The health care provider and the entity shall post a copy of their respective disclosure forms in conspicuous public places in the offices.

(4) A violation of this section constitutes shall constitute a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition to any other penalties or remedies provided, a violation of this section constitutes shall be grounds for disciplinary action by the respective board.

Section 6. Section 15 of chapter 92-178, Laws of Florida, is amended to read:

Section 15. Sections 7, 8, 9, 10, 12, 13, 14, and 15 of chapter 92-178, Laws of Florida, as amended by this act, shall apply to referrals for desig-

nated health services made on or after April 8, 1992 the effective date of this act, provided that with respect to an investment interest acquired before May 1, 1992, paragraph (a) of subsection (4) of section 7 of chapter 92-178, Laws of Florida, as amended by this act, does shall not apply to referrals for designated health services occurring before July October 1, 1994 1995, and provided, further, that paragraphs (b)-(h) (b)-(g) of subsection (4) of section 7 of chapter 92-178, Laws of Florida, as amended by this act, are shall be effective on July 1, 1994 1992, and provided further, that with respect to a facility which is providing a designated health service or other health care items or service which received its certificate of occupancy and began providing that service at that facility after May 1, 1991, and before January 1, 1992, section 7(4)(a)-(g) inclusive of this act shall not apply to referrals for such designated health services and other items or services occurring before October 1, 1996.

Section 7. Fee limitations for charges by certain providers.—

(1) The Legislature finds and declares that rapidly increasing health care costs threaten access to necessary health care services. Efforts by the Legislature to encourage competition and market forces have proven unsuccessful in controlling health care inflation in many areas. Market competition in health care has also not ensured access to necessary health services to the medically indigent. Therefore, it is the intent of the Legislature to limit certain health care costs by creating fee schedules for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services. In establishing fee schedules, the Legislature intends to minimize administrative costs, by using existing fee schedules as adopted by the Medicare program as a base, and to provide a remedy for health care professionals who treat a greater than average percentage of charity or Medicaid patients, or for health care providers who experience an undue financial hardship, in the form of higher fees after review, by the Agency for Health Care Administration, of certain factors that result in adjustment of the fee schedule such providers must adhere to.

(2) Effective July 1, 1994, if the Legislature fails to take action on the findings and recommendations contained in the study required under section 9 of this act, there is imposed a fee schedule on all providers of clinical laboratory services licensed under chapter 483, Florida Statutes, and providers of diagnostic imaging services and radiation therapy services licensed under this act, including professional and technical components, except a hospital licensed under chapter 395, Florida Statutes, or its affiliated health services which excludes physician ownership or investment, a nursing home licensed under chapter 400, Florida Statutes, and the not-for-profit research institute established by section 240.512, Florida Statutes. However, an entity, other than a hospital licensed under chapter 395, Florida Statutes, or a nursing home licensed under chapter 400, Florida Statutes, providing clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services whose investors include any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, who makes referrals is subject to the fee schedule in effect on October 1, 1992. The fee schedule shall apply in all settings and to all clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services provided to any person who is not a recipient of benefits under title XVIII or XIX of the Social Security Act. This section does not limit the ability of any purchaser of clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services to negotiate a rate that is below the fee schedules set forth in this section.

(3) The maximum fees to be charged for any clinical laboratory service, diagnostic imaging service, physical therapy service, or radiation therapy service, for both technical and professional components, by any provider of such services in any setting must be set by the Agency for Health Care Administration and must not exceed 135 percent of the Medicare fee schedule for participating physicians for the designated health service as established by the Medicare program for calendar year 1993, except that those entities immediately subject to the fee schedule may not charge fees in excess of 135 percent of the 1992 Medicare fee schedule for participating physicians. The fee for each designated health service shall be increased or decreased annually by the Agency for Health Care Administration for each calendar year after calendar year 1993 in accordance with the percentage adjustments made by the Medicare program for those services. The Agency for Health Care Administration shall adopt, by rule, a fee schedule for any clinical laboratory service, diagnostic imaging service, physical therapy service, or radiation therapy service for which a charge is not provided in the Medicare fee schedules.

(4) The Agency for Health Care Administration shall annually publish and make available to the public a fee schedule for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services, as specified in this section.

(5) An entity that provides clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services may apply to the Agency for Health Care Administration for authority to charge a fee that is higher than the fee in the schedule established in this section upon a showing by an entity that the entity is an efficient provider of the service and that an increase in fees is needed for the entity to achieve the following, listed in order of priority:

(a) To offset revenues lost due to the provision of documented charity care that exceeds the average level of charity care by all providers within the state of clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services; or

(b) To earn a reasonable rate of return as measured by the total margin, return on assets, return on equity, and debt service coverage.

The Agency for Health Care Administration may also set a fee schedule below the fee schedule established in this section, if an entity cannot justify to the satisfaction of the agency that the fee schedule established in this section is needed to meet the review criteria of this subsection.

(6) Any Agency for Health Care Administration modification to an entity's fee schedule under this section may be reviewed by the agency upon its own initiative and revised effective 12 months after the effective date of the fee schedule approval.

(7) Any professional who charges more than the fees authorized by this section is subject to an administrative fine not to exceed \$5,000 per violation, to be fixed, imposed, and collected by the Agency for Health Care Administration.

Section 8. (1) A utilization advisory panel is created within the Agency for Health Care Administration, which shall serve in an advisory capacity to the agency. The panel is composed of nine members appointed by the Director of Health Care Administration and must include:

(a) A pathologist licensed under chapter 458 or chapter 459, Florida Statutes.

(b) A radiologist licensed under chapter 458 or chapter 459, Florida Statutes.

(c) A radiation therapist licensed under chapter 458 or chapter 459, Florida Statutes.

(d) A physical therapist licensed under chapter 486, Florida Statutes.

(e) The Vice President of Health Affairs of the University of Florida.

(f) The Deputy Director for Health Quality Assurance of the Agency for Health Care Administration.

(g) The Deputy Director for Health Policy and Planning of the Agency for Health Care Administration.

(h) An individual who has expertise in health care data collection.

(i) The Director of the Health Care Board.

(2) The panel shall develop and recommend to the director, at the earliest date possible, practice parameters that may be applied in measuring compliance with the requirements of this section. Appropriate clinical expertise must be used to develop practice parameters. The agency shall guide the adoption and implementation of scientifically sound practice parameters for designated health services to eliminate unwarranted variations in the rate of utilization and delivery of such services. The practice parameters must provide guidance for the proper management of specific clinical situations. The agency shall provide for periodic reviews and revisions to ensure that practice parameters are based on the latest scientific findings. The agency shall distribute the practice parameters to persons who are subject to the requirements of this section, to third-party payors, and to other interested parties.

Section 9. (1) The Agency for Health Care Administration shall conduct a study of all health care settings to determine the following:

(a) The cost within the state for the delivery of clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services, respectively, and the relationship between the cost and the utilization of these services.

(b) The fees charged within the state, including professional and technical components, by persons licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services, and whether the fees vary by ownership status of the facility in which these services are offered and by third-party payor classifications.

(c) Whether fee schedules and utilization controls are appropriate and effective measures to contain health care costs, and if so, strategies for implementing fee schedules and utilization controls.

(d) Whether Medicare fees are appropriate and, if so, whether a reasonable base for setting fee schedules for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services and whether another method of developing fee schedules should be adopted, including alternative fee schedules when the Medicare fee schedule does not apply.

(e) Whether a fee schedule provides for a reasonable rate of return for the providers licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, and a reasonable rate of return for facilities licensed in accordance with section 10 of chapter 92-178, Laws of Florida, as amended by this act, for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services as measured by the total margin, return on equity, and debt service coverage.

(f) Modifications that should be made to a fee schedule to encourage the treatment of medically indigent and medically underserved populations.

(g) For any category of licensed health professional, whether a fee schedule should be revised to increase fees for certain types of services and to decrease fees for other types of services.

(h) Whether any category of licensed health care provider should be exempted from a fee schedule because other mechanisms are adequate to control increases in costs for such services.

(i) Whether any other health care services should be subjected to fee schedules due to a lack of market competition.

(j) The methods that health care providers use to limit the effectiveness of fee schedules, such as increased utilization, and whether additional controls are needed to prevent evasion of the requirements under this section.

(k) The effect of fee schedules on the cost, utilization, and availability of clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services.

(l) Whether the limitations on markups established by chapter 92-178, Laws of Florida, as amended by this act, should be modified or repealed.

(2) The Agency for Health Care Administration may require health care facilities, health care providers, and health insurers to provide data necessary to carry out the agency's duties under this section.

(3) The Agency for Health Care Administration may contract with independent consultants to conduct the study required in this section.

(4) The Agency for Health Care Administration shall provide to the Legislature and the Governor by October 1, 1993, an interim report detailing the progress of the study and by January 1, 1994, a final report containing the findings and recommendations of the study.

(5) In addition to the appropriation provided in section 14 of chapter 92-178, Laws of Florida, as amended by this act, fees collected by the Agency for Health Care Administration from facilities licensed pursuant to section 10 of chapter 92-178, Laws of Florida, as amended by this act, may be used to defray the cost of the study required by this section.

(6) Notwithstanding the priorities established in section 67 of chapter 92-33, Laws of Florida, the Agency for Health Care Administration shall give priority to the adoption of practice parameters for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services.

Section 10. (1) The Agency for Health Care Administration shall conduct a study as authorized under section 408.061, Florida Statutes, of the effects of physician ownership of hospitals and subsidiaries or physician investment interests in an entity that owns or leases or operates a hospital licensed under chapter 395, Florida Statutes. The study must include:

(a) A statistical profile of admissions, charges, costs, utilization (including costs of services from the related parties), access, and quality of inpatient and outpatient services provided by these hospitals or related entities;

(b) A comparison of services provided by entities with referring physician investors to other entities that do not have physician investors;

(c) A statistical profile of changes in services provided by the hospital after referring physicians invested in the hospital or related entity;

(d) An evaluation of the effects of hospital joint ventures on competition and provision of services in other hospitals and free-standing entities; and

(e) Recommendations regarding regulation of physician investment in hospitals.

(2) The agency shall submit results of the study and recommendations to the Legislature by January 1, 1993.

Section 11. The Agency for Health Care Administration shall implement the provisions of this act for which it is responsible. The agency shall adopt, amend, and repeal rules, pursuant to chapter 120, Florida Statutes, as necessary to carry out its responsibilities under chapter 92-178, Laws of Florida, as amended by this act.

Section 12. Sections 11 and 16 of chapter 92-178, Laws of Florida, are repealed.

Section 13. Section 14 of chapter 92-178, Laws of Florida, is amended to read:

Section 14. There is hereby appropriated to the *Agency for Health Care Administration* ~~Health Care Cost Containment Board~~ 5 positions and \$175,124 in recurring dollars and \$66,478 in nonrecurring dollars from the Health Care Cost Containment Trust Fund in order to implement the studies provided for in this act and chapter 92-178, Laws of Florida, as amended by this act ~~provisions of sections 407.60 and 407.61, Florida Statutes, as created by this act.~~

Section 14. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 15. Paragraph (c) of subsection (2) of section 458.327, Florida Statutes; paragraph (i) of subsection (1) of section 458.331, Florida Statutes; and paragraphs (b) and (c) of subsection (3) of section 459.013, Florida Statutes, are repealed.

Section 16. Section 407.61, Florida Statutes, as created by section 12 of chapter 92-178, Laws of Florida, is transferred and renumbered as section 408.0621, Florida Statutes.

Section 17. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to medical practice; amending s. 7, ch. 92-178, Laws of Florida; providing definitions; providing for disciplinary proceedings and penalties against certain hospitals; amending s. 8, ch. 92-178, Laws of Florida; prohibiting kickbacks; providing for administrative penalties and disciplinary actions; amending s. 9, ch. 92-178, Laws of Florida; prohibiting markups; providing for administrative penalties and disciplinary actions; amending s. 10, ch. 92-178, Laws of Florida; providing for licensure of facilities providing specified health services; exempting certain licensed facilities and certain licensed professionals; providing for administrative penalties; amending s. 455.25, F.S., as amended by s. 13, ch. 92-178, Laws of Florida; prohibiting health care providers from referring patients to certain entities under certain conditions; amending s. 15, ch. 92-178, Laws of Florida; providing for applicability of ss. 7-15, ch. 92-178, Laws of Florida, to certain referrals for designated health ser-

vices; providing maximum fees for certain services; providing a penalty for excessive charges; creating an advisory panel to the Agency for Health Care Administration; providing for adoption of practice parameters; directing the Agency for Health Care Administration to conduct a study of all health care settings; requiring a report on the agency's findings and recommendations; authorizing the agency to adopt rules; directing the agency to conduct a study of physician ownership or investment in hospitals and subsidiaries; repealing s. 11, ch. 92-178, Laws of Florida, which relates to fee schedules for radiation therapy health care providers; repealing s. 16, ch. 92-178, Laws of Florida, which imposes a fee schedule for certain designated health services; amending s. 14 of ch. 92-178, Laws of Florida, revising an appropriation; providing for severability; repealing ss. 458.327(2)(c), 459.013(3)(b) and (c), F.S., which provide criminal penalties for a physician who makes certain referrals; repealing s. 458.331(1)(i), F.S., relating to grounds for disciplinary action with respect to a physician who makes certain referrals; transferring and renumbering s. 407.61, F.S., as created by s. 12 of ch. 92-178, Laws of Florida; providing an effective date.

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

Amendment 1A—On page 1, line 18, after "act" insert: *and in sections 7-10 of this act*

Senator Thurman moved the following amendments to **Amendment 1** which were adopted:

Amendment 1B—On page 17, line 27, strike "July 1, 1994," and insert: July 1, 1995,

Amendment 1C—On page 24, lines 12 and 13, strike "October 1, 1993," and insert: July 1, 1994,

Amendment 1D—On page 24, line 14, strike "January 1, 1994," and insert: January 1, 1995,

Amendment 1 as amended failed.

Senator Myers moved the following amendment which failed:

Amendment 2—On page 14, strike all of lines 4-14 and insert:

(1) A health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, is prohibited from charging a markup or commission ~~may not charge an additional amount for ancillary services rendered by an entity outside of that provider practice. A health care provider may charge an acquisition, and/or professional interpretation processing~~ ~~However, a handling fee for each patient referred of no more than \$2 may be charged as long as the fee or fees are each charge is separately disclosed and itemized as part of the provider's bill for services in writing to the patient as required by ss. 458.323, Florida Statutes.~~

Senator McKay moved the following amendments which were adopted:

Amendment 3—On page 5, line 15, after "practice" insert: *and the distribution of income is not based on the referral of patients for designated services.*

Health care providers practicing five or more different medical specialties who organize into a multispecialty group practice meet this definition of group practice if they meet the requirements of subparagraphs 2. and 3.

Amendment 4—On page 19, line 24, insert:

(3) Effective July 1, 1994, if the Legislature fails to take action on the findings and recommendations contained in the study required under section 7 of this act, there is imposed a fee schedule on all providers of clinical laboratory services licensed under chapter 483, Florida Statutes, and providers of diagnostic imaging services and radiation therapy services licensed under this act, including professional and technical components, except a hospital licensed under chapter 395, Florida Statutes, or its affiliated health services which excludes physician ownership or investment, a nursing home licensed under chapter 400, Florida Statutes, and the not-for-profit research institute established by section 240.512, Florida Statutes.

(Renumber subsequent sections.)

Senator Weinstock moved the following amendment which failed:

Amendment 5—On page 24, between lines 29 and 30, insert:

Section 19. (1) Effective October 1, 1992, an entity providing clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services whose investors include any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466 is subject to the fee schedule. The fee schedule shall apply in all settings and to all clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services provided to any person who is not a recipient of benefits under title XVIII or XIX of the Social Security Act. Nothing in this section is intended to limit the ability of any purchaser of clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services to negotiate a rate which is below the fee schedules set forth in this section.

(2) The maximum fees to be charged for any clinical laboratory service, diagnostic imaging service, physical therapy service, or radiation therapy service, for both technical and professional components, by any provider of such services in any setting shall be set by the Agency for Health Care Administration and shall not exceed 135 percent of the Medicare fee schedule for participating providers for the designated health service as established by the Medicare program for calendar year 1993, except that those entities immediately subject to the fee schedule may not charge fees in excess of 135 percent of the 1992 Medicare fee schedule for participating physicians. The fee for each designated health service shall be increased or decreased annually by the Agency for Health Care Administration for each calendar year after calendar year 1993 in accordance with the percentage adjustments made by the Medicare program for those services. The Agency for Health Care Administration shall adopt, by rule, a fee schedule for any clinical laboratory service, diagnostic imaging service, physical therapy service, or radiation therapy service for which a charge is not provided in the Medicare fee schedules.

(3) The Agency for Health Care Administration shall annually publish and make available to the public a fee schedule for clinical laboratory services, diagnostic imaging services, physical therapy services, and radiation therapy services, as specified in this section.

(4) An entity that provides clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services may apply to the Agency for Health Care Administration for authority to charge a fee above the fee schedule which is higher than the fee in the schedule established in subsection (2) upon a showing by an entity that the entity is an efficient provider of the service and that an increase in fees is needed in order for the entity to achieve the following, listed in order of priority, from the highest to lowest:

(a) To offset revenues lost due to the provision of documented charity care that exceeds the average level of charity care by all providers within the state of clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services; or

(b) To earn a reasonable rate of return as measured by the total margin, return on assets, return on equity, and debt service coverage.

The Agency for Health Care Administration may also set a fee schedule below the fee schedule established in subsection (2) if an entity cannot justify to the satisfaction of the agency that the fee schedule established in subsection (2) is needed in order to meet the review criteria of this subsection.

(5) Any Agency for Health Care Administration modification to an entity's fee schedule pursuant to subsection (4) may be reviewed by the agency upon its own initiative and revised effective 12 months after the effective date of the fee schedule approval.

(6) Any professional who charges more than the fees authorized by this section is subject to an administrative fine not to exceed \$5,000 per violation, to be fixed, imposed, and collected by the Agency for Health Care Administration.

(7) The definition of section 7 of chapter 92-178, Laws of Florida, as amended by this act apply to this section.

(Renumber subsequent sections.)

RECONSIDERATION OF AMENDMENT

On motion by Senator McKay, the Senate reconsidered the vote by which **Amendment 4** was adopted.

On motion by Senator McKay, further consideration of **CS for CS for SB 50-H** with pending **Amendment 4** was deferred.

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

HB 217-H—A bill to be entitled An act relating to municipal clerks; creating s. 119.033, F.S.; creating the Municipal Clerk's Capital Equipment Modernization Trust Fund; creating a surcharge on the recording of documents in the official records of the county; providing for the collection and distribution of surcharge revenues; providing an effective date.

—a companion measure, was substituted for **SB 138-H**.

MOTION TO RECONSIDER

Senator Langley moved that the Senate reconsider the vote by which **HB 217-H** was substituted for **SB 138-H**. The motion failed.

On motions by Senator Meek, by two-thirds vote **HB 217-H** was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—22 Nays—14

The Senate resumed consideration of—

CS for CS for SB 50-H—A bill to be entitled An act relating to medical practice; amending s. 7, ch. 92-178, Laws of Florida; providing definitions; providing for disciplinary proceedings and penalties against certain hospitals; amending s. 8, ch. 92-178, Laws of Florida; prohibiting kickbacks; providing for administrative penalties and disciplinary actions; amending s. 9, ch. 92-178, Laws of Florida; prohibiting markups; providing for administrative penalties and disciplinary actions; amending s. 10, ch. 92-178, Laws of Florida; providing for licensure of facilities providing specified health care services; exempting certain licensed facilities and certain licensed professionals; amending s. 455.25, F.S., as amended by s. 13, ch. 92-178, Laws of Florida; prohibiting health care providers from referring patients to certain entities under certain conditions; amending s. 15, ch. 92-178, Laws of Florida; providing for applicability of ss. 7-16, ch. 92-178, Laws of Florida, to certain referrals for designated health services; directing the Agency for Health Care Administration to conduct annual studies relating to fees charged by certain health care facilities for certain services; requiring a report on the agency's findings and recommendations; repealing s. 16, ch. 92-178, Laws of Florida, which imposes a fee schedule for certain designated health services; revising the priority for adoption of practice parameters developed pursuant to ch. 92-178, Laws of Florida, for providers of certain services; exempting hospitals licensed under ch. 395, F.S., and certain affiliated health services from this act and from ch. 92-178, Laws of Florida, providing certain services as specified; exempting certain entities that provide diagnostic imaging services from ch. 92-178, Laws of Florida; requiring the exempted entities to submit to rate review and utilization review by the Agency for Health Care Administration; prescribing duties of the Agency for Health Care Administration with respect to the act; requiring a study of physician ownership of hospitals and related issues pursuant to s. 408.061, F.S.; directing the Agency for Health Care Administration to conduct annual study of charges by certain radiation therapy providers; requiring the Agency for Health Care Administration to establish fees for radiation therapy procedures performed by certain radiation therapy providers upon a finding that charges for such procedures exceed a specified amount; establishing a maximum fee schedule for radiation therapy procedures for certain radiation therapy providers; providing penalties for charging fees that exceed fees contained in the established fee schedule; repealing s. 11 of ch. 92-178, Laws of Florida, relating to fee schedules for radiation therapy health care providers; amending s. 14 of ch. 92-178, Laws of Florida, revising an appropriation; providing for severability; repealing ss. 458.327(2)(c), 459.013(3)(b) and (c), F.S., which provide criminal penalties for a physician who makes certain referrals; repealing s. 458.331(1)(i), F.S., relating to grounds for disciplinary action with respect to a physician who makes certain referrals; transferring and renumbering s. 407.61, F.S., as created by s. 12 of ch. 92-178, Laws of Florida; providing an effective date.

—which had been previously considered this day. Pending **Amendment 4** by Senator McKay was withdrawn.

Senators McKay and Dudley offered the following amendment which was moved by Senator McKay and failed:

Amendment 6—On page 19, line 24, insert:

(3) Effective July 1, 1994, there is imposed a fee schedule on all providers of clinical laboratory services licensed under chapter 483, Florida Statutes, and providers of diagnostic imaging services and radiation therapy services licensed under this act, including professional and technical components, except a hospital licensed under chapter 395, Florida Statutes, or its affiliated health services which excludes physician ownership or investment, a nursing home licensed under chapter 400, Florida Statutes, and the not-for-profit research institute established by section 240.512, Florida Statutes.

(4) The maximum fees to be charged for any clinical laboratory service, diagnostic imaging service, physical therapy service, or radiation therapy service, for both technical and professional components, by any provider of such services in any setting shall be set by the Agency for Health Care Administration and shall not exceed 135 percent of the Medicare fee schedule for participating providers for the designated health service as established by the Medicare program for calendar year 1994.

(Renumber subsequent sections.)

The vote was:

Yeas—15 Nays—22

On motion by Senator Weinstock, by two-thirds vote **CS for CS for SB 50-H** 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—4

HB 159-H—A bill to be entitled An act for the relief of Cecil S. Head; providing an appropriation; requiring the Comptroller to draw a warrant upon funds in the General Revenue Fund; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **HB 159-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for HB 257-H—A bill to be entitled An act for the relief of Mary Theresa Boyle, widow, and Brian Boyle and Amy Boyle, children, of Edward Boyle to compensate them for damages sustained from the wrongful death of Edward Boyle; providing an appropriation; providing an effective date.

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

Yeas—35 Nays—None

INTRODUCTION OF BILL

On motions by Senator Thomas, by unanimous consent the following bill was introduced:

By Senator Thomas—

SJR 264-H—A joint resolution extending the June 1, 1992, special legislative session.

WHEREAS, the important work for which the Legislature was convened into special session on June 1, 1992, will not be completed by June 19, 1992, the date on which that session is scheduled to end, NOW, THEREFORE,

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

That the special session of the Legislature which convened on June 1, 1992, is extended under the authority of Section 3 of Article III of the State Constitution until 11:59 p.m., July 10, 1992, if agreed to by a three-fifths vote of each house.

BE IT FURTHER RESOLVED that, after 12:01 a.m., June 26, 1992, and throughout the remainder of such extension, the sole and exclusive subjects to be considered by either house shall be limited to:

- (1) A General Appropriations Act for fiscal year 1992-1993;
- (2) An Implementing Bill implementing provisions of the General Appropriations Act for fiscal year 1992-1993; and
- (3) Legislation necessary to fund subsections (1) and (2).

On motions by Senator Thomas, by unanimous consent, **SJR 264-H** was taken up out of order and by two-thirds vote read the second time by title.

Senator Bruner moved the following amendment which failed:

Amendment 1—On page 1, strike line 17 and insert: Be It Further Resolved that, after 12:01 June 24,

On motion by Senator Thomas, by two-thirds vote **SJR 264-H** was read the third time in full, passed by the required constitutional three-fifths vote of the Senate and certified to the House. The vote on passage was:

Yeas—32 Nays—6

MOTION TO RECONSIDER

Senator Crotty moved that the Senate reconsider the vote by which **HB 217-H** passed this day.

The motion was placed on the calendar.

RECESS

On motion by Senator Thomas, the Senate recessed at 12:10 p.m. to reconvene at 1:30 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:30 p.m. A quorum present—22:

Madam President	Dantzler	Kirkpatrick	Thomas
Beard	Dudley	Kurth	Thurman
Bruner	Forman	McKay	Walker
Casas	Gardner	Meek	Yancey
Childers	Jenne	Myers	
Crotty	Johnson	Souto	

SPECIAL ORDER, continued

CS for SB 154-H—A bill to be entitled An act relating to public libraries; amending s. 257.171, F.S.; providing for multicounty libraries rather than regional libraries; amending s. 257.172, F.S.; revising provisions relating to state grants to libraries; providing for use of funds and computation and adjustment of grants; amending s. 257.18, F.S.; revising provisions relating to the computation of equalization grants; creating s. 257.195, F.S.; providing procedures in the event of revenue shortfalls; amending s. 24.121, F.S.; requiring a specified sum from the Administrative Trust Fund under the Department of Lottery to be transferred annually to the Library Services Trust Fund and used for state aid to libraries; providing an effective date.

—was read the second time by title.

Senator Gardner moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 5, line 23 through page 6, line 12, strike all of said lines and insert:

(3)(a) The funds remaining in the Administrative Trust Fund after transfers to the Educational Enhancement Trust Fund shall be used, to the extent provided in the General Appropriations Act, for the payment of administrative expenses of the department. These expenses shall include all costs incurred in the operation and administration of the lottery and all costs resulting from any contracts entered into for the purchase or lease of goods or services required by the lottery, including, but not limited to:

1.(a) The compensation paid to retailers;

2.(b) The costs of supplies, materials, tickets, independent audit services, independent studies, data transmission, advertising, promotion, incentives, public relations, communications, security, bonding for retailers, printing, distribution of tickets, and reimbursing other governmental entities for services provided to the lottery; and

3.(c) The costs of any other goods and services necessary for effectuating the purposes of this act.

(b) *The funds remaining in the Administrative Trust Fund after payment of such administrative expenses each year, but not exceeding \$5.2 million, shall be transferred to the Library Services Trust Fund and used exclusively for aid to libraries.*

And the title is amended as follows:

In title, on page 1, strike line 13 and insert: limiting the amount of funds in the Administrative Trust Fund that may be used to pay administrative expenses of the Department of the Lottery; requiring certain moneys in the

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 154-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—22 Nays—None

MATTERS ON RECONSIDERATION

The motion by Senator Crotty that the Senate reconsider the vote by which—

HB 217-H—A bill to be entitled An act relating to municipal clerks; creating s. 119.033, F.S.; creating the Municipal Clerk's Capital Equipment Modernization Trust Fund; creating a surcharge on the recording of documents in the official records of the county; providing for the collection and distribution of surcharge revenues; providing an effective date.

—passed this day was taken up and the motion was adopted. The vote was:

Yeas—16 Nays—13

On motion by Senator Meek, **HB 217-H** was read by title and failed to pass and the action of the Senate was certified to the House. The vote was:

Yeas—17 Nays—19

On motion by Senator Scott, by unanimous consent—

SB 198-H—A bill to be entitled An act relating to educational facilities; amending s. 235.215, F.S., relating to energy efficiency contracting; conforming language; providing an effective date.

—was taken up out of order and read the second time by title. On motion by Senator Scott, by two-thirds vote **SB 198-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for CS for SB 208-H—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 20.16, F.S.; providing for a general counsel for the Florida Pari-mutuel Commission and providing for duties and compensation; saving from repeal s. 20.16(4), F.S., relating to the commission; creating s. 550.001, F.S.; providing a short title; creating s. 550.002, F.S.; providing definitions; creating s. 550.003, F.S.; providing for validating existing permits; amending s. 550.012, F.S.; providing for restoration of lost performances; amending s. 550.0121, F.S.; authorizing the Florida Pari-mutuel Commission to approve, reallocate, or reassign performance dates; providing additional operating days; removing restrictions on the number of matinee performances that may be conducted by Summersport Jai Alai; providing for quarter horse racing throughout the year; providing that any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities in addition to the conduct of pari-mutuel wagering; providing for conversion of a greyhound permit to a jai alai permit; amending s. 550.02, F.S.; providing powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation; creating s. 550.022, F.S.; restricting financing arrangements by pari-mutuel permitholders; amending s. 550.03, F.S.; providing for "hound dog derbies" or "mutt derbies"; amending s. 550.042, F.S.; authorizing minors to attend and be employed at pari-mutuel performances under specified conditions; amending s. 550.05, F.S.; providing procedures for obtaining pari-mutuel operation permits; providing for contents of a permit application; providing duties of the Division of Pari-mutuel Wagering; amending s. 550.06, F.S.; providing technical changes; amending s. 550.09, F.S.; providing for fees and taxes; amending s. 550.10, F.S.; providing for the issuance of occupational licenses; specifying criteria for denial or cancel-

lation of such licenses; providing for taxes in lieu of other taxes; authorizing the division to obtain certain information; amending s. 550.115, F.S.; expanding the number of persons covered by the relief fund; amending s. 550.12, F.S.; providing bond requirements; providing for annual review of permitholders' records; amending s. 550.13, F.S.; providing for payment of racing funds to district school boards; amending s. 550.16, F.S.; providing limitation on takeout; amending s. 550.162, F.S.; providing technical and conforming language; transferring and amending s. 551.1535, F.S.; providing for Jai Alai Tournament of Champions Meet; amending ss. 550.164, 550.24, F.S.; providing conforming language; amending s. 550.2405, F.S.; providing for inadmissibility in criminal proceedings of certain evidence of tests or actions taken by stewards, judges, or the division; reenacting and amending s. 550.241, F.S.; specifying circumstances under which racing animal drug test results are to be disclosed; providing limited confidentiality for test results; providing for future review and repeal of related public records law exemptions; regulating the medication of racing animals and prohibiting the use of drugs in racing animals under certain circumstances; providing procedures for obtaining and testing split samples of blood or urine; providing legislative intent that greyhound racing animals be treated humanely; providing for procedures for euthanizing greyhounds; providing for the establishment of adoption facilities under certain circumstances; creating s. 550.2614, F.S.; requiring thoroughbred horseracing permitholders to deduct a certain percentage of purses to be paid to a horsemen's association representing the majority of thoroughbred racehorse owners and trainers; authorizing the division to adopt rules; amending s. 550.2616, F.S.; providing sources of funds for breeders' awards; amending s. 550.262, F.S.; providing for certain funds to be withheld from purse pools; specifying the purposes for which such funds are to be used; providing for payment of breeders' and owners' awards under certain circumstances; providing technical changes; amending s. 550.28, F.S.; providing technical changes; amending s. 550.33, F.S.; removing authority to conduct quarter horse races; removing a prohibition against specified intertrack wagering by quarter horse permitholders; amending s. 550.35, F.S.; providing that wagers accepted by out-of-state pari-mutuel permitholders on a broadcasted race may be included in the track's pari-mutuel pool; authorizing the division to facilitate commingling of pari-mutuel pools; amending s. 550.37, F.S.; revising legislative findings; providing for operation of certain harness tracks; creating s. 550.495, F.S.; providing for totalisator licensing; amending s. 550.50, F.S.; providing clarifying language; amending s. 550.52, F.S.; providing a schedule of racing dates for certain permitholders; providing additional operating days; providing operating conditions for licensed thoroughbred permitholders; amending s. 550.61, F.S.; specifying times during which specified facilities may conduct intertrack wagering; restricting the conduct of intertrack wagering in certain counties; amending s. 550.62, F.S.; providing for optional payments to the Florida Owners' Awards program; amending s. 550.63, F.S.; providing a formula for distribution of intertrack wagering proceeds from out-of-state simulcast races; providing for thoroughbred purse money to be paid to certain permitholders under certain circumstances; amending s. 550.633, F.S.; providing that the surcharge collected by a guest track accepting intertrack wagers must be calculated after breakage is taken out; amending s. 550.65, F.S.; providing for backside medical and health benefits; specifying amount of total handle that may be paid to a corporation to provide such benefits and specifying corporations eligible to provide such benefits; creating the Workers' Compensation Fund for Jockeys Study Commission; prescribing its membership and duties; creating s. 550.70, F.S.; requiring chief court judges at certain jai alai games; providing time for ratifying jai alai permits; allowing amateur jai alai contests; amending ss. 772.102, 895.02, F.S.; providing funding for certain research programs; providing conforming provisions; providing for the repeal of specified provisions in chs. 550, 551, F.S., relating to pari-mutuel wagering and jai alai; providing applicability; providing retroactivity; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendments which were adopted:

Amendment 1—On page 78, lines 2-6, strike all of the underlined language and insert: *On any race originating live in-state that is broadcast out-of-state to any location at which wagers are accepted pursuant to s. 550.35(2)(a), the host track is required to pay 3.3 percent of the gross revenue derived from such out-of-state broadcasts as breeders' and stallion awards.*

Amendment 2—On page 109, line 1 through page 114, line 2, strike all of said lines and renumber subsequent subsections.

The vote was:

Yeas—21 Nays—11

Amendment 3 (with Title Amendment)—On page 122, line 6 through page 123, line 14, strike all of said lines

And the title is amended as follows:

In title, on page 5, lines 12-14, strike “creating the Workers’ Compensation Fund for Jockeys Study Commission; prescribing its membership and duties;”

Senator Forman moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 60, strike all of lines 19-22 and insert:

Section 20. Section 550.162, Florida Statutes, is amended to read:

550.162 Dogracing; taxes; purse allowance; hours of operation.—

(1) The operation of a dog track and legalized pari-mutuel betting at dog tracks in this state is a privilege and is an operation which requires strict supervision and regulation in the best interests of the state. Pari-mutuel wagering at dog tracks in this state is a substantial business, and taxes derived therefrom constitute part of the tax structures of the state and the counties. The operators of dog tracks should pay their fair share of taxes to the state; at the same time, this substantial business interest should not be taxed to such an extent as to cause a track which is operated under sound business principles to be forced out of business.

(2) In addition to the 18 percent herein authorized to be withheld from pari-mutuel pools of exotic wagers, a dog track permitholder shall withhold an additional 1 percent from pari-mutuel pools on triples, trifectas, or other similar wagers involving three or more greyhounds in any race, except that a permitholder unequipped to hold triples or trifectas shall withhold only an additional 0.5 percent on exotic wagers other than triples or trifectas, to be distributed as follows:

(a) The additional 1 percent withheld from the triples pari-mutuel pools or the 0.5 percent on exotic wagers other than triples or trifectas shall be used for additional purses and for awards for Florida-bred greyhounds in such amounts as may be established by the permitholder, provided the total purses and awards authorized herein and those allowed by contract between a permitholder and a kennel shall not be less than the percentage of handle paid in purses, by contract, for the 1978-1979 race meet plus the amount herein authorized and shall not exceed the greater of 3 percent of the handle or the amount provided by current contract between a permitholder and a kennel.

(b) Any amounts from the additions herein authorized in excess of that required in paragraph (a) may be used by the permitholder for capital improvements or to reduce capital improvement debt. If a permitholder is unable to use the excess for the foregoing purposes, it may be used for purses, provided the total paid for purses shall not exceed 3 percent of the handle.

(c) Purse moneys shall be paid not later than 7 days after the date of the race. Permitholders may withhold up to 5 percent of the total purse pool for the payment of stakes. Such stakes moneys withheld shall be paid no later than 7 days after the date of the stakes race.

(d) Purse distribution details shall be specified in the kennel contract: 50 percent for the first place, 25 percent for the second place, 15 percent for the third place, and 10 percent for the fourth place.

(e) Purses shall be paid directly to the owner of a greyhound or if a greyhound is leased, the purse percentages shall be paid directly to the lessor and lessee as agreed in a written lease agreement on file with the permitholder.

(f) Purse sheets must include a breakdown as to how the purses were determined for each greyhound, including a weekly account of pari-mutuel handle along with the breakdown of triple wagers, exotic wagers, and intertrack wagers, to determine contractual compliance.

(g) For purposes of this subsection, a lessee of a greyhound may be deemed to be the owner and be eligible to receive awards given to owners of Florida-bred greyhounds.

(h) When the owner of a greyhound which has run at a Florida track has not been timely paid a purse pursuant to the terms of his contract

with a racing kennel, the greyhound owner may file with the division a copy of his contract with the kennel and a sworn complaint, on a form provided by the division for this purpose, specifying:

- a.—The name of the greyhound.
- b.—The name of the track.
- c.—The date of the race.
- d.—The amount allegedly due.

2.—Within 7 days after receipt of the complaint and contract the division shall send notification to the kennel of the complaint. The kennel shall, within 14 days of the date of the division’s notice, either present proof to the division that the obligation has been satisfied or file a sworn affidavit with accompanying documentation demonstrating why the obligation does not exist. If the owner’s complaint is timely contested by the racing kennel, the division shall hold an evidentiary hearing and render a decision on the complaint within 30 days of the racing kennel’s response to the original complaint. The division’s decision shall determine whether the obligation is due and owing, and, if the division determines that the complaint is valid, the division shall suspend the racing kennel’s pari-mutuel wagering occupational license and any registered name under which the kennel is operating until such time as the obligation is satisfied. The division may also assess the actual cost of investigation and prosecution of greyhound owner claims under this paragraph. This remedy shall be in addition to any other remedy provided by the laws of Florida.

And the title is amended as follows:

In title, on page 2, line 27, after the second semicolon (;) insert: prescribing purse distributions;

Senator Wexler moved the following amendment which was adopted:

Amendment 5—On page 116, line 3, after “games” insert: , or on both horseraces and the same class of races or games

Senator Weinstein moved the following amendment which was adopted:

Amendment 6 (with Title Amendment)—On page 60, strike all of lines 19-22 and insert:

Section 20. Section 550.162, Florida Statutes, is amended to read:

550.162 Dogracing; taxes; purse allowance; hours of operation.—

(1) The operation of a dog track and legalized pari-mutuel betting at dog tracks in this state is a privilege and is an operation which requires strict supervision and regulation in the best interests of the state. Pari-mutuel wagering at dog tracks in this state is a substantial business, and taxes derived therefrom constitute part of the tax structures of the state and the counties. The operators of dog tracks should pay their fair share of taxes to the state; at the same time, this substantial business interest should not be taxed to such an extent as to cause a track which is operated under sound business principles to be forced out of business.

(2) In addition to the 18 percent herein authorized to be withheld from pari-mutuel pools of exotic wagers, a dog track permitholder shall withhold an additional 1 percent from pari-mutuel pools on triples, trifectas, or other similar wagers involving three or more greyhounds in any race, except that a permitholder unequipped to hold triples or trifectas shall withhold only an additional 0.5 percent on exotic wagers other than triples or trifectas, to be distributed as follows:

(a) The additional 1 percent withheld from the triples pari-mutuel pools or the 0.5 percent on exotic wagers other than triples or trifectas shall be used for additional purses, and for awards for Florida-bred greyhounds in such amounts as may be established by the permitholder, provided The total purses and awards authorized herein and those allowed by contract between a permitholder and a kennel shall not be less than the percentage of handle paid in purses, by contract, for the 1978-1979 race meet plus the amount herein authorized and shall not exceed the greater of 3 percent of the handle or the amount provided by current contract between a permitholder and a kennel.

(b) Any amounts from the additions herein authorized in excess of that required in paragraph (a) may be used by the permitholder for capital improvements or to reduce capital improvement debt. If a permitholder is unable to use the excess for the foregoing purposes, it may be used for purses, provided the total paid for purses shall not exceed 3 percent of the handle.

~~(c) For purposes of this subsection, a lessee of a greyhound may be deemed to be the owner and be eligible to receive awards given to owners of Florida bred greyhounds.~~

~~(d)1. When the owner of a greyhound which has run at a Florida track has not been timely paid a purse pursuant to the terms of his contract with a racing kennel, the greyhound owner may file with the division a copy of his contract with the kennel and a sworn complaint, on a form provided by the division for this purpose, specifying:~~

- ~~a. The name of the greyhound.~~
- ~~b. The name of the track.~~
- ~~c. The date of the race.~~
- ~~d. The amount allegedly due.~~

~~2. Within 7 days after receipt of the complaint and contract the division shall send notification to the kennel of the complaint. The kennel shall, within 14 days of the date of the division's notice, either present proof to the division that the obligation has been satisfied or file a sworn affidavit with accompanying documentation demonstrating why the obligation does not exist. If the owner's complaint is timely contested by the racing kennel, the division shall hold an evidentiary hearing and render a decision on the complaint within 30 days of the racing kennel's response to the original complaint. The division's decision shall determine whether the obligation is due and owing, and, if the division determines that the complaint is valid, the division shall suspend the racing kennel's pari-mutuel wagering occupational license and any registered name under which the kennel is operating until such time as the obligation is satisfied. The division may also assess the actual cost of investigation and prosecution of greyhound owner claims under this paragraph. This remedy shall be in addition to any other remedy provided by the laws of Florida.~~

And the title is amended as follows:

In title, on page 2, line 27, after the second semicolon (;) insert: prescribing purse allowances;

Senator Langley moved the following amendments which were adopted:

Amendment 7—On page 20, line 5 through page 21, line 24, strike all of subsection (b) and reletter subsequent subsections

Amendment 8—On page 1, lines 17-20, strike "removing restrictions on the number of matinee performances that may be conducted by summersport jai alai" and insert: providing for the deregulation of jai alai operating dates

Senator Thurman moved the following amendment which was adopted:

Amendment 9—In title, on page 4, lines 19 and 20, strike "providing a schedule of racing dates for certain permitholders;"

On motion by Senator Thurman, by two-thirds vote **CS for CS for SB 208-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29 Nays—5

MOTION TO RECONSIDER

On motion by Senator Wexler, the Senate reconsidered the vote by which **CS for CS for SB 208-H** passed as amended this day.

Further consideration of **CS for CS for SB 208-H** was deferred.

CS for HB 109-H—A bill to be entitled An act relating to juvenile offenders; amending s. 39.01, F.S.; revising the definition of "serious or habitual juvenile offender"; reenacting ss. 39.052(5) and 39.058(3)(e) and (4)(a), F.S., relating to serious or habitual delinquent child placement and assessments, to incorporate said amendment in references thereto; creating s. 39.0582; providing for intensive residential treatment programs for 10-13 year old offenders; creating subsection (68) of s. 39.01, F.S.; providing a definition; amending s. 39.0585; authorizing identification on juvenile offenders; defining "juvenile offender"; recognizing a disproportionate representation of minorities; providing for sharing information with the gang prevention council; amending s. 39.044, F.S.; amending detention criteria, and reenacting ss. 39.037(1), 39.042(3)(b)1., 39.049(5), 39.064(1), and 39.402(4), F.S., relating to taking a child into

custody, use of detention, process and service, detention of escaped child, and placement in a shelter, to incorporate said amendment in references thereto; amending s. 39.038, F.S.; requiring the child to join in the release agreement; amending s. 39.047, F.S.; amending the responsibilities of the case manager; creating s. 39.0445, F.S.; providing for placement of juvenile domestic violence offenders; amending s. 39.054, F.S.; revising powers of disposition; amending s. 39.022 expanding court's jurisdiction for enforcement of restitution orders; amending s. 39.061, F.S.; eliminating reference to restrictiveness levels in the definition of escape; amending s. 39.01(61), F.S.; specifying the programs by restrictiveness and risk levels; amending ss. 960.001, 960.002, 960.003, 960.01, 960.02, 960.03, 960.07, 960.17, 960.20, and 960.28, F.S., relating to victim assistance, to provide that victims and witnesses in juvenile delinquency cases have the same rights as those afforded to victims and witnesses in adult criminal cases; providing for the removal of the disabilities of nonage for certain minors; providing for a separate program for young offenders; creating s. 39.0215, F.S.; providing for administering county and municipal juvenile delinquency programs and facilities, including secure detention facilities; providing for transfers of children; providing for payment of children performing services in work programs; requiring that county and municipal programs comport with state law and department rules and coordinate with other services; requiring quarterly inspections and evaluations by the department; requiring a monitoring fee; ensuring the training of personnel; providing enforcement powers to the Department of Health and Rehabilitative Services; amending s. 39.057, F.S.; authorizing county and municipal boot camps; providing for enforcement, including injunctive relief and proceedings to terminate facility operation; providing an effective date.

—was read the second time by title.

Senator Weinstock moved the following amendments which failed:

Amendment 1 (with Title Amendment)—On page 3, line 9 through page 19, line 9, strike all of said lines and insert:

Section 1. (1) The Department of Health and Rehabilitative Services must review and evaluate standards and procedures for assessment and treatment services for serious or habitual juvenile offenders as defined in section 39.01(46), Florida Statutes, who are under the age of 14 years. The department must involve the following groups in planning and developing recommendations for services for this population: local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles. These recommendations must include:

- (a) Program principles and components; and
 - (b) Standards and procedures for intake, diagnostic and assessment activities, treatment modalities, and case management.
- (2) Recommendations for proposed legislation must be submitted to the President of the Senate and the Speaker of the House of Representatives on or before December 15, 1992.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2-12 and insert: An act relating to juvenile offenders; requiring the Department of Health and Rehabilitative Services to review and evaluate standards and procedures for assessment and treatment services for certain juvenile offenders and to make recommendations with respect thereto;

Amendment 2 (with Title Amendment)—On page 19, line 10 through page 22, line 13, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, strike all of lines 13-18 and insert: amending s. 39.044, F.S.; amending

Amendment 3 (with Title Amendment)—On page 34, line 25 through page 37, line 4, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 2, strike all of lines 4-8 and insert: restitution orders; amending ss.

On motion by Senator Dantzler, by two-thirds vote **CS for HB 109-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—1

SENATOR FORMAN PRESIDING

Consideration of **CS for HB 241-H** was deferred.

THE PRESIDENT PRESIDING

The Senate resumed consideration of—

CS for CS for SB 208-H—A bill to be entitled An act relating to pari-mutuel wagering; amending s. 20.16, F.S.; providing for a general counsel for the Florida Pari-mutuel Commission and providing for duties and compensation; saving from repeal s. 20.16(4), F.S., relating to the commission; creating s. 550.001, F.S.; providing a short title; creating s. 550.002, F.S.; providing definitions; creating s. 550.003, F.S.; providing for validating existing permits; amending s. 550.012, F.S.; providing for restoration of lost performances; amending s. 550.0121, F.S.; authorizing the Florida Pari-mutuel Commission to approve, reallocate, or reassign performance dates; providing additional operating days; removing restrictions on the number of matinee performances that may be conducted by Summersport Jai Alai; providing for quarter horse racing throughout the year; providing that any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities in addition to the conduct of pari-mutuel wagering; providing for conversion of a greyhound permit to a jai alai permit; amending s. 550.02, F.S.; providing powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation; creating s. 550.022, F.S.; restricting financing arrangements by pari-mutuel permitholders; amending s. 550.03, F.S.; providing for “hound dog derbies” or “mutt derbies”; amending s. 550.042, F.S.; authorizing minors to attend and be employed at pari-mutuel performances under specified conditions; amending s. 550.05, F.S.; providing procedures for obtaining pari-mutuel operation permits; providing for contents of a permit application; providing duties of the Division of Pari-mutuel Wagering; amending s. 550.06, F.S.; providing technical changes; amending s. 550.09, F.S.; providing for fees and taxes; amending s. 550.10, F.S.; providing for the issuance of occupational licenses; specifying criteria for denial or cancellation of such licenses; providing for taxes in lieu of other taxes; authorizing the division to obtain certain information; amending s. 550.115, F.S.; expanding the number of persons covered by the relief fund; amending s. 550.12, F.S.; providing bond requirements; providing for annual review of permitholders’ records; amending s. 550.13, F.S.; providing for payment of racing funds to district school boards; amending s. 550.16, F.S.; providing limitation on takeout; amending s. 550.162, F.S.; providing technical and conforming language; transferring and amending s. 551.1535, F.S.; providing for Jai Alai Tournament of Champions Meet; amending ss. 550.164, 550.24, F.S.; providing conforming language; amending s. 550.2405, F.S.; providing for inadmissibility in criminal proceedings of certain evidence of tests or actions taken by stewards, judges, or the division; reenacting and amending s. 550.241, F.S.; specifying circumstances under which racing animal drug test results are to be disclosed; providing limited confidentiality for test results; providing for future review and repeal of related public records law exemptions; regulating the medication of racing animals and prohibiting the use of drugs in racing animals under certain circumstances; providing procedures for obtaining and testing split samples of blood or urine; providing legislative intent that greyhound racing animals be treated humanely; providing for procedures for euthanizing greyhounds; providing for the establishment of adoption facilities under certain circumstances; creating s. 550.2614, F.S.; requiring thoroughbred horseracing permitholders to deduct a certain percentage of purses to be paid to a horsemen’s association representing the majority of thoroughbred racehorse owners and trainers; authorizing the division to adopt rules; amending s. 550.2616, F.S.; providing sources of funds for breeders’ awards; amending s. 550.262, F.S.; providing for certain funds to be withheld from purse pools; specifying the purposes for which such funds are to be used; providing for payment of breeders’ and owners’ awards under certain circumstances; providing technical changes; amending s. 550.28, F.S.; providing technical changes; amending s. 550.33, F.S.; removing authority to conduct quarter horse races; removing a prohibition against specified intertrack wagering by quarter horse permitholders; amending s. 550.35, F.S.; providing that wagers accepted by out-of-

state pari-mutuel permitholders on a broadcasted race may be included in the track’s pari-mutuel pool; authorizing the division to facilitate commingling of pari-mutuel pools; amending s. 550.37, F.S.; revising legislative findings; providing for operation of certain harness tracks; creating s. 550.495, F.S.; providing for totalisator licensing; amending s. 550.50, F.S.; providing clarifying language; amending s. 550.52, F.S.; providing a schedule of racing dates for certain permitholders; providing additional operating days; providing operating conditions for licensed thoroughbred permitholders; amending s. 550.61, F.S.; specifying times during which specified facilities may conduct intertrack wagering; restricting the conduct of intertrack wagering in certain counties; amending s. 550.62, F.S.; providing for optional payments to the Florida Owners’ Awards program; amending s. 550.63, F.S.; providing a formula for distribution of intertrack wagering proceeds from out-of-state simulcast races; providing for thoroughbred purse money to be paid to certain permitholders under certain circumstances; amending s. 550.633, F.S.; providing that the surcharge collected by a guest track accepting intertrack wagers must be calculated after breakage is taken out; amending s. 550.65, F.S.; providing for backside medical and health benefits; specifying amount of total handle that may be paid to a corporation to provide such benefits and specifying corporations eligible to provide such benefits; creating the Workers’ Compensation Fund for Jockeys Study Commission; prescribing its membership and duties; creating s. 550.70, F.S.; requiring chief court judges at certain jai alai games; providing time for ratifying jai alai permits; allowing amateur jai alai contests; amending ss. 772.102, 895.02, F.S.; providing funding for certain research programs; providing conforming provisions; providing for the repeal of specified provisions in chs. 550, 551, F.S., relating to pari-mutuel wagering and jai alai; providing applicability; providing retroactivity; providing an effective date.

—which had been previously reconsidered this day.

On motion by Senator Wexler, by two-thirds vote the Senate reconsidered the vote by which **CS for CS for SB 208-H** was read the third time.

On motion by Senator Wexler, the Senate reconsidered the vote by which **Amendment 6** was adopted. **Amendment 6** failed.

Senator Langley moved the following amendments which were adopted:

Amendment 10—On page 6, line 13, strike “or fronton”

Amendment 11—On page 61, line 17, after “chapter” insert: , but shall not be less than that sum equal to 17.5 percent of the sums withheld pursuant to this paragraph during the 1990-1991 fiscal year.

Amendment 12—In title, on page 1, line 20, after the semicolon (:) insert: providing for deregulation of jai alai operating days;

On motion by Senator Wexler, by two-thirds vote **CS for CS for SB 208-H** 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

HB 317-H—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.011, F.S.; revising legislative purpose relating to regulation of nonpublic colleges; amending s. 246.013, F.S.; correcting a cross reference; providing for the deposit of fees; amending s. 246.021, F.S.; revising and providing additional definitions; amending s. 246.031, F.S.; revising the membership of the State Board of Independent Colleges and Universities; amending s. 246.041, F.S.; providing additional powers and duties of the board; authorizing the board to impose certain fines; amending s. 246.081, F.S.; revising licensing requirements for nonpublic colleges; providing exceptions to such requirements; creating s. 246.083, F.S.; providing criteria for receipt of an authorization to operate; amending s. 246.085, F.S.; revising process relating to exemptions from licensure; providing for certificates of exemption and specifying requirements related thereto; amending s. 246.095, F.S.; revising requirements for disclosures to prospective students; amending s. 246.101, F.S.; revising provisions relating to fees; requiring a fee schedule; providing for base, workload, and late fees; amending s. 246.111, F.S.; revising provisions relating to denial, probation, or revocation of license; requiring the board to promulgate rules; amending s. 246.121, F.S.; revising provisions relating to use of the title “college” or “university”; amending s. 246.31, F.S.; revising provisions relating to fees deposited in the Institutional Assessment Trust Fund and use of funds therein; amending ss. 240.4093 and 240.4097, F.S.; correcting cross references; amending s.

240.4095, F.S.; revising provisions relating to eligibility for Florida private student assistance grants; creating s. 240.607, F.S.; creating the Access Grant Fund for Community College Graduates and providing for grants to eligible students; amending s. 817.566, F.S.; requiring disclosure upon presentation of certain degrees; saving ss. 246.011, 246.021, 246.031, 246.041, 246.051, 246.061, 246.071, 246.081, 246.085, 246.087, 246.091, 246.095, 246.101, 246.111, 246.121, 246.131, 246.141, and 246.151, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—was read the second time by title.

Senator Walker moved the following amendment:

Amendment 1 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Section 246.011, Florida Statutes, is amended to read:

(*Substantial rewording of section. See s. 246.011, F.S., for present text.*)

246.011 Purpose and scope.—

(1) The Legislature encourages privately supported higher education and intends to aid in protecting the integrity of academic degrees conferred by privately supported colleges. Sections 246.011-246.151 are intended to aid in protecting the health, education, and welfare of persons who receive educational services and degrees from nonpublic colleges in this state; to aid in protecting employers and others who depend upon people whose educational credentials are from nonpublic colleges in this state; and to aid in protecting nonpublic colleges that currently operate or intend to begin operating in this state. The Legislature finds that both individuals and colleges benefit from a state system that assures that all nonpublic colleges satisfactorily meet minimum educational standards. The Legislature encourages the use of standards set by regional accrediting associations as general guidelines for nonpublic colleges that operate in the state.

(2) The Legislature recognizes that a degree serves several purposes. Employers rely upon a person's degree in judging his qualifications for employment. Educators rely upon a person's degree to determine whom to admit or permit to continue the pursuit of educational or occupational goals. Therefore, the Legislature intends the provisions of ss. 246.011-246.151 to aid in protecting the integrity of degrees offered by nonpublic colleges by providing minimum requirements for the educational activities that lead to degrees. The Legislature does not wish to oversee or interfere with any effort to teach or learn, unless that effort is intended to result in the award of a secular degree as defined in s. 246.021. Therefore, ss. 246.011-246.151 do not regulate educational programs leading to nonsecular degrees granted by colleges offering only ecclesiastical programs, but assure minimum educational standards for educational programs that lead to secular degrees offered by any college, including colleges operated by religious institutions.

(3) A nonpublic college that offers both academic degrees and vocational certificates or diplomas is subject to the rules of the State Board of Independent Colleges and Universities as provided by ss. 246.011-246.151 and the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools as provided by ss. 246.201-246.231. If a college offers a vocational program that prepares students for a specific occupation or occupations, that program is subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, or Business Schools even though the program leads to a degree rather than a diploma and a counterpart to the program is offered in the public school system which leads to a vocational certificate rather than an award of college credit. The State Board of Independent Colleges and Universities shall consult with the Department of Education to determine if any vocational program leading to a degree offered by a nonpublic college is a counterpart to any such vocational program offered in the public school system and, upon any such finding, shall report the program offered by the nonpublic college to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for licensing. However, a college may provide a student transcript that records progress toward a degree without becoming subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools if the program has no counterpart at a public college or university or if the program's counterpart at a public college or university results in a degree rather than a diploma.

Section 2. Section 246.021, Florida Statutes, is amended to read:

(*Substantial rewording of section. See s. 246.021, F.S., for present text.*)

246.021 Definitions.—As used in ss. 246.011-246.151, the term:

(1) "Agent" means a person who is employed by a college that is subject to the licensing requirements provided in ss. 246.081, 246.091, and 246.095, or an out-of-state college, and who solicits business for the college at any place other than the legal place of business of the college. The term does not include an entertainer at a public event whose objective is to improve public relations for a college, if the entertainer does not accept the commitment of prospective students to attend the college.

(2) "Board" means the State Board of Independent Colleges and Universities.

(3) "College" means any educational entity which confers or offers to confer a degree or which furnishes or offers to furnish instruction leading toward, or prerequisite to, college credit or a degree beyond the secondary level. The term includes any nonpublic college chartered in this state and any Florida center of an out-of-state college.

(4) "Degree" means any credential awarded that is generally taken to signify satisfactory completion of an academic, educational, or professional program of study beyond the secondary school level or any honorary credential conferred for meritorious recognition.

(5) "Ecclesiastical program" means an educational program in which instruction is limited to the preparation of students in religious disciplines for missionary, ministerial, or religious educational services.

(6) "License" means a regular license, provisional license, or temporary license, as provided by rule of the State Board of Education.

(7) "Out-of-state college" means any college where the place of instruction, the legal place of residence, or the place of evaluation of instruction or work by correspondence is not within the legal boundaries of this state.

(8) "Secular degree" means any degree conferred or offered by a public institution that is a member of the State University System or the community college system of the state. A degree is secular if it contains in its title the same words in the same order as they appear in the title of a degree conferred by a public college, even if the words denoting a secular degree are followed by words denoting an ecclesiastical program of study leading to the degree.

Section 3. Section 246.031, Florida Statutes, is amended to read:

246.031 State Board of Independent Colleges and Universities.—

(1) There ~~is shall be~~ established in the Department of Education a State Board of Independent Colleges and Universities. The department shall perform the ~~payroll, procurement, and related~~ administrative functions of the board, ~~including payroll, procurement, and the provision of legal counsel~~. The board shall exercise independently all of ~~its other duties other functions~~ prescribed by law. This board shall include ~~11 nine~~ members appointed by the Governor, ~~who shall give priority to persons who have expertise in managing independent colleges. as follows:~~

~~(a) Four educators selected from private colleges or universities in this state, at least one of whom shall be selected from colleges licensed by the board.~~

~~(b) One educator selected from publicly supported community colleges, colleges, or the State University System, as defined in s. 240.2011.~~

~~(c) Four lay citizens who do not derive a majority of their income from educational or education-related fields.~~

(2) Each of the members shall be appointed, subject to confirmation by the Senate, for a term of 3 years, ~~except that three members shall be appointed to initial terms of 2 years and three members shall be appointed to initial terms of 1 year~~. All members ~~must shall~~ be residents of this state. ~~If in the event of a vacancy on the board occurs before the caused other than by expiration of a term, the Governor shall appoint a successor to serve the unexpired term.~~

(2)(3) The board shall meet ~~at least quarterly or at the call of its chairperson, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules.~~

(3) *The board shall appoint a standing advisory committee of up to 11 members, composed of at least two representatives from nonpublic colleges accredited by the Southern Association of Colleges and Schools, the Career College Association, or the Association of American Bible Colleges; at least two representatives from licensed nonpublic colleges that are not accredited; at least one representative from a public community college, college, or university; at least one representative from a nonpublic college that is not licensed; and up to five additional members, each of whom represents a college under the board's jurisdiction. The advisory committee shall meet jointly with the board at least annually to give an annual report with recommendations. The committee may meet at the request of the board up to four times a year.*

(4) *Members of the board and the advisory committee are entitled to reimbursement for ~~shall be paid~~ travel and per diem subsistence expenses, as provided in s. 112.061, while performing their duties under the provisions of ss. 246.011-246.151.*

(5) *Each board member is accountable to the Governor for the proper performance of the duties of his office. ~~The Governor shall cause to be investigated any complaint or unfavorable report received concerning an action of the board or any member and shall take appropriate action thereon. The Governor may remove from office any member for cause malfeasance, misfeasance, neglect of duty, incompetence, permanent inability to perform official duties, or pleading guilty or nolo contendere to, or being found guilty of, a criminal offense.~~*

Section 4. The terms of office held by the members of the State Board of Independent Colleges and Universities shall expire on October 1, 1992, and the Governor shall appoint a new board. A member serving on the board before October 1, 1992, may be reappointed to the board.

Section 5. 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 ~~governance. government;~~

(e) Adopt rules necessary to carry out its functions.;

(f) Administer ss. 246.011-246.151.;

(g) Appoint *its own staff*, 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 be deposited in the Institutional Assessment Trust Fund created by s. 246.31 and expend funds as necessary to enforce ss. 246.011-246.151.;

(l) Transmit to the Governor, the Speaker of the House of Representatives, and 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. ~~An 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 ~~collecting collection and distribut-~~ ~~ing distribution of~~ current information regarding colleges that are under the jurisdiction of 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.~~

1. ~~Annually, the board shall collect~~ ~~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. ~~The board may collect other information as needed to respond to consumer inquiries or specific needs shall be collected in response to specific needs or inquiries.~~ Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. *To assure that colleges comply with fair consumer practices, the board shall compile an inventory for each college which must include:*

a. *A description of the college's policies and procedures regarding the recruitment and admission of students;*

b. *The sources and kinds of student financial assistance available, and the specific manner by which the college informs students of their responsibilities for repaying loans and receiving assistance;*

c. *The placement assistance provided by the college, including any claims concerning job placement rates;*

d. *Advertising issued on behalf of the college, including copies of all published items; and*

e. *A copy of the college's refund policy.*

The board may require further evidence to investigate complaints pertaining to a college's consumer practices. If the parties involved in a conflict concerning a college's consumer practices do not reach resolution, the board shall determine the facts and issue a decision.

3.2. *The board shall provide to each college participating institution annually the format, definitions, and instructions for submitting the required information. However, the board may not require a college to report separately or in a unique format information that is readily available elsewhere. The college may provide to the board a copy of any report submitted to another agency, such as the federal report on students, faculty, and degrees awarded, instead of providing demographic information in a format developed by the board. The college may provide a current catalog instead of providing institutional information in a special format, if the required information is in the catalog and the college provides an index to show where it is recorded.*

4.3. *Each college must include with the information submitted ~~The data submitted by each institution shall be accompanied by a letter of certification signed by its the chief administrative officer of the institution, affirming that the information submitted is accurate and that the policies reported are available in writing to all prospective students prior to enrollment or collection of registration or tuition fees.~~*

5.4. *The board must include a summary of the information ~~data~~ collected by the board shall be included in the annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives. This ~~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.*

6. *If a college fails to provide the information required by the board under this paragraph, the board may impose a fine of not more than \$100 per month for every month the information is not made available. The board may revoke the license or certificate of exemption of a college that repeatedly fails to supply the information.*

(n) *Annually review the accreditation standards and procedures of the Commission on Colleges of the Southern Association of Colleges and Schools, the Accrediting Commission for Independent Colleges and Schools of the Career College Association at the junior or senior college of business level, and the American Association of Bible Colleges to*

determine for each of these accrediting organizations whether the accreditation standards are consistent with the licensing requirements of the board. The board must report to the Legislature any accrediting association whose standards are inconsistent with those of the board and must report any nonpublic college in the state that is exempt from licensure because of its accreditation by that association. To assist the Legislature in considering if an accrediting association should enable a college to be exempt from licensure, the board may also report any other accrediting association if that association is a member of the Council on Postsecondary Accreditation or is recognized by the United States Department of Education, and the board finds that the accrediting association has standards that are consistent with those of the board, and finds that all colleges accredited by that association meet the board's licensing standards.

(2) The board may:

(a) Sue or be sued.

(b) Enter into contracts with the Federal Government, with other departments of the state, or with individuals.

(c) Receive bequests and gifts, ~~subject to any restrictions upon which the board and the donor agree which shall be used only for the purpose stated by the person making such bequests.~~

(d) Appoint committees to assist it in developing standards; in determining the qualifications ~~required of a college endeavor; which shall be met in a given field of endeavor~~, in evaluating applications for temporary, provisional, or regular licensure; in evaluating annual reports; or in conducting onsite evaluation visits at colleges.

(e) Issue a license to any college which ~~offers ecclesiastical programs and nonsecular degrees is exempt from licensure~~ pursuant to s. 246.086 s. 246.085, and which voluntarily applies for and meets the standards for licensure.

(f) Delegate to the chairperson of the board the responsibility for signing final orders.

Section 6. Section 246.081, Florida Statutes, is amended to read:

246.081 License, certificate of exemption, or authorization required.—

(1) A ~~no~~ nonpublic college may not ~~shall~~ continue operation or be established within the state unless ~~the such college applies shall apply~~ for, and obtains ~~obtain from the board~~, a license, a certificate of exemption, or authorization ~~from in the manner and form prescribed by the board. Within 60 days after Upon~~ receipt of approved articles of incorporation from the Department of State that purport to be for a college ~~within the meaning and intent of ss. 246.011-246.151, the newly formed corporation shall apply, within 60 days of such approval, make an application to the board for a license, certificate of exemption, or authorization as required by law. The approval of articles of incorporation by the Department of State are not shall not be deemed to be an authorization to engage in the operation of a college. A college may not advertise or operate until it receives a license, certificate of exemption, or authorization an institution of higher learning until such time as a license has been obtained from the board. When Upon~~ articles of incorporation are being issued to a college ~~an institution of higher learning~~, the Department of State shall immediately furnish a copy of the articles of incorporation to the board.

(2) A ~~no~~ nonpublic college may not ~~shall~~ continue to conduct or begin to conduct any vocational diploma program, as defined in s. 246.203, unless ~~the such college applies shall apply~~ for and obtains ~~obtain~~ from the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools a license or authorization for the diploma program ~~in the manner and form prescribed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.~~

(3) An ~~no~~ agent as defined in s. 246.021(4) may not ~~shall~~ solicit prospective students in this state for enrollment in any college subject to the provisions of subsection (1) or in any out-of-state college ~~chartered without the state or in a foreign country unless such agent has received a license from in the manner prescribed by the board. The board may not license, and a college may not employ, an agent who is compensated by a commission or bonus based upon the number of students recruited for enrollment in the college.~~

(4) A ~~no~~ nonpublic college which is required to have a license and a ~~no~~ person acting on behalf of such college may not ~~publish shall cause to be published in any publication~~ any advertisement soliciting students or offering a diploma or degree, unless such college has a valid license, certificate of exemption, or authorization issued pursuant to the provisions of ss. 246.011-246.151 and ss. 246.201-246.231. ~~A, nor shall any such nonpublic college and or any person acting on behalf of such college may not publish cause to be published in any publication~~ any advertisement soliciting students or offering a diploma or degree while such college is under an injunction against operating, soliciting students, or offering a diploma or degree.

(5) If a nonpublic college conducts a program in which over 75 percent of a student's educational preparation to earn a degree or diploma is independent study by correspondence or demonstration of skills by testing, the degree or diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the degree or diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "External Studies" may be substituted for the term "Correspondence."

Section 7. Section 246.085, Florida Statutes, is amended to read:

246.085 Exemption from licensing requirements.—

(1) The following colleges are not under the jurisdiction of the board and do not need a license, certificate of exemption, or authorization to operate ~~exempt from the licensing requirements of ss. 246.011-246.151:~~

(a) Any college provided, operated, and supported by the State of Florida or any political subdivision or by the Federal Government.

(b) Any college, school, or course licensed or approved for establishment and operation under chapter 464, chapter 466, or chapter 475, chapter 476, or chapter 477 or any other chapter of the Florida Statutes, requiring licensing or approval as defined in ss. 246.011-246.151.

~~(2) The following shall apply for exemption from the licensing requirements of the board, pursuant to ss. 246.011-246.151:~~

(2)(a) The following nonpublic colleges chartered in Florida may apply for a certificate of exemption from licensure and accredited by:

1. A college accredited by the Commission on Colleges of the Southern Association of Colleges and Schools,;

2. A college accredited by the Accrediting Commission for of the Association of Independent Colleges and Schools of the Career College Association at the junior or senior college of business level,;

3. A college accredited by the American Association of Bible Colleges, or

4. A college accredited by an agency recognized by the United States Department of Education to accredit professional degree programs above the baccalaureate level.

5. A college chartered in this state which demonstrates that its credits or degrees are accepted for credit by at least three colleges that are fully accredited by a member of the Council on Postsecondary Accreditation, that it was in this category of exemption from licensure prior to July 1, 1992, and that it does not enroll students who receive any state or federal financial aid for education.

(b) This subsection does not restrict the ability of the board to assure that all nonpublic colleges meet the minimum standards established in ss. 246.011-246.151. If the board determines under s. 246.081 that the accreditation standards used by an organization in granting a college accreditation have fallen below the minimum standards prescribed by the board, or if the board determines that an accredited college has disregarded the accreditation standards of the organization granting it accreditation, the board may initiate an examination of the college and may place it on probation or revoke its certificate of exemption. Before initiating such an examination, the board must report the college's infraction to its accrediting association for resolution. If the accreditation association resolves the problem to the board's satisfaction the board shall abandon its investigation.

(c) The board shall annually review each certificate of exemption and determine if the college remains eligible for the exemption. A college may remain eligible by providing the board annually with a copy of its catalog and submitting evidence that it is in compliance with subparagraph (a)5., s. 246.095, and chapter 501.

(d) If a college has a certificate of exemption and wishes to conduct a vocational education program as defined in s. 246.203, the college must apply to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for a license to conduct the vocational program.

(b) Colleges that offer instruction of an avocational or recreational nature which does not lead to an occupational objective. However, no degree as defined in s. 246.021 shall be awarded.

(e) Colleges chartered in this state the credits or degrees of which are accepted for credit by at least three colleges that are fully accredited by a member of the Council on Postsecondary Accreditation, which were exempt prior to July 1, 1982, and which enroll no students who receive any state or federal financial aid for education.

Colleges which have applied for and received exemption under this subsection may remain in compliance for exemption by filing annually the information required by s. 246.041(1)(m), and a copy of their current catalog. The burden of determining compliance shall rest with the board, and the board may require further evidence and make such further investigation, in addition to the information submitted, as may be necessary in its judgment.

(3)(a) The following are exempt from the licensing requirements of ss. 246.011-246.151, upon submission of the data information required by this subsection and the current college catalog:

1. Religious institutes, colleges, and universities:

a. The only purpose of which is to prepare students in religious disciplines for educational, missionary, or ministerial service;

b. Whose catalogs contain the statement of institutional purpose, all curricular offerings including degree programs of all courses offered, and a listing of the faculty; and

c. Which are in compliance with s. 817.06; and

2. Religious seminaries, institutes, colleges, and universities which offer only educational programs that prepare students for a religious vocation, career, occupation, profession, or lifework, and the nomenclature of whose certificates, diplomas, or degrees clearly identifies the religious character of the educational program.

(b) Religious seminaries, institutes, colleges, or universities which are exempt from licensure under this subsection shall submit annually to the board data information which shall include:

1. The institution's name; address; telephone number; accreditation, if any; compliance with chapter 501; denomination or church affiliation (optional); level of institution; total number of students for both the previous and current year; classifications of full time students (freshmen, sophomores, juniors, seniors, graduate, special); off-campus branches, if any; and listing of degrees and programs of study; and

2. A copy of their current catalog.

(e) The burden of determining compliance shall rest with the board, which may require further evidence and make such further investigation, in addition to the information submitted, as may be necessary in its judgment.

(4) Any college exempt from licensure pursuant to paragraph (2)(a) that conducts any diploma program, as defined in s. 246.203, shall be subject to licensure by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for such diploma program.

(5)(a) To receive an exemption from licensure pursuant to paragraph (2)(a) or paragraph (2)(c), a nonpublic college shall demonstrate to the board that:

1. More than 50 percent of its total student enrollment, by head count, is pursuing degree programs offered by the college itself, which programs, if at the associate or baccalaureate degree level, require satisfactory completion of more than 12 semester hours or 18 quarter hours of courses in liberal arts or general studies provided by the college itself;

2. It is in compliance with fair consumer practices by submitting to the board an inventory including:

a. A description of the college's policies and procedures regarding the recruitment and admission of students;

b. The sources and kinds of student financial assistance available, and the specific manner by which students are informed of their responsibilities with respect to receiving assistance and repaying loans;

c. The placement assistance provided by the college, including any claims concerning job placement rates;

d. All advertising issued on behalf of the college, including copies of all published items; and

e. A copy of the college's refund policy.

The descriptive inventory of consumer practices submitted by each college shall be accompanied by a notarized statement, signed by the chief administrative officer of the college, affirming that the information submitted is accurate, and that the college shall observe the policies and practices as reported to the board. The board shall have the authority to require further evidence, as may be needed, to investigate complaints relating to consumer practices. The board shall render findings of fact and issue decisions in cases where resolution of the complaint is not reached among the parties involved.

(b) Exemption from licensure applied for by any institution or granted by the board to any institution pursuant to paragraph (2)(a) may be denied, placed on probation, or revoked in accordance with the rules of the board established pursuant to s. 246.111.

Section 8. Section 246.086, Florida Statutes, is created to read:

246.086 Certificate of authorization for colleges that offer only ecclesiastical programs.—

(1) If a college includes a religious modifier in its name, offers only ecclesiastical programs, and does not offer any secular degree, the college is not required to obtain a license to operate in the state. However, prior to operating or advertising, each such college must obtain a certificate of authorization as provided in this section, provide the information required by the board under s. 246.041, and comply with fair consumer practices required pursuant to s. 246.095 and chapter 501.

(2) If the board determines that a college offers only ecclesiastical programs and does not offer any secular degrees, the board shall present the college with a certificate of authorization, and may not review the educational programs at the college, except to determine that they lead to nonsecular degrees. The certificate of authorization must state that the State of Florida does not review or evaluate programs of study that lead to nonsecular degrees.

(3) If a college that would otherwise qualify for a certificate of authorization without review as provided by this section wishes to offer a secular degree, the college must obtain a license for the program of study that leads to the secular degree.

(4) By November 1, 1992, the board shall notify every college which, because of the ecclesiastical nature of its programs, was exempt from licensure before October 1, 1992, if any of its degrees are secular degrees as defined in s. 246.021. Such a college may change the title of the degree so that it is nonsecular, or it may request the board to license the college to operate the program of study leading to the secular degree. By March 1, 1995, the board must complete the examination of each secular degree program offered by any such college. After March 1, 1995, a nonpublic college that has an authorization to operate but not a license or certificate of exemption may not offer a secular degree.

(5) By September 1, 1992, the Commissioner of Education must provide the board with a list of all the titles of degrees conferred by public universities and community colleges in this state and must update the list at least annually thereafter. By November 1, 1992, and annually thereafter, the board shall provide a copy of this list to all colleges that are not licensed or are exempt from licensure and that offer only ecclesiastical programs.

Section 9. Section 246.087, Florida Statutes, is amended to read:

246.087 Licensing requirements.—

(1) ~~Before it licenses any college, the board shall evaluate at least the college's. The minimum standards to be evaluated by the board for the licensing of colleges shall include~~ purpose, administrative organization, educational program and curricula, finances, faculty, library, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the college in relation to professional certification and licensure.

(2) ~~Before it licenses any agent, the board shall examine at least the agent's. The minimum standards for the licensing of agents shall include~~ name, residential and business addresses, background, training, college to be represented, and demonstrated knowledge of statutes and rules related to the authority and limitations of the authority of agents granted to agents and the limitations imposed upon such authority. ~~No employee of a nonpublic college shall solicit prospective students for enrollment in such college until that employee is licensed by the board as an agent.~~

Section 10. Section 246.091, Florida Statutes, is amended to read:

246.091 License period and renewal.—

(1) ~~The board shall annually review and renew each license if the board determines that the college. Each license issued by the board shall be subject to an annual review and renewal by the board to determine if the licensee is in compliance with ss. 246.011-246.151. If the board determines that the college is not in compliance with ss. 246.011-246.151, the board may grant the college. A college affected under this act may be granted~~ a temporary or provisional license. ~~The board may extend a temporary or provisional license for up to 1 year if the college makes an effort in good faith to meet the licensing requirements. Nothing in ss. 246.011-246.151 shall prevent the extension of such a temporary or provisional license provided a good faith effort has been made by the college and agent.~~ The burden of determining compliance or a good-faith good faith effort shall rest with the board.

(2) ~~If a licensed college wishes which seeks to expand its degrees to be conferred, it must shall~~ file a supplementary application. The board shall ~~adopt promulgate~~ standards for the approval of additional degrees.

(3) A licensed college ~~that which~~ seeks to conduct any vocational diploma program, as defined in s. 246.203, ~~must shall~~ apply to the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools for licensure of such program.

(4) ~~A licensed college, Prior to ceasing to operate the discontinuance of operation, a licensed college must shall have the duty to~~ convey all student records to the board or to another location designated by the board.

Section 11. Section 246.095, Florida Statutes, is amended to read:

246.095 Disclosure to prospective students; condition of licensing.—

(1) ~~Every nonpublic college that which is required to be licensed under the provisions of s. 246.081 and which either directly or indirectly solicits for enrollment any student must shall~~ disclose to each prospective student a statement of the purpose of such college, its educational programs and curricula, a description of its physical facilities, its status regarding licensure, its fee schedule and policies about retaining student fees if a student withdraws, and a statement about the transferability of its credits to and from other colleges. ~~In addition, licensed colleges must also include a statement the fact that additional information regarding the college may be obtained by contacting the State Board of Independent Colleges and Universities, Department of Education, Tallahassee. The college must make the required disclosures required to be made under the provisions of this subsection shall be made in writing and at least one week prior to enrolling or collecting the collection of any fee or tuition from the prospective student to whom disclosure is required to be made. Such disclosures may be made in the college catalog.~~

(2) ~~The board may not grant or renew a license, a certificate of exemption, or an authorization to operate. No license shall be granted or renewed by the board under the provisions of s. 246.081 or s. 246.091 unless the college seeking a license, certificate of exemption, authorization to operate, or continuation of its status to be licensed or seeking a renewal of licensure provides the board with a sworn statement of compliance with the provisions of this section. The board shall prescribe the manner and form of the statement. Such statement shall be made in the manner and form prescribed by the board.~~

(3) ~~The refusal of any college to comply with the provisions of this section is shall constitute~~ cause for denial or revocation of a license, certificate of exemption, or authorization of ecclesiastical programs under the provisions of s. 246.111.

Section 12. Section 246.101, Florida Statutes, is amended to read:

246.101 Fees.—

(1) ~~The State Board of Independent Colleges and Universities shall annually establish a fee schedule to generate, from fees, the amount of revenue appropriated for the operation of the board.~~

(2) ~~For the 1992-1993 fiscal year, the board shall adopt a fee schedule consistent with this section.~~

(3) ~~Beginning with the 1993-1994 fiscal year, the board shall include, as a part of its legislative budget request, a proposed fee schedule to generate the fee revenue required in the appropriations act. The board may adjust the amount of a college's fee as necessary to generate the fee revenue required in the appropriations act. However, the board may not add any category of fee that was not included in the legislative budget request. In the absence of legislative action to the contrary, the fee schedule shall go into effect as proposed in the board's legislative budget request.~~

(4) ~~The cost of routine services of the board, such as data collection and dissemination, shall be supported through a base fee. The base fee applies to all nonpublic colleges, whether granted a license, a certificate of exemption, or an authorization to operate.~~

(a) ~~If the total appropriation for the board requires that one-half or more of the cost of operating the board be supported through fees, the board shall charge a base fee to all colleges under its jurisdiction. The board may adjust the fee based on the enrollment of the college. However, the fee assessed to the largest college may not exceed one-half of 1 percent of the amount appropriated for the board or \$1,500, whichever is less. The fee assessed to the largest college may not exceed four times the amount of the fee assessed to the smallest college.~~

(b) ~~If the total appropriation for the board requires that less than one-half of the total amount be supported through fees, the board shall waive the fees for colleges that have been granted an authorization to operate or shall provide for lower base fees for smaller colleges. However, the fee assessed to the largest college may not exceed one-half of 1 percent of the amount appropriated for the board or \$1,500, whichever is less. The fee assessed to the largest college may not exceed four times the amount of the fee assessed to the smallest college.~~

(5) ~~The board shall assess fees to defray the cost of workload for board activities that are specific to certain colleges. Such workload activities must relate to:~~

- (a) Licensure.
- (b) Annual reviews.
- (c) Special reviews.
- (d) Site visits.
- (e) Resolution of complaints for violation of fair consumer practices.
- (f) Authorization to operate in Florida without offering education programs.
- (g) Approval to use the term "college" or "university."
- (h) Other workload activities approved by the Legislature.
- (6) The board may assess any college late fees for failure to timely submit required materials.

(7) ~~If the board collects fee revenues of more than 120 percent of the appropriated fee revenue requirements for the fiscal year, the board shall use the collections in excess of 120 percent to provide a credit against the base fee assessed to all renewing institutions for the following year. The credit shall be prorated on the base fee payments by colleges for the prior year, exclusive of any related fee.~~

(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.~~

~~(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, the board shall establish a fee for initial application and annual review.~~

~~(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.~~

(8)(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.

(9)(3) All fees authorized to be collected are considered to be administrative fees and are shall not be refundable.

Section 13. Section 246.111, Florida Statutes, is amended to read:

246.111 Denial, probation, or revocation of license, certificate of exemption, or authorization of ecclesiastical programs.—

(1) ~~The board may deny or revoke any license, certificate of exemption, or authorization of ecclesiastical programs required by ss. 246.011-246.151 or may place a college on probation. The board shall adopt rules for these actions. Any temporary license, provisional license, or regular license required under the provisions of ss. 246.011-246.151 may be denied, placed on probation, or revoked by the board. The board shall promulgate rules for such denial, probation, and revocation. The board shall additionally promulgate rules for denial, probation, and revocation of exemption from licensure for violations of compliance with fair consumer practices pursuant to s. 246.085(5). If the board places a college on probation, the board may also impose for a period of time and subject to such conditions as the board may specify may also carry the imposition of an administrative fine not to exceed \$5,000. Such fine shall be deposited into the Institutional Assessment Trust Fund State Treasury. Disciplinary action undertaken pursuant to this section against a college that is also licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall prompt disciplinary proceedings pursuant to s. 246.226.~~

(2) ~~By December 1, 1992, the board shall adopt rules for taking action against any college that does not fully comply with the fair consumer practices required by s. 246.095. The rules shall provide for a cease and desist order against any college operating in this state, including a college that holds a certificate of exemption or an authorization of ecclesiastical programs, and for denying or revoking the license held by any college or placing it on probation if it violates fair consumer practice requirements.~~

Section 14. Section 246.121, Florida Statutes, is amended to read:

246.121 Designation "college" or "university".—

(1) The use of the title "college" or "university" in combination with any series of letters, numbers, or words is shall be restricted in this state to colleges as defined in s. 246.021(1) which offer academic degrees as defined in s. 246.021(6) and fall into at least one of the following categories:

(a) A Florida college, public or nonpublic, accredited by:

1. The Commission on Colleges of the Southern Association of Colleges and Schools;

2. The Accrediting Commission for of the Association of Independent Colleges and Schools of the Career College Association at the junior or senior college of business level;

3. The American Association of Bible Colleges; or

4. An agency recognized by the United States Department of Education to accredit professional degree programs above the baccalaureate level.

(b) ~~A college that holds a certificate of exemption because its credits or degrees are accepted for credit by at least three colleges that are fully accredited by a member of the Council on Postsecondary Accreditation as provided in s. 246.085(2)(a)5.~~

(c) ~~A Florida nonpublic college that holds a license from the board and also meets the standards set by rule for use of the title "college" or "university."~~

~~(b) A Florida or out of state college which has been in active operation and using the name since April 1, 1970; or~~

(2)(e) A college for which the board has issued an authorization to operate only ecclesiastical programs and nonsecular degrees as defined in s. 246.021 may use the title "college" or "university" in combination with any series of letters, numbers, or words if the college which holds a license or an exempt status granted by the board, which meets the standards set by rule for use of the title "college" or "university," and if the college which has received approval by the board to use such title.

(3)(2) ~~If~~ When a college is authorized approved under paragraph (1)(e) to use the designation "college" or "university," a branch or extension of that college may use the name of the parent college, but must shall include an indication of the location of the branch or extension.

~~(3) Any entity offering educational courses or programs of study beyond the elementary school level in Florida, whether or not college credit is awarded, shall be subject to the provisions of this section.~~

(4) ~~An~~ No entity may not of any kind shall use the term "college" or "university" in its name in Florida without authorization by the board, unless the board determines that its name is clearly and accurately descriptive of the services provided by the entity and is not one that may mislead the public.

Section 15. Subsection (1) of section 246.203, Florida Statutes, is amended to read:

246.203 Definitions.—As used in ss. 246.201-246.231, unless the context otherwise requires:

(1) "School" means any nongovernmental, postsecondary, vocational, technical, trade, or business noncollegiate educational institution, organization program, home study course, or class maintained or conducted in residence or through correspondence by any person, partnership, association, organization, or corporation for the purpose of offering instruction of any kind leading to occupational objectives or of furnishing a diploma, as defined in subsection (6), in business, management, trade, technical, or other vocational education and professional schools not otherwise regulated. Nonpublic colleges and universities which award a baccalaureate or higher degree, and nonpublic junior colleges which award an associate degree in liberal arts do not fall under the authority granted in ss. 246.201-246.231 unless the college, university, or junior college conducts, or seeks to conduct, a program for which a diploma, as defined in subsection (6), is to be awarded. Any nonpublic college that offers a vocational program leading to a degree rather than a diploma is, for the purposes of ss. 246.201-246.231, included within the definition of the term "school" if a counterpart to such vocational program is offered in the public school system which leads to a certificate rather than an award of college credit. Any nonpublic college, university, or junior college which conducts or seeks to conduct a diploma program or vocational degree program is shall, for the purposes of ss. 246.201-246.231, be included in the definition of the term "school" if a counterpart to such diploma program or vocational degree program is offered in the public school system which leads to a certificate rather than an award of college credit. Schools offering only examination preparation courses for which they do not award a diploma as defined in subsection (6) do not fall under the authority granted in ss. 246.201-246.231; nor does a nonprofit class provided and operated entirely by an employer, a group of employers in related business or industry, or a labor union solely for its employees or prospective employees or members.

Section 16. Section 232.02, Florida Statutes, is amended to read:

232.02 Regular school attendance.—

(1) Regular attendance is the actual attendance of a pupil during the school day as defined by law and regulations of the state board. Regular attendance within the intent of s. 232.01 may be achieved by attendance in:

(a)(1) A public school supported by public funds;

(b)(2) A parochial, religious, or denominational school;

(c)(3) A private school supported in whole or in part by tuition charges or by endowments or gifts; or

(d)(4) A home education program as defined in s. 228.041, and which is in compliance with s. 229.808, provided that no parent or guardian with whom a pupil is residing has been named as a perpetrator in a confirmed

report of abuse or neglect of a child pursuant to the provisions of chapter 415 or has been determined by a court of law to have abused or neglected a child and provided that at least one of the following conditions is met:

1.(a) The parent holds a valid regular Florida certificate to teach the subjects or grades in which instruction is given and complies with any other requirements prescribed by law or rules of the state board; or

2.(b) The parent does not hold a valid regular Florida certificate to teach and complies with the following requirements:

a.1. Notifies the superintendent of schools of the county in which the parent resides of his intent to establish and maintain a home education program. The notice shall be in writing, signed by the parent, and shall include the names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice shall be filed in the superintendent's office within 30 days of the establishment of the home education program. A written notice of termination of the home education program shall be filed in the superintendent's office within 30 days of said termination.

b.2. Maintains a portfolio of records and materials. The portfolio shall consist of a log, made contemporaneously with the instruction, which designates by title the reading materials used and samples of any writings, worksheets, workbooks, and creative materials used or developed by the student. The portfolio shall be preserved by the parent for 2 years and shall be made available for inspection by the superintendent, or his agent, upon 15 days' written notice.

c.3. Provides for an annual educational evaluation in which is documented the pupil's demonstration of educational progress at a level commensurate with his ability. A copy of the evaluation shall be filed annually with the district school board office in the county in which the pupil resides. The annual educational evaluation shall consist of one of the following:

(I)a. A teacher selected by the parent shall evaluate the pupil's educational progress upon review of the portfolio and discussion with the pupil. Such teacher shall hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level. The teacher shall submit a written evaluation to the school superintendent;

(II)b. The pupil shall take any nationally normed student achievement test used by the district and administered by a certified teacher. Such test results shall be reported to the school superintendent;

(III)e. The pupil shall take a state student assessment test. Such test results shall be reported to the school superintendent;

(IV)d. The pupil shall be evaluated by an individual holding a valid, active license pursuant to the provisions of s. 490.003(3) or s. 490.003(5). Such results shall be reported to the school superintendent; or

(V)e. The pupil shall be evaluated with any other valid measurement tool as mutually agreed upon by the school superintendent of the district in which the pupil resides and the pupil's parent or guardian. Such results shall be reported to the superintendent.

The school superintendent shall review and accept the results of the annual educational evaluation of the pupil in a home education program. If the pupil does not demonstrate educational progress at a level commensurate with his ability, the superintendent shall notify the parent, in writing, that such progress has not been achieved. The parent shall have 1 year from the date of receipt of the written notification to provide remedial instruction to the pupil. At the end of the 1-year probationary period, the pupil shall be reevaluated as specified in this subparagraph. Continuation in a home education program shall be contingent upon the pupil demonstrating educational progress commensurate with his ability at the end of the probationary period.

(2) *If a school included in paragraphs (1)(a)-(c) conducts a program in which over 75 percent of a student's educational preparation to earn a diploma is independent study by correspondence or demonstration of skills by testing, the diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "external studies" may be substituted for the term "correspondence."*

Section 17. Correspondence or testing programs; disclosure.—If a Florida public community college or university conducts a program in which over 75 percent of a student's educational preparation to earn a degree or diploma is independent study by correspondence or demonstration of skills by testing, the degree or diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the degree or diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "external studies" may be substituted for the term "correspondence."

Section 18. Subsection (6) is added to section 246.215, Florida Statutes, to read:

246.215 License required.—

(6) *If an independent school required to be licensed under ss. 246.201-246.231 conducts a program in which over 75 percent of a student's educational preparation to earn a degree or diploma is independent study by correspondence or demonstration of skills by testing, the degree or diploma must state the nature of the student's preparation or demonstration of skills. In letters identical in size to the size of the student's name, the degree or diploma must contain whichever of the following statements best describes the student's preparation: "Conferred as a Result of a Program of Study by Correspondence"; "Conferred as a Result of the Demonstration of Skills through Testing"; or "Conferred as a Result of a Program of Study by Correspondence and Testing." The term "external studies" may be substituted for the term "correspondence."*

Section 19. Notwithstanding the provisions of section 11.61, Florida Statutes, the Regulatory Sunset Act, or section 24 of chapter 82-203, Laws of Florida, sections 246.011, 246.021, 246.031, 246.041, 246.061, 246.071, 246.081, 246.085, 246.087, 246.091, 246.095, 246.101, 246.111, 246.121, 246.131, 246.141, and 246.151, Florida Statutes, shall not stand repealed effective October 1, 1992, as scheduled by such laws, but those sections, as amended by this act, are revived and readopted.

Section 20. Section 246.051, Florida Statutes, is repealed.

Section 21. This act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to education; amending s. 246.011, F.S.; providing legislative purpose; amending s. 246.021, F.S.; revising definitions and providing additional definitions; amending s. 246.031, F.S.; revising the membership of the State Board of Independent Colleges and Universities; requiring the board to appoint a standing advisory committee; providing for the terms of the present board to expire; requiring the Governor to appoint a new board; amending s. 246.041, F.S.; providing additional powers and duties of the board; authorizing the board to impose certain fines; amending s. 246.081, F.S.; revising licensing requirements for nonpublic colleges; requiring the board to review accreditation standards established by organizations that accredit colleges in the state; requiring certain degrees to disclose the nature of certain programs; prohibiting colleges from employing certain agents; amending s. 246.085, F.S.; revising provisions granting certain colleges an exemption from licensing requirements; creating s. 246.086, F.S.; requiring certain colleges to obtain an authorization to operate; providing for annual review of secular and nonsecular degree titles; amending s. 246.087, F.S.; revising certain licensing requirements for colleges and agents that represent colleges; amending s. 246.091, F.S.; revising provisions relating to temporary and provisional licenses; amending s. 246.095, F.S.; revising requirements for disclosures to be made to prospective students; amending s. 246.101, F.S.; revising provisions relating to fees for operating the State Board of Independent Colleges and Universities; requiring a fee schedule; providing for base, workload, and late fees; amending s. 246.111, F.S.; requiring the board to adopt rules for taking certain disciplinary actions; amending s. 246.121, F.S.; revising circumstances under which certain nonlicensed colleges may use the designation "college" or "university"; amending s. 246.203, F.S.; requiring certain vocational programs to be subject to rules of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; amending s. 232.02, F.S.; requiring that certain public and nonpublic high school diplomas must disclose the nature

of certain programs; requiring that certain community college or university degrees disclose the nature of certain programs; amending s. 246.215, F.S.; requiring that certain independent school diplomas disclose the nature of certain programs; reviving and readopting provisions of ch. 246, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; repealing s. 246 051, F.S., relating to powers of the State Board of Independent Colleges and Universities; providing an effective date.

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

Amendment 1A (with Title Amendment)—On page 36, between lines 24 and 25, insert:

Section 19. Section 455.212, Florida Statutes, as created by chapter 92-136, Laws of Florida, is amended to read:

455.212 Licensing boards; educational requirements.—Any licensing board, or the department when there is no board, ~~subject to the provisions of this chapter~~ that requires student completion of a specific number of clock hours of classroom instruction for initial licensure purposes shall establish the minimal competencies that such students must demonstrate in order to be licensed. The demonstration of such competencies may be substituted for specific classroom ~~supersedes~~ clock-hour requirements established in statute or rule which are related to instructional programs for licensure purposes. *Student demonstration of the established minimum competencies shall be certified by the educational institution. The provisions of this section shall not apply to boards for which federal licensure standards are more restrictive or stringent than the standards prescribed in statute.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 39, line 12, following the semicolon (;) insert: amending s. 455.12, F.S.; relating to educational requirements of licensing boards;

Amendment 1 as amended was adopted.

On motion by Senator Walker, by two-thirds vote **HB 317-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

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

HB 367-H—A bill to be entitled An act relating to health care; revising and reorganizing chapter 395, F.S.; providing for part I of said chapter, relating to hospitals and other licensed facilities; amending s. 395.002, F.S.; revising definitions; amending s. 395.003, F.S.; revising licensure provisions; providing for licensure of hospitals and ambulatory surgical centers by the Agency for Health Care Administration; amending s. 395.004, F.S., relating to application for license; providing a fee for provisional licensure of a health care facility; providing for disposition of fees; amending and renumbering s. 395.006, F.S.; revising provisions relating to licensure inspection; providing criteria; repealing an exemption from public records law for accrediting organizations; amending and renumbering s. 395.008, F.S., relating to inspection reports; providing a maximum copying fee; amending and renumbering s. 395.007, F.S.; deleting authority to delegate review of plans and specifications to a county or municipality; amending s. 385 0185, F.S.; conforming terminology to transfer of responsibilities to the Agency for Health Care Administration; amending and renumbering s. 395.011, F.S.; modifying provisions relating to staff membership and clinical privileges; amending and renumbering s. 395.0115, F.S., relating to peer review and disciplinary powers; amending and renumbering s. 395.014, F.S., relating to access of chiropractors to diagnostic reports; amending and renumbering s. 395.041, F.S., relating to internal risk management programs; limiting responsibilities of part-time risk managers; providing for annual, rather than quarterly, reports to the Agency for Health Care Administration; changing procedure for reports of adverse or untoward incidents; providing for administrative fine by the agency; conforming language relating to transfer of responsibilities from the Department of Professional Regulation to the Agency for Health Care Administration; requiring the agency to publish an annual summary of incident reports; deleting a requirement relating to information bulletins; amending and renumbering s. 395.0172, F.S., relating to private utilization review; deleting duplicate language; amending and renumbering s. 395.0101, F.S., relating to treatment of biomedical waste;

amending and renumbering s. 395.0201, F.S.; requiring certain facilities to treat and protect the anonymity of sexual assault victims; amending and renumbering s. 395.0205, F.S.; requiring protocols for the treatment of victims of child abuse or neglect; renumbering s. 395.0147, F.S., relating to notification to emergency medical personnel of exposure to infectious diseases; amending and renumbering s. 395.038, F.S., relating to regional poison control centers; creating s. 395.1031, F.S.; providing communication requirements for hospital emergency departments; amending and renumbering s. 395.0142, F.S.; expanding requirements for providing access to emergency services; providing for inventory of hospital emergency services; revising provisions relating to legislative intent, medically necessary transfers, discrimination, liability, and records; prohibiting retaliation for patient transfers; providing penalties; providing for civil actions; requiring reports; amending and renumbering s. 395.0175, F.S., relating to complaint investigation procedures; amending and renumbering s. 395.005, F.S., relating to rules and enforcement; providing for standards for the use of seclusion and restraint; providing for hospital quality improvement programs; amending and renumbering s. 395.018, F.S.; increasing fines for operating without a license; increasing an administrative fine; amending and renumbering s. 395.015, F.S., relating to itemized patient bills; providing for a copy to the physician, upon request; revising applicability; amending and renumbering s. 395.016, F.S., relating to content of patient records; amending and renumbering s. 395.0165, F.S., relating to penalties for altering patient records; amending and renumbering s. 395.017, F.S.; revising requirements for disclosure of patient records; providing charges for copies and searches of records; providing exemptions; providing for disclosure of records to the Department of Health and Rehabilitative Services for certain purposes; creating s. 395.304, F.S.; providing for additional regulatory studies by the Agency for Health Care Administration; requiring a report; also including within part I of chapter 395, F.S., ss. 395.001 and 395.009, F.S., relating to legislative intent, minimum standards for clinical laboratory tests, and prohibitions and penalties for rebates; providing for part II of said chapter, relating to trauma; amending and renumbering s. 395.031, F.S.; revising definitions; providing additional component of trauma care system plans; specifying a period for approval of plans; providing for hearings; renumbering s. 395.032, F.S., relating to state regional trauma planning; amending and renumbering s. 395.033, F.S., relating to trauma service areas; amending and renumbering s. 395.0335, F.S.; revising provisions relating to selection of state-approved trauma centers; revising provisions relating to notice of termination of operation; providing certain immunity from liability for out-of-state experts; amending and renumbering s. 395.034, F.S., relating to reimbursement of state-sponsored trauma centers; renumbering s. 395.0345, F.S., relating to the Trauma Services Trust Fund; amending and renumbering s. 395.035, F.S., relating to review of trauma registry data; providing for trauma transport protocols for use of air ambulance service; amending and renumbering s. 395.036, F.S., relating to transport of trauma victims to centers; providing for trauma transport protocols for use of air ambulance service; renumbering and amending s. 395.037, F.S., relating to rulemaking authority; providing for part III of said chapter, relating to rural hospitals; amending and renumbering s. 395.102, F.S.; providing definitions; deleting certain limitations on rural hospital swing bed length of stay; amending and renumbering s. 395.103, F.S., relating to rural hospital impact statements; providing for deactivation and reactivation of general hospitals beds; amending and renumbering ss. 395.104 and 395.01465, F.S., relating to other rural hospital programs and emergency care hospitals, respectively; providing for part IV of said chapter, relating to the Public Medical Assistance Trust Fund; amending and renumbering s. 395.101, F.S., relating to hospital annual assessments; providing liability for fines, penalties, and assessments upon transfer or termination of a facility; providing alternative payment method for certain statutory teaching hospitals; amending and renumbering s. 395.1015, F.S., relating to annual assessments of other health care entities; clarifying an exemption for blood and plasma centers; exempting certain clinical laboratories; providing an exclusion for out-of-state revenues; specifying the types of radiological services to be included in the assessment; providing for part V of said chapter, relating to medical education and tertiary care; amending and renumbering ss. 395.60 and 395.62, F.S., relating to short title and the Medical Education and Tertiary Care Trust Fund, respectively; renumbering s. 395.61, F.S., and renumbering and amending s. 395.63, F.S., relating to legislative intent and distribution of trust fund moneys, respectively; amending s. 196.012, F.S.; revising the definition of the term "nursing home" in provisions relating to property exemptions; amending ss. 119.07, 240.4067, 320.0801, 322.0602, 381.004, 381.026, 383.336, 394.4787, 394.4789, 401.425, 401.251, 408.033, 408.036, 408.072, 408.08, 409.918, 427.708, 440.13, 440.185, 458.331, 459.015, 461.013, 626.941, 626.943, 641.55, 766.101,

766.110, and 766.314, F.S.; correcting cross references; saving s. 381.0035, F.S., relating to educational courses on AIDS for employees and clients of health care facilities, from repeal; amending s. 394.463, F.S.; revising provisions relating to the detainment period for involuntary examination of certain patients and transfer of such patients for appropriate medical treatment; amending s. 408.0455, F.S.; providing that certain rules of the Department of Health and Rehabilitative Services under the Health Facility and Services Development Act remain in effect and are enforceable by the Agency for Health Care Administration; providing for the continuation of certain proceedings under said act that are pending on a specified date; amending s. 408.07, F.S.; providing that the definitions contained in that section do not apply to the Health Facility and Services Development Act; amending s. 409.911, F.S.; revising provisions relating to distribution of moneys under the regular disproportionate share program; deleting a limitation on the source of funds; modifying the definition of "base Medicaid per diem"; specifying data to be used in calculating the disproportionate share rate; revising criteria for determining disproportionate share percentages; providing a limitation on total payments; amending s. 34 of ch. 92-58, Laws of Florida; modifying a saving clause relating to clinical laboratory personnel; preserving judicial and administrative actions pending and licenses in effect as of the dates specified; repealing ss. 395.012 and 395.013, F.S., relating to prohibitions against interference with the prescription of amygdalin (laetrile) or dimethyl sulfoxide (DMSO); repealing s. 395.0141, F.S., relating to inventory of hospitals with emergency departments; repealing s. 395.0143, F.S., relating to denial of emergency treatment; repealing s. 395.0144, F.S., relating to duty to admit or transfer emergency patients; repealing s. 395.0146, F.S., relating to certificates of need for emergency services; providing an appropriation; saving specified provisions from Sunset repeal; providing for review and repeal; providing for construction of sections conforming cross references; providing a disclaimer; providing effective dates.

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

Yeas—35 Nays—None

Consideration of **CS for SB 100-H** was deferred.

CS for SB 196-H—A bill to be entitled An act relating to tourism; providing legislative intent; providing definitions; creating the Florida Commission on Tourism; providing purposes; providing for membership and terms; providing powers and duties; providing for the creation of a program to provide an incentive for and recognize those entities voluntarily contributing significant resources to the Tourism Promotion Investment Trust Fund; providing for trade secrets; providing confidentiality of certain information; providing for deposit of such contributions into the Tourism Promotion Investment Trust Fund; creating the Tourism Promotion Investment Trust Fund; amending s. 215.22, F.S.; exempting the Tourism Promotion Investment Trust Fund from the General Revenue Fund service charge; requiring the Florida Commission on Tourism to establish the Tourism Promotion Investment Corporation; providing criteria; providing for use of commission property by the corporation; providing for a board of directors; providing for audits; amending ss. 212.0606, 288.121, 288.8032, 288.805, 288.809, 288.810, 288.811, 288.822, 288.825, 288.826, F.S.; clarifying and conforming provisions related to tourism; repealing s. 288.821, F.S., relating to the Florida International Tourism Promotion Council; specifying funding for the division and for the commission; providing effective dates.

—was read the second time by title.

Senator Kurth moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 12, strike all of lines 15-23

And the title is amended as follows:

In title, on page 1, lines 17-19, strike "exempting the Tourism Promotion Investment Trust Fund from the General Revenue Fund service charge;"

On motion by Senator Kurth, by two-thirds vote **CS for SB 196-H** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

INTRODUCTION OF BILL

On motion by Senator Kirkpatrick, by the required constitutional two-thirds vote of the Senate the following bill was admitted for introduction:

By Senators Kirkpatrick and Thomas—

SB 266-H—A bill to be entitled An act relating to building designations; designating the Food Animal Hospital at the University of Florida as the "William M. and Clara Strickland Inman Food Animal Hospital"; providing an effective date.

On motions by Senator Kirkpatrick, by unanimous consent, **SB 266-H** was taken up out of order and by two-thirds vote read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

MOTION

On motion by Senator Thomas, by two-thirds vote **SB 188-H** was placed next on the Special Order Calendar.

SB 188-H—A bill to be entitled An act relating to license fees for motorcycles, motor-driven cycles, mopeds, and trucks; amending s. 320.08, F.S.; redefining "antique truck"; restricting the use of safety education fees derived from the registration of motorcycles, motor-driven cycles, and mopeds to funding the Florida Motorcycle Safety Education Program; providing an effective date.

—was read the second time by title. On motion by Senator Beard, by two-thirds vote **SB 188-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Thursday, June 18, 1992: CS for CS for SB 50-H, SB 138-H, HB 159-H, CS for HB 257-H, CS for SB 154-H

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Natural Resources and Conservation recommends the following pass: HB 107-H with 1 amendment

The bill was referred to the Committee on Appropriations under the original reference.

The Committee on Natural Resources and Conservation recommends the following not pass: HB 327-H

The bill was laid on the table.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senators Davis and Myers—

SB 246-H—A bill to be entitled An act relating to mental health services; creating s. 409.9115, F.S.; requiring the Department of Health and Rehabilitative Services to establish a disproportionate share program to provide funds for certain mental health hospitals; providing a formula for calculating the disproportionate share; providing eligibility requirements; making specified appropriations; providing an effective date.

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

By Senator Forman—

SB 248-H—A bill to be entitled An act relating to motor vehicle inspection; amending s. 325.202, F.S.; clarifying that inspection certificates may be issued by reinspection facilities; defining the terms "reinspection facility" and "dealer certificate"; amending s. 325.203, F.S.; removing an exemption; providing an exemption for new motor vehicles that are used as rental vehicles; providing for inspection of vehicles

owned or leased by federal and local governments; specifying the period for which a dealer certificate is valid; amending s. 325.207, F.S.; authorizing the department to contract for auditing services; providing procedures and requirements; amending s. 325.209, F.S.; excluding vehicles offered for retail sale from eligibility for waiver; providing a limitation on the eligibility for a waiver from inspection requirements for persons who perform their own repairs; amending s. 325.211, F.S.; deleting a requirement pertaining to when repairs must occur; amending s. 325.212, F.S.; changing the term "certified" to "licensed"; clarifying the Department of Highway Safety and Motor Vehicle's responsibility to monitor and evaluate reinspection facilities; providing that a reinspection facility may assess a fee for the reinspection of a vehicle that was not repaired by such facility; providing a limitation on such fees; amending s. 325.213, F.S.; providing for nonrefundable fees; deleting requirement for national criminal background check; providing for payment of processing costs by the applicant; providing for imposition of civil fines on reinspection facilities and self-inspectors for violations of law or rules; amending s. 325.214, F.S.; providing an additional fee for the issuance of a dealer certificate; amending s. 325.216, F.S.; prohibiting fraudulent acts or presentation of fraudulent documentation or information and providing penalties therefor; providing an effective date.

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

By Senators Davis, Casas, Burt, Meek, Jenne, Weinstein, Malchon, Beard and Souto—

SR 250-H—A resolution recognizing June 14, 1992, as Race Unity Day.

—was referred to the Committee on Rules and Calendar.

By Senator Forman—

SB 252-H—A bill to be entitled An act relating to driver licenses; creating s. 320.0899, F.S.; requiring certain drivers who have been lawfully arrested and convicted of driving a motor vehicle with a license which has been suspended, canceled, or revoked to pay an additional fee for the next two renewals; providing for the issuance of coded driver licenses; providing fees; amending s. 324.201, F.S.; providing for the release of certain information to recovery agents or agencies; providing for special license plate designations for certain persons whose license has been suspended for failure to maintain financial responsibility; providing a procedure when a recovery agent or agency obtains a seized license plate; amending s. 627.732, F.S.; defining the term "recovery agent"; amending s. 627.733, F.S.; providing for the disposition of fees with respect to certain license plates seized by recovery agents; creating s. 321.245, F.S.; providing for the disposition of certain funds in the Accident Reports Trust Fund; creating s. 320.95, F.S.; authorizing recovery agents and agencies to seize tags; providing for rules and for a contractual relationship with the Department of Highway Safety and Motor Vehicles; providing an effective date.

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

By Senator Grant—

SB 254-H—A bill to be entitled An act relating to political party offices; prescribing the period for qualifying for political party office; providing for a candidate for such office to authorize the supervisor of elections to change precinct or district numbers on qualifying documents; providing for a supervisor to notify a candidate when such numbers are changed; providing an expiration date; providing an effective date.

—was referred to the Committees on Executive Business, Ethics and Elections; Community Affairs; and Rules and Calendar.

By Senator Davis—

SB 256-H—A bill to be entitled An act relating to time limitations for sexual battery prosecutions; amending s. 775.15, F.S.; providing an unlimited time period for the commencement of prosecutions for violations of s. 794.011, F.S., in certain circumstances; providing an effective date.

—was referred to the Committees on Criminal Justice and Appropriations.

By Senator Davis—

SR 258-H—A resolution commending the 1992 University of Tampa baseball team.

—was referred to the Committee on Rules and Calendar.

By Senator Walker—

SR 260-H—A resolution commending Patricia Seitz for her accomplishments in being chosen as President-elect of The Florida Bar for 1992-1993 and as President of The Florida Bar for 1993-1994.

—was referred to the Committee on Rules and Calendar.

SR 262-H was introduced out of order and adopted this day.

SJR 264-H was introduced out of order and passed this day.

SB 266-H was introduced out of order and passed this day.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 18-H, which he approved on June 17, 1992.

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 HB 217-H; has admitted for introduction by the required Constitutional two-thirds vote and passed HB 95-H, HB 145-H, HB 149-H; has passed as amended HB 367-H; has adopted HM 199-H, HCR 301-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Cosgrove and others—

HB 217-H—A bill to be entitled An act relating to municipal clerks; creating s. 119.033, F.S.; creating the Municipal Clerk's Capital Equipment Modernization Trust Fund; creating a surcharge on the recording of documents in the official records of the county; providing for the collection and distribution of surcharge revenues; providing an effective date.

(Substituted for **SB 138-H** on the Special Order Calendar this day.)

On motion by Senator Thomas, by the required constitutional two-thirds vote of the Senate **HB 95-H** was admitted for introduction—

By Representative Arnold—

HB 95-H—A bill to be entitled An act relating to bridge designation; designating the two high-level bridge spans over the Caloosahatchee River in Lee County on Business U.S. 41 (State Road 739) as the "Edison Bridge"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—which was referred to the Committee on Rules and Calendar.

On motion by Senator Dudley, by two-thirds vote **HB 95-H** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Dudley, by two-thirds vote **HB 95-H** was read the second time by title and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

On motion by Senator Thomas, by the required constitutional two-thirds vote of the Senate **HB 145-H** was admitted for introduction—

By Representative Silver—

HB 145-H—A bill to be entitled An act relating to road designations; designating a portion of State Road 916 in Miami as "Maurice Rosen Boulevard"; directing the Department of Transportation to erect suitable markers; providing an effective date.

—which was referred to the Committee on Rules and Calendar.

On motion by Senator Thomas, by the required constitutional two-thirds vote of the Senate **HB 149-H** was admitted for introduction—

By Representative Rudd—

HB 149-H—A bill to be entitled An act relating to road and highway designations; designating a portion of U.S. Highway 319 as the “Kate Ireland Highway”; directing the Department of Transportation to erect suitable markers; providing an effective date.

—which was referred to the Committee on Rules and Calendar.

By Representative Bloom and others—

HB 367-H—A bill to be entitled An act relating to health care; revising and reorganizing chapter 395, F.S.; providing for part I of said chapter, relating to hospitals and other licensed facilities; amending s. 395.002, F.S.; revising definitions; amending s. 395.003, F.S.; revising licensure provisions; providing for licensure of hospitals and ambulatory surgical centers by the Agency for Health Care Administration; amending s. 395.004, F.S., relating to application for license; providing a fee for provisional licensure of a health care facility; providing for disposition of fees; amending and renumbering s. 395.006, F.S.; revising provisions relating to licensure inspection; providing criteria; repealing an exemption from public records law for accrediting organizations; amending and renumbering s. 395.008, F.S., relating to inspection reports; providing a maximum copying fee; amending and renumbering s. 395.007, F.S.; deleting authority to delegate review of plans and specifications to a county or municipality; amending s. 385.0185, F.S.; conforming terminology to transfer of responsibilities to the Agency for Health Care Administration; amending and renumbering s. 395.011, F.S.; modifying provisions relating to staff membership and clinical privileges; amending and renumbering s. 395.0115, F.S., relating to peer review and disciplinary powers; amending and renumbering s. 395.014, F.S., relating to access of chiropractors to diagnostic reports; amending and renumbering s. 395.041, F.S., relating to internal risk management programs; limiting responsibilities of part-time risk managers; providing for annual, rather than quarterly, reports to the Agency for Health Care Administration; changing procedure for reports of adverse or untoward incidents; providing for administrative fine by the agency; conforming language relating to transfer of responsibilities from the Department of Professional Regulation to the Agency for Health Care Administration; requiring the agency to publish an annual summary of incident reports; deleting a requirement relating to information bulletins; amending and renumbering s. 395.0172, F.S., relating to private utilization review; deleting duplicate language; amending and renumbering s. 395.0101, F.S., relating to treatment of biomedical waste; amending and renumbering s. 395.0201, F.S.; requiring certain facilities to treat and protect the anonymity of sexual assault victims; amending and renumbering s. 395.0205, F.S.; requiring protocols for the treatment of victims of child abuse or neglect; renumbering s. 395.0147, F.S., relating to notification to emergency medical personnel of exposure to infectious diseases; amending and renumbering s. 395.038, F.S., relating to regional poison control centers; creating s. 395.1031, F.S.; providing communication requirements for hospital emergency departments; amending and renumbering s. 395.0142, F.S.; expanding requirements for providing access to emergency services; providing for inventory of hospital emergency services; revising provisions relating to legislative intent, medically necessary transfers, discrimination, liability, and records; prohibiting retaliation for patient transfers; providing penalties; providing for civil actions; requiring reports; amending and renumbering s. 395.0175, F.S., relating to complaint investigation procedures; amending and renumbering s. 395.005, F.S., relating to rules and enforcement; providing for standards for the use of seclusion and restraint; providing for hospital quality improvement programs; amending and renumbering s. 395.018, F.S.; increasing fines for operating without a license; increasing an administrative fine; amending and renumbering s. 395.015, F.S., relating to itemized patient bills; providing for a copy to the physician, upon request; revising applicability; amending and renumbering s. 395.016, F.S., relating to content of patient records; amending and renumbering s. 395.0165, F.S., relating to penalties for altering patient records; amending and renumbering s. 395.017, F.S.; revising requirements for disclosure of patient records; providing charges for copies and searches of records; providing exemptions; providing for disclosure of records to the Department of Health and Rehabilitative Services for certain purposes; creating s. 395.304, F.S.; providing for additional regulatory studies by the Agency for Health Care Administration; requiring a report; also including within part I of chapter 395, F.S., ss. 395.001 and 395.009, F.S., relating to legislative intent, minimum standards for clinical laboratory tests, and prohibitions and penalties for rebates; providing for part II of said chapter, relating to trauma; amending and renumbering s. 395.031, F.S.; revising definitions; providing additional component of trauma care system plans;

specifying a period for approval of plans; providing for hearings; renumbering s. 395.032, F.S., relating to state regional trauma planning; amending and renumbering s. 395.033, F.S., relating to trauma service areas; amending and renumbering s. 395.0335, F.S.; revising provisions relating to selection of state-approved trauma centers; revising provisions relating to notice of termination of operation; providing certain immunity from liability for out-of-state experts; amending and renumbering s. 395.034, F.S., relating to reimbursement of state-sponsored trauma centers; renumbering s. 395.0345, F.S., relating to the Trauma Services Trust Fund; amending and renumbering s. 395.035, F.S., relating to review of trauma registry data; providing for trauma transport protocols for use of air ambulance service; amending and renumbering s. 395.036, F.S., relating to transport of trauma victims to centers; providing for trauma transport protocols for use of air ambulance service; renumbering and amending s. 395.037, F.S., relating to rulemaking authority; providing for part III of said chapter, relating to rural hospitals; amending and renumbering s. 395.102, F.S.; providing definitions; deleting certain limitations on rural hospital swing bed length of stay; amending and renumbering s. 395.103, F.S., relating to rural hospital impact statements; providing for deactivation and reactivation of general hospitals beds; amending and renumbering ss. 395.104 and 395.01465, F.S., relating to other rural hospital programs and emergency care hospitals, respectively; providing for part IV of said chapter, relating to the Public Medical Assistance Trust Fund; amending and renumbering s. 395.101, F.S., relating to hospital annual assessments; providing liability for fines, penalties, and assessments upon transfer or termination of a facility; providing alternative payment method for certain statutory teaching hospitals; amending and renumbering s. 395.1015, F.S., relating to annual assessments of other health care entities; clarifying an exemption for blood and plasma centers; exempting certain clinical laboratories; providing an exclusion for out-of-state revenues; specifying the types of radiological services to be included in the assessment; providing for part V of said chapter, relating to medical education and tertiary care; amending and renumbering ss. 395.60 and 395.62, F.S., relating to short title and the Medical Education and Tertiary Care Trust Fund, respectively; renumbering s. 395.61, F.S., and renumbering and amending s. 395.63, F.S., relating to legislative intent and distribution of trust fund moneys, respectively; amending s. 196.012, F.S.; revising the definition of the term “nursing home” in provisions relating to property exemptions; amending ss. 119.07, 240.4067, 320.0801, 322.0602, 381.004, 381.026, 383.336, 394.4787, 394.4789, 401.425, 401.251, 408.033, 408.036, 408.072, 408.08, 409.918, 427.708, 440.13, 440.185, 458.331, 459.015, 461.013, 626.941, 626.943, 641.55, 766.101, 766.110, and 766.314, F.S.; correcting cross references; saving s. 381.0035, F.S., relating to educational courses on AIDS for employees and clients of health care facilities, from repeal; amending s. 394.463, F.S.; revising provisions relating to the detainment period for involuntary examination of certain patients and transfer of such patients for appropriate medical treatment; amending s. 408.0455, F.S.; providing that certain rules of the Department of Health and Rehabilitative Services under the Health Facility and Services Development Act remain in effect and are enforceable by the Agency for Health Care Administration; providing for the continuation of certain proceedings under said act that are pending on a specified date; amending s. 408.07, F.S.; providing that the definitions contained in that section do not apply to the Health Facility and Services Development Act; amending s. 409.911, F.S.; revising provisions relating to distribution of moneys under the regular disproportionate share program; deleting a limitation on the source of funds; modifying the definition of “base Medicaid per diem”; specifying data to be used in calculating the disproportionate share rate; revising criteria for determining disproportionate share percentages; providing a limitation on total payments; amending s. 34 of ch. 92-58, Laws of Florida; modifying a saving clause relating to clinical laboratory personnel; preserving judicial and administrative actions pending and licenses in effect as of the dates specified; repealing ss. 395.012 and 395.013, F.S., relating to prohibitions against interference with the prescription of amygdalin (laetrile) or dimethyl sulfoxide (DMSO); repealing s. 395.0141, F.S., relating to inventory of hospitals with emergency departments; repealing s. 395.0143, F.S., relating to denial of emergency treatment; repealing s. 395.0144, F.S., relating to duty to admit or transfer emergency patients; repealing s. 395.0146, F.S., relating to certificates of need for emergency services; providing an appropriation; saving specified provisions from Sunset repeal; providing for review and repeal; providing for construction of sections conforming cross references; providing a disclaimer; providing effective dates.

(Considered on Special Order Calendar this day.)

On motion by Senator Thomas, by the required constitutional two-thirds vote of the Senate **HM 199-H** was admitted for introduction—

By Representatives Hawkes and Buddy Johnson—

HM 199-H—A memorial to the Congress of the United States urging Congress to take appropriate action to rectify an inequity caused by the Social Security Act.

—which was referred to the Committee on Rules and Calendar.

On motion by Senator Thomas, by the required constitutional two-thirds vote of the Senate **HCR 301-H** was admitted for introduction—

By Representative Bo Johnson and others—

HCR 301-H—A concurrent resolution supporting the location of a Department of Defense Finance and Accounting Service Center within the State of Florida.

—which was referred to the Committee on Rules and Calendar.

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SB 28-H; has admitted for introduction by the required Constitutional two-thirds vote, and passed SB 156-H.

John B. Phelps, Clerk

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SJR 264-H by the required Constitutional three-fifths vote of the membership.

John B. Phelps, Clerk

The bills contained in the foregoing messages were ordered enrolled.

ROLL CALLS ON SENATE BILLS

CS for CS for SB 50-H—Amendment 6

Yeas—15

Madam President	Davis	Langley	Souto
Bankhead	Diaz-Balart	Malchon	Weinstock
Beard	Forman	McKay	Wexler
Burt	Kurth	Plummer	

Nays—22

Bruner	Dudley	Johnson	Thurman
Casas	Gardner	Kirkpatrick	Walker
Childers	Girardeau	Kiser	Weinstein
Crenshaw	Grant	Myers	Yancey
Crotty	Jenne	Scott	
Dantzler	Jennings	Thomas	

Vote after roll call:

Nay to Yea—Jenne

CS for CS for SB 50-H

Yeas—33

Madam President	Dantzler	Johnson	Souto
Bankhead	Davis	Kirkpatrick	Thomas
Beard	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Yancey
Childers	Grant	McKay	
Crenshaw	Jenne	Myers	
Crotty	Jennings	Scott	

Nays—4

Diaz-Balart	Plummer	Weinstock	Wexler
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CS for SB 154-H

Yeas—22

Madam President	Crotty	Jenne	Thomas
Bankhead	Dantzler	Kirkpatrick	Thurman
Bruner	Dudley	Kurth	Walker
Burt	Forman	Langley	Yancey
Casas	Gardner	McKay	
Childers	Girardeau	Souto	

Nays—None

Vote after roll call:

Yea—Beard, Grant, Johnson, Scott

Nay—Plummer, Weinstock

SB 188-H

Yeas—36

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

Nays—None

CS for SB 196-H

Yeas—35

Madam President	Dantzler	Johnson	Scott
Bankhead	Davis	Kirkpatrick	Souto
Beard	Dudley	Kiser	Thomas
Bruner	Forman	Kurth	Thurman
Burt	Gardner	Langley	Weinstein
Casas	Girardeau	Malchon	Weinstock
Childers	Grant	McKay	Wexler
Crenshaw	Jenne	Meek	Yancey
Crotty	Jennings	Myers	

Nays—None

SB 198-H

Yeas—37

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

Nays—None

CS for CS for SB 208-H—Amendment 2

Yeas—21

Madam President	Gardner	Kiser	Thurman
Bankhead	Girardeau	Kurth	Walker
Beard	Grant	Langley	Yancey
Bruner	Jennings	McKay	
Burt	Johnson	Plummer	
Crotty	Kirkpatrick	Scott	

Nays—11

Casas	Dantzler	Jenne	Weinstock
Childers	Diaz-Balart	Souto	Wexler
Crenshaw	Forman	Thomas	

Vote after roll call:

Nay to Yea—Weinstock

CS for CS for SB 208-H

Yeas—29

Madam President	Davis	Kurth
Bankhead	Dudley	Langley
Beard	Forman	Malchon
Bruner	Girardeau	McKay
Burt	Grant	Myers
Crenshaw	Jennings	Scott
Crotty	Johnson	Thomas
Dantzler	Kiser	Thurman

Nays—5

Casas	Diaz-Balart	Souto
Childers	Plummer	

Vote after roll call:

Yea—Jenne

CS for CS for SB 208-H After Reconsideration

Yeas—37

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

Nays—None

Vote after roll call:

Nay—Souto

Yea to Nay—Casas, Diaz-Balart

SJR 264-H

Yeas—32

Madam President	Davis	Kirkpatrick	Scott
Bankhead	Diaz-Balart	Kiser	Souto
Beard	Forman	Kurth	Thomas
Burt	Gardner	Langley	Thurman
Casas	Girardeau	Malchon	Weinstein
Childers	Grant	McKay	Weinstock
Crenshaw	Jenne	Meek	Wexler
Dantzler	Johnson	Myers	Yancey

Nays—6

Bruner	Dudley	Plummer
Crotty	Jennings	Walker

SB 266-H

Yeas—37

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

Nays—None

ROLL CALLS ON HOUSE BILLS

HB 95-H

Yeas—33

Madam President	Dantzler	Kurth	Thurman
Bankhead	Davis	Langley	Walker
Beard	Diaz-Balart	Malchon	Weinstein
Bruner	Dudley	McKay	Weinstock
Burt	Forman	Meek	Wexler
Casas	Grant	Plummer	Yancey
Childers	Jenne	Scott	
Crenshaw	Jennings	Souto	
Crotty	Kirkpatrick	Thomas	

Nays—None

Vote after roll call:

Yea—Girardeau

CS for HB 109-H

Yeas—35

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

Nays—1

Weinstock

Vote after roll call:

Yea—Thurman

HB 159-H

Yeas—37

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

Nays—None

HB 217-H

Yeas—22

Madam President	Dudley	Kiser	Scott
Beard	Forman	Kurth	Souto
Burt	Gardner	Malchon	Thurman
Casas	Girardeau	Meek	Weinstock
Crotty	Jenne	Myers	
Diaz-Balart	Kirkpatrick	Plummer	

Nays—14

Bankhead	Dantzler	Johnson	Weinstein
Bruner	Davis	Langley	Wexler
Childers	Grant	McKay	
Crenshaw	Jennings	Walker	

Vote after roll call:

Yea—Thomas, Yancey

Yea to Nay—Crotty

HB 217-H
Motion to Reconsider

Yeas—16

Bankhead	Childers	Jennings	McKay
Beard	Crotty	Johnson	Myers
Bruner	Dantzler	Kirkpatrick	Scott
Burt	Grant	Langley	Wexler

Nays—13

Madam President	Jenne	Thomas	Yancey
Casas	Kurth	Thurman	
Dudley	Meek	Walker	
Gardner	Souto	Weinstock	

HB 217-H—After Reconsideration

Yeas—17

Madam President	Forman	Meek	Weinstock
Casas	Gardner	Plummer	Yancey
Davis	Girardeau	Scott	
Diaz-Balart	Jenne	Souto	
Dudley	Kurth	Thurman	

Nays—19

Bankhead	Crotty	Kirkpatrick	Thomas
Beard	Dantzler	Kiser	Walker
Bruner	Grant	Langley	Weinstein
Childers	Jennings	McKay	Wexler
Crenshaw	Johnson	Myers	

Vote after roll call:

Yea to Nay—Plummer

CS for HB 257-H

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Davis

HB 317-H

Yeas—37

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

Nays—None

HB 367-H

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Childers

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 17 was corrected and approved.

RECESS

On motion by Senator Thomas, the Senate recessed at 3:29 p.m. to reconvene at 2:00 p.m., Monday, June 22.