Journal of the Senate

Number 12—Special Session H **Thursday, June 25, 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	Jennings	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kirkpatrick	Thomas
Bruner	Forman	Kiser	Weinstein
Burt	Gardner	Kurth	Weinstock
Casas	Girardeau	Langley	Wexler
Childers	Gordon	Malchon	Yancey
Crenshaw	Grant	McKay	
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	

Excused: Senator Thurman; Senator Meek at 3 p.m.; Senator Crotty at 9 p.m.

PRAYER

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

Dear Lord, we humbly stand before your presence, with our faces turned toward the mother's dust, asking that you cleanse the thoughts of our hearts by the inspiration of your Holy Spirit.

Lord, make us an instrument of your peace—where there is hatred let us sow love; where there is injury let us sow pardon; where there is doubt let us sow faith; where there is despair let us give hope; where there is darkness let us give light; where there is sadness let us give joy.

O Divine Master, grant that we may not try to be loved but to love. Because it is in giving that we are received; it is in forgiving that we are forgiven; and it is in dying that we are born into eternal life. Shalom.

CONSIDERATION OF RESOLUTION

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

By Senator Plummer—

SR 274-H—A resolution honoring John I. Hendricks, Jr., for his contributions to education.

WHEREAS, John I. Hendricks, Jr., has given 31 years of service to the Dade County public school system, and

WHEREAS, John I. Hendricks, Jr., has led the South Dade Adult Center in Homestead to its position as the largest freestanding adult education center in this state, serving military personnel, federal and state prison inmates, refugees, migrant workers, handicapped persons, and many others at two main campuses and more than forty off-campus centers, and

WHEREAS, John I. Hendricks, Jr., was honored as Dade County's first "Principal of the Year" in the Area of Adult, Vocational, Technical, Community, and Career Education in 1988, was inducted into the Florida Adult Education Association Hall of Fame, and has received the 1992 Adult Basic Education Administrator of the Year Award from the American Association for Adult and Continuing Education Commission on Adult Basic Education, and

WHEREAS, John I. Hendricks, Jr., is one of the most versatile, creative, and daring educators to serve the adult basic education system in this state, and

WHEREAS, John I. Hendricks, Jr., by his achievements, has brought national honor and recognition to the State of Florida and its adult education programs, NOW, THEREFORE,

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

That the Florida Senate commends John I. Hendricks, Jr., for his untiring service to education in this state.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to John I. Hendricks, Jr., as a tangible token of the sentiments of the Florida Senate and a lasting symbol of the respect of its members.

—was introduced out of order and read by title. On motion by Senator Plummer, **SR 274-H** was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thomas, by two-thirds vote **HB 371-H** was also referred to the Committee on Governmental Operations; and **HB 277-H** was removed from the calendar and referred to the Committee on Rules and Calendar.

On motions by Senator Thomas, by two-thirds vote **SB 186-H** was withdrawn from the Committee on Commerce; **HB 413-H** was withdrawn from the Committee on Rules and Calendar; and **HB 371-H** was withdrawn from the Committees on Rules and Calendar; and Governmental Operations.

On motion by Senator Thomas, the rules were waived and the Committee on Natural Resources and Conservation was granted permission to meet upon recess to consider **SB 46-H.**

MOTIONS

On motions by Senator Thomas, by two-thirds vote the following bills were established as the Special Order Calendar for this day: **SB 246-H, HB 107-H, SB 240-H, CS for SB 100-H** and **CS for SB 178-H.**

On motions by Senator Thomas, by two-thirds vote the following bills were placed on the Special Order Calendar: **SB 186-H, HB 413-H, HB 371-H, HB 459-H** and **CS for CS for HB 193-H.**

SPECIAL ORDER

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 read the second time by title.

Senator Davis moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, line 27 through page 7, line 25, strike all of said lines and insert:

Section 2. All revenue generated from the disproportionate share program for mental health hospitals shall be allocated by the department to alcohol, drug abuse, and mental health services.

Section 3. Funding generated through the mental health disproportionate share program shall be expended in accordance with legislatively authorized appropriations. If such funding is not addressed in legislatively authorized appropriations, the Department of Health and Rehabil-

itative Services shall prepare a plan and submit a request for spending authority in accordance with the applicable provisions of chapter 216, Florida Statutes.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, lines 9 and 10, strike "making specified appropriations;" and insert: specifying the use of funds generated by the program; providing for spending funds generated through the mental health disproportionate share program;

On motion by Senator Davis, by two-thirds vote **SB 246-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—None

HB 107-H—A bill to be entitled An act relating to the Department of Natural Resources; amending s. 212.69, F.S.; revising the portion of the revenues from the tax on the sale of motor and special fuels that is distributed to the department and the uses thereof; providing an effective date.

—was read the second time by title.

The Committee on Natural Resources and Conservation recommended the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Section 212.69, Florida Statutes, as amended by section 116 of chapter 92-152, Laws of Florida, is amended to read:

212.69 Distribution of proceeds.—

(1) Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.875. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 212.67, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) $7,550,000 ~~$3.8 million per year~~ shall be transferred to the Department of Natural Resources in *fiscal year 1992-1993 and in each fiscal year thereafter. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year. $1,250,000 of the amount transferred shall be deposited annually in the Motorboat Revolving Trust Fund and must be used by the department to fund special projects to provide recreational channel marking, public launching facilities, and other boating-related activities. The department shall annually determine where unmet needs exist for boating-related activities, and may fund such activities in counties where, due to the number of vessel registrations, insufficient financial resources are available to meet total water resource needs. The remaining proceeds of the annual transfer shall be deposited in the Aquatic Plant Control Trust Fund and must be used for aquatic plant management, including nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement activities. Beginning in fiscal year 1993-1994, the department shall allocate at least $1 million of such funds to the eradication of melaleuca.* ~~equal monthly amounts; $1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs.~~

(b) $1,250,000 shall be transferred to the State Game Trust Fund in the Game and Fresh Water Fish Commission in fiscal year 1992-1993 and in each fiscal year thereafter. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year, and must be used for recreational boating activities of a type consistent with projects eligible for funding under the Florida Boating Improvement Program administered by the Department of Natural Resources, and freshwater fisheries management and research.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(4) and (5), unless otherwise provided in the General Appropriations Act.

~~(3) All funds transferred in this section to the Department of Natural Resources shall be used for eradication of, control of, and research in water hyacinths and noxious aquatic vegetation.~~

Section 2. Effective July 1, 1993, section 212.69, Florida Statutes, as amended by sections 116 and 154 of chapter 92-152, Laws of Florida, is amended to read:

212.69 Distribution of proceeds.—

(1) Moneys collected pursuant to this part shall be deposited in the Gas Tax Collection Trust Fund created by s. 206.45. Such moneys, exclusive of the service charges imposed by s. 215.20, and exclusive of refunds granted pursuant to s. 212.67, shall be distributed monthly to the State Transportation Trust Fund, except that:

(a) *$7,550,000* ~~$3.8 million per year~~ shall be transferred to the Department of Natural Resources in *fiscal year 1992-1993 and in each fiscal year thereafter. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year. $1,250,000 of the amount transferred shall be deposited anually in the Motorboat Revolving Trust Fund and must be used by the department to fund special projects to provide recreational channel marking, public launching facilities, and other boating-related activities. The department shall annually determine where unmet needs exist for boating-related activities, and may fund such activities in counties where, due to the number of vessel registrations, insufficient financial resources are available to meet total water resource needs. The remaining proceeds of the annual transfer shall be deposited in the Aquatic Plant Control Trust Fund and must be used for aquatic plant management, including nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement activities. Beginning in fiscal year 1993-1994, the department shall allocate at least $1 million of such funds to the eradication of melaleuca.* ~~equal monthly amounts; $1 million of this amount shall be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of aquatic weed control programs.~~

(b) $1,250,000 shall be transferred to the State Game Trust Fund in the Game and Fresh Water Fish Commission in fiscal year 1992-1993 and in each fiscal year thereafter. The transfers must be made in equal monthly amounts beginning on July 1 of each fiscal year, and must be used for recreational boating activities of a type consistent with projects eligible for funding under the Florida Boating Improvement Program administered by the Department of Natural Resources, and freshwater fisheries management and research.

(c) ~~(b)~~ $1.5 million per year shall be transferred to the Board of Regents *and* ~~which~~ shall be spent solely for purposes of s. 334.065.

(2) Not less than 10 percent of the moneys deposited in the State Transportation Trust Fund pursuant to this section shall be allocated by the Department of Transportation for public transit and rail capital projects, including service development projects, as defined in s. 341.031(4) and (5), unless otherwise provided in the General Appropriations Act.

~~(3) All funds transferred in this section to the Department of Natural Resources shall be used for eradication of, control of, and research in water hyacinths and noxious aquatic vegetation.~~

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

And the title is amended as follows:

In title, on page 1, strike all of lines 2-7 and insert: An act relating to the Gas Tax Collection Trust Fund; amending s. 212.69, F.S.; increasing the amount of funds annually transferred from the trust fund to the Department of Natural Resources; providing for the uses of such funds; providing for funds to be transferred from the trust fund to the Game and Fresh Water Fish Commission; providing for the uses of said funds; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote **HB 107-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—1

On motion by Senator Weinstock—

HB 423-H—A bill to be entitled An act relating to Medicaid clinic services; amending s. 409.908, F.S.; providing that county public health clinic services may be reimbursed a rate per visit based upon total reason-

able costs of the clinic as determined by the Department of Health and Rehabilitative Services; providing conditions for implementation; providing for future repeal; authorizing the department to transfer certain funds; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **SB 240-H** and read the second time by title. On motion by Senator Weinstock, by two-thirds vote **HB 423-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **CS for SB 100-H** and **CS for SB 178-H** was deferred.

RECESS

On motion by Senator Thomas, the Senate recessed at 10:32 a.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:11 p.m. A quorum present—33:

Madam President	Dudley	Kirkpatrick	Souto
Bankhead	Forman	Kiser	Thomas
Beard	Girardeau	Kurth	Walker
Bruner	Gordon	Langley	Weinstein
Burt	Grant	McKay	Weinstock
Casas	Grizzle	Meek	Yancey
Childers	Jenne	Myers	
Crotty	Jennings	Plummer	
Dantzler	Johnson	Scott	

SPECIAL ORDER, continued

On motions by Senator Thomas, by two-thirds vote **SB 270-H** was withdrawn from the Committees on Agriculture and Appropriations and by two-thirds vote placed next on the Special Order Calendar.

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

SB 270-H—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; repealing s. 932.708, F.S., as created by section 97 of CS/SB 48-H, relating to the Agricultural Law Enforcement Trust Fund; amending s. 932.705, F.S., as created by chapter 92-54, Laws of Florida; providing for the deposit of forfeiture proceeds when the seizing agency is the Department of Agriculture and Consumer Services; amending s. 570.48, F.S., as amended by sections 29 and 30 of CS/SB 48-H; authorizing internal quality inspections for any fruit or vegetable; amending s. 570.55, F.S., as amended by section 42 of CS/SB 48-H; authorizing certain confiscation by law enforcement officers; amending s. 500.11, F.S., as amended by section 98 of CS/SB 48-H; updating terminology; amending s. 523.21, F.S., as amended by section 99 of CS/SB 48-H; reinstating evidentiary provisions and providing for certification by the department; revising repeal dates established in section 103 of CS/SB 48-H for ss. 534.081(3), 570.151, 570.36(6), and 590.02(4), F.S.; amending s. 500.12, F.S., as amended by chapter 92-180, Laws of Florida; clarifying legislative intent as to preemption of regulatory and permitting authorities; providing effective dates and a contingent retroactive effective date.

—was read the second time by title.

Senator Crotty moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 8, strike all of lines 20-23 and insert:

Section 11. Section 91 of Committee Substitute for Senate Bill 48-H (1992) is amended to read:

Section 91. Section 616.0915, Florida Statutes, is created to read:

616.0915 Safety standards for operation of amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and parking lot still dates.—Safety standards for the operation of amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and parking lot still dates are as follows:

(1)(a) The purpose of this section is to guard against personal injuries in the assembly, disassembly, and use of amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and any parking lot still dates. Such devices, attractions, and structures shall be designed, constructed, assembled or disassembled, maintained, and operated so as to prevent such injuries.

(b) It is the express intent of the Legislature that the department is responsible for inspecting and testing each amusement device at every public fair and exposition, carnival, festival, celebration, bazaar, permanent facility, and parking lot still date conducted in the state. However, the department may, by rule, establish exemptions for unpowered, nonmechanized equipment and coin-actuated equipment.

(2) This section applies throughout the state to amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and any parking lot still dates. With the exception of paragraph (5)(b), this section does not apply to permanent facilities that employ at least 1,000 full-time employees and that maintain full-time in-house safety inspectors approved by the department.

(3) As used in this section, the term:

(a) "Amusement device" means any mechanical device or combination of devices which carries or conveys passengers on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement.

(b) "Temporary amusement device" means a device that is used as an amusement device or amusement attraction that is regularly relocated from time to time, with or without disassembly.

(c) "Permanent amusement device" means a device that is used, or intended to be used, as an amusement device or amusement attraction that is erected to remain a lasting part of the premises.

(d) "Sponsor of event" means the agency, organization, or entity that hosts and promotes the event.

(e) "Permit" means that document which signifies that the amusement device or amusement attraction has undergone and passed its annual inspection. The department shall affix a decal that clearly shows the month and year of expiration.

(f) "Certificate to operate" means that document which indicates that the temporary amusement device has undergone the inspection required after setup. It shall show the date of inspection, the location of the inspection, the name of the inspector, and the maximum amount of weight allowed per car or rideable unit.

(g) "Serious injury" means an injury requiring an overnight stay in a hospital for treatment or observation.

(h) "Manager" means a person having possession, custody, or managerial control of an amusement device, amusement attraction, or temporary structure, whether as owner, lessee, or agent or otherwise.

(i) "Amusement attraction" means any building or structure around, over, or through which persons may move or walk, without the aid of any moving device integral to the building or structure, which building or structure provides amusement, pleasure, thrills, or excitement. The term does not include enterprises principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts. Further, the terms "amusement device" and "amusement attractions" shall not include playgrounds operated by schools, local government, or businesses licensed by chapter 509, which are not primarily engaged in providing amusement, pleasure, thrills, or excitement and provide the playground as an incidental amenity.

(j) "Permanent facility" means a location or place where amusement devices or attractions operate as a lasting part of the premises.

(4)(a) An amusement device or amusement attraction may not be operated in the state without a permit issued by the department. Temporary amusement devices and amusement attractions must also have a certificate to operate. The permits and certificates are not transferable, and if any permitholder voluntarily discontinues operation of the amusement device or amusement attraction, all rights secured under the permit are terminated.

(b) Before commencement of the operation of a permanent or temporary amusement device or amusement attraction, the owner shall make written application to the department for a permit to operate. The permit is valid for 1 year.

(c) A temporary amusement device or amusement attraction may not be used at any time or location unless prior notice of intent to use it has been given to the department. Notice of planned schedules must:

1. Be in writing.

2. Identify the temporary device or attraction.

3. State the intended dates and locations of use.

4. Be mailed to the department at least 15 days before the first intended date of use.

(d) Permits and certificates to operate shall be issued to the owner of an amusement device or amusement attraction when:

1. Written application has been made to the department.

2. The amusement device has passed all required inspections.

3. The liability insurance or bond has been met in the amount prescribed.

(e) The department shall revoke any permit issued under this chapter or impose an administrative fine of up to $500 per violation per day if it finds that the amusement device or amusement attraction for which it is issued is:

1. Being operated without the inspections required by this section;

2. Being operated without the insurance required by this section; or

3. Being operated with a mechanical, structural, or electrical defect which presents a risk of serious injury to passengers.

(f) Any other violation of this section may result in a revocation of the permit or certificate to operate or both, or imposition of an administrative fine of up to $500 per violation per day, if written notice of noncompliance is served upon the owner specifying the violation and directing the owner to correct the violations within 30 days after receipt of the notice. If the owner and the department fail to agree that the violation referred to in this paragraph has in fact been corrected, the department shall give notice of and provide a hearing for the owner to determine whether compliance has in fact been met.

(g) Nothing in this section prevents an owner whose permit to operate an amusement device or amusement attraction has been revoked under this section from reapplying for a permit. Upon application by an owner to have a revoked permit reinstated under this section, the department shall inspect the amusement device or amusement attraction in question as promptly as practical, but not later than 72 hours after the submission of the application.

(h) The permit in the form of a decal shall be displayed at a conspicuous place on the amusement device or amusement attraction. The certificate to operate shall be displayed at a conspicuous place for patrons of the amusement device or amusement attraction.

(5)(a) Before a permit may be issued as provided in this section, an inspection of the amusement device or amusement attraction must be made in compliance with the procedures set by the department. The inspection must have been conducted within 1 year prior to the permit application.

(b) A permanent amusement device must be inspected by the department at the time of application for the initial permit. However, a permanent facility that employs in-house, full-time safety inspectors who meet the requirements of the department may provide the department with an affidavit stating that all devices or attractions on the premises have been inspected and tested as required by the department. Thereafter, as a requirement for the issuance of each subsequent permit, it must be inspected at least annually by a professional ~~mechanical~~ engineer, *qualified inspector of an insurance underwriter, or other qualified inspector, each of whom must be approved by the department* ~~licensed by the State of Florida or another state with comparable standards for licensure~~. The inspection shall, at a minimum, comply with the requirements of the department and shall include some form of ~~nondestructive~~ test for metal fatigue ~~recognized by the American Society for Non-Destructive Testing~~. An affidavit of the annual inspection must be filed with the department.

(c) A temporary amusement device or amusement attraction, upon first entry into the state, must be inspected by the department for the permit to be issued. Thereafter, as a requirement for issuance of each subsequent permit, it must be inspected at least annually by a professional ~~mechanical~~ engineer, *qualified inspector of an insurance underwriter, or other qualified inspector, each of whom must be approved by the department* ~~licensed by the State of Florida or another state with comparable standards for licensure~~. The inspection shall, at a minimum, comply with the requirements of the department and shall include some form of ~~nondestructive~~ test for metal fatigue ~~recognized by the American Society for Non-Destructive Testing~~. An affidavit of the annual inspection must be filed with the department.

(d) A temporary amusement device or amusement attraction, upon first entry into the state, requires only visual inspection by the department as to the device or attraction being correctly assembled if:

1. The owner of the device or attraction supplies a valid and current certificate of inspection from another jurisdiction; and

2. The jurisdiction providing the certificate of inspection offers similar reciprocity for certificates of inspection issued by this state.

(e) If an amusement device or amusement attraction is substantially rebuilt or substantially modified so as to change the structure, mechanism, or capacity of the device or attraction, the owner shall give written notice to the department, which shall cause the device or attraction to be inspected prior to the time it is put into operation and shall cause any current permit to be updated so as to include any modifications made to the device or attraction.

(f) If an owner is unable to secure an inspection within 1 year after the date of the previous inspection, the previous inspection is valid for purposes of this chapter for a period of 30 additional days if the owner made an inspection request to an individual qualified to make the inspection at least 60 days prior to the inspection anniversary date.

(g) Upon proper presentation of credentials, an authorized employee of the department may enter unannounced and inspect amusement devices at any time and in a reasonable manner and has the right to question any owner, manager, or agent of the owner; to inspect, investigate, photograph, and sample all pertinent places, areas, and devices; and to examine and reproduce all pertinent documents and records for the purpose of enforcing this chapter. A fee may not be charged for these unannounced inspections.

(h) An amusement device or an amusement attraction that fails to pass an inspection may not be operated for public use until it has passed a subsequent inspection. If the department or the manager finds that an amusement device or attraction presents an imminent danger, the department shall issue an imminent danger order and shall issue and attach a stop operation order prohibiting the use of the device or attraction. Such order may not be removed until the device or attraction is made safe, and may be removed only by the department.

(6) All amusement devices, amusement attractions, and temporary structures operating in the state shall be permitted and, when required, certified and inspected by the department. Fees for such permits and certificates and inspections shall be established by rule of the department at a rate that will cover 100 percent of the cost of the program, and the fees shall be deposited in the General Inspection Trust Fund.

(7) Each amusement device shall be inspected and tested by the department before operation so as to test the full operation of all control devices, speed-limiting devices, brakes, and other equipment provided for safety before a certificate to operate is issued. A copy of the inspection report shall be on file in the office of the manager of the fair or coordinator of the event before the ride is opened to the public.

(8) Every amusement device or amusement attraction shall be identified by a trade or descriptive name and an identification number; and there shall be firmly attached thereto, in a readily visible location, a metal plate upon which there is legibly impressed the name and number of the device, its model number, if any, and the name and address of the manufacturer. Upon such metal plate or another metal plate, the maximum safe number of passengers and the maximum safe speed shall be stated.

(9) Parts shall be properly aligned; and they may not be bent, distorted, cut, or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in the course of assembly. Fastening and locking devices shall be installed where required for dependable operation.

(10) A sufficient number of persons to do the work properly shall be engaged for such assembly or disassembly. Persons not engaged in such work shall be prevented from entering the area in which the work may create a hazard.

(11)(a) Each temporary amusement device or amusement attraction must be inspected upon setup at each location by the department. The temporary amusement device or amusement attraction may not be permitted to operate unless the inspection has taken place.

(b) The manager of a temporary amusement device or amusement attraction must visually inspect the device daily. This inspection shall be recorded daily on a form devised by the department. The last 14 daily forms must be kept with the temporary amusement device or amusement attraction. A copy of the inspection report shall be on file in the office of the manager of the fair or coordinator of the event before the ride is opened to the public.

(c) If an accident involving an amusement device or amusement attraction results in death or serious injury, the department shall impound the amusement device or amusement attraction and perform all necessary tests to determine the cause of the accident. The cost of impounding the amusement device or amusement attraction and performing necessary tests shall be borne by the owner of the amusement device or amusement attraction.

(12) An amusement device or amusement attraction may not be overcrowded or loaded in excess of its safe carrying capacity; nor may it be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer.

(13) Before being used by the public, an amusement device or amusement attraction shall be placed or secured with blocking, cribbing, outriggers, guys, or other means so as to be stable under all operating conditions.

(14) An amusement device may not be used or operated while any person is so located as to be endangered by it. Areas in which persons may be endangered shall be fenced, barricaded, or otherwise effectively guarded against contact.

(15) Machinery used in or with an amusement device or amusement attraction shall be enclosed, barricaded, or otherwise effectively guarded against contact.

(16) An amusement device or amusement attraction powered so as to be capable of exceeding its maximum safe operating speed shall be provided with a maximum-speed-limiting device.

(17) The interior and exterior parts of all passenger-carrying amusement devices or amusement attractions with which a passenger may come in contact shall be smooth and rounded and free from sharp, rough, or splintered edges and corners, with no projecting studs, bolts, screws, or other projections which might cause injury. Interior parts upon or against which a passenger may be forcibly thrown by the action of the amusement device or amusement attraction shall be adequately padded.

(18)(a) The outlets of electrical powerlines carrying more than 120 volts shall be clearly marked to show their voltages.

(b) Electrical apparatus and wiring located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.

(c) Bare wires and other uninsulated current-carrying parts shall be guarded against inadvertent contact by means of a proper location or by a fence or other barrier.

(d) Wiring laid on a surface traversed by vehicular or pedestrian traffic shall be adequately protected against wear and abrasion.

(19)(a) Fabrics constituting part of an amusement device or amusement attraction or a temporary structure shall be fire-resistant.

(b) Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers kept in easily accessible locations. Such containers may not be kept at or near exits.

(20) A suitable number of containers for refuse shall be provided in and around all amusement devices, amusement attractions, and temporary structures. Excessive accumulations of trash or refuse shall be promptly removed. All parts of amusement devices, amusement attractions, and temporary structures used by passengers or customers shall be maintained in a clean condition.

(21) A person may not operate an amusement device or amusement attraction unless at the time of operation there is in existence:

(a) An insurance policy in an amount of not less than $1 million per occurrence insuring the owner or lessee against liability for injury to persons arising out of the use of the amusement device or amusement attraction; or

(b) A bond in a like amount; however, the aggregate liability of the surety under such bond may not exceed the face amount thereof.

The policy or bond shall be procured from one or more insurers or sureties licensed to transact business in this state or approved as surplus lines insurers.

(22) All amusement devices and attractions operated in the state shall comply with the American Society for Testing and Materials Committee F-24 Standards on Amusement Rides and Devices which are hereby adopted.

(a) In the absence of applicable American Society for Testing and Materials testing requirements, the department shall establish minimum requirements for nondestructive tests for metal fatigue.

(b) When the department determines it necessary due to environmental conditions, the department may establish more stringent test requirements for an amusement device or attraction.

(23) Each manager in charge of an amusement device or attraction shall report every accident relating to the amusement device or attraction to the department within 24 hours after the occurrence of the accident.

(24) This subsection establishes permitting and inspection procedures for companies engaged in the rental of amusement devices and amusement attractions.

(a) All companies engaged in the rental of amusement devices and amusement attractions shall make application to the department for permits to operate pursuant to this section. Once the annual inspection is completed and the application is approved, amusement devices and amusement attractions owned or operated by rental companies shall be subject to inspection and regulation as specified in paragraphs (b) and (c).

(b) Rental companies operating amusement devices singularly or jointly with an amusement device company at a public event are subject to onsite inspections and issuance of a certificate to operate, pursuant to this section, at a particular event.

(c) Any amusement device used at a private event for which no admission is charged must comply with all requirements of this section. However, such amusement device does not have to be inspected by the department at the time of setup.

(25) The operation of amusement attractions, commonly known in the trade as moonwalks, which are not enclosed on all sides and on the top is prohibited at both public and private functions, unless the sides are 6 feet high or higher in which case the top need not be enclosed.

Section 12. Except as otherwise provided herein, this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later; however, if this act becomes a law after that date, this act, except for section 11, shall be retroactive to that date.

And the title is amended as follows:

In title, on page 1, line 29, after the semicolon (;) insert: amending s. 91, Committee Substitute for Senate Bill 48-H (1992), changing provisions pertaining to inspection of amusement devices and attractions;

Senator Bruner moved the following amendment:

Amendment 2 (with Title Amendment)—On page 8, between lines 10 and 11, insert:

Section 10. The sum of $3,100,000 is transferred from the waste tire account within the Solid Waste Management Trust Fund within the Department of Environmental Regulation to the Pest Control Trust Fund within the Department of Agriculture and Consumer Services for fiscal year 1992-1993, and that sum is appropriated from the Pest Control Trust Fund within the Department of Agriculture and Consumer Services for fiscal year 1992-1993 to fund mosquito and arthropod control in accordance with chapter 388, Florida Statutes.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 29, after the semicolon (;) insert: providing an appropriation from the Solid Waste Management Trust Fund within the Department of Environmental Regulation to the Pest Control Trust Fund within the Department of Agriculture and Consumer Services to fund mosquito and arthropod control;

SENATOR FORMAN PRESIDING

On motion by Senator Dantzler, further consideration of **SB 270-H** with pending **Amendment 2** was deferred.

SENATOR CHILDERS PRESIDING

THE PRESIDENT PRESIDING

CS for SB 178-H—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.025, F.S.; providing for the deposit of proceeds of the surtax on beverage license fees into the Alcoholic Beverage and Tobacco Trust Fund; amending ss. 563.02, 564.02, 565.02, F.S.; increasing the license fees for vendors of alcoholic beverages sold for consumption on the premises; increasing the license fees for certain clubs and pari-mutuel facilities; providing for the disposition of increased license fees; amending ss. 563.025, 564.025, F.S.; increasing the surtax imposed on license fees for vendors of certain alcoholic beverages and wines; creating s. 565.025, F.S.; imposing a surtax on the license fees of vendors of alcoholic beverages licensed under ch. 565, F.S., including certain clubs and pari-mutuel facilities; providing an effective date.

—was read the second time by title.

Senator Dantzler moved the following amendment which was adopted:

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

Section 1. Section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under the provisions of ss. 210.15, 210.40, 561.14(6), 561.181, 561.19(2) and (3), 561.27, 561.32, 561.331, 561.422, 561.57, 561.65, 563.02, 563.025, 563.045, 564.02, 564.025, 564.041, 565.02, *565.025,* 565.03, and 565.09 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. All moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the Secretary of Business Regulation, except that the revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2). The Department of Business Regulation shall review annually the balance remaining in the trust fund, and any funds found to be in excess of the needs of the division shall be transferred to the General Revenue Fund. In no event shall the department permit the fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

Section 2. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 563.02, Florida Statutes, as amended by section 7 of chapter 92-176, Laws of Florida, are amended and subsection (4) is added to that section to read:

563.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume shall pay an annual state license tax as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$300* ~~$200~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$240* ~~$160~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$180* ~~$120~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$120* ~~$80~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$60* ~~$40~~.

(4) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), and one-half of the above amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 3. Section 563.025, Florida Statutes, is amended to read:

563.025 Surtax on license fees.—Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 563.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent*

Section 4. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 564.02, Florida Statutes, as amended by section 8 of chapter 92-176, Laws of Florida, are amended and subsection (4) is added to that section to read:

564.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor authorized to sell brewed beverages containing malt, wines, and fortified wines shall pay an annual state license tax, as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$380* ~~$280~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$320* ~~$240~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$260* ~~$200~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$200* ~~$160~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$140* ~~$120~~.

(4) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), and one-half of the above amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 5. Section 564.025, Florida Statutes, is amended to read:

564.025 Surtax on license fees.—Each vendor of beverages containing alcohol of 0.5 percent or more by volume and not more than 14 percent by weight and of wines regardless of alcoholic content *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 564.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent of the license fee.*

Section 6. Subsections (1), (4), and (5) of section 565.02, Florida Statutes, as amended by section 9 of chapter 92-176, Laws of Florida, are amended and subsection (12) is added to that section to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(1) The following state license taxes apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(a) A vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises where sold shall pay an amount equal to 75 percent of the amount of the license tax for vendors in the same county as provided in paragraphs (b), (c), (d), (e), and (f).

(b) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,920* ~~$1,820~~.

(c) A vendor operating a place of business where consumption on the premises is permitted in a county having a population over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,640* ~~$1,560~~.

(d) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 50,000 and not over 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,360* ~~$1,300~~.

(e) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 25,000 and not over 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$898* ~~$858~~.

(f) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of 25,000 or less, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$644* ~~$624~~.

(g) A vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises shall pay, in addition to the license tax imposed in paragraphs (b)-(f), $1,000. However, such permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. A golf club licenseholder may operate service bars or portable or temporary bars on the grounds contiguous to its licensed premises and shall pay $100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and notation of such extension upon the sketch accompanying the original license application.

(4) Persons associated together as a chartered or incorporated club, including any social club incorporated by order of a circuit judge after its charter has been found to be for objects authorized by law and approved by the judge as organized for lawful purposes and not for the purpose of evading license taxes on dealers in beverages defined herein, which such organization is a bona fide club, and has been at the time of application for license hereunder in continuous active existence and operation for a period of not less than 2 years in the county where it exists, shall before serving or distributing to its members or nonresident guests the beverages defined herein, whether such service or distribution is made upon contribution to the club of money or by check or other device, pay an annual state license tax of *$460* ~~$400~~. However, any golf club operated by or on behalf of any incorporated municipality in this state, and any veterans' or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only, and such service and distribution to the members and nonresident guests shall not be deemed sales within the meaning of the law in this state; but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale, and any officer, member, or employee of any such licensed club who sells or distributes or serves any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. The holders of a golf club license may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public. For each such day of service to nonmembers, the club shall obtain from the division for a fee of $50 an extension of its license to permit such sales. Such license extensions shall be limited to one event per year, not to exceed 8 consecutive days. Any officer of any such club which has not paid such license who knowingly permits such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided. However, this subsection does not apply to a club organized or used for the purpose of evading the payment of the license tax on vendors of such beverages; such club is subject to the payment of the license tax imposed by the Beverage Law upon vendors. The president, vice president, secretary, or treasurer, or officers of corresponding duties by any name they may be called, of any club required by this section to pay a license tax are required to see that such license tax is paid and, in default thereof, shall each be personally liable to the punishment provided by the Beverage Law for nonpayment of the license tax hereby required. Clubs which are not authorized to obtain licenses under this subsection or which do not obtain licenses under this subsection may, if they comply with this provision of the Beverage Law, obtain licenses as vendors. A club obtaining such club license shall not purchase any beverage herein defined from anyone other than a distributor or vendor licensed under the Beverage Law; nor shall such club dispense or serve any beverage defined herein unless such beverage has been purchased by such club from such licensed distributor or vendor; nor shall the club dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by that law. Such club license cannot be transferred in any manner whatsoever.

(5) A caterer at a horse or dog racetrack or jai alai fronton may obtain a license upon the payment of an annual state license tax of *$735* ~~$675~~. Such caterer's license shall permit sales only within the enclosure in which such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days after racing or jai alai under the authority of the Division of Pari-mutuel Wagering of the Department of Business Regulation is conducted at such racetrack or jai alai fronton. Except as in this subsection otherwise provided, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

(12) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), three-fourths of the above amounts for licenses issued pursuant to paragraph (1)(a), $60 of the license fee established in (4) and $60 of the license fee established in subsection (5) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 7. Effective July 1, 1993, section 565.025, Florida Statutes, is created to read:

565.025 Surtax on license fees.—Each vendor of liquor, distilled spirits, spirituous liquors, spirituous beverages, or distilled spirituous liquors and all beverages containing one-half of 1 percent or more alcohol by volume, who is licensed under this chapter, including clubs licensed under s 565 02(4), and pari-mutuel facilities licensed under s. 565 02(5), shall pay an annual surtax. The exact percentage of the surtax shall be set by rule, but may not exceed 10 percent of the license fee imposed by s. 565.02.

Section 8. This act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

On motion by Senator Forman, by two-thirds vote **CS for SB 178-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—21 Nays—9

RECESS

On motion by Senator Thomas, the Senate recessed at 2:51 p.m. to reconvene upon call of the President but not earlier than 4:00 p.m.

CALL TO ORDER

The Senate was called to order by the President at 5:10 p.m. A quorum present—37:

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

INTRODUCTION AND REFERENCE OF BILLS

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

By Senator Johnson—

SB 276-H—A bill to be entitled An act relating to special districts; amending s. 189.403, F.S.; redefining the term "independent special district," for purposes of statutes governing special districts, to exclude districts that include more than one county but that lie wholly within the boundaries of a single municipality; ratifying prior actions; providing an effective date.

—which was referred to the Committee on Community Affairs.

On motion by Senator Johnson, by two-thirds vote **SB 276-H** was withdrawn from the Committee on Community Affairs.

On motions by Senator Johnson, by unanimous consent, **SB 276-H** was taken up out of order and by two-thirds vote read the second time by title.

Senator Johnson moved the following amendment which was adopted:

Amendment 1—On page 1, line 24, before "which" insert: and all actions taken by such special district,

On motion by Senator Johnson, by two-thirds vote **SB 276-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—32 Nays—None

On motion by Senator Jenne, by two-thirds vote **CS for HB 295-H** was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Jenne, by unanimous consent—

CS for HB 295-H—A bill to be entitled An act relating to taxation; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 154.235, F.S.; authorizing health facilities authorities to refund any revenue bonds or debt obligations issued in connection with a project; providing for the use of proceeds; amending s. 193.023, F.S.; requiring property appraisers to use sales data as the primary measure of just valuation in specified circumstances; amending s. 193.085, F.S.; providing venue for actions challenging assessed value of certain railroad property; correcting a reference; amending s. 193.1142, F.S.; requiring the department to use sales data in determining if assessment rolls meet requirements of law; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax to use sales data in conducting in-depth reviews of assessment rolls; requiring property appraisers to report real estate transfers to the division with specified information; requiring property appraisers to submit information as to disqualified transactions to the division; requiring the department to develop a methodology for using sales data and a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers in connection with intangible personal property taxes; amending s. 199.282, F.S.; providing penalties for security dealers and investment advisers who do not timely file or who fail to file required statements; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of intangible personal property taxes and severability; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; amending s. 212.0515, F.S., relating to sales from vending machines; revising the method for calculating the tax for certain beverages; revising notice requirements; revising reporting requirements for persons who sell food and beverages to vending machine operators; removing a requirement that dealers purchasing food or beverages for resale provide certain information to the dealer from whom such items are purchased; revising penalties and providing additional penalties; amending s. 212.055, F.S.; deleting the repeal date for the indigent care surtax for certain counties; repealing s. 3, ch. 91-81, Laws of Florida, which specifies the repeal date for said surtax, to conform; amending s. 213.053, F.S.; authorizing the department to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for review and repeal; restricting use of such information; amending s. 213.27, F S , authorizing the department to contract with collection or auditing agencies to ascertain or collect taxes due; revising the taxpayer notice requirement; amending s. 216.262, F.S.; providing an additional condition under which an increase in the number of positions beyond those provided in the appropriations acts may be authorized; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages; amending s. 200.065, F.S.; requiring 3 years of budget summaries to be available upon request and at public budget hearings; amending s. 4, ch. 92-168, Laws of Florida; providing retroactive application of the exemption from sales and use taxes granted to certain promotional materials; amending s. 212.0305, F.S.; revising language with respect to Legislative intent concerning convention development taxes; amending s. 197.432, F.S.; providing that ad valorem taxes due on governmental leaseholds become liens on such leaseholds and may be collected pursuant to chapter 197, F.S.; amending s. 365.171, F.S.; specifying that pay telephone service is not subject to assessment of fees for "911" service; amending s. 212.08, F.S; providing for an exemption for the lease or license to use of taxicabs and related equipment; amending ss. 207.003, 207.005 and 207.026, F.S; allowing for proration of taxes levied under part IV of chapter 206 for certain commercial motor carriers; providing for credits; providing for distribution; providing effective dates.

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

Senator Jenne moved the following amendment:

Amendment 1 (with Title Amendment)—On page 5, line 3 through page 40, line 28, strike all of said lines and insert:

Section 1. Effective October 1, 1992, subsection (11) is added to section 125.0104, Florida Statutes, as amended by section 3 of chapter 92-175, Laws of Florida, and section 1 of chapter 92-204, Laws of Florida, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(11) INTEREST PAID ON DISTRIBUTIONS.—

(a) Interest shall be paid on undistributed taxes collected and remitted to the Department of Revenue under this section. The interest shall be included along with the tax proceeds distributed to the counties and shall be paid from moneys transferred from the General Revenue Fund. The department shall calculate the interest for net tax distribu-

tions using the average daily rate that was earned by the State Treasury for the preceding calendar quarter and paid to the General Revenue Fund. This rate shall be certified by the Treasurer to the department by the 20th day following the close of each quarter.

(b) The interest applicable to taxes collected under this section shall be calculated by multiplying the tax amounts to be distributed times the daily rate times the number of days after the 3rd working day following the date the tax is due and payable pursuant to s. 212.11 until the date the department issues a voucher to request the Comptroller to issue the payment warrant. The warrant must be issued within 7 days after the request.

(c) If an overdistribution of taxes is made by the department, interest shall be paid on the overpaid amount beginning on the date the warrant including the overpayment was issued until the 3rd working day following the due date of the payment period from which the overpayment is being deducted. The interest on an overpayment shall be calculated using the average daily rate from the applicable calendar quarter and shall be deducted from moneys distributed to the county under this section.

Section 2. Beginning with the 1992-1993 fiscal year, the state or any local governmental entity that administers a local option tax under section 125.0104, section 125.0108, section 212.0305, section 212.055, section 336.021, or section 336.025, Florida Statutes, or under chapter 83-220, Laws of Florida, and that is authorized to deduct a portion of the tax proceeds to cover the costs of administering the tax shall, within 60 days after the close of each fiscal year, provide the levying authority, the Legislature, and the agency, authority, board, or other governmental entity that is the principal recipient of the tax proceeds, if other than the levying authority, a report enumerating the amounts of proceeds of the tax that are withheld, deducted, or otherwise redirected from the principal recipient, and the purpose of such withholding, deduction, or redirection. This section expires January 1, 1995.

Section 3. Subsections (1), (2), and (3) of section 154.235, Florida Statutes, are amended to read:

154.235 Refunding bonds.—

(1) The authority is hereby authorized to provide for the issuance of revenue bonds for the purpose of refunding any ~~of its~~ revenue bonds *or other debt obligations issued in connection with a project and* ~~then~~ outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such revenue bonds *or other debt obligations.*

(2) The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds *or other debt obligations* may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds *or other debt obligations* either on their earliest or any subsequent redemption date, or upon the purchase or at the maturity thereof, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(3) Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States, in any obligations of which the principal and interest are unconditionally guaranteed by the United States, in certificates of deposit or time deposits secured by direct obligations of the United States, or in any obligations of which the principal and interest are unconditionally guaranteed by the United States, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding revenue bonds *or other debt obligations* to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds *or other debt obligations* to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

Section 4. Effective January 1, 1993, section 193.023, Florida Statutes, is amended to read:

193.023 Duties of the property appraiser in making assessments.—

(1) The property appraiser shall complete his assessment of the value of all property no later than July 1 of each year, except that the department may for good cause shown extend the time for completion of assessment of all property.

(2) In making his assessment of the value of real property, the property appraiser is required to inspect physically the property every 3 years to ensure that his tax roll meets all the requirements of law. However, he shall physically inspect any parcel of taxable real property upon the request of the taxpayer or owner.

(3) In revaluating property in accordance with constitutional and statutory requirements, the property appraiser may adjust the assessed value placed on any parcel or group of parcels based on mass data collected, on ratio studies prepared by an agency authorized by law, or pursuant to regulations of the Department of Revenue.

(4) In making his assessment of leasehold interests in property serving the unit owners of a condominium or cooperative subject to a lease, including property subject to a recreational lease, the property appraiser shall assess the property at its fair market value without regard to the income derived from the lease.

(5) In assessing any parcel of a condominium or any parcel of any other residential development having common elements appurtenant to the parcels, if such common elements are owned by the condominium association or owned jointly by the owners of the parcels, the assessment shall apply to the parcel and its fractional or proportionate share of the appurtenant common elements.

(6) In making assessments of cooperative parcels, the property appraiser shall use the method required by s. 719.114.

(7) When considering the factors in s. 193.011 to assess real property, the property appraiser must use sales data as the primary measure of just valuation when such data is available and can be used in accordance with generally accepted appraisal standards and procedures.

Section 5. Subsection (4) of section 193.085, Florida Statutes, is amended to read:

193.085 Listing all property.—

(4) The department shall *adopt* ~~promulgate such~~ rules ~~as are necessary~~ to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may *use* ~~utilize~~ the prior year's values for such property.

(a) All railroad and railroad terminal companies maintaining tracks or other fixed assets in the state and subject to assessment under the unit-rule method of valuation shall make an annual return to the Department of Revenue. Such returns shall be filed on or before April 1 and shall be subject to the penalties provided in s. 193.072. The department shall make an annual assessment of all operating property of every description owned by or leased to such companies. Such assessment shall be apportioned to each county, based upon actual situs and, in the case of property not having situs in a particular county, shall be apportioned based upon track miles. Operating property shall include all property owned or leased to such company, including right-of-way presently in use by the company, track, switches, bridges, rolling stock, and other property directly related to the operation of the railroad. Nonoperating property shall include that portion of office buildings not used for operating purposes, property owned but not directly used for the operation of the railroad, and any other property that is not used for operating purposes. The department shall *adopt* ~~promulgate~~ rules ~~necessary~~ to ensure that all operating property is properly valued, apportioned, and returned to the appropriate county, including rules governing the form and content of returns. The evaluation and assessment of utility property shall be the duty of the property appraiser.

(b)1. All private car and freight line and equipment companies operating rolling stock in Florida shall make an annual return to the Department of Revenue. The department shall make an annual determination of the average number of cars habitually present in Florida for each company and shall assess the just value thereof.

2. The department shall *adopt* ~~promulgate~~ rules respecting the methods of determining the average number of cars habitually present in Florida, the form and content of returns, and such other rules as are necessary to ensure that the property of such companies is properly returned, valued, and apportioned to the state.

3. For purposes of this paragraph, "operating rolling stock in Florida" means having ownership of rolling stock which enters Florida.

4. The department shall apportion the assessed value of such property to the local taxing jurisdiction based upon the number of track miles and the location of mainline track of the respective railroads over which the rolling stock has been operated in the preceding year in each taxing jurisdiction. The situs for taxation of such property shall be according to the apportionment.

(c) The values determined by the department pursuant to *this subsection* ~~subsections (4) and (5)~~ shall be certified to the property appraisers when such values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) In any action challenging final assessed values certified by the Department of Revenue under this subsection, venue is in Leon County. This paragraph applies to all actions pending on or filed after January 1, 1991.

Section 6. Effective January 1, 1993, subsection (1) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(1) Each assessment roll shall be submitted to the executive director of the Department of Revenue for review in the manner and form prescribed by the department on or before July 1. The roll submitted to the department need not contain centrally assessed properties prior to approval under this subsection and subsection (2). Such review by the executive director shall be made to determine if the rolls meet all the appropriate requirements of law relating to form and just value. *In conducting reviews, sales data shall be used to the greatest extent possible.* Upon approval of the rolls by the executive director or his designee, the hearings required in s. 194.032 may be held.

Section 7. Effective January 1, 1993, section 195.096, Florida Statutes, as amended by section 3 of chapter 92-32, Laws of Florida, is amended to read:

195.096 Review of assessment rolls.—

(1) The assessment rolls of each county shall be subject to review by the Division of Ad Valorem Tax.

(2) Beginning with the 1982 assessment rolls, the Division of Ad Valorem Tax shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. Such reviews need not include personal property tax rolls until 1983; however, such reviews shall include the 1982 personal property tax rolls if positions are provided therefor in the 1982-1983 budget. The Division of Ad Valorem Tax need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection *(4)*~~(3)~~. Such in-depth review may include proceedings of the value adjustment board.

(a) The Division of Ad Valorem Tax shall, at least 30 days prior to the beginning of an in-depth review in any county, notify the property appraiser in the county of the pending review. At the request of the property appraiser, the Division of Ad Valorem Tax shall consult with the property appraiser regarding the classifications and strata to be studied, in order that the review will be useful to the property appraiser in evaluating his procedures.

(b) Every property appraiser whose upcoming roll is subject to an in-depth review shall, if requested by the department on or before January 1, deliver upon completion of the assessment roll a list of the parcel numbers of all parcels that did not appear on the assessment roll of the previous year, indicating the parcel number of the parent parcel from which each new parcel was created or "cut out."

(c) In conducting assessment ratio studies, the Division of Ad Valorem Tax must use a statistically reliable sample of properties in tests of each classification, stratum, or roll made the subject of a ratio study published by it. For purposes of this section, the division may use an assessment-to-sales-ratio study in conducting assessment ratio studies. The department shall compute the median and the value-weighted mean for each classification or subclassification studied and for the roll as a whole.

(d) In the conduct of these reviews, the Division of Ad Valorem Tax shall adhere to all standards to which the property appraisers are required to adhere.

(e) The Division of Ad Valorem Tax and each property appraiser shall cooperate in the conduct of these reviews, and each shall make available to the other all matters and records bearing on the preparation and computation of the reviews. The property appraisers shall provide any and all data requested by the Division of Ad Valorem Tax in the conduct of the studies, including electronic data processing tapes. Any and all data and samples developed or obtained by the Division of Ad Valorem Tax in the conduct of the studies shall be confidential and exempt from the provisions of s. 119.07(1) until a presentation of the findings of the study is made to the property appraiser. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. After the presentation of the findings, the Division of Ad Valorem Tax shall provide any and all data requested by a property appraiser developed or obtained in the conduct of the studies, including tapes. Direct reimbursable costs of providing the data shall be borne by the party who requested it. Copies of existing data or records, whether maintained or required pursuant to law or rule, or data or records otherwise maintained, shall be submitted within 30 days from the date requested, in the case of written or printed information, and within 14 days from the date requested, in the case of computerized information.

(f) Within 120 days following the receipt of a county assessment roll by the executive director of the department pursuant to s. 193.1142(1), or within 10 days after approval of the assessment roll, whichever is later, the Division of Ad Valorem Tax shall complete the review for that county and forward its findings, including a statement of the confidence interval for the median and such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, employing a 95-percent level of confidence, and related statistical and analytical details to the Senate Finance, Taxation, and Claims Committee; the House Finance and Taxation Committee; and the appropriate property appraiser.

(3) In conducting biennial in-depth reviews of county assessment rolls, the Division of Ad Valorem Tax shall, to the greatest extent possible, use sales data in lieu of fee appraisal data. Using an electronic medium that is compatible with the medium used by the Division of Ad Valorem Tax, the property appraiser shall report to the division each real estate transfer within the county, the selling price as evidenced by documentary stamps, and any other information the division, by rule, requires. For disqualified transactions, the property appraiser must also submit an indication, in a manner prescribed by the division, of the reasons for such disqualification.

(4)~~(3)~~(a) Upon completion of review pursuant to paragraph (2)(f), the Division of Ad Valorem Tax shall publish the results of reviews conducted pursuant to this section. The results shall include all statistical and analytical measures computed pursuant to this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes:

1. Single-family, condominium, cooperative, mobile home, and other owner-occupied residential property.

2. Residential income property.

3. Agricultural and other use-valued property.

4. Vacant lots.

5. Nonagricultural acreage and other undeveloped parcels.

6. Taxable institutional and governmental property.

7. Improved commercial property.

8. Improved industrial, utility, locally assessed railroad, oil, gas and mineral lands, subsurface rights, and other real property.

If there are fewer than 30 parcels in any property class, such parcels may be included with the parcels described in subparagraph 8. for purposes of sampling, conducting assessment ratio studies, and publishing results. The division shall also publish such results for any subclassifications of the above classes or assessment rolls it may have chosen to study. For each improved subclassification or property class and for the real property roll as a whole, the division shall also publish separate assessment ratio statistics for land valuations and for improvement valuations.

(b) When necessary for compliance with s. 236.081, and for those counties not being studied in the current year, the Division of Ad Valorem Tax shall project value-weighted mean levels of assessment for each county. The Division of Ad Valorem Tax shall make its projection based upon the best information available, *using* ~~utilizing~~ professionally accepted methodology, and shall separately allocate changes in total assessed value to:

1. New construction, additions, and deletions.

2. Changes in the value of the dollar.

3. Changes in the market value of property other than those attributable to changes in the value of the dollar.

4. Changes in the level of assessment.

In lieu of the statistical and analytical measures published pursuant to paragraph (a), the department shall publish details concerning the computation of estimated assessment levels and the allocation of changes in assessed value for those counties not subject to an in-depth review.

(5)~~(4)~~ It is declared to be the legislative intent that approval of the rolls by the department pursuant to s. 193.1142 and certification by the value adjustment board pursuant to s. 193.122(1) shall not be deemed to impugn the use of postcertification reviews to require adjustments in the preparation of succeeding assessment rolls to ensure that such succeeding assessment rolls do meet the constitutional mandates of just value.

(6)~~(5)~~ It is the legislative intent that the Division of Ad Valorem Tax *use* ~~utilize~~ to the fullest extent practicable objective measures of market value in the conduct of reviews pursuant to this section.

(7)~~(6)~~ Reviews conducted pursuant to this section shall include an evaluation of whether nonhomestead exempt values determined by the appraiser pursuant to applicable provisions of chapter 196 are correct and whether agricultural classifications were granted in accordance with law.

(8)~~(7)~~ The Auditor General shall have the responsibility to perform performance audits of the administration of ad valorem tax laws by the department pursuant to the general authority granted in chapter 11. Such performance audits shall be conducted biennially following completion of reviews pursuant to this section. The first performance audit conducted pursuant to this subsection shall be formally submitted to the Legislature no later than April 1, 1984, reporting on the activities of the Division of Ad Valorem Tax related to the 1982 and 1983 ad valorem tax rolls, and biennially thereafter. The Auditor General shall include, for at least four counties so reviewed, findings as to the accuracy of assessment procedures, projections, and computations made by the division, *using* ~~utilizing~~ the same generally accepted appraisal standards and procedures to which the division and the property appraisers are required to adhere. However, the report shall not include any findings or statistics related to any ad valorem tax roll which is in litigation between the state and county officials at the time the report is to be issued.

(9)~~(8)~~ When a roll is prepared as an interim roll pursuant to s. 193.1145, the department shall compute assessment levels for both the interim roll and the final approved roll.

(10)~~(9)~~ Chapter 120 *does* ~~shall~~ not apply to this section.

Section 8. The Department of Revenue shall develop a methodology for using sales data in conducting in-depth studies and annual reviews of county assessment rolls pursuant to sections 193.1142 and 195.096, Florida Statutes. A plan to implement this methodology must be prepared by the Department of Revenue and such plan must provide for the disqualification of sales data by the department. The plan must also include recommendations for reallocating resources of the Division of Ad Valorem Tax which reflect the reduction in the division's workload as a result of the increased reliance on sales data as opposed to fee appraisal data. The plan must be completed by July 1, 1993, and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 9. Effective January 1, 1993, subsection (3) of section 199.062, Florida Statutes, is amended to read:

199.062 Annual tax information reports.—

(3) On or before June 30 of each year, all security *dealers and investment advisers* ~~brokers~~ registered under the laws of this state shall file with the department a position statement as of December 31 of the preceding year for each customer whose mailing address is within the state *or a statement that the security dealer or investment adviser does not hold securities on account for its customers with mailing addresses in this state. The position* ~~Such~~ statement shall include the customer's name, address, social security number, or federal identification number; the number of units, value, and description, including the Committee on Uniform Security Identification Procedures (CUSIP) number, if any, of all securities held for the customer; and such other information as the department may reasonably require. The information required by this subsection shall be reported by *the dealer or investment adviser* ~~a broker~~ on magnetic media, using specifications and instructions of the department, unless the *dealer or investment adviser* ~~broker~~ demonstrates that an undue hardship exists.

Section 10. Effective January 1, 1993, subsection (6) of section 199 282, Florida Statutes, is amended to read:

199.282 Penalties for violation of this chapter.—

(6) ~~A~~ Late reporting *penalties* ~~penalty of $100~~ shall be imposed *as follows*:

(a) *A penalty of $100* upon any corporation which does not timely file a written notice required under s. 199.057(2)(c) or s. 199.062(2).

(b) *An initial penalty of $10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or $50 for each month or portion of a month, from the date due until filing is made,* upon any security *dealer or investment adviser who* ~~broker which~~ does not timely file *or fails to file* the ~~position~~ statements required by s. 199.062(3). *The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is $100.*

Section 11. Section 199.106, Florida Statutes, is created to read:

199.106 Credit for taxes imposed by other states.—

(1) For intangible personal property that has been deemed to have a taxable situs in this state solely pursuant to s. 199.175(2) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property that is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(2) For intangible personal property that has a taxable situs in this state under s. 199.175(1) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer, other than a natural person, in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia when the other taxing authority is also claiming situs under provisions similar or identical to those in s. 199.175(1) or any similar predecessor statute. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property which is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(3) The credits provided by subsections (1) and (2) apply retroactively to December 31, 1979. However, notwithstanding the retroactivity of these credit provisions, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 12. Section 199.303, Florida Statutes, is created to read:

199.303 Declaration of legislative intent.—

(1) If any section, subsection, sentence, clause, phrase, or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconstitutionality shall not affect the portions of this chapter not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable, or void portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective, or void portions of this chapter, the Legislature would have enacted the valid and constitutional portions thereof.

(2) It is hereby declared to be the specific legislative intent to tax all intangible personal property that may constitutionally be taxed subject only to the exemptions and credits allowed by law. However, if any application of these statutes is declared unconstitutional, the taxes imposed shall nevertheless remain in force, but only to the extent permitted by the constitution of this state and of the United States.

Section 13. Present subsection (3) of section 201.022, Florida Statutes, as amended by section 10 of chapter 92-32, Laws of Florida, is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; failure to file does not impair validity.—

(3) If the return required by this section is not executed and filed, the clerk of the circuit court shall execute and file the return with the department. The clerk shall be compensated 1 percent of the value of the stamps sold for deeds as the cost of processing the return required by this section in the form of a deduction from the amount of the tax due and remitted by him, and the department shall allow the deduction to the clerk paying and remitting the tax in the manner provided for by the department. However, a deduction or allowance may not be granted if there is a manifest failure to maintain proper records or make proper reports. The compensation provided in this subsection is in addition to that provided in s. 201.11(2).

Section 14. Section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section, *the term*:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, ~~beginning January 1, 1992,~~ the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, plus any applicable local option tax authorized by this part, expressed as a decimal. *However, the amount of the tax to be paid on natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices; or natural vegetable juices shall be calculated using the divisor that is specified for food items.*

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed a notice to each vending machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his *sales tax registration* ~~social security~~ number. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT *ANY MACHINE WITHOUT A NOTICE* ~~ALL VIOLATIONS~~ TO (*TOLL-FREE* ~~TOLL FREE~~ NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county. ~~The report shall first be filed for the quarter ending December 31, 1991.~~

(b) A penalty of $250 per machine is imposed on the operator *who fails* ~~for failing~~ to properly obtain and display the required notice on any machine. A penalty of $250 is imposed on the operator *who fails* ~~for failing~~ to timely file a quarterly report *or who files false information.* ~~Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(c) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(5)(a) Any person who sells food or beverages *to an operator* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator *described in paragraph (b)* who has purchased such items from said person and states the *net* ~~gross~~ dollar amount of purchases made by each operator from said person. ~~The report shall first be filed for the quarter ending December 31, 1991.~~ In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of *25* ~~50~~ cases or more.

(b) Each ~~dealer or~~ operator *who purchases* ~~purchasing~~ food or beverages for resale *in vending machines* shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state *that* ~~whether or not~~ the purchaser is a vending machine operator. The certificate shall initially be provided ~~by November 1, 1991, or~~ upon the first transaction between the parties~~, whichever is later,~~ and by November 1 of each year thereafter.

(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so *or who files false information.* A penalty of *$250* ~~$5,000~~ is imposed on any operator who fails to comply with the requirements of this subsection *or who provides the dealer with false information.* ~~A penalty of $250 for such failure shall apply to other dealers who are not operators of vending machines. Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules necessary to administer the provisions of this section *and may establish a schedule for phasing in the requirement that existing notices be replaced with revised notices displayed on vending machines.*

Section 15. Contingent on the rejection by vote of the electors at the general election in November 1992, of a constitutional amendment that proposes an amendment to section 9 of Article VII of the State Constitution which authorizes a municipality or county to levy, pursuant to referendum, a 1-cent sales tax for the purpose of funding local governmental services, paragraphs (a) and (g) of subsection (2) of section 212.055, Florida Statutes, as amended by section 1 of chapter 91-423, Laws of Florida, and section 148 of chapter 92-279, Laws of Florida, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. ~~No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988.~~

(g) No referendum proposing the levying of such surtax shall be held after November 30, *1994* ~~1992~~.

Section 16. Paragraph (i) of subsection (3) of section 212.055, Florida Statutes, as amended by section 1 of chapter 91-423, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(3) INDIGENT CARE SURTAX.—

(i) *No county, other than any county as defined in s. 125.011(1), may levy the tax authorized in this subsection after* ~~This subsection is repealed on~~ October 1, 1998.

Section 17. Section 3 of chapter 91-81, Laws of Florida, is repealed.

Section 18. Paragraph (e) of subsection (5) of section 212.08, Florida Statutes, as amended by section 3 of chapter 92-113, Laws of Florida, section 1 of chapter 92-164, Laws of Florida, section 1 of chapter 92-168, Laws of Florida, and section 2 of chapter 92-206, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(e) Gas used for certain agricultural purposes.—Butane gas, propane gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use. ~~This exemption shall inure to the taxpayer only through refund of previously paid taxes. Refunds under this paragraph shall be authorized and administered as provided in s. 212.67.~~

Section 19. Subsection (2) of section 213.053, Florida Statutes, as amended by section 17 of chapter 92-138, Laws of Florida, and section 4 of chapter 92-146, Laws of Florida, is amended, and subsections (16) and (17) are added to that section, to read:

213.053 Confidentiality and information sharing.—

(2) Except as provided in subsections (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), ~~and~~ (15), *(16), and (17),* all information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and including letters of technical advice, is confidential except for official purposes and is exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), subsection (9), subsection (10), subsection (11), subsection (12), subsection (13), subsection (14), ~~or~~ subsection (15), *subsection (16), or subsection (17)* commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(16) The department may provide to the person against whom transferee liability is being asserted pursuant to s. 212.10(1) information relating to the basis of the claim.

(17) The department may disclose to a person entitled to compensation pursuant to s. 213.30 the amount of any tax, penalty, or interest collected as a result of information furnished by such person.

Section 20. Effective October 1, 1992, section 213.0535, Florida Statutes, is created to read:

213.0535 Registration Information Sharing and Exchange Program.—

(1) The Registration Information Sharing and Exchange Program, or "RISE," is established, to be coordinated by the Department of Revenue. Each participant in the program shall share the tax administration information specified in this section on a periodic basis in the format prescribed by the department. To the fullest extent practicable, the information must be shared on a computer-processable medium.

(2) Information that is subject to sharing includes the registrant's, licensee's, or taxpayer's name, mailing address, business location, federal employer identification number or social security number, any applicable business type code, any applicable county code, and such other tax registration information as the department prescribes.

(3) Each local government that participates in the program is responsible for transmitting its shared data to participating state agencies. Each state agency participating in the program is responsible for transmitting its shared data to the other participating state agencies and to the appropriate participating local governments. Data shall be transmitted within 20 days after the close of the reporting period.

(4) There are two levels of participation:

(a) Each unit of state and local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level one participant. Level one participants shall exchange, monthly, the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued under chapter 509.

7. Beverage law licenses issued under chapter 561.

(b) Level two participants include the Department of Revenue and local officials responsible for collecting the tourist development tax pursuant to s. 125.0104, the tourist impact tax pursuant to s. 125.0108, or a convention development tax pursuant to s. 212.0305. Level two participants shall, in addition to the data shared by level one participants, exchange data relating to tax payment history, audit assessments, and registration cancellations of dealers engaging in transient rentals, and such data shall relate only to sales and use taxes, tourist development taxes, and convention development taxes. The department shall prescribe, by rule, the data elements to be shared and the frequency of sharing; however, audit assessments must be shared at least quarterly.

(5) Any provision of law imposing confidentiality upon data shared under this section, including, but not limited to, any provision imposing penalties for disclosure, applies to recipients of this data and their employees. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Data exchanged under this section may not be provided to any person or entity other than those administering the tax or licensing provisions of those provisions of law enumerated in paragraph (4)(a), and such data may not be used for any purpose other than for enforcing those tax or licensing provisions.

(6) In addition to data on new registrants, the information shared by level one participants in the first month of the program shall include data for all active registrants, taxpayers, licensees, or permittees under the provisions of law enumerated in paragraph (4)(a).

Section 21. Subsections (1) and (5) of section 213.27, Florida Statutes, are amended to read:

213.27 Contracts with debt collection agencies.—

(1) The Department of Revenue may, for the purpose of collecting any ~~delinquent~~ taxes due from a taxpayer, contract with any debt collection agency or attorney doing business within or without this state for the collection of such ~~delinquent~~ taxes including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of ~~delinquent~~ taxes. Contracts will be made pursuant to chapter 287. The taxpayer must be notified by ~~certified~~ mail by the department, its employees, or its authorized representative 30 days prior to commencing any litigation to recover any ~~delinquent~~ taxes. The taxpayer must be notified by ~~certified~~ mail by the department 30 days prior to the department assigning the collection of any ~~delinquent~~ taxes to the debt collection agency.

(5) The department may, for the purpose of ascertaining the amount of or collecting any ~~delinquent~~ taxes due from a person doing mail order business in this state, contract with any auditing agency doing business within or without this state for the purpose of conducting an audit of such mail order business; however, such audit agency may not conduct an audit on behalf of the department of any person domiciled in this state, person registered for sales and use tax purposes in this state, or corporation filing a Florida corporate tax return, if any such person or corporation objects to such audit in writing to the department and the auditing agency. The department shall notify the taxpayer by ~~certified~~ mail at least 30 days before the department assigns the collection of such ~~delinquent~~ taxes to the debt collection or auditing agency.

Section 22. Paragraph (a) of subsection (1) of section 216.262, Florida Statutes, as amended by section 68 of chapter 92-142, Laws of Florida, and section 89 of chapter 92-279, Laws of Florida, is amended to read:

216.262 Authorized positions.—

(1)(a) Unless otherwise expressly provided by law, the total number of authorized positions may not exceed the total provided in the appropriations acts. In the event any state agency or entity of the judicial branch finds that the number of positions so provided is not sufficient to administer its authorized programs, it may file an application with the Executive Office of the Governor or the Chief Justice; and, if the office or Chief Justice certifies that there are no authorized positions available for addition, deletion, or transfer within the agency as provided in paragraph (c) and recommends an increase in the number of positions, the commission or the Chief Justice may, after a public hearing, authorize an increase in the number of positions for the following reasons only:

1. To implement or provide for continuing federal grants or changes in grants not previously anticipated;

2. To meet emergencies pursuant to s. 252.36;

3. To satisfy new federal regulations or changes therein;

4. To take advantage of opportunities to reduce operating expenditures or to increase the revenues of the state *or local government*; and

5. To authorize positions which were not fixed by the Legislature through error in drafting the appropriations acts.

The provisions of this paragraph are subject to the notice and review procedures set forth in s. 216.177. A copy of the application, the certification, and the final authorization shall be filed with the legislative appropriations committees and with the Auditor General.

Section 23. Effective upon this act becoming a law, and operating retroactively to January 1, 1992, paragraphs (a) and (b) of subsection (2) of section 624.5092, Florida Statutes, are amended to read:

624.5092 Administration of taxes; payments.—

(2)(a) Installments of the taxes to which this section is applicable shall be due and payable on April 15, June 15, and October 15 in each year~~, based upon the estimated gross amount of receipts of insurance premiums or assessments received during the immediately preceding calendar quarter~~. *Each installment payment must equal at least 30 percent of the tax finally due for the taxable year.* A final payment of tax due for the year shall be made at the time the taxpayer files his return for such year. On or before March 1 in each year, an annual return shall be filed ~~showing, by quarters, the gross amount of receipts taxable for the preceding year and the installment payments made during that year~~.

(b) Any taxpayer who fails to report and timely pay any installment of tax, who estimates any installment of tax to be less than ~~90 percent of~~ the amount *required under paragraph (a)* ~~finally shown to be due in any quarter~~, or who fails to report and timely pay any tax due with the final return is in violation of this section and is subject to a penalty of 10 percent on any underpayment of taxes or delinquent taxes due and payable for that quarter or on any delinquent taxes due and payable with the final return~~; provided, however, for purposes of this calculation credits and deductions shall not apply~~. Any taxpayer paying, for each installment required in this section, 27 percent of the amount of the *total* ~~annual~~ tax *due as* reported on his return for the preceding year *is* ~~shall~~ not ~~be~~ subject to the penalty provided by this section *for underpayment of estimated taxes.*

Section 24. Notwithstanding the provisions of chapter 91-197, Laws of Florida, which provide for review and repeal of chapter 550, Florida Statutes, sections 550.2635 and 550.26355, Florida Statutes, shall not stand repealed on July 1, 1992, but are repealed on July 1, 1993. If this act does not become a law by June 30, 1992, this section shall operate retroactively to that date.

Section 25. Section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under the provisions of ss. 210.15, 210.40, 561.14(6), 561.181, 561.19(2) and (3), 561.27, 561.32, 561.331, 561.422, 561.57, 561.65, 563.02, 563.025, 563.045, 564.02, 564.025, 564.041, 565.02, *565.025,* 565.03, and 565.09 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. All moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the Secretary of Business Regulation, except that the revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2). The Department of Business Regulation shall review annually the balance remaining in the trust fund, and any funds found to be in excess of the needs of the division shall be transferred to the General Revenue Fund. In no event shall the department permit the fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

Section 26. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 563.02, Florida Statutes, as amended by section 7 of chapter 92-176, Laws of Florida, are amended and subsection (4) is added to that section to read:

563.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume shall pay an annual state license tax as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$375* ~~$200~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$300* ~~$160~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$225* ~~$120~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$150* ~~$80~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$75* ~~$40~~.

(4) Notwithstanding the provisions of s. 561.342, $175 of the license fee established in paragraph (1)(b), $140 of the license fee established in paragraph (1)(c), $105 of the license fee established in paragraph (1)(d), $70 of the license fee established in paragraph (1)(e), $35 of the license fee established in paragraph (1)(f), and one-half of the above amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 27. Section 563.025, Florida Statutes, is amended to read:

563.025 Surtax on license fees.—Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 563.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent*

Section 28. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 564.02, Florida Statutes, as amended by section 8 of chapter 92-176, Laws of Florida, are amended and subsection (4) is added to that section to read:

564.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor authorized to sell brewed beverages containing malt, wines, and fortified wines shall pay an annual state license tax, as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$455* ~~$280~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$380* ~~$240~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$305* ~~$200~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$230* ~~$160~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$155* ~~$120~~.

(4) Notwithstanding the provisions of s. 561.342, $175 of the license fee established in paragraph (1)(b), $140 of the license fee established in paragraph (1)(c), $105 of the license fee established in paragraph (1)(d), $70 of the license fee established in paragraph (1)(e), $35 of the license fee established in paragraph (1)(f), and one-half of the above amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 29. Section 564.025, Florida Statutes, is amended to read:

564.025 Surtax on license fees.—Each vendor of beverages containing alcohol of 0.5 percent or more by volume and not more than 14 percent by weight and of wines regardless of alcoholic content *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 564.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent of the license fee.*

Section 30. Subsections (1), (4), and (5) of section 565.02, Florida Statutes, as amended by section 9 of chapter 92-176, Laws of Florida, are amended and subsection (12) is added to that section to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(1) The following state license taxes apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(a) A vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises where sold shall pay an amount equal to 75 percent of the amount of the license tax for vendors in the same county as provided in paragraphs (b), (c), (d), (e), and (f).

(b) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,995* ~~$1,820~~.

(c) A vendor operating a place of business where consumption on the premises is permitted in a county having a population over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,700* ~~$1,560~~.

(d) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 50,000 and not over 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,405* ~~$1,360~~.

(e) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 25,000 and not over 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$928* ~~$858~~.

(f) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of 25,000 or less, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$659* ~~$624~~.

(g) A vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises shall pay, in addition to the license tax imposed in paragraphs (b)-(f), $1,000. However, such permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. A golf club licenseholder may operate service bars or portable or temporary bars on the grounds contiguous to its licensed premises and shall pay $100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and notation of such extension upon the sketch accompanying the original license application.

(4) Persons associated together as a chartered or incorporated club, including any social club incorporated by order of a circuit judge after its charter has been found to be for objects authorized by law and approved by the judge as organized for lawful purposes and not for the purpose of

evading license taxes on dealers in beverages defined herein, which such organization is a bona fide club, and has been at the time of application for license hereunder in continuous active existence and operation for a period of not less than 2 years in the county where it exists, shall before serving or distributing to its members or nonresident guests the beverages defined herein, whether such service or distribution is made upon contribution to the club of money or by check or other device, pay an annual state license tax of *$505* ~~$400~~. However, any golf club operated by or on behalf of any incorporated municipality in this state, and any veterans' or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only, and such service and distribution to the members and nonresident guests shall not be deemed sales within the meaning of the law in this state; but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale, and any officer, member, or employee of any such licensed club who sells or distributes or serves any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. The holders of a golf club license may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public. For each such day of service to nonmembers, the club shall obtain from the division for a fee of $50 an extension of its license to permit such sales. Such license extensions shall be limited to one event per year, not to exceed 8 consecutive days. Any officer of any such club which has not paid such license who knowingly permits such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided. However, this subsection does not apply to a club organized or used for the purpose of evading the payment of the license tax on vendors of such beverages; such club is subject to the payment of the license tax imposed by the Beverage Law upon vendors. The president, vice president, secretary, or treasurer, or officers of corresponding duties by any name they may be called, of any club required by this section to pay a license tax are required to see that such license tax is paid and, in default thereof, shall each be personally liable to the punishment provided by the Beverage Law for nonpayment of the license tax hereby required. Clubs which are not authorized to obtain licenses under this subsection or which do not obtain licenses under this subsection may, if they comply with this provision of the Beverage Law, obtain licenses as vendors. A club obtaining such club license shall not purchase any beverage herein defined from anyone other than a distributor or vendor licensed under the Beverage Law; nor shall such club dispense or serve any beverage defined herein unless such beverage has been purchased by such club from such licensed distributor or vendor; nor shall the club dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by that law. Such club license cannot be transferred in any manner whatsoever.

(5) A caterer at a horse or dog racetrack or jai alai fronton may obtain a license upon the payment of an annual state license tax of *$780* ~~$675~~. Such caterer's license shall permit sales only within the enclosure in which such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days after racing or jai alai under the authority of the Division of Pari-mutuel Wagering of the Department of Business Regulation is conducted at such racetrack or jai alai fronton. Except as in this subsection otherwise provided, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

(12) Notwithstanding the provisions of s. 561.342, $175 of the license fee established in paragraph (1)(b), $140 of the license fee established in paragraph (1)(c), $105 of the license fee established in paragraph (1)(d), $70 of the license fee established in paragraph (1)(e), $35 of the license fee established in paragraph (1)(f), three-fourths of the above amounts for licenses issued pursuant to paragraph (1)(a), $105 of the license fee established in (4) and $105 of the license fee established in subsection (5) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 31. Section 565.025, Florida Statutes, is created to read:

565.025 Surtax on license fees.—Each vendor of liquor, distilled spirits, spirituous liquors, spirituous beverages, or distilled spirituous liquors and all beverages containing one-half of 1 percent or more alcohol by volume, who is licensed under this chapter, including clubs licensed under s. 565.02(4), and pari-mutuel facilities licensed under s. 565.02(5), shall pay an annual surtax in an amount equal to the percentage established, by rule, by the division. The exact percentage shall be set by rule, but may not exceed 50 percent of the license fee imposed by s. 565.02.

Section 32. Effective May 1, 1993, paragraph (j) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(j)1. Effective July 1, 1991, *and until April 30, 1993,* a tax is imposed at the rate of 6 percent on the charges for the use of coin-operated amusement machines. *Notwithstanding any other provision of law, beginning May 1, 1993, the amount of the tax is 3 percent and shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor is equal to the sum of 1.03, plus any applicable local option tax authorized by this part, expressed as a decimal.* When a machine is activated by a slug, token, coupon, or any similar device which has been purchased, the tax *is* ~~shall be~~ on the price paid by the user of the device for such device.

2.a. If a coin-operated amusement machine is placed at the location of a person other than the machine owner and the receipts are shared by the machine owner and the location owner, the machine owner is deemed to be leasing the machine to the location owner. Under such an agreement, the machine owner is deemed to be the operator of the machine and is liable for remitting the tax on sales generated through use of the machine as well as remitting the tax on the portion of the receipts he receives as consideration for the lease of the machine.

b. If the owner of a coin-operated amusement machine leases the machine to a lessee for a fixed amount that is not based on the amount of sales generated through the machine, the owner shall collect and remit the tax on the lease of the machine from the lessee. The lessee is liable for remitting the tax on sales generated through use of the machine.

c. Any person who leases a coin-operated amusement machine as provided in sub-subparagraph a. or sub-subparagraph b. is exempt from payment of the sales tax on the purchase of the machine if, at the time of purchase, he provides the vendor a sales tax resale certificate.

d. The owner of a coin-operated amusement machine who operates the machine at his business location is liable for payment of the sales tax on the purchase of the machine as well as remitting the tax on sales generated through use of the machine.

~~2. As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.~~

~~a. If the owner of the machine is also the operator of it, he shall be liable for payment of the tax without any deduction for rent or a license fee paid to a location owner for the use of any real property on which the machine is located.~~

~~b. If the owner or lessee of the machine is also its operator, he shall be liable for payment of the tax on the purchase or lease of the machine, as well as the tax.~~

3.a. ~~An operator of~~ A coin-operated amusement machine may not ~~operate or cause to~~ be operated in this state ~~any such machine~~ until the *owner of the machine* ~~operator~~ has registered with the department and

has affixed *an identifying device on each machine operated. The identifying device must be conspicuously displayed on the machine when it is being operated in this state. The device must bear a unique identification number issued by the department, the manufacturer's serial number of the machine, and the owner's sales tax registration number. An identifying device may not be transferred from one machine to another machine or from one owner to another owner. The identifying device must* ~~a notice to each machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his social security number. The notice must be conspicuously displayed on the machine when it is being operated in this state and shall~~ contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL AMUSEMENT MACHINES. REPORT *ANY MACHINE WITHOUT A NOTICE* ~~ALL VIOLATIONS~~ TO (*TOLL-FREE* ~~TOLL FREE~~ NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

b. The owner of the machine must obtain an identifying device before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each identifying device is $10 and is due and payable upon application for the identifying device.

c. An identifying device must be displayed on any coin-operated amusement machine operated in this state on or after May 1, 1993. An identifying device issued before July 1, 1993, is valid until July 1, 1994.

d. The county tax collector may issue the identifying devices upon payment of the annual fee. The tax collector shall submit a form to the department, in a format specified by the department, which contains the name of the owner of the amusement machine, the owner's sales tax registration number, the manufacturer's serial number of the machine, and the unique identificiation number assigned to each identifying device issued to the owner. The tax collector may charge and retain an additional $5 for each form submitted to the department. The tax collector shall submit payment for, and report the transmittal of, identifying devices to the department by the 15th day of each month for identifying devices issued during the previous month.

e.~~b.~~ The department shall establish a toll-free number to report any violations of this paragraph. Upon a determination that a violation has occurred, the department shall pay the informant up to 10 percent of *any amount* ~~previously unpaid taxes~~ recovered as a result of the information provided.

f.~~e.~~ A penalty of $250 per machine is imposed on the *owner* ~~operator~~ for failing to properly obtain and display the required *identifying device* ~~notice~~ on any machine. Such penalty *accrues* ~~shall accrue~~ interest as provided for delinquent taxes under this part and *applies* ~~shall apply~~ in addition to all other applicable taxes, interest, and penalties.

g. By April 1 of each year, the owner of a coin-operated amusement machine shall send to the department a copy of the tangible personal property return that he submitted to the county property appraiser under s. 193.052 for the current tax year.

h.~~d.~~ *Owners* ~~Operators~~ of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the *owner's* ~~operator's~~ machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

5. In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6. The department may adopt rules necessary to administer the provisions of this paragraph.

Section 33. Paragraph (b) of subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, the 2.5-percent allowance shall be reduced to 0.83 percent for all amounts in excess of $1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or $50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. For returns remitted on or after February 1, 1992, the department shall ~~also~~ require that sales made through vending machines as defined in s. 212.0515 be separately shown. *For returns remitted on or after May 1, 1993, sales made through coin-operated amusement machines as defined in s. 212.02 and the number of machines operated must be separately shown on the return, or a form, prescribed by the department, must be submitted which indicates the number of machines operated and the sales made through the machines.*

Section 34. Effective May 1, 1993, paragraph (f) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this part shall be as follows:

(f) Proceeds from the *fees* ~~fee~~ imposed *under ss. 212.05(1)(j)3. and* ~~pursuant to s.~~ 212.18(3) shall remain with the General Revenue Fund.

Section 35. Effective May 1, 1993, subsection (8) is added to section 381.0072, Florida Statutes, as amended by section 4 of chapter 92-180, Laws of Florida, to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health and Rehabilitative Services to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and require-

ments for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(8) In conducting inspections of food service establishments regulated under this section, the department shall determine if each coin-operated amusement machine that is operated on the premises of the food service establishment is properly registered with the Department of Revenue. Each month, the department shall report to the Department of Revenue the sales tax registration number of the operator of any food service establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 36. Effective May 1, 1993, subsection (3) is added to section 500.1465, Florida Statutes, as created by section 12 of chapter 92-180, Laws of Florida, to read:

500.1465 Inspection of permitted establishments.—

(3) In conducting inspections of establishments permitted under this chapter, the department shall determine if each coin-operated amusement machine that is operated on the premises of the establishment is properly registered with the Department of Revenue. Each month, the department shall report to the Department of Revenue the sales tax registration number of the operator of any establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 37. Effective May 1, 1993, paragraph (f) is added to subsection (2) of section 509.032, Florida Statutes, as amended by section 22 of chapter 92-180, Laws of Florida, to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 38. Effective May 1, 1993, section 561.1105, Florida Statutes, is created to read:

561.1105 Inspection of licensed premises; coin-operated amusement machines.—In conducting inspections of establishments licensed under the Beverage Law, the division shall determine if each coin-operated amusement machine that is operated on the licensed premises is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed premises that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 39. Section 1 of chapter 67-930, Laws of Florida, is amended to read:

Section 1. All cities and towns, in counties of the state having a population of not less than three hundred thirty thousand (330,000) and not more than three hundred forty thousand (340,000) and in counties having a population of more than nine hundred thousand (900,000), according to the latest official decennial census, whose charter specifically provides now or whose charter is so amended prior to January 1, 1968, for the levy of the exact tax as herein set forth, are hereby given the right, power and authority by ordinance to impose, levy and collect a tax within their corporate limits, to be known as a municipal resort tax, upon the rent of every occupancy of a room or rooms in any hotel, motel, apartment house, rooming house, tourist or trailer camp, as the same are defined in part I, chapter 212, Florida Statutes, and upon the retail sale price of all items of food, beverages and alcoholic beverages~~, other than beer or malt beverages~~, sold at retail for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department; provided, however, this tax shall not apply to those sales the amount of which is less than fifty cents (50¢).

Section 40. Section 2 of chapter 67-930, Laws of Florida, as amended by chapter 83-363, Laws of Florida, is amended to read:

Section 2. The tax authorized by section 1 shall not exceed two percent (2%) of the rent received by the person renting such room or rooms from the person paying said rent, and of the retail sales price paid by any guest, consumer or any person on the purchase of each sale of food, beverages and alcoholic beverages~~, other than beer or malt beverages,~~ for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department. However, upon approval by referendum of a charter amendment so authorizing, the tax may be levied at a rate not to exceed 4 percent on the rent of such room or rooms.

Section 41. Section 3 of chapter 67-930, Laws of Florida, is amended to read:

Section 3. The tax imposed by this act shall be collected from the person paying said rent *or* ~~of~~ said retail sales price and shall be paid by such person for the use of the city or town to the person collecting and receiving the rent or the retail sales price at the time of the payment thereof. It shall be the duty of every person renting a room or rooms, as herein provided, and of every person selling at retail for consumption on the premises, food, beverages and alcoholic beverages, ~~other than beer or malt beverages,~~ as herein provided, in acting as the tax collection medium or agency of the city or town, to collect from the person paying the rent or the retail sales price, for the use of the city or town, the tax imposed and levied pursuant to this act, and to report and pay over to the city or town all such taxes imposed, levied and collected, in accordance with the accounting and other provisions of the enacted ordinance.

Section 42. Paragraph (d) is added to subsection (13) of section 365.171, Florida Statutes, to read:

365.171 Emergency telephone number "911."—

(13) "911" FEE.—

(d) Pay telephone service shall not be subject to the fee authorized in this section.

Section 43. Paragraph (ee) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(ee) The lease of or license to use a taxicab or taxicab related equipment and services by a taxicab company to an independent taxicab operator are exempt.

Section 44. Section 207.003, Florida Statutes, is amended to read:

207.003 Privilege tax levied.—A tax for the privilege of operating any commercial motor vehicle upon the public highways of this state shall be levied upon every motor carrier at a rate which includes the rate provided in *parts I, II and IV* of chapter 206, the sales tax imposed by part II of chapter 212, the minimum tax rates imposed by ss. 336.021 and 336.025, and the tax rate provided in s. 336.026 on each gallon of special fuel or motor fuel used for the propulsion of a commercial motor vehicle by such motor carrier within the state.

Section 45. Subsection (3) of section 207.005, Florida Statutes, is amended to read:

207.005 Returns and payment of tax; delinquencies; calculation of fuel used during operations in the state; credit; bond.—

(3) For the purpose of computing the carrier's liability for the road privilege tax, the total gallons of fuel used in the propulsion of any commercial motor vehicle in this state shall be multiplied by the rates provided in *parts I, II and IV of* chapter 206, part II of chapter 212, the minimum tax rates provided in ss. 336.021 and 336.025, and the tax rate provided in s. 336.026. From the sum determined by this calculation, there shall be allowed a credit equal to the amount of the tax per gallon under chapter 206, part II of chapter 212, the minimum tax rates provided in ss. 336.021 and 336.025, and the tax rate provided in s. 336.026

for each gallon of fuel purchased in this state during the reporting period when the special fuel or motor fuel tax was paid at the time of purchase. If the tax paid under *parts I, II and IV of* chapter 206, part II of chapter 212, the minimum tax rates provided in ss. 336.021 and 336.025, and the tax rate provided in s. 336.026 exceeds the total tax due under this chapter, the excess may be allowed as a credit against future tax payments. A refund may be made for this credit provided it exceeds $10.

Section 46. Section 207.026, Florida Statutes, is amended to read:

207.026 Allocation of tax.—All moneys derived from the taxes and fees imposed by this chapter shall be paid into the State Treasury by the department for deposit in the Gas Tax Collection Trust Fund from which the following transfers shall be made: After withholding $50,000 from the proceeds therefrom, to be used as a revolving cash balance, and the amount of funds necessary for the administration and enforcement of this tax, all other moneys shall be transferred in the same manner and for the same purpose as provided in ss. 206.41, 206.45, 206.60, 206.605, *206.9945,* 212.69, 336.021, 336.025, and 336.026.

Section 47. Effective September 1, 1992, subsection (26) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(26) "Sea trial" means a voyage for the purpose of testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel. If the sea trial is to test repair or modification work, the owner or repair facility shall certify, in a form required by the department, what repairs have been tested. The owner and the repair facility may also be required to certify that the length and scope of the voyage were reasonably necessary to test the repairs or modifications.

Section 48. Effective September 1, 1992, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who, *at the time of taking delivery, is a nonresident of this state, does not make his permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his permanent place of abode in, this state.* ~~removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase.~~ This exemption shall not be allowed unless ~~the seller~~:

a. The purchaser removes the boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of the repairs or alterations.

b.~~a. Obtains from~~ The purchaser within 90 days from the date of sale *provides the department with* written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

c.~~b.~~ *The seller provides to the department a copy of the sales invoice and* ~~Requires the purchaser to sign~~ an affidavit *signed by the purchaser* that he has read the provisions of this section; and

d.~~c.~~ *The seller* makes the affidavit a part of his ~~permanent~~ record *for as long as required by s. 213.35.*

If ~~In the event~~ the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within *20* ~~10~~ days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

Section 49. Effective September 1, 1992, paragraph (t) of subsection (7) of section 212.08, Florida Statutes, as amended by section 3 of chapter 92-113, Laws of Florida, section 1 of chapter 92-164, Laws of Florida, section 1 of chapter 92-168, Laws of Florida, and section 10 of chapter 92-173, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, pertaining to the registration of vessels, a boat upon which *the state* sales *or use* tax has not been paid~~, which has not been licensed, titled, or registered in another taxing jurisdiction within the United States, or which is being used in the waters of this state under a permit issued by an agency of the United States government~~ is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of *20* ~~10~~ days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the *20-day* ~~10-day~~ period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility, *including the time spent on sea trials conducted by the facility.* The *20-day* ~~10-day~~ time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the *20-day* ~~10-day~~ period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took posses-

sion of the boat, the facility must *have in its possession* ~~furnish to the department~~, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat *while in the facility*. Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must ~~furnish the department~~, within 72 hours after the date of release, *have in its possession* ~~with~~ a copy of the release form which shows the date of release and any other information the department requires. *The repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The affidavit shall be maintained by the registered repair facility as part of its records for as long as required by s. 213.35.* When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in *s. 212.05(1)(a)2. or* s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the *20-day* ~~10-day~~ period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this part; however, the sales tax levied under this part applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

(I) Is located on a navigable body of water;

(II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;

(III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or

c. A shoreside facility that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work.

Section 50. Effective September 1, 1992, subsection (12) is added to section 212.06, Florida Statutes, as amended by section 2 of chapter 92-168, Laws of Florida, and section 2 of chapter 92-207, Laws of Florida, to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(12) In lieu of any other facts which may indicate commingling, any boat which remains in this state for more than an aggregate of 183 days in any 1-year period, except as provided in subsection (8) or s. 212.08(7)(t), shall be presumed to be commingled with the general mass of property of this state.

Section 51. Paragraph (l) of subsection (3) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(3) The advertisement shall be no less than one-quarter page in size of a standard-size or a tabloid-size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the county is published less than 5 days a week. It is further the legislative intent that the newspaper selected be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50.

(l) Any advertisement required pursuant to this section shall be accompanied by an adjacent notice meeting the budget summary requirements of s. 129.03(3)(b). *The budget notice shall include conspicuous language that the taxing authority shall, upon request by any person, provide the budget summary with the source of funds and expenditures for 3 years, including the prior, current, and proposed budgets. The budget summaries so provided shall be identical to the budget summaries required to be adjacent to the newspaper advertisement. The 3-year summaries shall be available for distribution at any public budget hearing.* Except for those taxing authorities proposing to levy ad valorem taxes for the first time, the following statement shall appear in the budget summary in boldfaced type immediately following the heading, if the applicable percentage is greater than zero:

THE PROPOSED OPERATING BUDGET EXPENDITURES OF . . . (name of taxing authority) . . . ARE . . . (percent rounded to one decimal place) . . . MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES.

For purposes of this paragraph, "proposed operating budget expenditures" or "operating expenditures" means all moneys of the local government, including dependent special districts, that:

1. Were or could be expended during the applicable fiscal year, or

2. Were or could be retained as a balance for future spending in the fiscal year.

Provided, however, those moneys held in or used in trust, agency, or internal service funds, and expenditures of bond proceeds for capital outlay or for advanced refunded debt principal, shall be excluded.

Section 52. Effective upon this act becoming a law, section 4 of chapter 92-168, Laws of Florida, is amended to read:

Section 4. *Except for this section, which shall take effect upon becoming a law, and except for section 2, which shall take effect upon becoming a law and operate retroactively to July 1, 1987,* this act shall take effect July 1, 1992.

Section 53. Subsection (2) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.—

(2) LEGISLATIVE INTENT.—No convention development tax on transient rentals shall be imposed by the governing body of any county unless specifically authorized herein. Any tax authorized pursuant to this section shall be administered and collected exclusively as provided herein and may consist of one or more component levies as enumerated in subsection (4). It is the legislative intent that any authorization for imposition of a convention development tax shall be published in the Florida Statutes as a paragraph of subsection (4), irrespective of the duration of the levy. Each enactment shall specify the types of local governments authorized to levy a convention development tax; the rate or rates which may be imposed; the maximum length of time the tax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. *One of the principal purposes of the convention development tax is to promote tourism and the use of hotel facilities by facilitating the improvement and construction of convention centers. Any municipality or county wherein the convention development tax is levied is specifically authorized to adopt and implement a convention center booking policy to apply to convention centers owned or operated by a municipality or county which gives priority to bookings after July 1, 1992, in accordance with the minimum number of hotel rooms to be utilized in connection with such convention center bookings or in accordance with the impact of such bookings on the convention development tax generated.*

Section 54. Except as otherwise expressly provided in this act, 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, on page 1, line 3 through page 4, line 31, strike all of said lines and insert: 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 154.235, F.S.; providing authority to health facilities to refund outstanding debt obligations; amending s. 193.023, F.S.; requiring the property appraiser to use sales data as the primary measure of just valuation in specified circumstances; amending s. 193.085, F.S.; providing venue for actions challenging assessed value of certain railroad property; amending s. 193.1142, F.S.; requiring the department to use sales data in determining if assessment rolls meet requirements of law; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax of the Department of Revenue to use sales data in conducting in-depth reviews of assessment rolls; requiring property appraisers to report real estate transfers to the Division of Ad Valorem Tax with specified information; requiring the property appraiser to submit information as to disqualified transactions to the Division of Ad Valorem Tax; requiring the Department of Revenue to develop a methodology for using sales data and develop a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers; amending s. 199.282, F.S.; clarifying penalties with respect to intangible personal property taxes; expanding penalties for security dealers and investment advisers; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of such taxes and severability; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; amending s. 212.0515, F.S.; revising reporting requirements for vending machine operators and persons who sell food and beverages to vending machine operators; revising the method for calculating the tax for certain beverages; providing additional penalties; amending s. 212.055, F.S.; extending the authority of a county to levy the local government infrastructure sales surtax for an additional period, contingent on the rejection of a specified constitutional amendment; deleting a repeal date for the indigent care surtax for some counties; repealing s. 3 of ch. 91-81, Laws of Florida; abrogating a repeal of s. 212.055(3), (4), F.S.; amending s. 212.08, F.S.; removing the requirement that the exemption for butane, propane, and other liquefied petroleum gases used for agricultural purposes inure to the taxpayer only through refund; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing an exemption from public records requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; restricting use of such information; amending s. 213.27, F.S.; allowing the Department of Revenue to contract with a collection agency to collect taxes due; removing the requirement that taxpayers be notified by certified mail and replacing with regular mail; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions beyond those provided in the appropriations acts; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; delaying the repeal of ss. 550.2635, 550.26355, F.S., relating to the Breeders' Cup Meet; amending s. 561.025, F.S.; providing for the deposit of proceeds of the surtax on beverage license fees into the Alcoholic Beverage and Tobacco Trust Fund; amending ss. 563.02, 564.02, 565.02, F.S.; increasing the license fees for vendors of alcoholic beverages sold for consumption on the premises; increasing the license fees for certain clubs and pari-mutuel facilities; providing for the disposition of increased license fees; amending ss. 563.025, 564.025, F.S.; increasing the surtax imposed on license fees for vendors of certain alcoholic beverages and wines; creating s. 565.025, F.S.; imposing a surtax on the license fees of vendors of alcoholic beverages licensed under ch. 565, F.S., including certain clubs and pari-mutuel facilities; amending s. 212.05, F.S.; revising the rate of the tax imposed on the charges for the use of coin-operated amusement machines; requiring that an identifying device issued by the department or county tax collector be affixed to each amusement machine; imposing an annual fee for such devices; providing additional reporting requirements; amending s. 212.12, F.S.; requiring taxpayers to report sales made through coin-operated amusement machines and other information; amending s. 212.20, F.S.; providing for disposition of the proceeds of the annual fee for coin-operated amusement machine identifying devices; amending ss. 381.0072, 500.1465, 509.032, F.S., and creating s. 561.1105, F.S.; requiring the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, the Division of Hotels and Restaurants of the Department of Business Regulation, and the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation, in performing inspection duties, to inspect coin-operated amusement machines for compliance with s. 212.05(1)(j), F.S.; requiring that violations be reported to the Department of Revenue; amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages; amending s. 365.171, F.S.; specifying that pay telephone service is not subject to assessment of fees for "911" service; amending s. 212.08, F.S.; providing for an exemption for the lease or license to use of taxicabs and related equipment; amending ss. 207.003, 207.005 and 207.026, F.S.; allowing for proration of taxes levied under part IV of chapter 206 for certain commercial motor carriers; providing for credits; providing for distribution; amending s. 212.02, F.S.; defining "sea trial"; amending s. 212.05, F.S.; revising requirements and conditions relating to the tax exemption provided for boats and airplanes removed from the state after purchase; amending s. 212.08, F.S.; revising requirements and conditions relating to the tax exemption provided for boats temporarily docked in the state; amending s. 212.06, F.S.; providing a presumption with respect to when boats are considered commingled with the general mass of property of the state; amending s. 200.065, F.S.; requiring 3 years of budget summaries to be available upon request and at public budget hearings; amending s. 4, ch. 92-168, Laws of Florida; providing retroactive application of the exemption from sales and use taxes granted to certain promotional materials; amending s. 212.0305, F.S.; revising language with respect to Legislative intent concerning convention development taxes; providing effective dates.

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

Amendment 1A—On page 33, line 4 through page 42, line 25, strike all of said lines and insert:

Section 26. Section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under the provisions of ss. 210.15, 210.40, 561.14(6), 561.181, 561.19(2) and (3), 561.27, 561.32, 561.331, 561.422, 561.57, 561.65, 563.02, 563.025, 563.045, 564.02, 564.025, 564.041, 565.02, *565.025,* 565.03, and 565.09 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. All moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the Secretary of Business Regulation, except that the revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2). The Department of Business Regulation shall review annually the balance remaining in the trust fund, and any funds found to be in excess of the needs of the division shall be transferred to the General Revenue Fund. In no event shall the department permit the fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

Section 27. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 563.02, Florida Statutes, as amended by section 7 of chapter 92-176, Laws of Florida, are amended, and subsection (4) is added to that section, to read:

563.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume shall pay an annual state license tax as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$300* ~~$200~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$240* ~~$160~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$180* ~~$120~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$120* ~~$80~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$60* ~~$40~~.

(4) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), and one-half of the foregoing amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 28. Section 563.025, Florida Statutes, is amended to read:

563.025 Surtax on license fees.—Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 563.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent.*

Section 29. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 564.02, Florida Statutes, as amended by section 8 of chapter 92-176, Laws of Florida, are amended, and subsection (4) is added to that section, to read:

564.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor authorized to sell brewed beverages containing malt, wines, and fortified wines shall pay an annual state license tax, as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$380* ~~$280~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$320* ~~$240~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$260* ~~$200~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$200* ~~$160~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$140* ~~$120~~.

(4) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), and one-half of the foregoing amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 30. Section 564.025, Florida Statutes, is amended to read:

564.025 Surtax on license fees.—Each vendor of beverages containing alcohol of 0.5 percent or more by volume and not more than 14 percent by weight and of wines regardless of alcoholic content *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 564.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent of the license fee.*

Section 31. Subsections (1), (4), and (5) of section 565.02, Florida Statutes, as amended by section 9 of chapter 92-176, Laws of Florida, are amended, and subsection (12) is added to that section, to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(1) The following state license taxes apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(a) A vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises where sold shall pay an amount equal to 75 percent of the amount of the license tax for vendors in the same county as provided in paragraphs (b), (c), (d), (e), and (f).

(b) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,920* ~~$1,820~~.

(c) A vendor operating a place of business where consumption on the premises is permitted in a county having a population over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,640* ~~$1,560~~

(d) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 50,000 and not over 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,360* ~~$1,300~~.

(e) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 25,000 and not over 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$898* ~~$858~~.

(f) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of 25,000 or less, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$644* ~~$624~~.

(g) A vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises shall pay, in addition to the license tax imposed in paragraphs (b)-(f), $1,000. However, such permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. A golf club licenseholder may operate service bars or portable or temporary bars on the grounds contiguous to its licensed premises and shall pay $100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and notation of such extension upon the sketch accompanying the original license application.

(4) Persons associated together as a chartered or incorporated club, including any social club incorporated by order of a circuit judge after its charter has been found to be for objects authorized by law and approved by the judge as organized for lawful purposes and not for the purpose of evading license taxes on dealers in beverages defined herein, which such organization is a bona fide club, and has been at the time of application for license hereunder in continuous active existence and operation for a

period of not less than 2 years in the county where it exists, shall before serving or distributing to its members or nonresident guests the beverages defined herein, whether such service or distribution is made upon contribution to the club of money or by check or other device, pay an annual state license tax of *$460* ~~$400~~. However, any golf club operated by or on behalf of any incorporated municipality in this state, and any veterans' or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only, and such service and distribution to the members and nonresident guests shall not be deemed sales within the meaning of the law in this state; but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale, and any officer, member, or employee of any such licensed club who sells or distributes or serves any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. The holders of a golf club license may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public. For each such day of service to nonmembers, the club shall obtain from the division for a fee of $50 an extension of its license to permit such sales. Such license extensions shall be limited to one event per year, not to exceed 8 consecutive days. Any officer of any such club which has not paid such license who knowingly permits such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided. However, this subsection does not apply to a club organized or used for the purpose of evading the payment of the license tax on vendors of such beverages; such club is subject to the payment of the license tax imposed by the Beverage Law upon vendors. The president, vice president, secretary, or treasurer, or officers of corresponding duties by any name they may be called, of any club required by this section to pay a license tax are required to see that such license tax is paid and, in default thereof, shall each be personally liable to the punishment provided by the Beverage Law for nonpayment of the license tax hereby required. Clubs which are not authorized to obtain licenses under this subsection or which do not obtain licenses under this subsection may, if they comply with this provision of the Beverage Law, obtain licenses as vendors. A club obtaining such club license shall not purchase any beverage herein defined from anyone other than a distributor or vendor licensed under the Beverage Law; nor shall such club dispense or serve any beverage defined herein unless such beverage has been purchased by such club from such licensed distributor or vendor; nor shall the club dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by that law. Such club license cannot be transferred in any manner whatsoever.

(5) A caterer at a horse or dog racetrack or jai alai fronton may obtain a license upon the payment of an annual state license tax of *$735* ~~$675~~. Such caterer's license shall permit sales only within the enclosure in which such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days after racing or jai alai under the authority of the Division of Pari-mutuel Wagering of the Department of Business Regulation is conducted at such racetrack or jai alai fronton. Except as in this subsection otherwise provided, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

(12) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), three-fourths of the foregoing amounts for licenses issued pursuant to paragraph (1)(a), $60 of the license fee established in (4) and $60 of the license fee established in subsection (5) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 32. Effective July 1, 1993, section 565.025, Florida Statutes, is created to read:

565.025 Surtax on license fees.—Each vendor of liquor, distilled spirits, spirituous liquors, spirituous beverages, or distilled spirituous liquors, or of beverages containing one-half of 1 percent or more of alcohol by volume, who is licensed under this chapter, including a club licensed under s. 565.02(4) and a pari-mutuel facility licensed under s. 565.02(5), shall pay an annual surtax. The exact percentage of the surtax shall be set by rule, but may not exceed 10 percent of the license fee imposed by s. 565.02.

Amendment 1 as amended was adopted.

Senator Forman moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective July 1, 1992, section 400.34, Florida Statutes, is created to read:

400.34 Assessments on nursing home patient days to fund public medical assistance; administrative fines for failure to pay assessments when due.—

(1) For the purposes of this section, the term:

(a) "Agency" means the Agency for Health Care Administration.

(b) "Nursing home" means any facility which provides nursing services as defined in chapter 464 and which is licensed according to chapter 400, but does not include any facility operated by the Department of Health and Rehabilitative Services or the Department of Corrections or any facility licensed as a continuing care facility under chapter 651.

(c) "Patient day" means a unit of measurement denoting lodging facilities provided and services rendered to one patient between the census-taking hour on two successive days. The day of admission, but not the day of discharge or death, is counted as a patient day. If both admission and discharge or death occur on the same day, the day is considered a day of admission and counts as one patient day.

(2) Effective July 1, 1992, there is imposed upon each nursing home an assessment in an amount equal to $1.50 for each patient day provided by the nursing home. The assessments shall be due and payable to the agency for the quarters ending September 30, December 31, March 31, and June 30 of each calendar year. The total amount of the assessment for each nursing home for the patient days provided during each quarter shall be payable to and collected by the agency. The total amount due for each quarter shall be paid by the nursing home no later than 15 calendar days following the last day of each quarter. All moneys collected under this subsection shall be deposited into the Public Medical Assistance Trust Fund.

(3) Subsequent to June 30 of each year, the agency shall certify the total patient days for each nursing home by quarter for the previous four quarters. The agency shall reconcile the patient days certified by the agency to the patient days reported by the nursing home as the basis for payment of the assessment.

(4) The agency shall impose an administrative fine, not to exceed $500 per day, for failure of any nursing home to pay its assessment by the 15th calendar day following the last day of the quarter on which it is due. The failure of a nursing home to pay its assessment within 30 calendar days following the last day of the quarter for which the assessment is due is ground for the agency to impose an administrative fine not to exceed $5,000 per day. The agency may request that the Department of Health and Rehabilitative Services offset any unpaid assessment and applicable penalties with Medicaid reimbursement due to the nursing home.

(5) If any individual or institution that is subject to an assessment under this section or is liable for payment as a result of the imposition of a fine or penalty under chapter 408 transfers its interest in or terminates its relationship with a facility subject to the agency's jurisdiction, within 15 days after such event it shall make payment in full of all assessments, fines, or penalties that are due or have accrued for the period prior to the transfer or termination. Any unpaid balance or assessment shall be assumed by its successor, successors, or assigns; provided that any employer, successor, successors, or assigns shall withhold such assessments, fines, or penalties from purchase moneys or payments due to the transferor or employee. Any employer, purchaser, successor, or assignee who fails to withhold sufficient funds to pay fines, penalties, or assessments arising under the provisions of this section or chapter 408 shall assume full liability for all fines, penalties, or assessments incurred, owed, or assumed by their predecessor, employee, transferor, or owner.

Section 2. Section 400.34, Florida Statutes, is repealed on May 1, 1993, and shall be reviewed by the Legislature prior to that date.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: creating s. 400.34, F.S.; imposing an assessment on nursing homes; providing definitions, exemptions, and fines; providing for the responsibility when ownership is transferred; providing for legislative review and repeal;

RECONSIDERATION OF AMENDMENT

On motion by Senator Kurth, the Senate reconsidered the vote by which **Amendment 2** was adopted. **Amendment 2** was adopted.

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

Amendment 3 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective October 1, 1992, section 119.033, Florida Statutes, is created to read:

119.033 Municipal Clerk's Capital Equipment Modernization Trust Funds; creation; administration.—

(1) There is created a Municipal Clerk's Capital Equipment Modernization Trust Fund to be administered by the elected or appointed municipal officer charged with the responsibility of maintaining the office having custody of those municipal records which are set forth in subsection (2).

(2) The trust fund moneys shall be used exclusively for equipment, personnel, training, and technical assistance in modernizing the system of maintaining the municipality's municipal records which are those documents, papers, letters, maps, books, tapes, photographs, files, sound recordings, or other material, regardless of physical form and characteristics, which are made or received as a direct result of municipal legislative activity, including ordinances and resolutions. Such revenues shall not be used as a source of revenue to meet normal operating costs of a municipality.

(3) The trust fund shall be funded through a surcharge of $1 for the first page and 50 cents for each additional page of each instrument being recorded by the clerk of the circuit court in the official records, such charge shall be paid to the clerk and shall be deposited in a segregated, interest-bearing account from which revenues shall be apportioned and forwarded by the clerk to the municipalities and the county on a quarterly basis pursuant to subsection (4). Municipalities shall have the right to annually audit surcharge receipts and disbursements of proceeds from such surcharge collected by the clerk of the circuit court.

(4) Revenues shall be apportioned by the clerk of the circuit court as follows:

(a) Seventy-five percent shall be forwarded by the clerk of the circuit court on a pro rata basis to:

1. The municipalities within the county for deposit in the Municipal Clerk's Capital Equipment Modernization Trust Fund based on the proportion of each municipality's population to the total population of the county, as defined in the standard document prepared by the University of Florida, Business and Economic Research Department, entitled "Florida Estimates of Population"; and

2. The county for deposit in the Public Records Modernization Trust Fund, pursuant to s. 28.24(15)(d), based on the proportion of the county's population attributable to unincorporated areas to the total population of the county.

(b) Twenty-five percent shall be retained by the clerk of the circuit court for the Public Records Modernization Trust Fund in that circuit. The clerk of the circuit court shall be responsible for all costs associated with the administration of the Municipal Clerk's Capital Equipment Modernization Trust Fund.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, following the semicolon (;) insert: 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;

The vote was:

Yeas—15 Nays—21

Senator Davis moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section, *the term*:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, ~~beginning January 1, 1992,~~ the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, plus any applicable local option tax authorized by this part, expressed as a decimal. *However, the amount of the tax to be paid on natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products; natural fruit juices; or natural vegetable juices shall be calculated using the divisor that is specified for food items.*

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed a notice to each vending machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his *sales tax registration* ~~social security~~ number. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT *ANY MACHINE WITHOUT A NOTICE* ~~ALL VIOLATIONS~~ TO (*TOLL-FREE* ~~TOLL FREE~~ NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county. ~~The report shall first be filed for the quarter ending December 31, 1991.~~

(b) A penalty of $250 per machine is imposed on the operator *who fails* ~~for failing~~ to properly obtain and display the required notice on any machine. A penalty of $250 is imposed on the operator *who fails* ~~for failing~~ to timely file a quarterly report *or who files false information.* ~~Such~~

Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(c) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(5)(a) Any person who sells food or beverages *to an operator* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator *described in paragraph (b)* who has *provided a certificate identifying the purchaser as an operator* ~~purchased such items from said person and states the gross dollar amount of purchases made by each operator from said person. The report shall first be filed for the quarter ending December 31, 1991. In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of 50 cases or more.~~

(b) Each ~~dealer or~~ operator *who purchases* ~~purchasing~~ food or beverages for resale *in vending machines* shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state *that* ~~whether or not~~ the purchaser is a vending machine operator. The certificate shall initially be provided ~~by November 1, 1991, or~~ upon the first transaction between the parties~~, whichever is later,~~ and by November 1 of each year thereafter.

(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so *or who files false information.* A penalty of *$250* ~~$5,000~~ is imposed on any operator who fails to comply with the requirements of this subsection *or who provides the dealer with false information.* ~~A penalty of $250 for such failure shall apply to other dealers who are not operators of vending machines. Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules necessary to administer the provisions of this section *and may establish a schedule for phasing in the requirement that existing notices be replaced with revised notices displayed on vending machines.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, following the semicolon (;) insert: amending s. 212.0515, F.S.; prescribing the tax to be paid on milk and milk products, fruit juices, and vegetable juices sold through vending machines; revising requirements for notices affixed to food and beverage vending machines; prescribing reporting requirements; providing penalties;

Senator Gardner moved the following amendment which failed:

Amendment 5 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective October 1, 1992, paragraph (k) is added to subsection (1) of section 212.05, Florida Statutes, to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(k) At the rate of 6 percent on charges for cleaning, laundry, and garment services as defined in Industry Group Number 721 of the 1987 Standard Classification Manual as published by the Executive Office of the President, Office of Management and Budget. However, coin-operated cleaning, laundry, and garment services are exempt from this tax.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.05, F.S.; imposing a tax on certain cleaning, laundry, and garment services;

The vote was:

Yeas—6 Nays—23

Senator Bankhead moved the following amendment which was adopted:

Amendment 6 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Subsection (4) is added to section 212.055, Florida Statutes, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(4)(a) Each county may, by a two-thirds vote of the governing board of the county, impose an additional discretionary sales surtax at the rate of 0.5 percent, if such a county is selected for a defense finance and accounting service (DFAS) site. The proceeds may only be used for partial funding of such a site.

(b) Notwithstanding s. 212.054(5), the surtax must take effect on the first day of a month, as fixed by the ordinance adopted pursuant to paragraph (a), and may not take effect until at least 60 days after the date that the ordinance is approved.

(c) Notwithstanding any other provision of this section, a county may not levy local option sales surtaxes authorized in this subsection and subsection (2) in excess of a combined rate of 1 percent.

(d) This subsection is repealed on July 1, 1995.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, following the semicolon (;) insert: amending s. 212.055, F.S.; authorizing a county to impose a discretionary sales surtax when it is selected as a defense finance and accounting service site; providing for expiration of the authority; providing a limit on total discretionary sales surtaxes;

Senator Forman moved the following amendment which was adopted:

Amendment 7 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Subsection (10) of section 163.362, Florida Statutes, is amended to read:

163.362 Contents of community redevelopment plan.—Every community redevelopment plan shall:

(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years after the fiscal year in which the plan is approved, ~~or~~ adopted, *or amended pursuant to s. 163.361(1).*

Section 2. Paragraph (c) of subsection (1) of section 163.370, Florida Statutes, is amended to read:

163.370 Powers; counties and municipalities; community redevelopment agencies.—

(1) Every county and municipality shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers in addition to others herein granted:

(c) To undertake and carry out community redevelopment and related activities within the community redevelopment area, which redevelopment may include:

1. Acquisition of a slum area or a blighted area or portion thereof.

2. Demolition and removal of buildings and improvements.

3. Installation, construction, or reconstruction of streets;~~,~~ utilities;~~,~~ parks;~~,~~ playgrounds; *public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways;*~~,~~ and other improvements necessary for carrying out in the community redevelopment area the community redevelopment objectives of this part in accordance with the community redevelopment plan.

4. Disposition of any property acquired in the community redevelopment area at its fair value for uses in accordance with the community redevelopment plan.

5. Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the community redevelopment plan.

6. Acquisition of real property in the community redevelopment area which, under the community redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitation of the structures for guidance purposes, and resale of the property.

7. Acquisition of any other real property in the community redevelopment area when necessary to eliminate unhealthful, unsanitary, or unsafe conditions; lessen density; eliminate obsolete or other uses detrimental to the public welfare; or otherwise to remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.

8. Acquisition, without regard to any requirement that the area be a slum or blighted area, of air rights in an area consisting principally of land in highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

9. Construction of foundations and platforms necessary for the provision of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

Section 3. Subsection (1) of section 163.385, Florida Statutes, is amended to read:

163.385 Issuance of revenue bonds.—

(1) When authorized or approved by resolution or ordinance of the governing body, a county, municipality, or community redevelopment agency has power in its corporate capacity, in its discretion, to issue redevelopment revenue bonds from time to time to finance the undertaking of any community redevelopment under this part, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans or preliminary loans, and has power to issue refunding bonds for the payment or retirement of bonds or other obligations previously issued. *Any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part shall mature no later than the end of the 30th fiscal year after the end of the 30th fiscal year of the initial community redevelopment plan as approved or adopted. However, any redevelopment revenue bonds or other obligations issued to finance the undertaking of any community redevelopment under this part may not mature later than the expiration of the plan in effect at the times the bonds or obligations were issued.* The security for such bonds may be based upon the anticipated assessed valuation of the completed community redevelopment and such other revenues as are legally available. In anticipation of the sale of such revenue bonds, the county, municipality, or community redevelopment agency may issue bond anticipation notes and may renew such notes from time to time, but the maximum maturity of any such note, including renewals thereof, may not exceed 5 years from the date of issue of the original note. Such notes shall be paid from any revenues of the county, municipality, or agency available therefor and not otherwise pledged or from the proceeds of sale of the revenue bonds in anticipation of which they were issued. Any bond, note, or other form of indebtedness pledging increment revenues to the repayment thereof shall mature no later than the end of the 30th fiscal year after the fiscal year in which increment revenues are first deposited into the redevelopment trust fund *or the fiscal year in which the plan is subsequently amended. However, any refunding bonds issued under this section may not mature later than the final maturity date of any bonds or other obligations being paid or retired with the proceeds of such refunding bonds.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending ss. 163.362, 163.370, 163.385, F.S.; providing that amendments to community redevelopment plans extend projects under the plan and allow issuance of additional bonds; including public areas of certain hotels within authorized projects in a community redevelopment area; providing a maturity date for redevelopment revenue bonds or other obligations;

Senator Dudley moved the following amendment which failed:

Amendment 8 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Section 205.0315, Florida Statutes, is created to read:

205.0315 Ordinance adoption after October 1, 1994.—Beginning October 1, 1994, a county or municipality that has not adopted an occupational license tax ordinance or resolution may adopt an occupational license tax ordinance. The occupational license tax rate structure and classifications in the adopted ordinance must be reasonable and based upon ordinances adopted in adjacent local governments that have implemented s. 205.0535. If no adjacent local governments have implemented s. 205.0535, or if the governing body of the county or municipality makes a determination that the rate structures or classifications of such adjacent local governments are not reasonable, the ordinance may be based upon ordinances adopted by local governments that have implemented s. 205.0535 and that have comparable population sizes.

Section 2. Section 205.032, Florida Statutes, is amended to read:

205.032 Levy; counties.—The governing body of a county may levy, by appropriate resolution or ordinance, an occupational license tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. However, such governing body shall first give at least *14* ~~15~~ days' public notice between the first and last reading of such resolution or ordinance by publishing such notice in a newspaper of general circulation within its jurisdiction as defined by law. The said public notice shall contain the proposed classifications and rates applicable to the occupational license tax which is the subject thereof.

Section 3. Section 205.033, Florida Statutes, is amended to read:

205.033 Conditions for levy; counties.—

(1) The following conditions are hereby imposed on the authority of a county governing body to levy an occupational license tax:

(a) The tax shall be based upon reasonable classifications and shall be uniform throughout any class.

(b) *Unless a county implements s. 205.0535 or adopts a new occupational license tax ordinance under s. 205.0315,* no occupational license tax levied hereunder shall be at a rate greater than the rate provided by this chapter in effect for the year beginning October 1, 1971; however, beginning October 1, 1980, the county governing body may increase occupational license taxes authorized by this chapter. The amount of such increase above the license tax rate levied on October 1, 1971, for license taxes levied at a flat rate may be up to 100 percent for occupational license taxes which are $100 or less; 50 percent for occupational license taxes which are between $101 and $300; and 25 percent for occupational license taxes which are more than $300. Beginning October 1, 1982, such

increase shall not exceed 25 percent for license taxes levied at graduated or per unit rates. Such authority to increase occupational license taxes shall not apply to licenses granted to any utility franchised by the county for which a franchise fee is paid.

(c) No license shall be issued for more than 1 year, and all licenses shall expire on *September 30* ~~October 1~~ of each year, except as otherwise provided by law.

(2) All business licenses may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of *up to 10 percent of the annual license tax, but not less than* $3 *nor more than $25,* and presentation of the original license and evidence of the sale.

(3) Upon written request and presentation of the original license, any license may be transferred from one location to another location in the same county upon payment of a transfer fee of *up to 10 percent of the annual license tax, but not less than* $3 *nor more than $25.*

(4) The revenues derived from the occupational license tax, exclusive of the costs of collection and any credit given for municipal license taxes, shall be apportioned between the unincorporated area of the county and the incorporated municipalities located therein by a ratio derived by dividing their respective populations by the population of the county. *This subsection does not apply to counties that have established a new rate structure under s. 205.0535.*

(5) The revenues so apportioned shall be sent to the governing authority of each municipality, according to its ratio, and to the governing authority of the county, according to the ratio of the unincorporated area, within 15 days following the month of receipt. *This subsection does not apply to counties that have established a new rate structure under s. 205.0535.*

(6)(a) Each county, as defined in s. 125.011(1), or any county adjacent thereto may levy and collect, pursuant to an ordinance enacted by the governing body of the county, an additional occupational license tax up to 50 percent of the appropriate license tax imposed pursuant to subsection (1).

(b) The provisions of subsections (4) and (5) shall not apply to any revenues derived from the additional tax imposed by this subsection. Proceeds from the additional license tax shall be placed in a separate interest-earning account, and this revenue, plus accrued interest, shall be distributed each fiscal year by the governing body of the county to an organization or agency designated by the governing body of the county to oversee and implement a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.

(c) An ordinance that levies an additional occupational license tax under this subsection may not be adopted after January 1, 1994.

(7) Notwithstanding any other provisions of this chapter, the revenue received from a county occupational license tax may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.

Section 4. Section 205.042, Florida Statutes, is amended to read:

205.042 Levy; municipalities.—The governing body of an incorporated municipality may levy, by appropriate resolution or ordinance, an occupational license tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. However, such governing body shall first give at least *14* ~~15~~ days' public notice between the first and last reading of such resolution or ordinance by publishing such notice in a newspaper of general circulation within its jurisdiction as defined by law. The said public notice shall contain the proposed classifications and rates applicable to the occupational license tax which is the subject thereof. Such occupational license tax may be levied on:

(1) Any person who maintains a permanent business location or branch office within said municipality, for the privilege of engaging in or managing any business within its jurisdiction.

(2) Any person who maintains a permanent business location or branch office within said municipality, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.

(3) Any person who does not qualify under the provisions of subsection (1) or subsection (2) and who transacts any business or engages in any occupation or profession in interstate commerce, if such license tax is not prohibited by s. 8 of Art. I of the United States Constitution.

Section 5. Section 205.043, Florida Statutes, is amended to read:

205.043 Conditions for levy; municipalities.—

(1) The following conditions are hereby imposed on the authority of a municipal governing body to levy an occupational license tax:

(a) The tax shall be based upon reasonable classifications and shall be uniform throughout any class.

(b) *Unless a municipality implements s. 205.0535 or adopts a new occupational license tax ordinance under s. 205.0315,* no occupational license tax levied hereunder shall be at a rate greater than that in effect in such municipality for the year beginning October 1, 1971; however, beginning October 1, 1980, the municipal governing body may increase occupational license taxes authorized by this chapter. The amount of such increase above the license tax rate levied on October 1, 1971, for license taxes levied at a flat rate may be up to 100 percent for occupational license taxes which are $100 or less; 50 percent for occupational license taxes which are between $101 and $300; and 25 percent for occupational license taxes which are more than $300. Beginning October 1, 1982, such increase shall not exceed 25 percent for license taxes levied at graduated or per unit rates. Such authority to increase occupational license taxes shall not apply to licenses granted to any utility franchised by the municipality for which a franchise fee is paid.

(c) No license shall be issued for more than 1 year and all licenses shall expire on *September 30* ~~October 1~~ of each year, except as otherwise provided by law.

(2) All business licenses may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of *up to 10 percent of the annual license tax, but not less than* $3 *nor more than $25,* and presentation of the original license and evidence of the sale.

(3) Upon written request and presentation of the original license, any license may be transferred from one location to another location in the same municipality upon payment of a transfer fee of *up to 10 percent of the annual license tax, but not less than* $3 *nor more than $25.*

(4) If the governing body of the county in which the municipality is located has levied an occupational license tax or subsequently levies such a tax, the collector of the county tax may issue the license and collect the tax thereon.

Section 6. Section 205.045, Florida Statutes, is created to read:

205.045 Transfer of administrative duties.—The governing body of a municipality that levies an occupational license tax may request that the county in which the municipality is located issue the municipal license and collect the tax thereon. The governing body of a county that levies an occupational license tax may request that a municipality or municipalities within the county issue the county license and collect the tax thereon. Before any local government may issue occupational licenses on behalf of another local government, appropriate agreements must be entered into by the affected local governments.

Section 7. Section 205.053, Florida Statutes, is amended to read:

205.053 Occupational licenses; dates due and delinquent; penalties.—

(1) All licenses shall be sold by the appropriate tax collector beginning *August* ~~September~~ 1 of each year and shall be due and payable on or before *September 30* ~~October 1~~ of each year and shall expire on September 30 of the succeeding year. *If* ~~In the event that~~ *September 30* ~~October 1~~ falls on a weekend or holiday, the tax shall be due and payable on or before the first working day following *September 30* ~~October 1~~. Provisions for partial licenses may be made in the resolution or ordinance authorizing such licenses. Those licenses not renewed when due and payable shall be considered delinquent and subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed 25 percent of the occupational license fee for the delinquent establishment.

(2) Any person engaging in or managing any business, occupation, or profession without first obtaining a local occupational license, if required hereunder, shall be subject to a penalty of 25 percent of the license determined to be due, in addition to any other penalty provided by law or ordinance.

(3) Any person engaging in any business, occupation, or profession covered by this chapter who fails to pay the required occupational license tax within 150 days of the initial notice of tax due and who fails thereby to obtain the required occupational license may be subject to civil actions and penalties, including court costs, reasonable attorney's fees, additional administrative costs incurred as a result of collection efforts, and a penalty of $250.

Section 8. Section 205.0535, Florida Statutes, is created to read:

205.0535 Reclassification and rate structure revisions.—

(1) No later than October 1, 1994, any municipality or county may, by ordinance, reclassify businesses, professions, and occupations and may establish new rate structures, if the conditions specified in subsections (2) and (3) are met. A person that is engaged in the business of providing local exchange telephone service in a municipality or in the unincorporated area of a county and that pays the occupational license tax under the category designated for telephone companies shall be deemed to have but one place of business or business location in each such municipality or unincorporated area of a county.

(2) Before adopting the reclassification and revision ordinance, the municipality or county must establish an equity study commission and appoint its members. Each member of the study commission must be a representative of the business community within the affected local government's jurisdiction. Each equity study commission shall recommend to the appropriate local government a classification system and rate structure for local occupational license taxes.

(3)(a) After the reclassification and rate structure revisions have been transmitted to and considered by the appropriate local governing body, that body may adopt by majority vote a new occupational license tax ordinance. The reclassification must not increase the occupational license tax by more than 200 percent for licenses costing $50 or less, 100 percent for licenses costing more than $50 but not more than $150, 75 percent for licenses costing more than $150 but not more than $500, and 50 percent for licenses costing more than $500, but in no case may any license be increased more than $5,000.

(b) The total annual revenue generated by the new rate structure for the fiscal year following the fiscal year during which the rate structure is adopted may not be greater than:

1. For municipalities, the sum of the revenue base and 10 percent of that revenue base. The revenue base is the sum of the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.043(1)(b), whichever is greater, plus any revenue received from the county under s. 205.033(4).

2. For counties, the sum of the revenue base, 10 percent of that revenue base, and the amount of revenue distributed by the county to the municipalities under s. 205.033(4) during the most recently completed local fiscal year. The revenue base is the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.033(1)(b), whichever is greater, but shall not include any revenues distributed to municipalities under s. 205.033(4).

(c) In addition to the revenue increases authorized by paragraph (b), revenue increases attributed to the increases in the number of licenses issued are authorized.

(4) After the conditions specified in subsections (2) and (3) have been met, municipalities and counties may, every other year thereafter, increase by ordinance the rates of local occupational license taxes by up to 5 percent. The increase, however, may be enacted only after approval by a majority plus one vote of the governing body.

Section 9. Effective October 1, 1993, section 205.0536, Florida Statutes, is created to read:

205.0536 Distribution of county revenues.—Counties that have established a new rate structure under s. 205.0535 shall retain all occupational license tax revenues collected from businesses, professions, or occupations whose place of business is located within the unincorporated portions of the county. Any occupational license tax revenues collected by a county that has established a new rate structure under s. 205.0535 from businesses, professions, or occupations whose place of business is located within a municipality, exclusive of the costs of collection, shall be apportioned between the unincorporated area of the county and the incorporated municipalities located therein by a ratio derived by dividing their respective populations by the population of the county. As used in this section, the term "population" means the latest official state estimate of population certified under s. 186.901. The revenues so apportioned shall be sent to the governing authority of each municipality, according to its ratio, and to the governing authority of the county, according to the ratio of the unincorporated area, within 15 days following the month of receipt.

Section 10. Section 205.0537, Florida Statutes, is created to read:

205.0537 Vending and amusement machines.—The business premises where a coin-operated or token-operated vending machine that dispenses products, merchandise, or services or where an amusement or game machine is operated must assure that any required municipal or county occupational license for the machine is secured. The term "vending machine" does not include coin-operated telephone sets owned by persons who are in the business of providing local exchange telephone service and who pay the occupational license under the category designated for telephone companies in the municipality or county. The license fee for vending and amusement machines must be assessed based on the highest number of machines located on the business premises on any single day during the previous licensing year or, in the case of new businesses, be based on an estimate for the current year. Replacement of one vending machine with another machine during a licensing year does not affect the tax assessment for that year, unless the replacement machine belongs to an occupational license tax classification that requires a higher tax rate. For the first year in which a municipality or county assesses an occupational license tax on vending machines, each business owning machines located in the municipality or county must notify the municipality or county, upon request, of the location of such machines. Each business owning machines must provide notice of the provisions of this section to each affected business premises where the machines are located. The business premises must secure the license if it is not otherwise secured.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: creating s. 205.0315, F.S.; providing requirements for new occupational license tax ordinances adopted after October 1, 1994; amending ss. 205.032, 205.042, F.S.; revising the time for the publication of notice by a county or municipality prior to adoption of such taxes; amending ss. 205.033, 205.043, F.S.; revising fees for transfer of licenses; providing that provisions relating to distribution of county tax revenues are not applicable in certain circumstances; prohibiting adoption of an ordinance by certain counties levying an additional tax for economic development after January 1, 1994; specifying that revenues generated by the county tax may be used for economic development purposes; creating s. 205.045, F.S.; providing that a municipality may transfer to the county, and a county may transfer to a municipality, administrative duties relating to such taxes; amending s. 205.053, F.S.; revising the date for sale of licenses and the due date thereof; providing civil penalties for failure to obtain a required license; providing for costs and attorney's fees; creating s. 205.0535, F.S.; authorizing counties and municipalities to reclassify occupations and establish new rate structures; providing requirements and limitations; providing requirements for subsequent rate increases; creating s. 205.0536, F.S.; providing for the distribution of county tax revenues after October 1, 1994; creating s. 205.0537, F.S.; providing requirements with respect to licensing of vending and amusement machines;

The vote was:

Yeas—15 Nays—19

Senator Dudley moved the following amendment which was adopted:

Amendment 9 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is *used* ~~utilized~~. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and *used* ~~utilized~~ by each institution to support women's athletics as provided in s. 240.533(4)(c).

2.*a.* No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.

b. No tax imposed by this section and not actually collected before the effective date of this sub-subparagraph shall be due from any museum or historic building owned by any political subdivision of the state.

3. No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, or on admissions to any of the games of the 1994 World Cup Soccer Tournament.

5. No tax shall be levied on admissions to athletic or other events sponsored by governmental entities.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the United States Internal Revenue Code, 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1,500,000 multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.04, F.S.; providing an exemption from certain taxes for museums and historic buildings owned by any political subdivision of the state;

Senator Bruner moved the following amendment which was adopted:

Amendment 10 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Subsection (9) of section 197.432, Florida Statutes, is amended to read:

197.432 Sale of tax certificates for unpaid taxes.—

(9) No certificate shall be sold on, nor any lien created in, property owned by any governmental unit the property of which has become subject to taxation due to lease of the property to a nongovernmental lessee. Such delinquent taxes shall be enforced and collected in the manner provided in s. 196.199(8). *However, ad valorem real property taxes levied on leaseholds that are taxed as real property under s. 196.199(2)(b), for which no rental payments are due pursuant to the agreement creating such leasehold or if any payments that were required under the original agreement have been waived or prohibited by law prior to January 1, 1992, must be paid by the lessee and become liens on such leaseholds subject to all collection and enforcement provisions of this chapter.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 197.432, F.S.; providing that ad valorem taxes due on governmental leaseholds become liens on such leaseholds and may be collected pursuant to chapter 197, F.S.;

Senator Forman moved the following amendment which was adopted:

Amendment 11 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Paragraph (a) of subsection (2) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Health and Rehabilitative Services, and state correctional institutions when only student, faculty, or inmate talent is utilized. However, this exemption shall not apply to admission to athletic events sponsored by an institution within the State University System, and the proceeds of the tax collected on such admissions shall be retained and utilized by each institution to support women's athletics as provided in s. 240.533(4)(c).

2.*a.* No tax shall be levied on dues, membership fees and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the United States Internal Revenue Code of *1986* ~~1954~~, as amended.

b. No tax shall be levied on dues, membership fees, and admission charges imposed by government-owned zoos. To receive this exemption, the zoo must be owned by the United States Government, the state, or a county, municipality, agency, authority, or other public body of the state.

3. No tax shall be levied on an admission paid by a student, or on his behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, or on admissions to any of the games of the 1994 World Cup Soccer Tournament.

5. No tax shall be levied on admissions to athletic or other events sponsored by governmental entities.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the United States Internal Revenue Code, *1986* ~~1954~~, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1,500,000 multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations shall not reflect the tax otherwise imposed under this section.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.04, F.S.; providing a tax exemption for dues, membership fees, and admission charges imposed by government-owned zoos;

Senator Diaz-Balart moved the following amendment which was adopted:

Amendment 12 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective October 1, 1992, section 206.9855, Florida Statutes, is amended to read:

206.9855 Refund to carriers.—

(1) Any carrier that is in the business of transporting persons or property for compensation or hire by air shall be entitled to receive a refund of the taxes imposed by this part on aviation fuel purchased by such carrier. The refund shall not exceed 0.6 percent of the wages paid by the carrier to employees located or based within this state and who are covered by the provisions of chapter 443.

(2)(a) A common air carrier licensed pursuant to this part is ineligible to receive a refund of 6.8 cents per gallon of aviation fuel consumed on international flights on which the tax imposed by this part has been paid. The refund application shall be administered as provided in s. 212.67.

(b) "International flight" means a regularly scheduled flight from an airport of entry having a United States customs and immigrations facility and a facility selling bonded fuel on June 24, 1992, which flight is deemed to be an international flight pursuant to regulations or interpretations issued pursuant to section 309 of the Tariff Act of 1930, 19 U.S.C. s. 1309. If a flight is loaded with fuel for an intended international flight, but the flight stops at an intermediate location in the United States and does not continue to the foreign destination, the fuel is taxable and is not subject to refund.

(c) An application for refund must be filed on a form adopted by the department. The department shall specify by rule the documentation that must be included with such refund applications to enable the department to conduct preliminary desk audits before issuing refunds.

(d) A fuel vendor must file a sworn statement of net fuel purchases with the vendee for refund purposes. In addition to any penalties applicable for making a false sworn statement, a fuel vendor making a false statement for purposes of this section is liable to the state for any refund overpayment.

(e) Interest shall be allowed and paid on any refund allowed under this subsection which is paid more than 30 days after a complete refund application is received by the department and all reporting requirements specified in this subsection have been met. Interest shall be calculated as provided in s. 220.807, as such section existed on January 1, 1992.

(f) If a court of final jurisdiction invalidates any provision of this subsection, or expands the refund to any person or situation other than to those specified in this subsection, this subsection expires upon that determination.

(g) This subsection expires July 1, 1994.

Section 2. Effective October 1, 1992, paragraph (b) of subsection (2) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(2)(b) Any air carrier making the election pursuant to s. 212.0598 shall not be entitled to the *refunds* ~~refund~~ provided in s. 206.9855.

Section 3. The sum of $109,175 is appropriated from the State Transportation Trust Fund to the Department of Revenue for three positions to administer the provisions of this act.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 206.9855, F.S.; providing for refund of taxes paid on aviation fuel used on international flights; providing for procedures and penalty; providing legislative intent; amending s. 206.9825, F.S.; disallowing such refunds to air carriers making certain elections; providing an appropriation;

On motion by Senator Jenne, by two-thirds vote **CS for HB 295-H** as amended was read the third time by title and failed to pass. The vote was:

Yeas—14 Nays—20

MOTION TO RECONSIDER

On motion by Senator Thomas, the Senate reconsidered the vote by which **CS for HB 295-H** as amended failed to pass this day.

On motion by Senator Thomas, further consideration of **CS for HB 295-H** as amended was deferred.

SPECIAL ORDER, continued

SB 186-H—A bill to be entitled An act relating to pari-mutuel wagering; amending ss. 27, 30, ch. 91-197, Laws of Florida; postponing the repeal of s. 550.2635, F.S., which provides for the Breeders' Cup Meet; providing for conditional retroactive operation; providing an effective date.

—was read the second time by title.

Senator Childers moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, line 11, strike everything after the enacting clause and insert:

Section 1. Subsection (4) of section 20.16, Florida Statutes, is amended to read:

20.16 Department of Business Regulation.—There is created a Department of Business Regulation.

(4)(a) There is created within the Department of Business Regulation a Florida Pari-mutuel Commission, to consist of a chairman and four

other members, all to be appointed by the Governor, subject to confirmation by the Senate. Each member shall be appointed to serve for a term of 4 years from the date of appointment. Any vacancy shall be filled for the remainder of the unexpired term.

(b) The Florida Pari-mutuel Commission *has* ~~shall have the~~ authority to:

1. Hear and approve the dates and changes of dates for racing and the dates within which any track ~~or fronton~~ may be operated as prescribed by *chapter* ~~chapters~~ 550 ~~and 551~~, and it shall not delegate that function to any subordinate officer or division of the department.

2. Hear all appeals of decisions of the department which relate to the suspension, revocation, or denial of a pari-mutuel wagering license or permit, or the suspension for a period greater than 1 year or revocation or denial of an occupational license.

3. Make recommendations to the director of the Division of Pari-mutuel Wagering regarding new or existing rules for all racing and jai alai operations which relate to the powers granted in this subsection.

4. Issue, jointly with the Division of Pari-mutuel Wagering, an annual report to the Governor and the Legislature on the racing and jai alai industry in this state. The report shall encompass the preceding fiscal year and shall be submitted by November 15 annually.

5. Hear the requests of permitholders licensed under chapter 550 ~~or chapter 551~~ for additional operating days and make recommendations to the Legislature as provided in s. 550.012.

6. Exercise such other powers and perform such other duties as may be granted pursuant to chapter 550 ~~or chapter 551~~.

(c) The commission may meet at the call of its chairman, at the request of a majority of its members, at the request of the division, or at such times as may be prescribed by rule. However, the commission shall meet at least twice a year. A majority of the members constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take official action.

(d) The commission shall maintain on file the minutes of each meeting and shall make such minutes available to any interested person.

(e) Members shall serve without compensation but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(f) The commission shall employ a full-time general counsel, who shall receive a salary fixed by the commission. The general counsel shall provide the commission with legal representation and advice as required and shall perform other duties when directed by the commission.

Section 2. Notwithstanding the provisions of section 26, chapter 88-346, Laws of Florida, or section 29, chapter 91-197, Laws of Florida, subsection (4) of section 20.16, Florida Statutes, shall not stand repealed on July 1, 1992, but subsection (4) of section 20.16, Florida Statutes, as amended by this act, is revived and readopted.

Section 3. Section 550.001, Florida Statutes, is created to read:

550.001 Short title.—This chapter may be cited as the "Florida Pari-mutuel Wagering Act."

Section 4. Section 550.002, Florida Statutes, is created to read:

550.002 Definitions.—As used in this chapter, the term:

(1) "Breaks" means the portion of pari-mutuel pool which is not distributed to the contributors or withheld by the permitholder as takeout which is computed by rounding down to the nearest multiple of 10 cents.

(2) "Broadcast" means the broadcast, transmission, simulcast, or exhibition in any medium or manner by means that may include, but are not limited to, community antenna systems that receive and retransmit television or radio signals by wire, cable, or otherwise to television or radio sets, and cable origination networks or programmers which transmit programming to community antenna televisions or closed-circuit systems by wire, cable, satellite, or otherwise.

(3) "Breeders' and stallions' awards" means a financial incentive paid to encourage the agricultural industry of breeding race horses in this state.

(4) "Commission" means the Florida Pari-mutuel Commission.

(5) "Contributor" means a person who contributes to a pari-mutuel pool by engaging in any pari-mutuel wager pursuant to this chapter.

(6) "Current meet" means the conduct of racing or games pursuant to a current year's operating license issued by the division.

(7) "Department" means the Department of Business Regulation.

(8) "Division" means the Division of Pari-mutuel Wagering within the Department of Business Regulation.

(9) "Event" means a single contest, race, or game within a performance.

(10) "Exotic pools" means wagering pools, other than the traditional win, place, or show (1st, 2nd, or 3rd place) pools, into which a contributor can place a wager on more than one entry or on more than one race or game in the same bet and which includes, but is not limited to, daily doubles, perfectas, quinielas, quiniela daily doubles, exactas, trifectas, and Big Q pools.

(11) "Full schedule of live racing or games" means, for greyhound and jai alai permitholders, the conduct of a combination of at least 100 live evening or matinee performances during the preceding year; permitholders who have converted permits or have filed applications on or before June 1, 1990, for a converted permit pursuant to the provisions of s. 550.076, the conduct of a combination of at least 100 live evening and matinee wagering performances during either of the 2 preceding years; for harness permitholders, the conduct of at least 100 live regular wagering performances during the preceding year; for quarter horse permitholders, the conduct of at least 40 live regular wagering performances during the preceding year; and for thoroughbred permitholders, the conduct of a least 40 live regular wagering performances during the preceding year. A live performance shall consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's licensed facility under a single admission charge.

(12) "Fronton" means a building or enclosure which contains a playing court with three walls designed and constructed for playing the sport of jai alai or pelota.

(13) "Guest track" means the track or fronton receiving or accepting the intertrack wager.

(14) "Handle" means the aggregate contributions to pari-mutuel pools.

(15) "Harness racing" means a type of horse racing limited to standardbreds using a pacing or trotting gait whereby the horse pulls a two-wheeled cart called a sulky guided by a driver riding on the cart.

(16) "Host track" means the track or fronton conducting the live or simulcast race or game which is the subject of the intertrack wager.

(17) "Intertrack wager" means a particular form of pari-mutuel wagering whereby wagers are accepted at one permitted, in-state track, fronton, or pari-mutuel facility on a race or game transmitted from and performed live at, or simulcast signal rebroadcast from, another in-state pari-mutuel facility.

(18) "Jai alai" or "pelota" means a ball game of Spanish origin played on a court with three walls.

(19) "Market area" means an area within 25 miles of a permitholder's track or fronton.

(20) "Meet" or "meeting" means the conduct of live racing or jai alai, during dates currently approved by the commission, for any stake, purse, prize, or premium.

(21) "Operating day" means a continuous period of 24 hours starting with the beginning of the first performance of a race or game, even though the operating day may start during one calendar day and extend past midnight except that no greyhound race or jai alai game may commence after 1:30 a.m.

(22) "Pari-mutuel" means a system of betting on races or games whereby the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.

(23) "Pari-mutuel facility" means a racetrack, jai alai fronton, or other facility used by a permitholder for the conduct of pari-mutuel wagering.

(24) "Pari-mutuel wagering pool" means the total amount wagered on a race or game for a single possible result.

(25) "Performance" means a series of events, races, or games performed consecutively under one admission charge.

(26) "Purse" means the cash portion of the prize for which a race or game is contested.

(27) "Quarter horse" means a breed of horse developed in the western United States and capable of high speed for a short distance used in quarter horse racing.

(28) "Regular wagering" means contributions to pari-mutuel pools involving wagering on a single entry in a single race, or a single jai alai player or team in a single game, such as the win pool, the place pool, or the show pool.

(29) "Same class" of race or permit means, with respect to a jai alai permitholder, jai alai games or other jai alai permitholders; with respect to a greyhound permitholder, greyhound races or other greyhound permitholders; with respect to a thoroughbred permitholder, thoroughbred races or other thoroughbred permitholders; with respect to a harness permitholder, harness races or other harness permitholders; with respect to a quarter horse permitholder, quarter horse races or other quarter horse permitholders.

(30) "Simulcasting" means broadcasting events occurring live at an in-state location to an out-of-state location, or receiving at an in-state location events occurring live at an out-of-state location, by the transmittal, retransmittal, reception, and rebroadcast of television or radio signals by wire, cable, satellite, microwave, or other electrical or electronic means for receiving or rebroadcasting the events.

(31) "Standardbred horse" means a pacing or trotting horse used in harness racing and which has been registered as a standardbred by the United States Trotting Association or by a foreign registry whose stud book is recognized by the United States Trotting Association.

(32) "Takeout" means the percentage of the contribution to the pari-mutuel pools which a permitholder is authorized to withhold from the contribution before making redistribution to the contributors.

(33) "Thoroughbred" means a purebred horse whose ancestry can be traced back to one of three foundation sires and whose pedigree is registered in the American Stud Book or in a foreign stud book that is recognized by the Jockey Club and the International Stud Book Committee.

(34) "Totalisator" means the computer system used to accumulate wagers, record sales, calculate payoffs, and display wagering data on a display device that is located at a pari-mutuel facility.

Section 5. Section 550.003, Florida Statutes, is created to read:

550.003 Validation of existing permits.—

(1) Any permit to conduct pari-mutuel wagering granted and issued by the division or its predecessors before July 1, 1992, is confirmed.

(2) It is the intent of the Legislature to ratify, confirm, and validate all actions of the division and the Florida Pari-mutuel Commission in the issuance of any permit described in subsection (1), and to ratify, confirm, and validate all prior proceedings in relation to the issuance and ratification of those permits.

Section 6. Subsections (2) and (6) of section 550.012, Florida Statutes, are amended to read:

550.012 Additional operating days.—

(2) In addition to its other powers and duties, the commission may hear the request of any permitholder licensed pursuant to this chapter *to conduct additional performances for live racing or games* ~~or chapter 551 for up to 105 days of operation, or any facility authorized to conduct intertrack wagering pursuant to s. 550.61(8) for additional days~~ or additional days to conduct intertrack wagering *pursuant to s. 550.61(8)*, in addition to those authorized by law ~~, provided that~~ Such requests must be submitted to the commission by September 15 of each year. *The commission shall evaluate such requests in conjunction with each other subsequent to September 15 of each year.* In considering such requests, the commission shall conduct public hearings. The commission shall submit a report of its findings with recommendations to the Legislature no later than 60 days *before* ~~prior to the convening of~~ the regular legislative session *convenes in* ~~of~~ the following year. In determining whether to recommend the granting of such additional operating days, the commission shall consider:

(a) The impact of the requested additional days on the handle, attendance, and income of permitholders within a 50-mile radius of the requesting permitholder;

(b) The similarities and dissimilarities of competing permitholders within a 50-mile radius of the requesting permitholder;

(c) The impact of the requested additional days on state revenues generated by the pari-mutuel industry; and

(d) The impact on the division as it relates to the division's operating budget and manpower resources.

(6) *The commission may, upon application by a permitholder, grant additional performances to the permitholder for the purpose of restoring any performances lost due to circumstances beyond the control of the permitholder. The commission shall determine when such additional performances will be run by the permitholder. If an insufficient number of days remain in a permitholder's season to enable the granting of additional performances, the commission may grant the additional performances in the subsequent season, notwithstanding the limitations on the number of days contained in this chapter.* ~~The commission shall consider and make final recommendations to the Legislature on each request for additional operating days no later than 60 days prior to the regular legislative session of the following year.~~

Section 7. Section 550.0121, Florida Statutes, is amended to read:

550.0121 *Authorization of Florida Pari-mutuel Commission to approve performance dates;* certain permitholders allowed to operate specified additional days; *legislative allocation of performances* ~~performance per operational season.~~—

(1) Except as provided in s. 550.52, the commission shall hear, approve, and apportion the dates for races or games as provided by law for all permitholders. The commission may not delegate this function to any subordinate officer or division of the department, except that the division shall have the authority to approve minor changes in racing dates after an award by the commission. Where only one licensed dog track is located in a county, that track may operate its authorized days during the racing season at the option of the dog track.

(2) Except as otherwise provided in this chapter, each permitholder must request days of operation for the following season, which request must include the number of scheduled performances within each day of operation, by January 15 of each year. The commission shall consider and take action on each request no later than March 15 of each year. If the commission does not take action on the request for days of operation and number of performances by March 15 in any year, the requested days that are not in conflict with the operating days of another permitholder within 50 air miles are automatically awarded.

(3)~~(1)~~ Those pari-mutuel permitholders who requested additional operating days pursuant to s. 550.012 may operate such days as recommended by the ~~Florida Pari-mutuel~~ commission in its reports to the Legislature, if authorized by the Legislature. Such additional operating days *must* ~~shall~~ be annually awarded to such permitholders by the ~~Florida Pari-mutuel~~ commission. *The commission may reallocate or reassign to any other licensed permitholder any operating dates previously allocated or assigned to a licensed horseracing track if those operating dates have been vacated, abandoned, or will not be used for any reason, notwithstanding the limitation of days otherwise provided in this chapter.*

(4)~~(2)~~ *Except as otherwise expressly provided in this chapter, owners of valid outstanding permits for dogracing in this state may hold pari-mutuel performances at any time they choose during the "racing season" for the aggregate number of operating days fixed and permitted by law, subject to the approval of the commission. The "greyhound racing season" extends from September 5 of each year through September 4 of the following year. However, a race may not be started after 1:30 a.m. or before noon on any operation day.* The listed permitholders may operate the following number of performances:

(a) Greyhounds:

1. The permit located in Hillsborough County presently held by Associated Outdoor Clubs, Inc., shall have an operational season during which it may conduct as many as 157 evening performances, plus as many as 79 matinee performances.;

2. The permit located in St. Johns County, presently held by Bayard Raceways, Inc., shall have an operational season during which it may conduct as many as 120 evening performances, plus as many as 59 matinee performances.;

3. The permit located in Monroe County, presently held by Berenson's Key West Greyhound Track, shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as 79 matinee performances.;

4. The permit located in Dade County, presently held by Biscayne Kennel Club, Inc., shall have an operational season during which it may conduct as many as *122* ~~105~~ evening performances, plus as many as 54 matinee performances *of which any evening performances over 105, plus charity and scholarship performances, may only be conducted on days within weeks when the permitholder is otherwise operating 6 evening performances.*;

5. The permit located in Lee County, presently held by Bonita-Fort Myers Corporation, shall have an operational season during which it may conduct as many as 308 evening performances, plus as many as 157 matinee performances.;

6. The permit located in Palm Beach County, presently held by Investment Corporation of Palm Beach, shall have an operational season during which it may conduct as many as *313* ~~254~~ evening performances, plus as many as *159* ~~151~~ matinee performances.;

7. The permit located in Broward County, presently held by Investment Corporation of South Florida, shall have an operational season during which it may conduct as many as *123* ~~105~~ evening performances, plus as many as 54 matinee performances *of which any evening performances over 105, plus charity and scholarship performances, may only be conducted on days within weeks when the permitholder is otherwise operating 6 evening performances.*;

8. The permit located in Duval County, presently held by Jacksonville Kennel Club, Inc., shall have an operational season during which it may conduct as many as 120 evening performances, plus as many as 59 matinee performances.;

9. The permit located in Jefferson County, presently held by Jefferson County Kennel Club, Inc., shall have an operational season during which it may conduct as many as 295 evening performances, plus as many as 79 matinee performances.;

10. The permit located in Clay County, presently held by Orange Park Kennel Club, Inc., shall have an operational season during which it may conduct as many as 120 evening performances, plus as many as 59 matinee performances.;

11. The permit located in Escambia County, presently held by Pensacola Greyhound Track, Inc., shall have an operational season during which it may conduct as many as 312 evening performances, plus as many as 158 matinee performances.;

12. The permit located in Pinellas County, presently held by St. Petersburg Kennel Club, Inc., shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as *79* ~~57~~ matinee performances.;

13. The permit located in Seminole County, presently held by Sanford-Orlando Kennel Club, Inc., shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as 79 matinee performances.;

14. The permit located in Sarasota County, presently held by Sarasota Kennel Club, Inc., shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as 78 matinee performances.;

15. The permit located in Seminole County, presently held by Seminole Racing, Inc., shall have an operational season *starting on May 3 and ending on September 1 of each year* during which it may conduct as many as *105* ~~155~~ evening performances, plus as many as *54* ~~79~~ matinee performances, *plus an additional 50 evening performances and 25 matinee performances to be conducted during any other period as approved by the commission.*;

16. The permit located in Volusia County, presently held by Seminole Racing, Inc., shall have an operational season during which it may conduct as many as 312 evening performances, plus as many as 152 matinee performances.;

17 The permit located in Washington County, presently held by Washington County Kennel Club, Inc., shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as 79 matinee performances.;

18. The permit located in Dade County, presently held by West Flagler Associates, Ltd., shall have an operational season during which it may conduct as many as *122* ~~105~~ evening performances, plus as many as 54 matinee performances *of which any evening performances over 105, plus charity and scholarship performances, may only be conducted on days within weeks when the permitholder is otherwise operating 6 evening performances.*;

19. The permit located in Gadsden County, presently held by Golden Crown Corporation, shall have an operational season during which it may conduct as many as 260 evening performances, plus as many as 133 matinee performances.; *However, if no live greyhound races have been conducted under this permit by July 1, 1992, the permitholder shall have the option to convert the permit to a jai alai permit with an operational season of up to 105 evening performances and 54 matinee performances. Upon the conversion of the greyhound permit to jai alai, the permitholder may conduct intertrack wagering under the provisions of this chapter.*

20. The permit located in Brevard County, presently held by Sports Palace, Inc., shall have an operational season during which it may conduct as many as 312 evening performances, plus as many as 156 matinee performances.;

~~(b) Jai Alai: The permit located in Broward County, presently held by Dania Jai Alai Division, shall have an operational season during which it may conduct as many as 105 evening performances, plus as many as 54 matinee performances; the permit located in Broward County, presently held by Summersport Enterprises, Ltd., shall have an operational season during which it may conduct as many as 159 total performances, of which as many as 54 may be matinee performances, however, no matinee performance may be operated on a day when a thoroughbred horse track within 50 miles of such permitholder's fronton is conducting a performance except that such permitholder shall be authorized to conduct at least one matinee per week if such thoroughbred horse track operates seven days a week; the permit located in Seminole County, presently held by Florida Jai Alai, Inc., shall have an operational season during which it may conduct as many as 210 evening performances, plus as many as 108 matinee performances; the permit located in St. Lucie County, presently held by Fort Pierce Jai Alai, shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as 79 matinee performances; the permit located in Dade County, presently held by Miami Jai Alai, shall have an operational season during which it may conduct as many as 105 evening performances, plus as many as 54 matinee performances; the permit located in Marion County, presently held by Ocala Jai Alai, shall have an operational season during which it may conduct as many as 155 evening performances, plus as many as 79 matinee performances; the permit located in Hillsborough County, presently held by Tampa Jai Alai, shall have an operational season during which it may conduct as many as 105 evening performances, plus as many as 54 matinee performances, furthermore, during the period from May 4 through September 27, an additional season is authorized during which it may conduct as many as 105 additional evening performances, plus as many as 54 additional matinee performances; the permit located in Palm Beach County, presently held by The Fronton, Inc., shall have an operational season during which it may conduct as many as 210 evening performances, plus as many as 108 matinee performances; the permit located in Volusia County, presently held by Volusia Jai Alai, Inc., shall have an operational season during which it may conduct as many as 260 evening performances, plus as many as 133 matinee performances; the permit located in Dade County, presently held by Summer Jai Alai, shall have an operational season during which it may conduct as many as 105 evening performances, plus as many as 54 matinee performances;~~

(b)~~(c)~~ Harness: The permit located in Broward County, presently held by Pompano Park Associates, Ltd., shall have an operational season during which it may conduct as many as 170 evening performances. *The annual harness racing season is from September 1 through August 31 of the following year. A harness racing permitholder may not begin any race before 7 p.m. or later than 1:30 a.m.*

(c) Quarter horse:

1. Any quarter horse racing permitholder is authorized to conduct quarter horse races throughout the year. Such races may be continuous or portioned at various periods of time, not to exceed 120 days annually. These races may be performed only at any one or more licensed tracks and may be conducted by day or night or part by day and part by night. The permitholder conducting a quarter horse race meet shall pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.09 and shall be subject to all penalties and sanctions provided in s. 550.09(7).

2. A quarter horse racing permitholder is authorized to conduct no more than 12 races per racing day.

(5) The ~~Such~~ performances *listed in subsection (4)* do not include the charity and scholarship performances authorized in s. 550.03 *or any special championship races, games, or meets authorized by this chapter*. No more than one greyhound permitholder in a county may conduct performances on any day. No more than one jai alai permitholder in a county may conduct performances on any day. A greyhound permitholder or jai alai permitholder conducting an afternoon matinee performance shall not be required to conduct an evening performance but such matinee performance shall be considered a racing day. Notwithstanding the provisions in ~~s. 550.51 or any other provisions in~~ this *section* ~~chapter or chapter 551~~, a greyhound or jai alai permitholder in any county where there are two greyhound permitholders and one jai alai permitholder shall be entitled to conduct an extra evening performance for any day on which it conducts a matinee performance and does not conduct an evening performance.

(6) In addition to the conduct of pari-mutuel wagering, any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities any local ordinance or requirement to the contrary notwithstanding, except for the provisions of health, safety, and welfare and the enforcement of the hours of operation established by county or municipal ordinance.

Section 8. Section 550.02, Florida Statutes, is amended to read:

550.02 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation.—The Division of Pari-mutuel Wagering of the Department of Business Regulation shall *administer* ~~carry out the provisions of~~ this chapter and *regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto* ~~supervise and check the making of pari-mutuel pools and the distribution therefrom~~, and:

(1) The division shall make an annual report to the Governor showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter, and any suggestions it may approve for the more effectual accomplishments of the purposes of this chapter.

(2) The division shall require an oath *on application documents as required by rule* ~~to each and every application by the person or executive officer of the association or corporation,~~ stating that such information contained in the *document* ~~application~~ is true *and complete*.

(3)~~(a)~~ The division shall *adopt reasonable* ~~make~~ rules and regulations for the control, supervision, and direction of all applicants, permittees, and licensees and for the holding, conducting, and operating of all racetracks, race meets, and races held in this state.~~; provided,~~ Such rules and regulations *must* ~~shall~~ be uniform in their application and effect, and the duty of exercising this control and power is made mandatory upon the division.

(4) The division may take testimony concerning any matter within its jurisdiction and issue summons and subpoenas for any witness and subpoenas duces tecum in connection with any matter within the jurisdiction of the division under its seal and signed by the director.

(5)~~(b)~~ The division ~~of Pari-mutuel Wagering~~ *may adopt* ~~shall have the authority to make reasonable~~ rules ~~for the implementation of this act and to ensure that the provisions of this act are carried out, provided that such rules shall be for the purpose of~~ establishing procedures for ~~the~~ testing *occupational licenseholders officiating at or participating in any race or game at any pari-mutuel facility under the jurisdiction of the division for* ~~of~~ a controlled substance *or* ~~and of~~ alcohol~~;~~ and *may* ~~to~~ prescribe procedural matters~~,~~ not in conflict with s. 120.633.

~~(4) The division shall require of each applicant an application setting forth:~~

~~(a) The full name of the person, association, or corporation and, if a corporation, the name of the state under which the same is incorporated.~~

~~(b) If an association or corporation, the residence of the members of the association and the names of the stockholders and directors of the corporation.~~

~~(c) The exact location where it is desired to conduct or hold a race meeting.~~

~~(d) Whether or not the racing plant is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, of the directors and stockholders thereof; provided, however, that nothing in this chapter shall prevent a person from applying to the division for a permit to conduct races, regardless of whether the racing plant has been constructed or not, and having an election held in any county at the same time when elections are held for the ratification of any permit in said county.~~

~~(e) A statement of the assets and liabilities of the person making such application.~~

~~(f) The kind of racing to be conducted and the desired period.~~

~~(g) Such other information as the division may require.~~

~~(5) The division shall require of each applicant a deposit of a sufficient sum, in currency or by check certified by a bank licensed to do business in the state with the county commissioners of the county in which the election is to be held, in an amount necessary to pay all expenditures in connection with the holding of the election mentioned in s. 550.06.~~

~~(6) Upon receipt of such application and any amendments properly made thereto, the division shall further investigate the matters contained in the application; and, if any applicant duly fulfills and meets all requirements, conditions, and qualifications set forth in this chapter and the rules and regulations of the division hereunder, then the division shall grant the permit to such qualified applicant as hereinabove provided.~~

~~(7) In the event the division refuses to grant the permit, then the money deposited with the county commissioners for the holding of such election shall be refunded to the applicant. In the event the division grants the permit applied for, the board of county commissioners shall order an election in such county to decide whether such permit will be approved and the license issued and race meetings permitted in such county, as hereinafter provided for in s. 550.07.~~

~~(8)(a) Each licensed thoroughbred running track in the state shall be required to run an average of one race per racing day in which horses bred in Florida and duly registered with the Florida Thoroughbred Breeders' Association shall have preference as entries over non-Florida breds, and to require all licensed thoroughbred racetracks to write the conditions for such races in which Florida breds are preferred so as to assure that all Florida-bred horses available for racing at such tracks be given full opportunity to run in the class races for which they are qualified, such opportunity of running to be afforded to each class of horses in proportion that the number of horses in this class bears to the total number of Florida breds available; and provided that no track shall be required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at such track during its meeting.~~

~~(b) Each licensed thoroughbred running track in the state may run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America. Any licensed thoroughbred running track electing to run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America shall not be required to provide stables for the Arabian horses racing under this section.~~

(6)~~(9)~~ In addition to the power ~~in s. 550.10~~ to exclude certain persons from any pari-mutuel facility in this state, the division may exclude any person from any and all pari-mutuel facilities in this state for conduct which would constitute, if the person were a licensee, a violation of this chapter~~, chapter 551,~~ or the rules of the division. The division may exclude from any pari-mutuel facility within this state any person who has been ejected from a pari-mutuel facility in this state or who has been excluded from any pari-mutuel facility in another state by the govern-

mental department, agency, commission, or authority exercising regulatory jurisdiction over pari-mutuel facilities in such other state. The division may authorize any person who has been ejected or excluded from pari-mutuel facilities in this state or another state to attend the pari-mutuel facilities in this state upon a finding that the attendance of such person at pari-mutuel facilities would not be adverse to the public interest or to the integrity of the sport or industry; however, this subsection shall not be construed to abrogate the common-law right of a pari-mutuel permitholder to exclude absolutely a patron in this state.

(7) The division may oversee the making of, and distribution from, all pari-mutuel pools.

(8) The department may collect taxes and require compliance with reporting requirements for financial information as authorized by this chapter. In addition, the secretary of the department may require permitholders conducting pari-mutuel operations within the state to remit taxes, including fees, by electronic funds transfer when the taxes and fees amounted to $50,000 or more in the prior reporting year.

(9) The division may conduct investigations in enforcing this chapter, except that all information pursuant to an investigation by the division for an alleged violation of this chapter or rules of the division is exempt from s. 119.07 until an administrative complaint is issued or the investigation is closed. This subsection does not prohibit the division from providing such information to any law enforcement agency or to any other regulatory agency.

(10) The division may impose an administrative fine for a violation under this chapter of not more than $1,000 for each count or separate offense, except as otherwise provided in this chapter, and may suspend, revoke, or place restrictions or conditions on a permit, a pari-mutuel license, or an occupational license for a violation under this chapter.

~~(10) Permitholders shall report to the division changes in ownership or interest of 10 percent or more of any one person, firm, or entity, or 20 percent in the aggregate, regardless of the percentage held by any one person, firm, or entity within 20 days after the change in ownership or interest. The division shall be permitted to then conduct its investigation to update the permit to reflect such changes in ownership or interest.~~

~~(11) Entries shall be accepted from the wife or husband of a licensee whose license has been denied, revoked, or suspended, except upon determination by the stewards that such entries are offered as a means or device to circumvent the penalty imposed upon, or denial of, the affected spouse's occupational license.~~

Section 9. Section 550.022, Florida Statutes, is created to read:

550.022 Financing of pari-mutuel permitholders; plants and facilities.—

(1) A permitholder is not entitled, except as allowed by subsection (2) or for short-term financing approved by the division, to encumber its permit or to secure any financing of the facilities used to conduct racing or jai alai, if the financing results in a level of indebtedness that would exceed 70 percent of the acquisition cost or, if higher, 70 percent of the fair market value of the land and facilities. The division must review all appraisals to determine fair market value.

(2) The limitations of subsection (1) do not apply to an existing permitholder whose permit or pari-mutuel facilities are financed, as of July 1, 1992, in excess of the level of indebtedness permitted by subsection (1). Any such existing permitholder whose level of indebtedness exceeds that permitted by subsection (1), subject to any other requirements or restrictions of this chapter, may refinance its permit or pari-mutuel facilities up to the permitholder's level of indebtedness which existed on July 1, 1992.

(3) This section does not prohibit a permitholder from securing financing without the approval of the division. However, the division must be given a copy of the financing documents and must be permitted full and complete access to all lenders to determine the acquisition cost or fair market value to ensure compliance with this section.

Section 10. Subsection (4) of section 550.03, Florida Statutes, is amended, paragraph (c) is added to subsection (6) of that section, and subsections (7) and (8) are added to that section, to read:

550.03 Charity racing days.—

(4) The total of all profits derived from the conduct of a charity day performance shall include all revenues derived from the conduct of that racing performance, including all state taxes which would otherwise be due to the state, except that the daily license fee as provided in *s.* ~~ss.~~ 550.09(1) ~~and 551.06(1)~~ and the breaks for the promotional trust funds as provided in s. 550.262(3), (4), (5), (7), and (8) shall be paid to the division. All other revenues from the charity racing performance, including the commissions, breaks, and admissions and the revenues from parking, programs, and concessions, shall be included in the total of all profits, except that the capital improvement funds withheld under the provisions of s. 550.16, *or* s. 550.162~~, or s. 551.09~~ shall be retained by the permitholder for the capital improvement fund.

(6)

(c) When a charity or scholarship performance, is conducted as a matinee performance, the commission may authorize the permitholder to conduct the evening performances of that operation day as a regular performance in addition to the regular operating days authorized by law.

(7) In addition to the charity days authorized by this section, any dogracing permitholder may allow its facility to be used for conducting "hound dog derbies" or "mutt derbies" on any day during each racing season by any charitable, civic, or nonprofit organization for the purpose of conducting "hound dog derbies" or "mutt derbies" if only dogs other than those usually used in dogracing (greyhounds) are permitted to race and if adults and minors are allowed to participate as dog owners or spectators. During these racing events, betting, gambling, and the sale or use of alcoholic beverages is prohibited.

(8) In addition to the eligible charities who meet the criteria as set forth in this section, a jai alai permitholder is authorized to conduct one additional charity performance each fiscal year for a fund to benefit retired jai alai players. This performance shall be known as the Retired Jai Alai Players Charity Day. The administration of this fund shall be determined by rule by the division.

Section 11. Section 550.042, Florida Statutes, is amended to read:

550.042 Minors attending *pari-mutuel performances* ~~horseraces~~; restrictions.—

(1) A minor, when accompanied by one or both parents or by his *legal* ~~natural~~ guardian, may ~~be permitted to~~ attend *pari-mutuel performances* ~~horseraces~~, under the conditions and at the times specified by each permitholder conducting the *pari-mutuel performance* ~~race meeting~~.

(2) *A* ~~No~~ person under the age of 18 *may not* ~~shall be permitted to~~ place a wager at any *pari-mutuel performance* ~~horserace establishment where pari-mutuel wagering is permitted, and the presence of minors within wagering areas is prohibited~~.

(3) Notwithstanding subsections (1) and (2), minors may be employed at a pari-mutuel facility except in positions directly involving wagering or alcoholic beverages or except as otherwise prohibited by law.

Section 12. Section 550.05, Florida Statutes, is amended to read:

550.05 Application for permit to conduct *pari-mutuel wagering* ~~race meetings~~.—

(1) ~~Between June 1 and July 1 of each year, but at no other time,~~ Any person *who possesses* ~~possessing~~ the qualifications prescribed in this chapter *may* ~~shall~~ apply to the division ~~of Pari-mutuel Wagering~~ for a permit to conduct *pari-mutuel operations* ~~race meetings and racing~~ under this chapter. *Applications for a pari-mutuel permit are exempt from the 90-day licensing requirement or s. 120.60. Within 120 days after receipt of a complete application, the division must grant or deny the permit. A completed application that is not acted upon within 120 days after receipt is approved, and the division shall grant the permit.* ~~No application thus received by the division shall be amended after August 10 of each year; and on or before August 15, but not thereafter, of each year, after receipt of any application, the division shall convene to consider and act upon permits applied for, and all applications not definitely acted upon by the division on or prior to August 15 of each year shall be void.~~

(2) Upon all applications filed and approved, a permit shall be issued to the applicant setting forth the name *of the permitholder*, the location of the *pari-mutuel facility* ~~racetrack~~, the *type of pari-mutuel activity* ~~kind of racing~~ desired to be conducted, and a statement showing qualifi-

cations of the applicant to conduct *pari-mutuel performances* ~~racing at said track~~ under this chapter; ~~provided,~~ however, *a* ~~no~~ permit *is ineffectual* ~~shall be effectual~~ to authorize any *pari-mutuel performances* ~~race~~ until *approved* ~~ratified~~ by a majority of the electors participating in *a ratification* ~~said~~ election~~, and~~ in the county in which *the* applicant proposes to conduct *pari-mutuel wagering activities. In addition an* ~~racing; and provided further that no~~ application *may not* ~~shall~~ be considered, *nor may a* ~~and no~~ permit ~~shall~~ be issued by the division *or be* ~~nor~~ voted upon in any county, to conduct ~~running~~ horseraces, harness horseraces or dograces at a location within 100 miles of *an existing pari-mutuel* ~~another location for which a~~ permit ~~has been issued and a racing plant located~~, *or for jai alai within 50 miles of an existing pari-mutuel permit, this* ~~said~~ distance to be measured on a straight line from the nearest property line of one *pari-mutuel facility* ~~racing plant~~ to the nearest property line of the other~~, except that permits heretofore issued and ratified by a majority of the electors of any county shall not be affected by this proviso~~.

(3) The division shall require that each applicant submit an application setting forth:

(a) The full name of the applicant.

(b) If a corporation, the state in which incorporated and the names and addresses of the stockholders, officers, and directors, or, if a business entity other than a corporation, the names and addresses of the principals, partners, or shareholders.

(c) The names and addresses of the "ultimate equitable owners" for corporations or other business entities, if different than those provided in paragraph (b), unless the securities of the corporation or entity are registered pursuant to section 12 of the Securities Exchange Act of 1934, 15 U.S.C. ss. 78a-78kk, and if such corporation files with the United States Securities and Exchange Commission the reports required by section 13 of that act or if the securities of the corporation or entity are regularly traded on an established securities market in the United States.

(d) The exact location where the applicant will conduct pari-mutuel performances.

(e) Whether the pari-mutuel facility is owned or leased and, if leased, the name and residence of the fee owner or, if a corporation, of the directors and stockholders thereof. However, this chapter does not prevent a person from applying to the division for a permit to conduct pari-mutuel operations, regardless of whether the pari-mutuel facility has been constructed or not, and having an election held in any county at the same time that elections are held for the ratification of any permit in that county.

(f) A statement of the assets and liabilities of the applicant.

(g) The names and addresses of any mortgagee of any pari-mutuel facility and any financial agreement between the parties. The division may require the names and addresses of the officers, and directors of, and those stockholders who hold more than 10 percent of the stock of the mortgagee.

(h) A business plan for the first year of operation.

(i) For each individual listed in the application as an owner, partner, officer, or director, a complete set of fingerprints that has been taken by an authorized law enforcement officer. These sets of fingerprints must also be submitted to the Department of Law Enforcement and to the Federal Bureau of Investigation for processing. The applicant must pay the cost of processing. The division may charge a $2 handling fee for each set of fingerprint records.

(j) The type of pari-mutuel activity to be conducted and the desired period of operation.

(k) Other information the division requires.

(4) The division shall require each applicant to deposit with the board of county commissioners of the county in which the election is to be held, a sufficient sum, in currency or by check certified by a bank licensed to do business in the state to pay the expenses of holding the election provided in s. 550.06.

(5) Upon receiving an application and any amendments properly made thereto, the division shall further investigate the matters contained in the application. If the applicant meets all requirements, conditions, and qualifications set forth in this chapter and the rules of the division, the division shall grant the permit.

(6) After initial approval of the permit and the source of financing, the terms and parties of any subsequent refinancing must be disclosed by the applicant or the permitholder to the division.

(7) If the division refuses to grant the permit, the money deposited with the board of county commissioners for holding the election must be refunded to the applicant. If the division grants the permit applied for, the board of county commissioners shall order an election in the county to decide whether the permit will be approved, as provided in s. 550.06.

(8)(a) The division may charge the applicant for reasonable anticipated costs incurred by the division, in determining the eligibility of any person or entity specified in s. 550.181(1)(a) to hold any pari-mutuel permit, against such person or entity.

(b) The division may, by rule, determine the manner of paying its anticipated costs associated with determination of eligibility and the procedure for filing applications for permit eligibility.

(c) The division shall furnish to the applicant an itemized statement of actual costs incurred during the investigation to determine eligibility.

(d) If unused funds remain at the conclusion of such investigation, they must be returned to the applicant within 60 days after the determination of eligibility has been made.

(e) If the actual costs of investigation exceed anticipated costs, the division shall assess the applicant the amount necessary to recover all actual costs.

(9)(a) After a permit has been granted by the division and has been ratified and approved by the majority of the electors participating in the election in the county designated in the permit, the division shall grant to the lawful permitholder, subject to the conditions of this chapter, a license to conduct pari-mutuel operations under this chapter, and, except as provided in s. 550.52, the commission shall fix annually the time, place, and number of days during which pari-mutuel operations may be conducted by the permitholder at the location fixed in the permit and ratified in the election. After the first license has been issued to the holder of a ratified permit for racing in any county, all subsequent annual applications for a license by that permitholder must be accompanied by proof, in such form as the division requires, that the ratified permitholder still possesses all the qualifications prescribed by this chapter, and that the permit has not been recalled at a later election held in the county.

(b) The division may revoke or suspend any permit or license issued under this chapter upon the willful violation by the permitholder or licensee of any provisions of this chapter or of any rule or regulation adopted by the division under this chapter. In lieu of suspending or revoking a permit or license, the division may impose a civil penalty against the permitholder or licensee for a violation of this chapter or any rule adopted by the division. The penalty so imposed may not exceed $1,000 for each count or separate offense. All penalties imposed and collected must be deposited with the State Treasurer to the credit of the General Revenue Fund.

(c) If a substantial portion of a pari-mutuel facility is taken by eminent domain, the division may, on application of the permitholder of the facility filed within 2 years after the taking, and in lieu of the original permit and without requiring the ratification by the electors of the permit and without regard to the 50-mile limitation, issue a permit and grant a license to the permitholder for the operation of a substitute facility at any location in the same county within 10 miles, measured on a straight line from property line to property line at the points nearest to each other, of the location of the original facility.

(10) When the permitholder has failed to complete construction of at least 50 percent of the facilities necessary to conduct pari-mutuel operations within 12 months after approval by the voters of the permit, the division shall revoke the permit upon adequate notice to the permitholder. However, the division, upon good cause shown by the permitholder, may grant one extension of up to 12 months.

(11)(a) A permit granted under this chapter may not be transferred or assigned except upon written approval by the division pursuant to the provisions of s. 550.181, except that the holder of any permit which was converted to a jai alai permit may lease or build anywhere within the county in which its permit is located.

(b) Whenever a permit to conduct pari-mutuel wagering is held by a corporation or business entity other than an individual, the transfer of 10 percent or more of the stock or other evidence of ownership or equity in the permitholder may not be made without the prior approval of the transferee by the division pursuant to s. 550.181.

(12) Permitholders shall report to the division changes in ownership or interest of 5 percent or more of any one person, or 10 percent in the aggregate, regardless of the percentage held by any one person, within 20 days after the change in ownership or interest. The division may then conduct an investigation to ensure that the permit is properly updated to show the changes in ownership or interest.

(13) Notwithstanding any provisions of this chapter, a thoroughbred horse racing permit or license issued under this chapter may be transferred, or reissued when such reissuance is in the nature of a transfer, so as to permit or authorize a licensee to change the location of a thoroughbred horse racetrack only upon proof, in such form as the division prescribes, that a referendum election has been held as provided in s. 550.06 in the county where the facility is to be relocated.

Section 13. Subsection (3) of section 550.06, Florida Statutes, is amended to read:

550.06 Elections for ratification of permits.—

(3) ~~Provided,~~ When a permit has been granted by the division and no application to the board of county commissioners has been made by the permittee within 6 months after the granting of the permit, the *permit becomes* ~~same shall be~~ void ~~, and~~ The division shall cancel *the* ~~such~~ permit without notice to the *permitholder* ~~holder thereof~~, and the board of county commissioners holding the deposit for the election shall refund *the deposit* to the *permitholder* ~~holder of the permit such deposit~~ upon being notified by the division that the permit has become void and *has been* canceled. ~~Further, where, upon a permit issued, an election has been held and such permit ratified, as herein provided, and the holder of the ratified permit has failed to construct a track suitable to conduct a race meeting within 12 months after the ratification of such permit, the permit shall be void and the division shall cancel such permit without notice to the holder thereof.~~

Section 14. Subsections (1), (2), (3), (4), and (5) of section 550.09, Florida Statutes, are amended to read:

550.09 Payment of daily license fee and taxes.—

(1) DAILY LICENSE FEE.—*Each* ~~Every~~ person engaged in the business of conducting race meetings *or jai alai games* under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay to the division ~~of Pari-mutuel Wagering~~, for the use of the division, a daily license fee of $100 for each horserace and $80 for each dograce *and for each jai alai game* conducted at a racetrack *or fronton* licensed under this chapter. *This license fee,* ~~which sum~~ shall be deposited with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund.; However, any *greyhound* racetrack *or jai alai fronton that* ~~which~~ had an average handle per performance of less than $100,000 for the preceding racing season shall pay a daily license fee of $50 for each race conducted.

(2) ADMISSION TAX.—An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, ~~or~~ dograce, *or jai alai game*. The permitholder shall be responsible for *collecting* ~~the collection of~~ the admission tax. An admission tax *is* ~~shall be~~ imposed on any free passes or complimentary cards issued to guests by permitholders *in an amount* ~~and shall be~~ equal to the tax imposed on the regular and usual admission charge for entrance to the permitholder's facility and grandstand area. With the consent of the division, a permitholder may issue tax-free passes to its officers, officials, and employees or other persons actually engaged in working at the racetrack, including accredited press representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the division a list of all persons to whom tax-free passes are issued.

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races *or games* conducted by the permitholder. The tax *is* ~~shall be~~ imposed daily and *is* ~~shall be~~ based on the total contributions to all pari-mutuel pools conducted during the daily performance. *If* ~~In the event that~~ a permitholder is authorized by the ~~Florida Pari-mutuel~~ commission to conduct and does conduct more than one performance daily, the tax *is* ~~shall be~~ imposed on each performance separately. ~~A "performance" is defined as a series of races conducted consecutively under a single admission charge.~~

(a)1. The tax on handle for thoroughbred horse racing, harness horse racing, and quarter horse racing *is* ~~shall be~~ 3.3 percent of the handle.

2. The tax shall be paid on handle in excess of $300,000 for each performance per day, except as provided in *paragraph (b)* ~~paragraphs (b) and (c)~~

~~(b) Except as provided in paragraph (c), the tax on handle for thoroughbred horse racing conducted by a permitholder from January 8 through March 6 shall be 3.3 percent of the handle in excess of $175,000 for each performance per day.~~

(b)~~(c)~~ The tax on handle for any horse track where the average daily handle on June 4, 1980, is less than $400,000 *is* ~~shall be~~ 3.3 percent of the handle in excess of $500,000 for each performance per day.

(c)~~(d)~~1. The tax on handle for dogracing *is* ~~shall be~~ 7.6 percent of the handle *and for jai alai is 7.1 percent of the handle.*

2. The tax shall be paid on handle in excess of $25,000 for each performance per day. However, when the handle for the preceding racing season is less than $30 million and $15 million or more, ~~then~~ the tax shall be paid on the handle in excess of $40,000 for each performance per day, and when the handle for the preceding racing season is less than $15 million, ~~then~~ the tax shall be paid on the handle in excess of $50,000 for each performance per day. In determining the handle levels set *in this subsection* ~~herein~~, intertrack handle shall ~~not~~ be *excluded from* ~~considered in~~ the handle levels for the host *and* ~~or~~ guest tracks.

(d) For purposes of computation of tax on handle as specified in paragraph (c), the preceding racing season in counties lying wholly east of the St. Johns River, south of an east-west line from Matanzas Inlet to said river, and north of latitude 28°35", or, beginning on January 1, 1990, in counties with a dogracing permitholder whose racetrack is within 75 miles of a dogracing track in any other state, provided such permitholder used all authorized performances during the preceding calendar year except when otherwise authorized by the Florida Pari-mutuel Commission, consists of the first 105 evening performances conducted during the preceding calendar year, plus all matinees conducted through the date of the 105th evening performance.

(e)1.a. The tax on handle for intertrack wagering *is* ~~shall be~~ 3 percent of the handle if the host track is a horse track, 6 percent if the host track is a dog track, and 6 percent if the host track is a jai alai fronton. *The tax,* ~~and~~ shall be deposited into the General Revenue Fund.

b. Any guest track that imposes a surcharge on each winning ticket cashed pursuant to s. 550.633 shall pay an additional tax equal to 5 percent of the surcharge so imposed. Any taxes so imposed shall be deposited into the General Revenue Fund.

2.a. As used in this paragraph, *the term*:

(I) "Effective tax rate on handle" means the total for each fiscal year of all taxes from live racing paid by the permitholder to the state expressed as a percentage of handle for regular live performances *and includes.* ~~For the purpose of this definition, the taxes shall include~~ only the tax on breaks~~,~~ and the tax on handle plus any surtax on handle.

(II) "Total state tax revenue from pari-mutuel wagering" means any revenues collected pursuant to this chapter ~~or chapter 551~~ which are deposited into or transferred into the General Revenue Fund.

(III) "Fiscal year" means the state fiscal year.

b. The portion of the total state tax revenues from pari-mutuel wagering that is in excess of the total state tax revenues from pari-mutuel wagering in fiscal year 1989-1990 shall be earned each fiscal year, beginning in fiscal year 1990-1991, as a credit against taxes in the following fiscal year to reduce the effective tax rate on handle for each dogracing and jai alai permitholder as provided in sub-subparagraph c. The credit against taxes earned in any fiscal year after 1990-1991 shall be considered as revenue to the General Revenue Fund for the purposes of calculating the tax credit for the following year.

c. The tax credit for each dogracing permitholder or jai alai permitholder shall be based on the handle from live racing on regular performances in the preceding fiscal year and shall be computed as follows: total handle from live racing at each track or fronton divided by the total handle from live racing at all dog tracks and frontons multiplied by the total tax credit as established in sub-subparagraph b. Each state fiscal year, each dogracing permitholder and each jai alai permitholder shall be authorized to deduct any tax credits earned in the previous fiscal year from any tax due to the General Revenue Fund from live pari-mutuel wagering. ~~In no event shall~~ The tax credit *may not* reduce the effective tax rate on handle for the preceding fiscal year below 5.6 percent for any dogracing permitholder or 5.1 percent for any jai alai permitholder. The entire tax credit *must* ~~shall~~ be used each year until the effective tax rate on handle is 5.6 percent for each dogracing and 5.1 percent for each jai alai permitholder. If the effective tax rate on handle of an individual dogracing permitholder is less than 5.6 percent, or an individual jai alai permitholder is less than 5.1 percent, no credit *is allowed* ~~shall be authorized~~ for such permitholder in the following year.

d. At the *end* ~~conclusion~~ of each fiscal year, the division shall determine and report to each permitholder the earned tax credit authorized for the following fiscal year.

(4) BREAKS TAX.—Each permitholder conducting dogracing *or jai alai performances* shall pay a tax equal to the breaks. The "breaks" represents that portion of each pari-mutuel pool which is not redistributed to the contributors or withheld by the permitholder as commission and is further defined in s. 550.16.

(5) SURTAX ON ADDITIONAL TAKEOUT.—

(a) In addition to any other taxes levied pursuant to this chapter, a permitholder conducting greyhound racing *or jai alai performances* is subject to a surtax, which *is* ~~shall be~~ levied at the rate of 50 percent and *is* ~~be~~ imposed upon any sums withheld pursuant to *ss.* ~~s.~~ 550.162(3)(b) *and 550.16(2)(m).*

(b) In addition to any other taxes levied pursuant to this chapter, a permitholder conducting harness racing is subject to a surtax, which *is* ~~shall be~~ levied at the rate of 50 percent and *is* ~~be~~ imposed upon any sums withheld pursuant to s. 550.16(2)(a)2.

Section 15. Subsections (1) and (3) of section 550.10, Florida Statutes, are amended, and subsections (7) and (8) are added to that section, to read:

550.10 Occupational licenses of racetrack employees; fees; denial, suspension, and revocation of license; penalties and fines.—

(1) Every person connected with a racetrack shall purchase from the Division of Pari-mutuel Wagering an annual occupational license for each specified job performed which license shall be valid *from May 1 until June 30 of the following year* ~~for 1 year~~. All moneys collected pursuant to this section each fiscal year shall be deposited into the Pari-mutuel Wagering Trust Fund. ~~The license shall expire on July 1 of each year.~~ In the event that the division determines that it is in the best interest of the division and persons connected with racetracks, the division may issue a license valid for one season at one racetrack but may not make that determination apply to any person who objects to such determination. In any event, the season license fee shall be equal to the annual occupational license fee. Any person may, at his option and pursuant to the rules promulgated by the division, purchase an occupational license valid for a period of 3 years provided the purchaser of the license pays the full occupational license fee for each of the years for which the license is purchased at the time the 3-year license is requested. The occupational license shall be valid during its specified term at any pari-mutuel facility. The scheduled annual license fees are as follows:

(a) Contractual concessionaires with permitholders: $150.

(b) Professional persons such as owners, trainers, veterinarians, doctors, nurses, officials, and supervisors of all departments: $40.

(c) Jockeys, apprentice jockeys, jockey agents, harness drivers, and jai alai players: $40.

(d) Permitholder employees, concession employees, grooms, exercise persons, hot-walkers, miscellaneous stable help, platers, and all others not specifically provided: $10.

(3)(a) The division may:

1. Deny a license to or revoke, *suspend, or place conditions upon or restrictions on* a license of any person who has been refused a license by any other state racing commission or racing authority;

2. Deny, suspend, or place conditions on a license of any person who is under suspension or has unpaid fines in another jurisdiction;

if ~~provided~~ the state racing commission or racing authority of such other state *or jurisdiction* extends to the Division of Pari-mutuel Wagering reciprocal courtesy to maintain the disciplinary control.

(b) The Division of Pari-mutuel Wagering may deny, suspend, revoke, *declare ineligible,* or place conditions *upon* or restrictions on any occupational license when the applicant for or holder thereof has violated the provisions of this chapter, chapter 551, or the rules and regulations of the division governing the conduct of persons connected with the racetracks. In addition, the division may deny, *place conditions upon or restrictions on, declare ineligible,* revoke, or suspend any occupational license when the applicant for such license ~~is not of good moral character or~~ has been convicted ~~of a felony~~ in this state, in any other state, or under the laws of the United States, *of a capital felony, a felony, or an offense in any other state which would be a felony under the laws of this state involving arson; trafficking, conspiracy to traffic in, smuggling, importation, conspiracy to smuggle or import, delivery, sale, or distribution of a controlled substance, or a crime involving a lack of good moral character* ~~or of a misdemeanor in this state, in any other state, or under the laws of the United States if such misdemeanor conviction is related to gambling or bookmaking, as contemplated in s. 849.25,~~ or has had a pari-mutuel license revoked by this state or any other jurisdiction for an offense related to pari-mutuel wagering.

(c) The division may deny, place conditions upon or restrictions on, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor conviction is related to gambling or bookmaking, as contemplated in s. 849.25, or is a conviction involving cruelty to animals. If the applicant establishes that he is of good moral character, that he has been rehabilitated, and that the crime he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the division. ~~Unless the division establishes in a proceeding held pursuant to s. 120.57 that an individual is not of good moral character, the director of the division shall waive the restrictions excluding felons from licensure if the felony is not related to pari-mutuel wagering and is not of a capital nature.~~

(d) If any occupational license expires by division rule while administrative charges are pending against the license, the proceedings against the license shall continue to conclusion as if the license were still in effect. If an occupational license will expire by division rule during the period of a suspension the division intends to impose, or if a license would have expired but for pending administrative charges and the occupational licensee is found to be in violation of any of the charges, the license may be revoked and a time period of license ineligibility may be declared. The division may bring administrative charges against any person not holding a current license for violations of statutes or rules which occurred while such person held an occupational license, and the division may declare such person ineligible to hold a license for a period of time. The division may impose a civil fine of up to $1,000 for each violation of the rules of the division in addition to or in lieu of *any other penalty* ~~a suspension or a revocation~~ provided for in this section. In addition to any other penalty provided by law, the division may exclude from all pari-mutuel facilities in this state, for a period not to exceed the period of suspension, revocation, or ineligibility, any person whose occupational license application has been denied by the division, who has been declared ineligible to hold an occupational license, or whose occupational license has been suspended or revoked by the division.

(e) The division may cancel any occupational license that has been voluntarily relinquished by the licensee.

(7) The tax imposed by this section is in lieu of all license, excise, or occupational taxes to the state or any county, municipality, or other political subdivision, except that if a race meeting is held or conducted in a municipality, the municipality may assess and collect an additional tax against any person conducting live racing or games within its corporate limits not to exceed $150 per day for horseracing, and not to exceed $50 per day for dogracing. Except as provided in this chapter, a munici-

pality may not assess or collect any additional excise or revenue tax against any person conducting race meetings within the corporate limits of the municipality or against any patron of any such person.

(8) Upon application for an occupational license, the division may require the applicant's full legal name; any nickname, alias, or maiden name; name of spouse; date of birth; residence address; mailing address; residence and business phone number; social security number; disclosure of any felony or any conviction involving bookmaking, illegal gambling, or cruelty to animals; disclosure of any past or present enforcement or actions by any racing or gaming agency against the applicant; and any information the division determines is necessary to establish the identity of the applicant or to establish that the applicant is of good moral character. Each applicant must file a complete set of his fingerprints which has been taken by an authorized law enforcement officer, which set of fingerprints shall be submitted to the Department of Law Enforcement for state processing and to the Federal Bureau of Investigation for federal processing. The costs of processing shall be borne by the applicant. The division shall require all applicants for an occupational license to have the signature witnessed and sealed by a notary or signed in the presence of a division official. The division, by rule, may require additional information from licensees reasonably necessary to regulate the industry. The division may, by rule, exempt certain occupations or groups of persons from the fingerprinting requirements.

Section 16. Subsection (2) of section 550.115, Florida Statutes, is amended to read:

550.115 Authority of stewards, judges, panel of judges, or player's manager to impose penalties against occupational licensees; disposition of funds collected.—

(2) All penalties imposed and collected pursuant to this section at each horse or dog racetrack or jai alai fronton shall be deposited into a board of relief fund established by the pari-mutuel *permitholder* ~~association permittee~~. Each association shall name a board of relief composed of three of its officers, with the general manager of the *permitholder* ~~permittee association~~ being the ex officio treasurer of such board. Moneys deposited into the board of relief fund shall be disbursed by the board for the specific purpose of aiding occupational licenseholders *and their immediate family members* ~~who become ill or injured in the performance of their duties~~ at each pari-mutuel *facility* ~~association~~.

Section 17. Section 550.12, Florida Statutes, is amended to read:

550.12 Uniform reporting system *and bond requirement*.—

(1)~~(a) It is the finding of~~ The Legislature *finds* that a uniform reporting system should be developed to provide acceptable uniform financial data and statistics ~~which the state may use to review the operations of pari-mutuel permitholders in order to exercise a reasonable degree of control over the activities of the pari-mutuel industry~~.

~~(b) It is further the finding of the Legislature that this reporting system should also provide the various permitholders and industry groups and associations with a source of comparable data which may be used to analyze and improve operations of a single permitholder or of permitholder groups.~~

(2)(a) *Each permitholder that conducts* ~~Every person conducting~~ race meetings or jai alai exhibitions under this chapter shall ~~so~~ keep records *that* ~~as~~ clearly ~~to~~ show the total number of admissions and the total amount of money contributed to *each* ~~every~~ pari-mutuel pool on each race or exhibition separately and the amount of money received daily from admission fees and, within 120 days after the *end* ~~conclusion~~ of its fiscal year, shall submit to the division ~~of Pari-mutuel Wagering~~ a complete annual report of its accounts, *audited by a* certified ~~by a~~ public accountant licensed to practice in the state.

~~(b) Each holder of a pari-mutuel permit shall, commencing May 29, 1975, and every 10 years thereafter, file with the division an appraisal, prepared by a member of any nationally recognized professional appraisal society or association, of the fair value of the business, plant, and properties incident to the conduct and operation of the business of the pari-mutuel permittee. In the case of new permittees, the appraisal shall be filed within 180 days after commencing operation and every 10 years thereafter.~~

(b)~~(c)~~ The division *shall adopt* ~~may make~~ rules *specifying* ~~for~~ the form and content of such reports, including, but not limited to, requirements for a statement of assets and liabilities, operating revenues and expenses, and net worth, which statement *must* ~~shall~~ be *audited by a* certified ~~by a~~ public accountant licensed to practice in this state, and any supporting informational schedule found necessary by the division to verify the foregoing financial statement, which informational schedule *must* ~~shall~~ be attested to under oath by the permitholder or an officer of record, to permit the division to:

1. Assess the profitability and financial soundness of permitholders, both individually and as an industry;

2. Plan and recommend measures necessary to preserve and protect the pari-mutuel revenues of the state; and

3. Completely identify the holdings, transactions, and investments of permitholders with other business entities.

(c)~~(d)~~ The Auditor General may audit and check the books and records of any such *permitholder* ~~person~~ and upon the request of the division shall do so. ~~Any association whose meeting has terminated prior to the effective date of this act shall submit its audit under prior existing rule.~~ These audit reports shall become part of, and be maintained in, the division files.

(d) The division shall annually review the books and records of each permitholder and verify that the breaks and unclaimed ticket payments made by each permitholder are true and correct.

(3)(a) Each permitholder to whom a license is granted under this chapter, at his own cost and expense, must, before the license is delivered, give a bond in the penal sum of $250,000 payable to the Governor of the state and his successors in office, with a surety or sureties to be approved by the division and the Treasurer, conditioned to faithfully make the payments to the Treasurer in his capacity as treasurer of the division; to keep his books and records and make reports as provided; and to conduct his racing in conformity with this chapter. When the greatest amount of tax owed during any month in the prior state fiscal year, in which a full schedule of live racing was conducted, is less than $250,000, the division may assess a bond in a sum less than $250,000, but in no event shall the division accept a bond of less than $50,000. The division may review the bond for adequacy and require adjustments each fiscal year. The division shall have the authority to adopt rules to implement this paragraph and establish guidelines for such bonds.

(b) The provisions of this chapter concerning bonding do not apply to nonwagering licenses issued pursuant to s. 550.50.

Section 18. Subsection (5) is added to section 550.13, Florida Statutes, to read:

550.13 Division of moneys derived under this law.—All moneys which shall have been deposited with the Treasurer to the credit of the Pari-mutuel Wagering Trust Fund shall be distributed in the following proportions, in the manner and at the times hereinafter specified:

(5) If a local or special law requires that any moneys accruing to a county under this chapter, the same being Division of Pari-mutuel Wagering funds, be paid to the Treasurer of the state, as ex officio treasurer of the Teachers Salary Fund, to the credit of a district school board, those moneys must be paid directly to the district school board.

Section 19. Section 550.16, Florida Statutes, is amended to read:

550.16 Pari-mutuel pool authorized within track enclosure; *takeouts* ~~commissions~~; capital improvement withholdings; breaks; penalty for purchasing part of a pari-mutuel pool for or through another in specified circumstances.—

(1) *Wagering on the results of a horserace, dograce, or jai alai game and* the sale of tickets or other evidences showing an interest in or a contribution to a pari-mutuel pool is *allowed* ~~permitted~~ within the enclosure of any *pari-mutuel facility* ~~horse racetrack and dog racetrack~~ licensed and conducted under this *chapter* ~~law~~ but *is not allowed* ~~not~~ elsewhere in this state, *must be supervised by the division, and is subject to such reasonable regulations that the division prescribes* ~~except as is provided in chapter 551. The sale and purchase of tickets or other evidences showing an interest in or a contribution to pari-mutuel pools in this state shall be under the supervision of the Division of Pari-mutuel Wagering and shall be done subject to such regulations as the division from time to time prescribes.~~

(2) ~~The "commission" is the percentage of the contributions to pari-mutuel pools which a permitholder is permitted to withhold from the~~

~~contributions before making redistribution to the contributors.~~ The permitholder's share of the *takeout* ~~commission~~ is that portion of the *takeout that* ~~commission which~~ remains after the pari-mutuel tax imposed upon the contributions to the pari-mutuel pool is deducted from the *takeout* ~~commission~~ and paid by the permitholder. The *takeout* ~~commission~~ is deducted from all pari-mutuel pools but may be different depending on the type of pari-mutuel pool. ~~For the purpose of this chapter, contributions to pari-mutuel pools involving wagers on a single animal in a single race, such as the win pool, the place pool, or the show pool, shall be referred to as "regular wagering," and contributions to all other types of pari-mutuel pools, including, but not limited to, the daily double, perfecta, quiniela, trifecta, or the Big "Q" pools, shall be referred to as "exotic wagering."~~

(a)1. Except as provided in paragraphs (i), (j), and (k), the *takeout that* ~~commission which~~ a permitholder who conducts horseracing under ~~the provisions of~~ this chapter may withhold from contributions to pari-mutuel pools *may* ~~shall~~ not exceed 17.6 percent on regular wagering and *may* ~~shall~~ not exceed 19 percent on exotic wagering, except that up to an additional 0.5 percent of the handle on regular wagering and up to an additional 1 percent of the handle on exotic wagering may be withheld by the permitholder to be used for capital improvements or to reduce capital improvement debt.

2. A harness racing permitholder may also withhold an additional 1 percent of the handle on any or all exotic wagering to be used for capital improvements or for purses.

(b) For the purposes of this *section, the term* ~~chapter and chapter 551,~~ "capital improvements" means:

1. The amount paid out for new buildings or for permanent improvements or betterments made to improve the facilities *used* ~~utilized~~ by the permitholder for the conduct of its race meetings, or made to construct new facilities for a permitholder who is relocating his permit pursuant to ~~the provisions of~~ s. 550.055;

2. The amount expended in restoring property or in improving the facility or any part thereof which results in the addition or replacement of a fixed asset; or

3. The amount paid out by a permitholder for permanent improvements or betterments to facilities *that* ~~which~~ are located beyond the recorded property boundaries of the pari-mutuel facility site, and *that* ~~which~~ operate to provide a function directly related to the conduct of race meetings at the permitholder's racetrack as determined by the ~~Florida Pari-mutuel~~ commission.

In general, the amounts referred to as "capital improvements" include amounts paid which add to the value, improve, or substantially prolong the useful life of the racetrack or fronton facility *used* ~~utilized~~ by the permitholder for the conduct of its race meeting. Amounts paid or incurred for repairs and maintenance of property, interest expense, or lease payments in connection with the capital improvements are not capital improvements within the meaning of this section. However, upon mutual agreement between the lessor and lessee of a racetrack or fronton, the lessee may withhold funds authorized in this section for capital improvements to the leased racetrack or fronton.

(c) For purposes of this *section* ~~chapter and chapter 551~~, the reduction of capital improvement debt *includes* ~~shall include~~ only that debt *that* ~~which~~ is in existence *before* ~~prior to~~ May 1, 1980, and only 50 percent of the additional amount authorized to be withheld *may* ~~shall~~ be used for the reduction of capital improvement debt.

(d) A permitholder withholding additional *takeout* ~~sums~~ for capital improvements *is* ~~shall be~~ entitled to accumulate these funds ~~provided such accumulation of funds is kept~~ in a separate banking or savings account, *but the funds may be* ~~and is only~~ spent or obligated *only* for capital improvements within 3 years from the first date such funds are accumulated, unless otherwise authorized by the ~~Florida Pari-mutuel~~ commission.

(e) The permitholder who withholds additional *takeout* ~~commission~~ for capital improvements, as ~~may be~~ authorized in this chapter ~~or in chapter 551~~, *must* ~~shall be required to~~ report under oath such withholding and the purpose for which it is withheld on forms ~~as may be~~ prescribed by the division ~~of Pari-mutuel Wagering~~. The division ~~of Pari-mutuel Wagering~~ shall prescribe reasonable ~~and suitable~~ rules to audit and regulate capital improvement withholdings. Each permitholder and contractor *must* ~~shall~~ certify to the Florida Pari-mutuel Commission that the capital improvement project approved by the commission has been completed, together with proof of expenditure by the permitholder. Such sums as are determined by the ~~Florida Pari-mutuel~~ commission to have been improperly withheld or expended by the permitholder *must* ~~shall~~ be paid to the General Revenue Fund within 10 days *after* ~~from~~ the date of such order by the ~~Florida Pari-mutuel~~ commission.

(f) The *takeout that* ~~commission which~~ a permitholder who conducts dogracing under ~~the provisions of~~ this chapter may withhold from the contributions to pari-mutuel pools *may* ~~shall~~ not exceed 17.6 percent on regular wagering and *may* ~~shall~~ not exceed 18 percent on exotic wagering, except as provided in s. 550.162.

(g) All amounts authorized to be withheld expressly for capital improvements or for the reduction of capital improvement debt *may* ~~shall~~ be expended solely for that purpose ~~as set forth herein~~, less any federal or state income taxes attributable exclusively to the amounts so withheld.

(h) A capital improvement proposed by a permitholder licensed under this chapter to a pari-mutuel facility existing on June 23, 1981, which capital improvement requires, pursuant to any municipal ordinance, resolution, or regulation, the qualification or approval of the municipality wherein the permitholder conducts its business operations, shall receive approval unless the municipality is able to show that the proposed improvement presents a justifiable and immediate hazard to the health and safety of municipal residents, provided the permitholder pays to the municipality or county the cost of a building permit and provided the capital improvement meets the following criteria:

1. The ~~Florida Pari-mutuel~~ commission approves the project;

2. The improvement does not qualify as a development of regional impact as defined in s. 380.06; and

3. The improvement is contiguous to or within the existing pari-mutuel facility site. To be contiguous, the site of the improvement *must* ~~shall~~ share a sufficient common boundary with the present pari-mutuel facility to allow full and free access without crossing a public roadway, public waterway, or similar barrier.

(i) In addition to the *takeout* ~~commission~~ authorized by subparagraph (a)1., a permitholder who is authorized to conduct thoroughbred horseracing *is* ~~shall be~~ entitled to withhold an additional 1 percent of the handle on exotic wagering for use as owners' awards as provided in s. 550.262(6). A permitholder who elects to withhold the additional 1 percent for owners' awards *is* ~~shall be~~ entitled to withhold up to an additional 2 percent of the handle on any or all exotic wagering for use as additional overnight purses.

(j) In addition to the *takeout* ~~commission~~ authorized by subparagraph (a)1., a harness racing permitholder or quarter horse permitholder *is* ~~shall be~~ entitled to withhold up to an additional 3 percent of the handle on any or all exotic wagering for use as additional overnight purses.

(k) In addition to the *takeout* ~~commission~~ authorized by subparagraph (a)1., a permitholder conducting harness races shall withhold an additional one-half of 1 percent of the handle on all harness wagering for use as purses or insurance benefits as specified in s. 550.262(2)(b).

(l) The takeout that a permitholder who conducts jai alai under this chapter may withhold from contributions to pari-mutuel pools may not exceed 17.6 percent on regular wagering and may not exceed 19 percent on exotic wagering, except that an additional 1 percent on triples, trifectas, or other similar wagers involving three or more players or teams in any game and on "pic-six" wagers may be withheld for capital improvements or to reduce capital improvement debt.

(m) In addition to withholding the takeout pursuant to paragraph (l), a jai alai permitholder may withhold an additional 1 percent on any or all exotic wagers for capital improvements or to reduce capital improvement debt.

(n) In addition to the amounts permitted to be withheld elsewhere in this section, a jai alai permitholder may withhold up to an additional 2 percent from pari-mutuel pools of exotic wagers. However, an additional surtax of 17.5 percent shall be levied on any sums withheld pursuant to this paragraph. A permitholder that does not withhold the additional 1 percent of exotic wagering pursuant to paragraph (m) must pay a surtax of 50 percent on the first 1 percent of exotic wagering withheld pursuant to this paragraph.

(3) After deducting *the takeout* ~~a commission or license~~ and the "breaks" ~~(hereinafter defined)~~, a pari-mutuel pool *must* ~~shall~~ be redistributed to the contributors.

(4) Redistribution of funds otherwise distributable to the contributors of a pari-mutuel pool *must* ~~shall~~ be a sum equal to the next lowest multiple of 10 on *all races and games* ~~horseraces and dograces~~.

(5) *A* ~~No~~ distribution of a pari-mutuel pool *may not* ~~shall~~ be made of the odd cents of any sum otherwise distributable, which odd cents *constitute* ~~shall be known as~~ the "breaks."

~~(6) The "breaks" shall be known as the difference between the amount contributed to a pari-mutuel pool and the total of the commissions and sums redistributed to the contributors.~~

(6)~~(7)~~ *A* ~~No~~ person or corporation *may not* ~~shall~~ directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any part of a pari-mutuel pool for another for hire or for any gratuity. *A,* ~~and no~~ person *may not* ~~shall~~ purchase any part of a pari-mutuel pool through another wherein he gives or pays directly or indirectly such other person anything of value.~~; and~~ Any person who violates this *subsection* ~~section~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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.

~~(e) 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.~~

(3)(a) In addition to the sums permitted to be withheld from pari-mutuel pools under subsection (2), a permitholder may withhold, for capital improvements or to reduce capital improvement debt, 1 percent from pari-mutuel pools on triples, trifectas, or other similar wagers involving three or more greyhounds in any race and on pic-six wagering.

(b) In addition to the sums permitted to be withheld from pari-mutuel pools under subsection (2) and under paragraph (a) of this subsection, a permitholder may withhold 1 percent of the handle on any or all exotic wagers for capital improvements or to reduce capital improvement debt or for purses.

(c) The permitholder who withholds additional sums under the provisions of this section for capital improvements or to reduce capital improvement debt shall be bound by the definitions of capital improvements and capital improvement debt and the use of these sums as they appear in s. 550.16.

(d) In addition to the 18 percent authorized to be withheld from pari-mutuel pools of exotic wagers, and in addition to all other amounts permitted to be withheld, a dogracing permitholder may withhold up to an additional 2 percent from pari-mutuel pools of exotic wagers However, ~~an additional surtax of~~ 17.5 percent *of* ~~shall be levied on~~ any sums withheld pursuant to this paragraph *shall be paid as purses in addition to all other amounts authorized by this chapter, 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.* Of the balance, 50 percent shall be expended for purses, excluding stakes races, and shall be expended in addition to the percentage of handle paid as purses by such permitholder *as required by subsection (2)* ~~during the 1987-1988 state fiscal year~~. However, a permitholder which does not withhold the additional 1 percent of exotic wagering pursuant to paragraph (b) shall pay a surtax of 50 percent on the first 1 percent of exotic wagering withheld pursuant to this paragraph.

(4) Any sums withheld by a *jai alai or dog racing* permitholder ~~pursuant to this section or s. 551.09~~ for capital improvements, or to reduce capital improvement debt, may also be used by the permitholder for advertising and promotion.

~~(5) An "operation day" is a continuous period of 24 hours starting with the beginning of the first race of a public exhibition of greyhound racing, even though the operation day may start during one calendar day and extend past midnight until 2 a.m. the following calendar day; however, no race may be started later than 1:30 a.m. and before noon on any operation day.~~

(5)~~(6)~~ The permitholder *who conducts* ~~conducting~~ a dograce meet under ~~the provisions of~~ this chapter *must* ~~shall~~ pay the daily license fee, the admission tax, the breaks tax, and the tax on pari-mutuel handle as provided in s. 550.09 and *is* ~~shall be~~ subject to all penalties and sanctions provided in *s. 550.09(7)* ~~s. 550.09(6)~~.

Section 21. Section 551.1535, Florida Statutes, is transferred, renumbered as s. 550.1637, Florida Statutes, and amended to read:

550.1637 ~~551.1535~~ Jai Alai Tournament of Champions Meet.—

(1) Notwithstanding any provision of this chapter ~~or chapter 550~~, there is hereby created a special jai alai meet which *is* ~~shall be~~ designated as the "Jai Alai Tournament of Champions Meet" and which *is to* ~~shall~~ be hosted by the Florida jai alai permitholders selected by the National Association of Jai Alai Frontons, Inc., to conduct such meet. The meet *consists* ~~shall consist~~ of three qualifying performances and a final performance, each of which is to be conducted on different days. Upon the selection of the Florida permitholders for the meet, and upon application by the selected permitholders, the division ~~of Pari-mutuel Wagering~~ shall issue a license to each of the selected permitholders to operate the meet. The meet may be conducted during a season in which the permitholders selected to conduct the meet are not otherwise authorized to conduct a meet. If the permitholders conduct this meet during their regular seasons, all performances at this meet ~~shall~~ apply towards any minimum number of performance requirements that *exists* ~~may exist~~.

(2) Qualifying performances and the final performance of the tournament *must* ~~shall~~ be held at different locations throughout the state, and the permitholders selected *must* ~~shall~~ be under different ownership to the extent possible.

(3) Notwithstanding any provision of *s. 550.09* ~~s. 551.06~~, each of the permitholders licensed to conduct performances comprising the Jai Alai Tournament of Champions Meet shall pay no taxes on the live handle ~~or the handle under s. 551.06~~ for any performance conducted by such permitholder as part of the Jai Alai Tournament of Champions Meet. ~~The provisions of~~ This subsection *applies* ~~shall apply~~ to a maximum of four performances.

(4) The Jai Alai Tournament of Champions Meet permitholders *are* ~~shall~~ also *entitled to* receive a credit against the taxes, otherwise due and payable under *s. 550.09* ~~s. 551.06~~, generated during *the* ~~said~~ permitholders' next ensuing regular meet. This credit *is* ~~shall be~~ in the aggregate amount of $150,000, *must* ~~shall~~ be prorated equally between the permitholders, and *must* ~~shall~~ be *used* ~~utilized~~ by the permitholders solely to supplement awards for the performance conducted during the Jai Alai Tournament of Champions Meet.

(5) In addition to the credit authorized in subsection (4), the Jai Alai Tournament of Champions Meet permitholders *are entitled to* ~~shall~~ receive a credit against the taxes, otherwise due and payable under *s. 550.09* ~~s. 551.06~~, generated during *the* ~~said~~ permitholders' next ensuing regular meet, in an amount not to exceed the aggregate amount of $150,000, which *must* ~~shall~~ be prorated equally between the permitholders, and *must* ~~shall~~ be *used* ~~utilized~~ by the permitholders for such capital improvements and extraordinary expenses, including marketing expenses, as *are* ~~may be~~ necessary for the operation of the meet. The *commission shall determine* ~~determination of~~ the amount to be credited, ~~shall be made by the commission~~ upon application of *the* ~~said~~ permitholders.

(6) Notwithstanding *any provision of this chapter* ~~anything herein~~ to the contrary, any Florida permitholder who is to conduct a performance *that* ~~which~~ is a part of the Jai Alai Tournament of Champions Meet for 1992 *is* ~~shall~~ not ~~be~~ required to apply for the license for *the* ~~said~~ meet if it is to be run during the regular season for which such permitholder has a license.

(7) The permitholder *is* ~~shall be~~ entitled to *the* ~~said~~ permitholder's pro rata share of the $150,000 tax credit provided in subsection (5) without having to make application, so long as appropriate documentation to substantiate *the* ~~said~~ expenditures thereunder is provided to the commission within 30 days following *the* ~~said~~ Jai Alai Tournament of Champions Meet.

(8) *A* ~~No~~ Jai Alai Tournament of Champions Meet *may not* ~~shall~~ exceed 4 days in any calendar year, and no more than one performance *may* ~~shall~~ be conducted on any 1 day of the meet.

(9) ~~The provisions of~~ This section *prevails* ~~shall prevail~~ over any conflicting provisions of this chapter ~~or chapter 550~~.

Section 22. Subsection (1) of section 550.164, Florida Statutes, is amended to read:

550.164 Escheat to state of abandoned interest in or contribution to pari-mutuel pools.—

(1) It is ~~hereby declared to be~~ the public policy of the state, while protecting the interest of the owners ~~thereof~~, to possess all unclaimed and abandoned interest in or contribution to any pari-mutuel pool conducted in this state under ~~the provisions of~~ this chapter ~~and chapter 551~~, for the benefit of all the people of the state, and this law shall be liberally construed to accomplish such purpose.

Section 23. Subsection (1) of section 550.24, Florida Statutes, is amended to read:

550.24 Conniving to prearrange result of race; using medication or drugs on horse or dog; penalty.—

(1) Any person who *influences* ~~shall influence~~ or *has* ~~have~~ any understanding or connivance with any owner, jockey, groom, or other person associated with or interested in any stable, kennel, *horserace* ~~horse~~ or *dograce, or jai alai game* ~~dog or race~~ in which any horse or dog *or jai alai player* participates, to prearrange or predetermine the results of any such race *or game*, is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 24. Subsection (6) is added to section 550.2405, Florida Statutes, to read:

550.2405 Use of controlled substances or alcohol prohibited; testing of certain occupational licensees; penalty*; evidence of test or action taken and admissibility for criminal prosecution limited.*—

(6) Evidence of any test or actions taken by the stewards, judges, or board of judges, or the division, under this section is inadmissible for any purposes in any court for criminal prosecution, it being the intent of the Legislature to provide a method and means by which the health, safety, and welfare of those officiating at or participating in a race meet or a jai alai game be sufficiently protected. However, this subsection does not prohibit any person so authorized from pursuing an independent investigation as a result of the rulings made by the stewards, judges, or board of judges, or the division.

Section 25. Notwithstanding the October 1, 1992, repeal specified in section 119.14(3)(a), Florida Statutes, section 550 241, Florida Statutes, is reenacted and amended to read:

550.241 Racing of animals under certain conditions prohibited; penalties; exception.—

(1)*(a)* The racing of an animal with any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent is prohibited. It is a violation of this section for a person to administer or cause to be administered any drug, medication, stimulant, depressant, hypnotic, narcotic, local anesthetic, or drug-masking agent to an animal which will result in a positive test for such substance based on samples taken from the animal immediately prior to or immediately after the racing of that animal. *Test results and the identities of the animals* ~~A positive test result, including the identity of the animal~~ being tested and *their trainers and owners* ~~the trainer and owner~~ of record *are confidential and exempt from s. 119.07(1) for* ~~thereof, shall not be subject to public disclosure until~~ 10 days after *the testing for all samples collected on a particular day is completed and any positive test results derived from such samples are* ~~such result is~~ reported to the director of the Division of Pari-mutuel Wagering or administrative action is commenced. ~~Rules may be promulgated which identify:~~

(b) It is a violation of this section for a race-day specimen to contain a level of a naturally occurring substance which exceeds normal physiological concentrations. The division may adopt rules that specify normal physiological concentrations of naturally occurring substances in the natural untreated animal. The division may adopt rules that specify acceptable levels of environmental contaminants and trace levels of substances in test samples.

(c) The finding of a prohibited substance in a race-day specimen constitutes prima facie evidence that the substance was administered and was carried in the body of the animal while participating in the race.

~~(a) Unacceptable levels of substances existing naturally in the untreated dog or horse but at abnormal physiological concentrations; or~~

~~(b) Acceptable levels of trace elements or innocuous substances in test samples.~~

(2) Administrative action may be taken by the division against occupational licensees responsible pursuant to rule of the division for the condition of animals which have been impermissibly medicated or drugged in violation of this section.

(3)(a) Upon the finding of a violation of this section, the Division of Pari-mutuel Wagering may revoke or suspend the license or permit of the violator or deny a license or permit to the violator; impose a fine against the violator in an amount not to exceed $5,000; require the full or partial return of the purse, sweepstakes, and trophy of the race at issue; or impose against the violator any combination of such penalties. The finding of a violation of this section shall in no way prohibit a prosecution for criminal acts committed.

(b) The division, notwithstanding the provisions of chapter 120, may summarily suspend the licenses of occupational licensees responsible under this section or division rule for the condition of race animals if the division laboratory reports the presence of an impermissible substance in the animal or its blood, urine, saliva, or any other bodily fluid, either before a race in which the animal is entered or after a race the animal has run.

(c) If an occupational licensee is summarily suspended under this section, the division shall offer the licensee a prompt postsuspension hearing within 72 hours, at which the division shall produce the laboratory report and documentation which, on its face, establishes the responsibility of the occupational licensee. Upon production of the documentation, the occupational licensee shall have the burden of proving his lack of responsibility.

(d) Any proceeding for administrative action against a licensee or permittee, other than a proceeding under paragraph (c), shall be conducted in compliance with chapter 120.

(4) Prosecution pursuant to this section for a violation of this section shall be commenced within 2 years after the violation was committed. Service of an administrative complaint marks the commencement of administrative action.

(5) The Division of Pari-mutuel Wagering shall implement a split sample procedure for testing animals under this section.

(a) Upon finding a positive drug test result, the department shall notify the owner or trainer of the results. The owner may request that all urine and blood samples be split into a primary, and a secondary (split) sample. Such splitting must be accomplished in the laboratory under regulations approved by the department. Custody of both samples must remain with the division. However, upon request by the affected trainer or owner of the horse from whom the sample was obtained, the division shall send the split sample to an approved independent laboratory for analysis. The division shall establish standards and rules for uniform enforcement and maintain a list of at least five approved independent laboratories for owners and trainers to select from in the event of a positive test sample.

(b) If the state's laboratory's findings are not confirmed by the independent laboratory, no further administrative or disciplinary action under this section may be pursued. The division may adopt rules identifying substances that diminish in a blood or urine sample due to passage of time and that must be taken into account in applying this section.

(c) If the independent laboratory confirms the state's laboratory's positive result, or if there is an insufficient quantity of the secondary (split) sample for confirmation of the state laboratory's positive result, the division may commence administrative proceedings as prescribed in this chapter and consistent with chapter 120. For purposes of this subsection, the department shall in good faith attempt to obtain a sufficient quantity of the test fluid to allow both a primary and a secondary test to be implemented.

(6)(a) It is the intent of the Legislature that animals that participate in races in this state on which pari-mutuel wagering is conducted and animals that are bred and trained in this state for racing be treated humanely, both on and off racetracks, throughout the lives of the animals.

(b) The division shall, by rule, establish the procedures for euthanizing greyhounds. However, a greyhound may not be put to death unless there is a medical reason as determined by a veterinarian; nor may a greyhound be put to death by any means other than by lethal injection of the drug sodium pentobarbital. A greyhound may not be removed from this state for the purpose of being destroyed.

(c) It is a violation of this chapter for an occupational licensee to train a greyhound using live or dead animals. A greyhound may not be taken from this state for the purpose of being trained using live or dead animals.

(d) The commission shall review the availability and success of greyhound adoption programs conducted within the pari-mutuel industry and other public or private programs in order to assess the need for additional support services for greyhound adoption programs.

(e) If the commission determines that program enhancement is necessary or justified, the commission shall authorize the mandatory withholding of the sums specified in s. 550.162. The sums shall be withheld in an amount, determined by the commission, necessary to construct greyhound adoption facilities at the greyhound permitholder's track. The adoption facilities must be available to house nonracing retired greyhounds during such times as they are made available to be adopted and their ownership is transferred.

(f) The commission may approve the use of the sums withheld to construct adoption facilities as a joint project of more than one permitholder, in which event the adoption facilities may be separate from any existing permitholder facility where pari-mutuel wagering activity is conducted.

(g) The withholding of the sums authorized by the commission may not include any expenses related to the operation of the adoption facilities

(7)~~(5)~~ All moneys recovered for violations of this section shall be kept in a separate fund to be known as the "Research Trust Fund" and shall be used for research relating to the medication of racing animals. The fund shall be supervised and used by the Division of Pari-mutuel Wagering to contract with a reputable college or school of veterinary medicine or its designee in accordance with this subsection.

(8)~~(6)~~(a) *Under no circumstances may any medication be administered within 24 hours of the officially scheduled post time of the race except as provided in this section.* ~~The Division of Pari-mutuel Wagering shall adopt and enforce rules to implement this section.~~

(b) As an exception to this section, if the division first determines that the use of furosemide, ~~or~~ phenylbutazone, or *prednisolone sodium succinate* ~~both,~~ in horses is in the best interest of racing, the division may *adopt* ~~promulgate~~ rules allowing such use. Any rules allowing the use of furosemide, ~~or~~ phenylbutazone, *or prednisolone sodium succinate* in racing shall set the conditions for such use. Under no circumstances may a rule be *adopted* ~~promulgated~~ which allows the administration of furosemide *prednisolone sodium succinate* within *4* ~~3~~ hours of the officially scheduled post time for the race. Under no circumstances may a rule be *adopted* ~~promulgated~~ which allows the administration of phenylbutazone *or any other synthetic corticosteroid* within 24 hours of the officially scheduled post time for the race. *Any administration of synthetic corticosteroids is limited to parenteral routes. Oral administration of synthetic corticosteroids is expressly prohibited.* ~~If a rule is adopted which allows the use of phenylbutazone in horses, a companion rule shall be adopted which disallows the presence of phenylbutazone in excess of 165 micrograms per milliliter of urine, or its equivalent in other bodily fluids, as shown by tests conducted on bodily fluid specimens taken immediately prior to a race or immediately subsequent to a race.~~ *If* ~~In the event~~ this paragraph is ~~determined to be~~ unconstitutional, *it* ~~this paragraph~~ is ~~to be regarded as~~ severable from the remainder of this section.

(c) The division shall, by rule, establish acceptable levels of permitted medications and shall select the appropriate biological specimen by which the administration of permitted medications is monitored.

(9)(a) The division has the authority to conduct a post mortem examination of any animal that is injured at a permitted race track while in training or in competition and that subsequently expires or is destroyed. The division has the authority to conduct a post mortem examination of any animal that expires while housed at a permitted race track, association compound, or licensed kennel or farm. Trainers and owners shall be requested to comply with this paragraph as a condition of licensure.

(b) The division has the authority to take possession of the animal upon death for post mortem examination. The division has the authority to submit blood, urine, other bodily fluid specimens, or other tissue specimens collected during a post mortem examination for testing by the division laboratory or its designee. Upon completion of the post mortem examination the carcass must be returned to the owner or disposed of at the owner's option.

(10) The presence of a prohibited substance, found by the division laboratory in a bodily fluid specimen collected during the post mortem examination of an animal, which breaks down during a race constitutes a violation of this section.

(11) The cost of post mortem examinations, testing, and disposal must be borne by the division.

(12) The Division of Pari-mutuel Wagering shall adopt rules to implement this section. The rules may include a classification system for prohibited substances and a corresponding penalty schedule for violations.

Section 26. Section 550.2614, Florida Statutes, is created to read:

550.2614 Distribution of certain funds to a horsemen's association.—

(1) Each licensee who holds a permit for thoroughbred horseracing in this state shall deduct from the purses required by s. 550.16, an amount of money equal to 1 percent of the total purse pool and shall pay said amount to a horsemen's association representing the majority of the thoroughbred race horse owners and trainers for its use in accordance with the stated goals of its articles of association filed with the Department of State.

(2) The funds shall be payable to the horsemen's association only upon presentation of a sworn statement by the officers of the association that the horsemen's association represents a majority of the owners and trainers of thoroughbred horses stabled in the state.

(3) Upon receiving a state license in accordance with s. 550.07, each individual shall receive automatic membership in the horsemen's association as defined in subsection (1) and be counted on the membership roles of that association, unless, within 30 calendar days after receipt of license from the state, the individual declines membership in writing, to the association as defined in subsection (1).

(4) The Division of Pari-mutuel Wagering shall adopt rules to facilitate the orderly transfer of funds in accordance with the provisions of this section. The division shall also monitor the membership roles of the horsemen's association to ensure that complete, accurate, and timely listings are maintained for the purposes specified in this section.

Section 27. Subsection (1) of section 550.2616, Florida Statutes, is amended to read:

550.2616 Breeder's awards.—

(1) The purpose of this *section* ~~legislation~~ is to encourage the *agricultural activity of* breeding ~~of~~ race horses in this state. Moneys from breaks and uncashed tickets from pari-mutuel wagering and horseraces are to be used for awards of up to 20 percent of the announced gross purse at any race to breeders of registered Florida-bred horses winning horseraces and for similar awards to the owners of stallions who sired Florida-bred horses winning stakes races, if the stallions are registered as Florida stallions standing in this state. Awards for thoroughbred races are to be paid through the Florida Thoroughbred Breeders' Association, and awards for standardbred races are to be paid through the Florida Standardbred Breeders and Owners Association. The moneys for *thoroughbred breeders'* ~~these~~ awards will come from *0.75 percent of handle for thoroughbred races conducted, received, broadcast, or simulcast under this chapter. The moneys for quarter horse and harness breeders' awards will come from the breaks and uncashed tickets on live quarter horse and harness racing performances and 1 percent of handle on wagers paid under s. 550.62(2)(b) or (c). The breeders' awards shall be* ~~the breaks and uncashed tickets~~ paid to the respective breeders' associations by the permitholders conducting the races. The awards are to be given at a uniform rate to all winners of the awards and *may not* ~~shall~~ be ~~no~~ less than 15 percent of the announced gross purse if funds are available.

Section 28. Subsections (2), (3), (5), and (6) of section 550.262, Florida Statutes, are amended to read:

550.262 Horseracing; minimum purse requirement, Florida breeders' and owners' awards.—

(2) Each permitholder conducting a horserace meet *is* ~~shall be~~ required to pay from the *takeout* ~~commission~~ withheld on pari-mutuel pools a sum for purses in accordance with the type of race performed.

(a) A permitholder conducting a thoroughbred horse race meet under ~~the provisions of~~ this chapter *must* ~~shall~~ pay from the *takeout* ~~commissions~~ withheld a sum not less than 7.5 percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(b)1. A permitholder conducting a harness horse race meet under ~~the provisions of~~ this chapter *must* ~~shall~~ pay to the purse pool from the *takeout* ~~commissions~~ withheld a purse requirement to total an amount not less than 8 percent of all contributions to pari-mutuel pools conducted during the race meet. An amount not less than 7.5 percent of the total handle *must* ~~shall~~ be paid from this purse pool as purses. *An amount equal to 2 percent of all funds from live, intertrack, or simulcast races, excluding funds paid for insurance benefits, which are paid to the purse pool must be paid to the Florida Standardbred Breeders and Owners Association, Inc., in the same manner as the payments authorized under subsection (4) and must be used for general administration of the Florida Standardbred Breeders and Owners Association, Inc., or general promotion of the standardbred racing industry in this state.*

2. An amount not to exceed one-half of 1 percent of the total handle on all harness horse races *that* ~~which~~ are subject to the purse requirement of subparagraph 1. ~~above~~, *must* ~~shall~~ be available for use to provide medical, dental, surgical, life, funeral, or disability insurance benefits for occupational licensees who work at tracks in this state at which harness horse races are conducted. Such insurance benefits *must* ~~shall~~ be paid from the purse pool specified in subparagraph 1. An annual plan for payment of insurance benefits from the purse pool, including qualifications for eligibility, *must* ~~shall~~ be submitted by the Florida Standardbred Breeders and Owners Association for approval to the ~~Florida Pari-mutuel~~ commission. An annual report of the implemented plan *must* ~~shall~~ be submitted to the ~~Florida Pari-mutuel~~ commission. All records of the Florida Standardbred Breeders and Owners Association *concerning the* ~~reflecting~~ administration of the plan *must* ~~shall~~ be available for audit at the discretion of the ~~Florida Pari-mutuel~~ commission to determine that the plan has been implemented and administered as authorized. *If* ~~In the event that~~ the ~~Florida Pari-mutuel~~ commission finds that the Florida Standardbred Breeders and Owners Association has not complied with ~~the provisions of~~ this section, the commission may order the association to cease and desist from administering the plan and shall appoint the division ~~of Pari-mutuel Wagering~~ as temporary administrator of the plan until the commission reestablishes administration of the plan with the association.

(c) A permitholder conducting a quarter horse race meet under ~~the provisions of~~ this chapter shall pay from the *takeout* ~~commissions withheld~~ a sum not less than 6 percent of all contributions to pari-mutuel pools conducted during the race meet as purses.

(d) The division ~~of Pari-mutuel Wagering of the Department of Business Regulation~~ shall adopt rules to ensure the timely and accurate payment of all amounts withheld by horserace permitholders regarding the distribution of purses, owners' awards, and other amounts collected for payment to owners and breeders. Each permitholder who fails to pay out all moneys collected for payment to owners and breeders shall, within 10 days after the end of the meet during which the permitholder underpaid purses, deposit an amount equal to the underpayment into a separate interest-bearing account to be distributed to owners and breeders in accordance with the division's rules.

(3) Each horseracing permitholder conducting any thoroughbred race under the provisions of this chapter, including any intertrack race taken pursuant to ss. 550.61-550.63 or any interstate simulcast taken pursuant to s. 550.35(2)(b) shall pay a sum equal to 0.75 percent on all pari-mutuel pools conducted during any such race for the payment of breeders' and stallion awards as authorized in this section. This *subsection* ~~provision~~ also applies to all Breeder's Cup races conducted outside this state taken pursuant to s. 550.35(2)(b). *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.* The Florida Thoroughbred Breeders' Association is authorized to receive these payments from the permitholders and make

payments of awards earned. The Florida Thoroughbred Breeders' Association has the right to withhold up to 10 percent of the permitholder's payments under this section as a fee for administering the payments of awards and for general promotion of the industry. The permitholder shall remit these payments to the Florida Thoroughbred Breeders' Association by the fifth day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the Division of Pari-mutuel Wagering as prescribed by the division. With the exception of the 10-percent fee, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account, and such payments together with any interest earned shall be used exclusively for the payment of breeders' awards and stallion awards in accordance with the following provisions:

(a) The breeder of each Florida-bred thoroughbred horse winning a thoroughbred horserace shall be entitled to an award of up to, but not to exceed, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(b) The owner or owners of the sire of a Florida-bred thoroughbred horse which wins a stakes race shall be entitled to a stallion award of up to, but not to exceed, 20 percent of the announced gross purse, including nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race.

(c) In order for a breeder of a Florida-bred thoroughbred horse to be eligible to receive a breeder's award, the horse winning the race must have been registered as a Florida-bred horse with the Florida Thoroughbred Breeders' Association, and the Jockey Club certificate for the winning horse must show that the winner has been duly registered as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Thoroughbred Breeders' Association registry. The Florida Thoroughbred Breeders' Association shall be permitted to charge the registrant a reasonable fee for this verification and registration.

(d) In order for an owner of the sire of a thoroughbred horse winning a stakes race to be eligible to receive a stallion award, the stallion must have been registered with the Florida Thoroughbred Breeders' Association, and the breeding of the registered Florida-bred horse must have occurred in this state. The stallion must be standing permanently in this state or, if the stallion is dead, must have stood permanently in this state for a period of not less than 1 year immediately prior to its death. The removal of a stallion from this state for any reason, other than exclusively for prescribed medical treatment, shall render the owner or owners of the stallion ineligible to receive a stallion award under any circumstances for offspring sired prior to removal; however, if a removed stallion is returned to this state, all offspring sired subsequent to the return shall make the owner or owners of the stallion eligible for the stallion award but only for those offspring sired subsequent to such return to this state. The Florida Thoroughbred Breeders' Association shall maintain complete records showing the date the stallion arrived in this state for the first time, whether or not the stallion remained in the state permanently, the location of the stallion, and whether the stallion is still standing in this state and complete records showing awards earned, received, and distributed. The association may charge the owner, owners, or breeder a reasonable fee for this service.

(e) A permitholder conducting a thoroughbred horse race under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Thoroughbred Breeders' Association such information relating to the thoroughbred horses winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards and stallion awards.

(f) The Florida Thoroughbred Breeders' Association shall maintain complete records showing the starters and winners in all races conducted at thoroughbred tracks in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(g) The Florida Thoroughbred Breeders' Association shall annually establish a uniform rate and procedure for the payment of breeders' and stallion awards and shall make breeders' and stallion award payments in strict compliance with the established uniform rate and procedure plan. The plan may set a cap on winnings and may limit, exclude, or defer payments to certain classes of races, such as the Florida stallion stakes races, in order to assure that there are adequate revenues to meet the proposed uniform rate. Such plan shall include proposals for the general promotion of the industry. Priority shall be placed upon imposing such restrictions in lieu of allowing the uniform rate to be less than 15 percent of the total purse payment. The uniform rate and procedure plan shall be approved by the Florida Pari-mutuel Commission before implementation. In the absence of an approved plan and procedure, the authorized rate for breeders' and stallion awards shall be 15 percent of the announced gross purse for each race. Such purse shall include nomination fees, eligibility fees, starting fees, supplementary fees, and moneys added by the sponsor of the race. In the event that the funds in the account for payment of breeders' and stallion awards are not sufficient to meet all earned breeders' and stallion awards, those breeders and stallion owners not receiving payments shall have first call on any subsequent receipts in that or any subsequent year.

(h) The Florida Thoroughbred Breeders' Association shall keep accurate records showing receipts and disbursements of such payments and shall annually file a full and complete report to the Division of Pari-mutuel Wagering reflecting such receipts and disbursements and the sums withheld for administration. The Division of Pari-mutuel Wagering may audit the records and accounts of the Florida Thoroughbred Breeders' Association to determine that payments have been made to eligible breeders and stallion owners in accordance with the provisions of this section.

(i) In the event that the Florida Pari-mutuel Commission finds that the Florida Thoroughbred Breeders' Association has not complied with any provision of this section, the commission may order the association to cease and desist from receiving funds and administering funds received under this section. In the event that the commission enters such an order, the permitholder shall make the payments authorized in this section to the Division of Pari-mutuel Wagering for deposit into the Pari-mutuel Wagering Trust Fund; and any funds in the Florida Thoroughbred Breeders' Association account shall be immediately paid to the Division of Pari-mutuel Wagering for deposit to the Pari-mutuel Wagering Trust Fund. The Florida Pari-mutuel Commission shall authorize payment from these funds to any breeder or stallion owner entitled to an award which had not been previously paid by the Florida Thoroughbred Breeders' Association in accordance with the applicable rate.

(5)(a) Except as provided in subsections (7) and (8), each permitholder conducting a quarter horse race meet under the provisions of this chapter shall pay a sum equal to *2* ~~the breaks plus a sum equal to 1~~ percent of all pari-mutuel pools conducted during that race for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding of racing quarter horses in this state as authorized in this section. The Florida Quarter Horse Breeders and Owners Association is authorized to receive these payments from the permitholders and make payments as authorized in this subsection. The Florida Quarter Horse Breeders and Owners Association, Inc., hereinafter referred to in this chapter and this act as the Florida Quarter Horse Breeders and Owners Association, has the right to withhold up to *(5)* ~~10~~ percent of the permitholder's payments under this section ~~and under s. 550.263~~ as a fee for administering these payments. The permitholder shall remit these payments to the Florida Quarter Horse Breeders and Owners Association by the *5th* ~~fifth~~ day of each calendar month for such sums accruing during the preceding calendar month and shall report such payments to the Division of Pari-mutuel Wagering as prescribed by the division. With the exception of the *5* ~~10~~ percent fee for administering the payments, the moneys paid by the permitholders shall be maintained in a separate, interest-bearing account.

(b) The Florida Quarter Horse Breeders and Owners Association shall use these funds solely for supplementing and augmenting purses and prizes, ~~and~~ for the general promotion of owning and breeding of racing quarter horses in this state, *and for general administration of the Florida Quarter Horse Breeders and Owners Association, Inc., in Florida.*

(c) In order for an owner or breeder of a Florida-bred quarter horse to be eligible to receive an award, the horse winning a race must have been registered as a Florida-bred horse with the Florida Quarter Horse Breeders and Owners Association and a registration certificate under seal for the winning horse must show that the winning horse has been duly registered prior to the race as a Florida-bred horse as evidenced by the seal and proper serial number of the Florida Quarter Horse Breeders and Owners Association registry. The Department of Agriculture and Consumer Services is authorized to assist the association in maintaining this registry. The Florida Quarter Horse Breeders and Owners Association

shall be permitted to charge the registrant a reasonable fee for this verification and registration. Any person who registers unqualified horses or misrepresents information in any way shall be denied any future participation in breeders' awards and all horses misrepresented will no longer be deemed to be Florida-bred.

(d) A permitholder conducting a quarter horse race under a quarter horse permit under the provisions of this chapter shall, within 30 days after the end of the race meet during which the race is conducted, certify to the Florida Quarter Horse Breeders and Owners Association such information relating to the horse winning a stakes or other horserace at the meet as may be required to determine the eligibility for payment of breeders' awards under this section.

(e) The Florida Quarter Horse Breeders and Owners Association shall maintain complete records showing the starters and winners in all quarter horse races conducted under quarter horse permits in this state; shall maintain complete records showing awards earned, received, and distributed; and may charge the owner, owners, or breeder a reasonable fee for this service.

(f) The Florida Quarter Horse Breeders and Owners Association shall keep accurate records showing receipts and disbursements of payments made under this section and shall annually file a full and complete report to the Division of Pari-mutuel Wagering reflecting such receipts and disbursements and the sums withheld for administration. The Division of Pari-mutuel Wagering may audit the records and accounts of the Florida Quarter Horse Breeders and Owners Association to determine that payments have been made in accordance with the provisions of this section.

(g) The Florida Quarter Horse Breeders and Owners Association shall annually establish a plan for supplementing and augmenting purses and prizes and for the general promotion of owning and breeding Florida-bred racing quarter horses and shall make award payments and allocations in strict compliance with the annual plan. The annual plan shall be approved by the Florida Pari-mutuel Commission before implementation. In the event that the funds in the account for payment of purses and prizes are not sufficient to meet all purses and prizes to be awarded, those breeders and owners not receiving payments shall have first call on any subsequent receipts in that or any subsequent year.

(h) In the event that the Florida Pari-mutuel Commission finds that the Florida Quarter Horse Breeders and Owners Association has not complied with any provision of this section, the commission may order the association to cease and desist from receiving funds and administering funds received under this section and s. 550.263. In the event that the commission enters such an order, the permitholder shall make the payments authorized in this section and s. 550.263 to the Division of Pari-mutuel Wagering for deposit into the Pari-mutuel Wagering Trust Fund, and any funds in the Florida Quarter Horse Breeders and Owners Association account shall be immediately paid to the Division of Pari-mutuel Wagering for deposit to the Pari-mutuel Wagering Trust Fund. The Florida Pari-mutuel Commission shall authorize payment from these funds to any breeder or owner of a quarter horse entitled to an award which had not been previously paid by the Florida Quarter Horse Breeders and Owners Association in accordance with this section.

(6)(a) The additional takeout authorized for owners' awards pursuant to s. 550.16(2)(i) *and s. 550.62* shall be used for the payment of awards to owners of registered Florida-bred horses placing first in a claiming race ~~of not less than $25,000~~, an allowance race, a maiden special race, or a stakes race in which the announced purse, exclusive of entry and starting fees and added moneys, does not exceed *$40,000* ~~$50,000~~. ~~The $25,000 minimum on a claiming race is not applicable to a race conducted by a permitholder whose average daily handle was less than $500,000 as of July 1, 1983.~~

(b) The permitholder shall determine for each qualified race the amount of the owners' award for which a registered Florida-bred horse will be eligible. The amount of the available owners' award shall be established in the same manner in which purses are established and shall be published in the condition book for the period during which the race is to be conducted. No single award shall exceed 50 percent of the gross purse for the race won.

(c) In the event that the moneys generated by the additional takeout for owners' awards during the meet exceed the owners' awards earned during the meet, the excess funds shall be held in a separate interest-bearing account, and the total interest and principal shall be used to increase the owners' awards during the permitholder's next meet.

(d) Breeders' awards authorized by subsections (3) and (4) shall not be paid on owners' awards.

Section 29. Section 550.28, Florida Statutes, is amended to read:

550.28 Obtaining feed or other supplies for racehorses or greyhound racing dogs with intent to defraud.—

(1) Any owner, trainer, or custodian of any *horse or dog that is being used, or is being bred, raised, or trained to be used in racing at a pari-mutuel facility* ~~racehorse, or greyhound racing dogs~~, who *obtains* ~~shall obtain~~ food, drugs, transportation, veterinary services, or supplies for the use or benefit of *the horse* ~~said racehorses~~ or *dog* ~~greyhound racing dogs~~, with intent to defraud the person ~~or persons~~, from whom *the food, drugs, transportation, veterinary* ~~said~~ services, or supplies are obtained, *is* ~~shall be~~ guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) In prosecutions under *this* ~~the preceding~~ section, proof that the *food, drugs, transportation, veterinary services, or* supplies ~~or services~~ had been furnished and not paid for, and that the owner, trainer, or custodian of *the horse* ~~said racehorses~~ or *dog* ~~greyhound racing dogs~~, was removing or attempting to remove any *horse or dog* ~~of said racehorses or greyhound racing dogs~~, out of the state and beyond the jurisdiction of the courts of this state, *is* ~~shall be~~ prima facie evidence of ~~the fraudulent~~ intent *to defraud under this* ~~mentioned in the preceding~~ section.

Section 30. Section 550.33, Florida Statutes, is amended to read:

550.33 Quarter horse racing; substitutions.—

(1) Subject to all the applicable provisions of this chapter, any person *who possesses* ~~possessing~~ the qualifications prescribed in this chapter may apply to the division ~~of Pari-mutuel Wagering~~ for a permit to conduct quarter horse race meetings and racing under this chapter. The applicant must demonstrate that the location or locations where the permit will be used are available for such use and that he has the financial ability to satisfy the reasonably anticipated operational expenses of the first racing year following final issuance of the permit. If the racing facility is already built, the application must contain a statement, with reasonable supporting evidence, that the permit will be used for quarter horse racing within 1 year *after* ~~of~~ the date on which it is granted; if the facility is not already built, the application must contain a statement, with reasonable supporting evidence, that substantial construction will be started within 1 year *after* ~~of~~ the issuance of the permit. After receipt of an application, the division shall convene to consider and act upon permits applied for. The division shall disapprove an application if it fails to meet the requirements of ~~this section and~~ this chapter. Upon each application filed and approved, a permit shall be issued setting forth the name of the applicant and a statement showing qualifications of the applicant to conduct racing under this chapter. If *a* ~~there has been no previous~~ favorable referendum on a pari-mutuel facility *has not been held previously* within *the* ~~a~~ county, then, before a quarter horse permit may be issued by the division, a referendum ratified by a majority of the electors in the county *is* ~~shall be~~ required on the question of allowing quarter horse races within that county; but if there is an extraordinary vote of the board of county commissioners of that county to allow quarter horse racing, the *requirement* ~~provision~~ for a referendum *does* ~~will~~ not apply.

(2)(a) After a quarter horse racing permit has been granted by the division, the department ~~of Business Regulation~~ shall grant to the lawful holder of such permit, subject to the conditions *of this section* ~~hereof~~, a license to conduct quarter horse racing under this chapter; and the ~~Florida Pari-mutuel~~ commission shall fix annually the time when, place where, and number of days upon which racing may be conducted by such quarter horse racing permitholder. After the first license has been issued to the holder of a permit for quarter horse racing, all subsequent annual applications for a license by a permitholder *must* ~~shall~~ be accompanied by proof, in such form as the division *requires*, ~~may require~~ that the permitholder still possesses all the qualifications prescribed by this chapter. The division ~~of Pari-mutuel Wagering~~ may revoke any permit or license *issued under this section* ~~hereunder~~ upon the willful violation by the licensee of any ~~of the~~ provisions of this chapter or any rule *adopted* ~~or regulation issued~~ by the division under ~~the provisions of~~ this chapter. The division shall revoke any quarter horse permit under which no live racing has ever been conducted *before* ~~prior to~~ July 7, 1990, for failure to conduct a horse meet pursuant to the license issued where a full schedule of horseracing has not been conducted for a period of 18 months commencing on October 1, 1990, unless the permitholder has commenced construction on a facility at which a full schedule of live racing could be

conducted as approved by the division. "Commenced construction" means initiation of and continuous activities beyond site preparation associated with erecting or modifying a horseracing facility, including procurement of a building permit applying the use of approved construction documents, proof of an executed owner/contractor agreement or an irrevocable or binding forced account, and actual undertaking of foundation forming with steel installation and concrete placing. The 18-month period shall be extended by the division, to the extent that the applicant demonstrates to the satisfaction of the division that *good-faith* ~~good faith~~ commencement of the construction of the facility is being delayed by litigation or by governmental action or inaction with respect to regulations or permitting precluding commencement of the construction of the facility.

(b) In lieu of the suspension or revocation of a license, the division may impose a civil penalty against any licensee for a violation of this chapter, chapter 551, or any rule *adopted* ~~or regulation promulgated~~ by the division. *The* ~~No~~ penalty so imposed *may not* ~~shall~~ exceed $1,000 for each count or separate offense.~~, and~~ All penalties imposed and collected *under this paragraph must* ~~shall~~ be deposited with the Treasurer to the credit of the General Revenue Fund.

(3) ~~Any quarter horse racing permitholder is authorized to conduct quarter horse races throughout the year. Such races may be continuous or portioned at various periods of time, not to exceed 120 days annually. These races may be performed only at any one or more licensed tracks and may be conducted by day or night or part by day and part by night.~~ The operator of any licensed racetrack is authorized to lease such track to any quarter horse racing permitholder for the conduct of quarter horse racing under this chapter. ~~The permitholder conducting a quarter horse race meet shall pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.09 and shall be subject to all penalties and sanctions provided in s. 550.09(7).~~

(4) Sections 550.05, 550.06, ~~550.07, 550.17,~~ and 550.18 are ~~hereby declared to be~~ inapplicable to quarter horse racing as permitted *under this section.* ~~herein; and~~ All other provisions of this chapter apply to, govern, and control such racing, and the same *must* ~~shall~~ be conducted in compliance therewith.

(5) Quarter horses participating in such races *must* ~~shall~~ be duly registered by the American Quarter Horse Association, and before each race such horses *must* ~~shall~~ be examined and declared in fit condition by *a* ~~some~~ qualified person designated by the division.

(6) Any quarter horse racing days permitted under this *chapter are* ~~section shall be~~ in addition to any other racing permitted under the license issued the track where such quarter horse racing is conducted.

(7)(a) Any quarter horse racing permitholder operating under a valid permit issued by the division ~~of Pari-mutuel Wagering~~ is authorized to substitute other races of other breeds of horses which are, respectively, registered with the American Paint Horse Association, Appaloosa Horse Club, Arabian Horse Registry of America, Jockey Club, Palomino Horse Breeders of America, or United States Trotting Association, for no more than 50 percent of the quarter horse races daily. However, any quarter horse racing permitholder *that* ~~which~~ elects to operate under this substitution provision and *that* ~~which~~ ran breeds of horses registered with the American Quarter Horse Association, the Appaloosa Horse Club, or the Arabian Horse Registry of America during 1983, must, *before* ~~prior to~~ making such substitution, first run a number of races equal to the number of races of these three breeds which were run in 1983; such races under a quarter horse permit may be comprised of any of the three breeds, but must be comprised of no less than 50 percent of horses registered with the American Quarter Horse Association.

(b) Any permittee operating within an area of 50 air miles of a licensed thoroughbred track *may* ~~shall~~ not substitute thoroughbred races under this section while a thoroughbred *horse race* ~~horserace~~ meet is in progress within that 50 miles.~~; provided, however~~, Any permittee operating within an area of 125 air miles of a licensed thoroughbred track *may* ~~shall~~ not substitute live thoroughbred races under this section while a thoroughbred permittee who pays taxes under s. *550.09(3)(b)* ~~550.09(3)(c),~~ is conducting a thoroughbred meet within that 125 miles. These mileage restrictions do not apply to any permittee *that* ~~which~~ holds a nonwagering permit issued pursuant to s. 550.50. ~~No~~ Races comprised of thoroughbred horses under this section registered with the Jockey Club *may not* ~~shall~~ be permitted during the period beginning September 1 and ending on January 5 of each year in any county where there is one or more licensed dog track conducting a race meet. *This section does not* ~~Nothing contained herein shall be interpreted in any manner to~~ affect the competitive award of matinee performances to jai alai frontons or dog tracks in opposition to races comprised of thoroughbred horses registered with the Jockey Club under this section.

~~(8) A quarter horse racing permitholder is authorized to conduct no more than 12 races per racing day.~~

(8)~~(9)~~ *A* ~~No~~ quarter horse permit issued pursuant to this section *is not* ~~shall be~~ eligible for transfer or conversion to another type of pari-mutuel operation.

(9)~~(10)~~ Any nonprofit corporation, including, but not limited to, an agricultural cooperative marketing association, organized and incorporated under the laws of this state may apply for a quarter horse racing permit and operate racing meets under such permit, provided all pari-mutuel taxes and fees applicable to such racing are paid by the corporation. However, insofar as its pari-mutuel operations are concerned, the corporation shall be *considered to be* ~~treated as~~ a corporation for profit and *is* ~~shall be~~ subject to taxation on all property used and profits earned in connection with its pari-mutuel operations.

(10)~~(11)~~ Intertrack wagering shall not be authorized for any quarter horse permitholder located within 50 miles of an existing greyhound track unless such quarter horse permitholder has incurred a minimum capital expenditure of at least $7.5 million. "Capital expenditure" means an expenditure, including an expenditure for a construction project undertaken by a quarter horse permitholder as its own contractor, which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance; and includes the cost, in current value, of the studies, surveys, designs, plans, working drawings, specifications, refinancing costs, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment.

Section 31. Section 550.35, Florida Statutes, is amended to read:

550.35 Transmission of racing and jai alai information *and broadcast to and from out-of-state locations; commingling of pari-mutuel pools authorized.*—

(1)(a) It is unlawful for any person to transmit, by any means, ~~whatsoever~~ racing information to any person or to relay the same to any person by word of mouth, by signal, or by use of telephone, telegraph, radio, or any other means when the information is knowingly used or intended to be used for illegal gambling purposes or in furtherance of ~~such~~ illegal gambling.

(b) Paragraph (a) shall be deemed an exercise of the police power of the state for the protection of the public welfare, health, peace, safety, and morals of the people of the state, and all of the provisions herein shall be liberally construed for the accomplishment of this purpose.

(c) A person who violates ~~the provisions of~~ paragraph (a) is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)~~(a)~~ Any *horse track* ~~horsetrack~~, *dog track* ~~dogtrack~~, or fronton licensed under this chapter ~~or under chapter 551~~ may transmit broadcasts of races or games conducted at the enclosure of the licensee to locations outside this state.

(a) All broadcasts of horseraces transmitted to locations outside this state *must* ~~shall also~~ comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. s. 3001 et seq.

(b) Wagers accepted by any out-of-state pari-mutuel permitholder or licensed betting system on a race broadcasted under this paragraph may be, but are not required to be, included in the pari-mutuel pools of the Florida horse track that broadcasts the race upon which wagers are accepted. The handle, as referred to in s. 550.09(3), does not include any wagers accepted by an out-of-state pari-mutuel permitholder or licensed betting system, irrespective of whether such wagers are included in the pari-mutuel pools of the Florida permitholder as authorized by this subsection. ~~A horsetrack is not required to make payments to horse owners or any horsemen's association in excess of 50 percent of the net proceeds paid to the track by tracks or entities accepting legalized wagers, less direct expenses required to transmit such horseraces.~~

(3)~~(b)~~ Any *horse track* ~~horsetrack~~ licensed under this chapter may receive broadcasts of horseraces conducted at other horse racetracks located outside this state at the racetrack enclosure of the licensee during its racing meet.

(a) All broadcasts of horseraces received from locations outside the state *must* ~~shall~~ comply with the provisions of the Interstate Horseracing Act of 1978, 92 Stat. 1811, 15 U.S.C. s. 3001 et seq.

(b) Wagers accepted at the Florida horse track may be, but are not required to be, included in the pari-mutuel pools of the out-of-state horse track that broadcasts the race. Notwithstanding any contrary provisions of this chapter, if the Florida horse track elects to include wagers accepted on such races in the pari-mutuel pools of the out-of-state horse track that broadcasts the race, from the amount wagered by patrons at the Florida horse track and included in the pari-mutuel pools of the out-of-state horse track, the Florida horse track shall deduct as the takeout from the amount wagered by patrons at the Florida horse track and included in the pari-mutuel pools of the out-of-state horse track a percentage equal to the percentage deducted from the amount wagered at the out-of-state race track as is authorized by the laws of the jurisdiction exercising regulatory authority over the out-of-state horse track.

(c) All forms of pari-mutuel wagering *are* ~~shall be~~ allowed on races broadcast under this *section* ~~paragraph~~, and all money wagered by patrons on such races shall be computed *as part of* ~~in~~ the *total* amount of money wagered *at* each racing performance for purposes of taxation under s. 550.09. Sections 550.162 and 550.262 do not apply to any money wagered on races broadcast under this *section* ~~paragraph~~. *If the Florida horse track, which accepts wagers on races broadcast under this section, has made the election authorized for capital improvements, then, with regard to such wagers only, any additional takeout generated thereby shall be retained by the Florida horse track as takeout. Similarly, the takeout shall be increased by breaks and uncashed tickets for wagers on races broadcast under this section, notwithstanding any contrary provision of this chapter.* ~~Payments to horse owners or any horsemen's association are limited to 50 percent of the net proceeds received by the licensee accepting wagers on races broadcast under this paragraph after deducting from the takeout all tax payments made to the state and all payments made to the racing association or other person for transmission of races broadcast under this paragraph, and any direct expenses required of the licensee for the transmission of races broadcast under this paragraph.~~

(4)~~(c)~~ Any *dog track* ~~dogtrack~~ or fronton licensed under this chapter ~~or under chapter 551~~ may receive broadcasts of dograces or jai alai games conducted at other tracks or frontons located outside the state at the track enclosure of the licensee during its operational meeting. All forms of pari-mutuel wagering *are* ~~shall be~~ allowed on dograces or jai alai games broadcast under this *subsection* ~~paragraph~~. All money wagered by patrons on dograces broadcast under this *subsection* ~~paragraph~~ shall be computed in the amount of money wagered each performance for purposes of taxation under s. 550.09~~, and all money wagered by patrons on jai alai games broadcast under this paragraph shall be computed in the amount of money wagered each performance for purposes of taxation under s. 551.06~~.

(5)~~(3)~~ *A* ~~No~~ pari-mutuel permitholder licensed under this chapter *may not* ~~shall~~ receive broadcasts of races or games from outside ~~of~~ this state except from an out-of-state pari-mutuel permitholder who holds the same type or class of pari-mutuel permit as the pari-mutuel permitholder licensed under this chapter who intends to receive the broadcast.

(6)~~(4)~~ In no event *may* ~~shall~~ more than 20 percent of the races or games on which wagers are taken during any race meet be broadcast from locations outside ~~of~~ this state except when otherwise authorized by the ~~Florida Pari-mutuel~~ commission. In making its determination, the commission shall consider the best interests of racing and shall take into account the need to promote live racing and the purse distribution. *A* ~~In no event shall any~~ permitholder *may not* conduct less than eight live races on any authorized race day *except as provided for in this subsection. With specific authorization from the commission for special racing events, a permitholder may conduct less than eight live races or games when the permitholder also broadcasts out-of-state races or games. The commission may not grant more than two such exceptions per year per permitholder in any 12-month period, and those two exceptions cannot be consecutive.*

(7)~~(5)~~ *A* ~~No~~ racetrack or fronton *may not pay* ~~shall make any payment to~~ any patron *for* ~~on~~ any pari-mutuel ticket purchased on any race or game transmitted pursuant to this section until the stewards, judges, or panel of judges or other similarly constituted body at the racetrack or fronton where the race or game originates has confirmed the race or game as official.

(8)~~(6)~~ The entry and participation for a purse or any other prize of any racing animal by the owner of the animal and the jockey or driver is tantamount to acceptance of such purse or prize as full and complete remuneration and payment for such entry and participation, including the broadcast of such event, except as otherwise provided in this section.

~~(7) For the purposes of this section, the term "broadcast" means the broadcast, transmission, or exhibition in any medium or manner by means which may include, by way of illustration, but are not limited to, community antenna systems which receive and retransmit television or radio signals by wire, cable, or otherwise to television or radio sets and cable origination networks or programmers which transmit programming to community antenna television or closed-circuit systems by wire, cable, satellite, or otherwise.~~

(9)~~(8)~~ To the extent that any rights, privileges, or immunities granted to *pari-mutuel permitholders* ~~racing associations or frontons~~ under this section conflict with ~~any provisions of~~ any other law or affect any order or rule of the Florida Public Service Commission relating to the regulation of public utilities and the furnishing to others of any communication, wire service, or other similar service or equipment, the rights, privileges, or immunities granted under this section ~~will~~ prevail over such conflicting provisions.

(10) The division may adopt rules necessary to facilitate commingling of pari-mutuel pools, to ensure the proper calculation of payoffs in circumstances where different commission percentages are applicable, and to regulate the distribution of net proceeds between the Florida horse track and the horsemens' associations.

(11) Greyhound tracks and jai alai frontons have the same privileges as provided in this section to horse tracks, as applicable, subject to rules adopted under subsection (10).

(12) All Florida permitholders shall have standing to enforce the provisions of subsections (2) and (3) in the courts of this state.

(13) This section does not prohibit the commingling of national pari-mutuel pools by a totalisator company that is licensed under this chapter. Such commingling of national pools is subject to division review and approval and must be performed in accordance with rules adopted by the division to ensure accurate calculation and distribution of the pools.

Section 32. Section 550.37, Florida Statutes, is amended to read:

550.37 Operation of certain harness tracks.—

(1) ~~It is the finding of~~ The Legislature *finds* ~~of the state~~ that the operation of harness tracks and legalized pari-mutuel and mutuel betting at harness tracks in this state will become a substantial business compatible with the best interests of the state, and the taxes derived therefrom will constitute an important and integral part of the tax structure of the state and counties. ~~It is the further finding of~~ The Legislature *further finds* that the operation of harness tracks within the state will establish and encourage ~~an important industry within the state, namely,~~ the acquisition and maintenance of breeding farms for the breeding of standardbred horses *used* ~~utilized~~ in harness races*, and that this exhibition sport will attract a large tourist business to the state.* ~~It is further the finding of the Legislature that harness tracks operating at night within the immediate vicinity of other racetracks will greatly enhance the tax revenue derived by the state and counties from racing and will not endanger the general welfare of the public. It is the further finding of the Legislature of the state that this increase in tax revenue is needed by the state and the counties. It is the further finding of the Legislature that harness racing is an exhibition sport which will attract a large tourist business to the state and will afford entertainment at night to such tourists during the winter racing season, and many of such tourists who are thus attracted by harness racing do not attend other forms of racing or engage in other forms of pari-mutuel betting. It is the further finding of the Legislature that the division of Pari-mutuel Wagering should be empowered to consider and grant the application of any dog track, horse track, and harness track permittee and licensee to conduct without further elections~~

~~harness racing with sulky during the winter racing season at a location within any county wherein two or more elections have been held in which a majority of the electors voting in such elections voted in favor of the operation of pari-mutuel pools within the county at horse and dog tracks; provided, the applicant for the 2 years immediately preceding the presentation thereof to the division of Pari-mutuel Wagering has had an average daily mutuel pool of less than $20,000 for a seasonal operation of 50 days or more for each of such years.~~

~~(2) Harness racing at harness tracks when used herein shall mean the racing of standardbred horses in harness with sulky. Horseracing at horse tracks shall mean racing of thoroughbred horses with jockeys.~~

(2)~~(3)~~ Any permittee or licensee authorized under *this section* ~~the provisions hereof~~ to transfer the location of its permit *may* ~~shall~~ conduct harness racing *only between the hours of 7 p.m. and 2 a.m.* ~~at night only~~. A permit so transferred *applies* ~~shall apply~~ only to the locations ~~as hereinafter~~ provided *in this section.* ~~The division of Pari-mutuel Wagering shall authorize such permittees and licensees to operate harness racing from 7 p.m. until 12 midnight.~~ The provisions of this chapter which prohibit the location and operation of a licensed harness track permittee and licensee within 100 air miles of the location of a racetrack authorized to conduct racing under ~~the provisions of~~ this chapter and which prohibit the division ~~of Pari-mutuel Wagering~~ from granting any permit to a harness track at a location in the area in which there are three horse tracks located within 100 air miles thereof *do* ~~are~~ not *apply* ~~applicable~~ to a licensed harness track which is required by the terms of this *section* ~~act~~ to race *between the hours of 7 p.m. and 2 a.m.* ~~at night~~.

(3)~~(4)(a)~~ *A* ~~No~~ permit *may not* ~~shall~~ be issued by the division ~~of Pari-mutuel Wagering~~ for the operation of a harness track within 75 air miles of a location of a harness track licensed and operating under ~~the provisions of~~ this chapter. ~~All harness tracks licensed under the provisions of this chapter shall be granted by the Florida Pari-mutuelcommission racing dates during the winter horseracing season as provided by s. 550.291, which racing dates may commence on or after October 1 of each year and shall conclude on or before June 1 of each year, and such permitholder and licensee shall be permitted and authorized to race every day. However, no more than 120 days, plus scholarship and charity days, may be allocated in the period between October 1 of any year and June 1 of the succeeding year.~~

~~(b) Any harness track that operates the full 120 days as set forth in this section may apply for and shall obtain from the division up to 50 additional racing days per winter horseracing season, and such permitholder shall be permitted to operate such additional days of harness racing from 7 p.m. until 12 midnight.~~

(4)~~(5)~~ The permitholder conducting a harness horse race meet *must* ~~shall~~ pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.09 and *is* ~~shall be~~ subject to all penalties and sanctions provided in *s. 550.09(7)* ~~s. 550.09(6)~~.

~~(6) All holders of permits and licenses for dogracing and all holders of permits and licenses for horseracing and all holders of permits and licenses for harness racing issued by the Division of Pari-mutuel Wagering authorized to operate in the winter horseracing season whose average daily pari-mutuel pool (computed by dividing the total pari-mutuel pool for the racing season by the number of actual days raced at said meet, exclusive of charity days) for each of the 2 consecutive years next prior to the filing of the application as herein provided, during its racing seasons which shall have been 50 days or more for each year, was less than $20,000 at the option of each of said permittees and licensees evidenced by its application to the Division of Pari-mutuel Wagering for such purpose, shall be issued a license under its permit to operate only harness racing with sulky for a total period of 90 racing days during the winter horseracing season at such location as may be designated by the applicant and hereinafter authorized in subsection (7) within any county in which two or more elections have been held in which a majority of the electors in such elections voted in favor of the operation within said county of pari-mutuel pools at racetracks. Nothing herein contained shall authorize the transfer of a permit to any county in which there is located a horse track licensed by the Division of Pari-mutuel Wagering whose average daily pari-mutuel pool (computed by dividing the total pari-mutuel pool for the racing season by the number of actual days raced at said meet, exclusive of charity days) for each of the 2 consecutive years next prior to the filing of the application as hereinabove provided, during its racing season which shall have been 50 days or more for each year, was less than $400,000.~~

~~(7) Such permittee and licensee upon the approval of its application by the Division of Pari-mutuel Wagering pursuant to the provisions of this act may conduct harness racing at the facilities or plant leased by it from any horserace permittee or licensee in any county within the authorized area designated in this act not more than 40 miles from the applicant's designated location, provided the said horserace permittee has a valid permit and license issued to it under the provisions of this chapter and said applicant permittee and licensee may conduct such harness race meetings at said leased premises provided, that said permittee and licensee may thereafter construct its own facilities and its own plant at the location designated in its approved application. Such applicant permittee and licensee may, pending the construction of its permanent facilities, operate at said leased premises and may thereafter divide its season of racing between its leased location and its permanent location so long as said locations remain within the authorized county or counties as elsewhere herein defined. If said permittee's season of racing is divided as aforesaid, the limitation of 75 miles between harness track locations does not apply. The 75-mile limitation between the harness tracks hereinabove provided in regard to other permittees shall be measured from the location designated in said permittee's application to the Division of Pari-mutuel Wagering. Nothing herein contained authorizes the permittee and licensee to operate more than 90 racing days. No such permit or harness racing may be moved to or permitted in any county having two or more horse track permits.~~

~~(8) The distance provisions contained in ss. 550.02 and 550.05 are not applicable to any harness race permittee who is required by the terms of this act to conduct harness racing at night only, nor is s. 550.17 applicable to any permittee whose permit is transferred under the provisions of this section.~~

~~(9) The provisions of this chapter as the same pertain to horseracing are applicable to harness racing except those provisions which are inconsistent herewith, and where the provisions of this chapter are by implication inconsistent with or are, in fact, in conflict with the provisions of this act, then this act will govern harness racetrack permittees or licensees and harness racing.~~

(5)~~(10)~~ Each licensed harness track in the state *must* ~~shall be required to~~ schedule an average of one race per racing day in which horses bred in Florida and duly registered as standardbred harness horses ~~shall~~ have preference as entries over non-Florida-bred horses.~~, and to require~~ All licensed harness tracks *must* ~~to~~ write the conditions for such races in which Florida-bred horses are preferred so as to assure that all Florida-bred horses available for racing at such tracks *are* ~~be~~ given full opportunity to perform in the class races for which they are qualified, *and the* ~~said~~ opportunity of performing *must* ~~to~~ be afforded to each class of horses in *the* proportion that the number of horses in this class bears to the total number of Florida-bred horses available. *However, a*~~, provided that, no~~ track *is not* ~~shall be~~ required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be scheduled at such track during its meeting.

(6)~~(11)~~ *If* ~~Where~~ a permit has been transferred from a county under ~~the provisions of~~ this *section* ~~act~~, no other transfer *is* ~~may be~~ permitted from such county.

Section 33. Section 550.495, Florida Statutes, is created to read:

550.495 Totalisator licensing.—

(1) A totalisator may not be operated at a Florida pari-mutuel facility or at a facility, located in or out of Florida, used as the primary totalisator for a race or game conducted in Florida, unless the totalisator owner or operator possesses a totalisator license issued by the division.

(2)(a) Each totalisator owner or operator must apply to the division for an annual totalisator license. The application must include such information as the division by rule requires.

(b) As a part of his license application, each totalisator owner or operator must agree in writing to pay to the division an amount equal to the loss of any state revenues from missed or canceled races, games, or performances due to acts of the totalisator owner or operator or his agents or employees or failures of the totalisator system, except for circumstances beyond the control of the totalisator owner or operator or agent or employee, as determined by the division.

(c) Each totalisator owner or operator must file with the division a performance bond, acceptable to the division, in the sum of $250,000

issued by a surety approved by the division or must file proof of insurance, acceptable to the division, against financial loss in the amount of $250,000, insuring the state against such a revenue loss.

(d) In the event of a loss of state tax revenues, the division shall determine:

1. The estimated revenue lost as a result of missed or canceled races, games, or performances;

2. The number of races, games, or performances which are practicable for the permitholder to conduct in an attempt to mitigate the revenue loss; and

3. The amount of the revenue loss which the makeup races, games, or performances will not recover and for which the totalisator owner or operator is liable.

(e) Upon the making of such determinations, the division shall issue to the totalisator owner or operator and to the affected permitholder an order setting forth the determinations of the division.

(f) If the order is contested by either the totalisator owner or operator or any affected permitholder, the provisions of chapter 120 will apply. If the totalisator owner or operator contests the order on the grounds that the revenue loss was due to circumstances beyond its control, the totalisator owner or operator has the burden of proving that circumstances vary in fact beyond its control. For purposes of this paragraph, strikes and acts of God are beyond the control of the totalisator owner or operator.

(g) Upon the failure of the totalisator owner or operator to make the payment found to be due the state, the division may cause the forfeiture of the bond or proceed against the insurance contract, and the proceeds of the bond or contract shall be deposited into the Pari-mutuel Wagering Trust Fund. If that bond was not posted or insurance obtained, the division may proceed against any assets of the totalisator owner or operator to collect the amounts due under this subsection.

(3) If the applicant meets the requirements of this section and division rules, and pays the license fee, the division shall issue the license. The license shall be an annual license and shall expire on June 30. The annual license fee shall be established by rule of the division in an amount not to exceed $100.

(4) Each totalisator owner and operator shall conduct operations in accordance with rules adopted by the division, in such form, content, and frequency as the division by rule determines.

(5) The division and its representatives may enter and inspect any area of the premises of a licensed totalisator owner or operator, and may examine totalisator records, during the licensee's regular business or operating hours.

Section 34. Subsection (4) of section 550.50, Florida Statutes, is amended to read:

550.50 Nonwagering permits.—

(4) Upon the approval of racing dates by the commission, the division shall issue an annual nonwagering license to the nonwagering permitholder, authorizing nonwagering racing on the dates approved by the commission. *Existing permitholders are not required to obtain an additional permit by the division for conducting nonwagering racing pursuant to this section, but are required to apply to the division for the issuance of a license.*

Section 35. Section 550.52, Florida Statutes, as amended by section 1 of chapter 92-173, Laws of Florida, is amended to read:

550.52 Florida thoroughbred racing; certain permits; operating days.—

(1) Each thoroughbred permitholder under whose permit thoroughbred racing was conducted in this state at any time between January 1, 1987, and January 1, 1988, shall annually, effective with the application period commencing December 15, 1988, be entitled to apply for and annually, commencing February 15, 1989, receive thoroughbred racing days and dates as set forth in this section. As regards such permitholders the annual thoroughbred racing season shall be from June 1 of any year through May 31 of the following year and shall be known as the "Florida Thoroughbred Racing Season."

(2) Each permitholder referred to in subsection (1) shall annually, during the period commencing on December 15 of each year and ending on January 4 of the following year, beginning December 15, 1988, file in writing with the Division of Pari-mutuel Wagering its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following June 1st. Each application shall specify the number and dates of all performances which the permitholder intends to conduct during that thoroughbred racing season. On or before February 15 of each year, the division shall issue a license authorizing each permitholder to conduct performances on the dates specified in its application. Up to March 31 of each year each permitholder may request and shall be granted changes in its authorized performances, but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permitholder shall operate the full number of days authorized on each of the dates set forth in its license.

(3)(a) There is hereby created a special 58-day racing meet which shall be known as the "Hialeah Heritage Festival of Racing". The Hialeah Heritage Festival of Racing shall begin on March 17 and shall conclude no later than the following May 22. Only one permitholder may operate the Hialeah Heritage Festival of Racing during each Florida Thoroughbred Racing Season.

(b) To be eligible to apply for and operate the Hialeah Heritage Festival of Racing, a permitholder must satisfy both of the following requirements:

1. The permitholder's facility shall be located in a county in which there is located at least one other thoroughbred racing facility; and

2. No final application shall be filed under subsection (2) above which requests the right to operate a racing meet at the permitholder's facility on any racing day other than during the Hialeah Heritage Festival of Racing.

(c) Any eligible permitholder which desires to operate the Hialeah Heritage Festival of Racing shall make application in the manner provided in subsection (2) above. If any permitholder applies to operate the Hialeah Heritage Festival of Racing, then the division shall not issue a license to any non-eligible permitholder for any racing days during the Hialeah Heritage Festival of Racing. If no eligible permitholder applies to operate the Hialeah Heritage Festival of Racing, then the special provisions contained in this subsection shall not be applicable during that Florida Thoroughbred Racing Season and the racing dates for that Florida Thoroughbred Racing Season shall be operated as provided in subsection (2).

(d) If more than one eligible permitholder applies to operate the Hialeah Heritage Festival of Racing, then the commission shall award the Hialeah Heritage Festival of Racing to one of the permitholders making application therefor at a hearing to be conducted under the provisions of s. 120.57. The commission shall award the Hialeah Heritage Festival of Racing to the permitholder which, because of demographic, economic and other related factors, is less likely to remain financially viable unless that permitholder operates exclusive racing dates. The commission shall conduct a hearing described in this paragraph no later than May 1 following the filing of racing applications under subsection (2). The permitholder not awarded the Hialeah Heritage Festival of Racing by the commission shall not operate a racing meet during that Thoroughbred Racing Season.

(e) Notwithstanding any contrary provision of s. 550.09, the daily exemption applicable during the Hialeah Heritage Festival of Racing shall be $600,000 for 1993, an additional $200,000 in daily exemption for 1994 and an additional $150,000 in daily exemptions thereafter.

(f) Notwithstanding any contrary provision of s. 550.16, the permitholder authorized to conduct the Hialeah Heritage Festival of Racing, at its option, shall be entitled to withhold up to an additional 3 percent of the handle on any or all exotic wagering, 2 percent of which shall be used for operating expenses and the remaining 1 percent for capital improvements.

(g) For the 1992-1993 Florida Thoroughbred Racing Season only, the following shall be applicable:

1. Any permitholder desiring to operate the Hialeah Heritage Festival of Racing shall make application for same no later than July 15, 1992.

2. If more than one eligible permitholder applies for the Hialeah Heritage Festival of Racing, then the commission shall conduct a hearing and make a decision thereon no later than July 31, 1992.

3. If an application is filed, then the other permitholder shall be entitled to amend their respective applications no later than August 3, 1992, which amended applications shall not request racing days during the Hialeah Heritage Festival of Racing.

(h) In the event the successful applicant shall operate any days other than those permitted for the Hialeah Heritage Festival of Racing prior to May 31, 1997, such applicant shall forfeit any additional exemption in excess of $300,000 and shall pay as additional taxes the sum of 3.3 percent times the additional exemptions in excess of $300,000 times the number of days for which the applicant has received such additional exemption.

(4)~~(3)~~ Each thoroughbred permit referred to in subsection (1), including, but not limited to, any permit originally issued as a summer thoroughbred horse racing permit, is hereby validated and shall continue in full force and effect.

(5)~~(4)~~ A permitholder conducting thoroughbred racing that pays taxes under *s. 550.09(3)(b)* ~~s. 550.09(3)(c)~~ shall be limited to a total of *142* ~~90~~ racing days which must be operated between December 1 of each year to May 31 of the following year.

(6)~~(5)~~ A thoroughbred racing permitholder may not begin any race later than 7 p.m.

(7)~~(6)~~ *A* ~~No~~ thoroughbred permitholder referred to in subsection (1) *is not* ~~shall~~ be entitled to the tax credits referred to in s. 550.2635(2) unless such permitholder is required to close a bona fide meet consisting in part of no fewer than 10 performances in the 15 days immediately preceding and 10 performances in the 15 days immediately following the Breeders' Cup Meet conducted within 35 miles of its facility.

(8)(a) Each licensed thoroughbred permitholder in this state must run an average of one race per racing day in which horses bred in Florida and duly registered with the Florida Thoroughbred Breeders' Association have preference as entries over non-Florida-breds. All licensed thoroughbred race tracks must write the conditions for such races in which Florida-breds are preferred so as to assure that all Florida-bred horses available for racing at such tracks are given full opportunity to run in the class races for which they are qualified. The opportunity of running must be afforded to each class of horses in the proportion that the number of horses in this class bears to the total number of Florida-breds available. A track is not required to write conditions for a race to accommodate a class of horses for which a race would otherwise not be run at the track during its meeting.

(b) Each licensed thoroughbred permitholder in this state may run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America. Any licensed thoroughbred permitholder who elects to run one additional race per racing day composed exclusively of Arabian horses registered with the Arabian Horse Registry of America is not required to provide stables for the Arabian horses racing under this paragraph.

~~(7) For the racing season commencing June 1, 1991, and ending May 31, 1992, in the event a permitholder shall exercise the privilege granted in (c), such permitholder shall not be subject to any penalty, disability or loss of franchise rights, and for the racing season commencing June 1, 1991, such permitholder shall be entitled to the rights and privileges available to other permitholders which received days or dates under this section which conducted a full schedule of live races.~~

(9)(a) Any thoroughbred permit which owns a facility utilized for the conduct of thoroughbred racing, which is located within 35 miles of three or more thoroughbred permits, and which keeps its stables open and available for the stabling and training of thoroughbred horses on a year round basis, shall be entitled to deduct 1/2 of 1 percent from the taxes which would otherwise be required to be paid on intertrack wagers where the permitholder is the host track. Any permitholder who conducts racing at that permitholders facility and conducts intertrack wagering as a host track, shall be required to deduct 1/2 of 1 percent from the taxes otherwise required to be paid on intertrack wagers, and shall pay such sums to the permitholder identified in this section.

(b) The 1/2 of 1 percent shall be retained by the permitholder identified in this section as partial compensation for the maintenance of and the availability of their stable area on a year round basis. In the event such permitholder is required to close its entire stable area, other than by an act of God or reasons beyond the control of the permitholder, for any period during the year for substantial maintenance, an amount equal to $5,000 per day that the stable area is closed, not exceeding the total amount withheld or received by the permitholder, shall be deducted from the sums so withheld or received, and shall be paid to the State as additional taxes.

(c) The operation of the stable area at the permitholders facility shall be under the control of the permitholder, who shall be solely responsible for the allocation of stalls, and the maintenance and upkeep of such stable area.

Section 36. Subsections (7) and (8) of section 550.61, Florida Statutes, are amended to read:

550.61 Intertrack wagering.—

(7) In any county of the state where there are only two permits, one for dogracing and one for jai alai, no intertrack wager may be taken during the period of time when a permitholder is not licensed to conduct live races or games without the written consent of the other permitholder which is conducting live races or games. *However, if neither permitholder is conducting live races or games, either permitholder may accept intertrack wagers on horseraces or on the same class of races or games, or on both horseraces and the same class of races or games as is authorized by their respective permit.*

(8)(a) Upon application to the division on or before January *31* 4 of each year, any quarter horse permitholder that has conducted at least 15 days of thoroughbred horse sales at a permanent sales facility for at least 3 consecutive years, and conducted at least one day of *nonwagering* thoroughbred racing ~~pursuant to s. 550.50~~, with a purse structure of at least $250,000 per year for 2 consecutive years prior to such application, shall be issued a license to conduct intertrack wagering for thoroughbred racing for up to 21 days in connection with thoroughbred sales, and ~~an additional 100 days~~ to conduct intertrack wagering at such permanent sales facility between November 1 and May 8 of the following year, *and to conduct intertrack wagering at such permanent sales facility between May 9 and October 31 at such time and on such days as any jai alai permitholder in the same county is not conducting live performances, and any such facility may conduct intertrack wagering under the provisions of this subsection during the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeder's Cup meet that is conducted before November 1 and after May 8,* subject to conditions set forth in this subsection, provided that no more than one such license shall be issued.

(b) If more than one permitholder applies, the Florida Pari-mutuel Commission shall determine which permitholder shall be granted the license. In making its determination, the commission shall consider the length of time the permitholder has been conducting thoroughbred horse sales in this state, the length of time the applicant has had a permanent location in this state, and the volume of sales of thoroughbred horses in this state, giving the greater weight to the applicant that meets these criteria.

(c) The applicant must comply with the provisions of ss. 550.12 and 550.181.

~~(d) The applicant, prior to conducting intertrack wagering, must be licensed as a concessionaire pursuant to s. 550.10. The license shall be valid from February 15 of the year granted and shall expire February 15 of the following year. However, upon application following May 29, 1991, the license shall be issued for the remainder of this year through and including February 15, 1992.~~

(d)~~(e)~~ Intertrack wagering under this subsection may not be conducted within 50 miles of any greyhound race track that has conducted a full schedule of live racing prior to June 1, 1990.

(e)~~(f)~~ For each year such quarter horse permitholder must obtain the license set forth in paragraph *(a)*~~(d)~~, any provisions relating to suspension or revocation of a quarter horse permit for failure to conduct live quarter horse racing shall not be applicable.

(f)~~(g)~~ Intertrack wagering under this subsection may only be conducted on thoroughbred horseracing, and intertrack wagering under this subsection may not be conducted on evening performances.

Section 37. Subsection (1) of section 550.62, Florida Statutes, is amended to read:

550.62 Intertrack wagering; purses; breeder's awards.—If a host track is a horse track:

(1) A host track racing under either a thoroughbred or quarter horse permit shall pay an amount equal to 6.125 percent of all wagers placed pursuant to the provisions of s. 550.61, as purses during its current race meet. *However, up to 0.50 percent of all wagers placed pursuant to s. 550.61 may, at the option of the host track, be deducted from the amount retained by the host track for purses to supplement the Florida Owners' Awards program as set forth in s. 550.262(6).* A host track racing under a harness permit shall pay an amount equal to 7 percent of all wagers placed pursuant to the provisions of s. 550.61, as purses during its current race meet. In the event a host track underpays or overpays purses required by this section and s. 550.262, the provisions of s. 550.262 shall apply to the overpayment or underpayment.

Section 38. Subsections (1) and (9) of section 550.63, Florida Statutes, as amended by section 4 of chapter 92-79, Laws of Florida, are amended to read:

550.63 Intertrack wagering; guest track payments; accounting rules.—

(1) All guest tracks which are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under either a thoroughbred or quarter horse permit shall be entitled to payment of 7 percent of the total contributions to the pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on greyhound races or jai alai games from a host track other than a thoroughbred or harness permitholder shall be entitled to payments of 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. All guest tracks that are eligible to receive broadcasts and accept wagers on horseraces from a host track racing under a harness horse permit shall be entitled to a payment of 5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the guest track. However, if a guest track is a horserace permitholder which accepts intertrack wagers during its current race meet, then one-half of the payment provided in this subsection and s. 550.635 shall be paid as purses during its current race meet.

(a) However, when the host track is a thoroughbred permitholder, and the guest track is also a thoroughbred permitholder and accepts intertrack wagers on thoroughbred races during its current race meet, one-third of the payment provided in this subsection shall be paid as purses during its current race meet. In addition, an amount equal to 2 percent of the intertrack handle at the thoroughbred guest track shall be remitted by the host track to the guest thoroughbred track, which amount shall be deducted from the purses required to be paid by the host track. Such amount shall be paid by the guest thoroughbred track as purses during its current race meet.

(b) If thoroughbred intertrack wagering is taken at any guest track, including a thoroughbred guest track, which is located within 25 miles of any thoroughbred permitholder that is not conducting live racing, the host track shall pay to such thoroughbred permitholder an amount equal to 2 percent of the intertrack handle at all such guest tracks, including the guest thoroughbred track, which amount shall be deducted from the purses otherwise required to be paid by the host track. This amount shall be used by the thoroughbred permitholder to pay purses during its next race meet.

(9) A host track which has contracted with an out-of-state horse track to broadcast live races conducted at such out-of-state horse track pursuant to s. 550.35(3) may broadcast such out-of-state races to any guest track and accept wagers thereon in the same manner as is provided in s. 550.35.

(a) Notwithstanding the provisions of subsection (1) and s. 550.62(1) and (2)(a), the proceeds that are retained by a thoroughbred host track from the takeout on a race broadcast under this subsection shall be distributed as follows:

1.~~(a)~~ Of the total intertrack handle on the broadcast, 0.75 percent shall be deducted from the proceeds and paid to the Florida Thoroughbred Breeders' Association, to be used as set forth in s. 550.62(2)(a);

2.~~(b)~~ One-third of the remainder of such proceeds shall be paid to the guest track;

3.~~(c)~~ One-third of the remainder of such proceeds shall be retained by the host track; and

4.~~(d)~~ One-third of the remainder shall be paid by the host track as purses at the host track.

(b) Notwithstanding the provisions of subsection (1) and s. 550.62(1) and (2)(b), the proceeds that are retained by a harness host facility from the takeout on a race broadcast under this subsection shall be distributed as follows:

1. Of the total intertrack handle on the broadcast, 1 percent shall be deducted from the proceeds and paid to the Florida Standardbred Breeders and Owners Association, Inc., to be used as set forth in s. 550.62(2)(b);

2. One-third of the remainder of such proceeds shall be paid to the guest facility;

3. One-third of the remainder of such proceeds shall be retained by the host facility; and

4. One-third of the remainder shall be paid by the host facility as purses at the host facility.

Section 39. Section 550.633, Florida Statutes, is amended to read:

550.633 Surcharge.—Any guest track that accepts intertrack wagers may collect and retain a surcharge on any intertrack pool in an amount not to exceed 3 percent of each winning pari-mutuel ticket cashed. *Any surcharge taken under this section must be calculated after breakage is deducted from the wagering pool.*

Section 40. Subsections (1) and (2) of section 550.65, Florida Statutes, are amended to read:

550.65 Backside medical and health benefits; restriction.—

(1) Each thoroughbred permitholder conducting racing in this state shall withhold from the total purse pool generated from wagering conducted at the facility used by the permitholder to conduct thoroughbred racing an amount equal to *0.18 percent of the total handle* ~~1.5 percent of the total purse pool~~ and shall pay that amount to a corporation organized under chapter 617. The board members of such corporation shall be open to one representative of each thoroughbred permitholder, plus two persons designated by a thoroughbred horsemen's association. The Florida Pari-mutuel Commission must confirm and certify such corporation annually to ensure that the board membership complies with this subsection.

(2) Before any expenditure by such corporation may be made, such corporation must have obtained a determination from the United States Internal Revenue Service that such corporation has qualified under *s. 501(c)* ~~s. 501(c)(3)~~ of the Internal Revenue Code of 1986. The funds paid to such corporation shall be used specifically and solely in accordance with the provisions of this section.

Section 41. Section 550.70, Florida Statutes, is created to read:

550.70 Jai alai general provisions; chief court judges required; extension of time to construct fronton; amateur jai alai contests permitted under certain conditions; playing days' limitations.—

(1) A chief court judge, employed by the division and identified on the back of the uniform as a "state judge" must be present for each jai alai game at which pari-mutuel wagering is authorized. Chief court judges must be able to demonstrate extensive knowledge of the rules and game of jai alai and be able to meet the physical requirements of the position. As an on-court participant in the exhibition of jai alai, the chief court judge is subject to regular performance review. The decisions of a chief court judge are final as to any incident relating to the playing of a jai alai game

(2) The time within which the holder of a ratified permit for jai alai or pelota has to construct and complete a fronton may be extended by the division for a period of 24 months from the date of the issuance of the permit, anything to the contrary in any statute notwithstanding.

(3) This chapter does not prohibit any fronton, jai alai plant, or facility from being used to conduct amateur jai alai or pelota contests or games on one day during each fronton season by any charitable, civic, or nonprofit organization for the purpose of conducting jai alai contests or games where only players other than those usually used in jai alai contests or games are permitted to play and where adults and minors may participate as players or spectators. However, during such jai alai games or contests, betting and gambling and the sale or use of alcoholic beverages is prohibited.

(4) A jai alai player shall not be required to perform on more than 6 consecutive calendar days.

Section 42. Subsections (1) and (2) of section 772.102, Florida Statutes, as amended by section 4 of chapter 92-125, Laws of Florida, are amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) "Criminal activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 409.325, relating to public assistance fraud.

3. Chapter 517, relating to securities transactions.

4. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing *and*, horseracing~~, and jai alai frontons~~.

5. *Chapter 550* ~~Section 551.09~~, relating to jai alai frontons.

6. Chapter 552, relating to the manufacture, distribution, and use of explosives.

7. Chapter 562, relating to beverage law enforcement.

8. Chapter 687, relating to interest and usurious practices.

9. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

10. Chapter 782, relating to homicide.

11. Chapter 784, relating to assault and battery.

12. Chapter 787, relating to kidnapping.

13. Chapter 790, relating to weapons and firearms.

14. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

15. Chapter 806, relating to arson.

16. Chapter 812, relating to theft, robbery, and related crimes.

17. Chapter 815, relating to computer-related crimes.

18. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

19. Section 827.071, relating to commercial sexual exploitation of children.

20. Chapter 831, relating to forgery and counterfeiting.

21. Chapter 832, relating to issuance of worthless checks and drafts.

22. Section 836.05, relating to extortion.

23. Chapter 837, relating to perjury.

24. Chapter 838, relating to bribery and misuse of public office.

25. Chapter 843, relating to obstruction of justice.

26. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

27. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

28. Chapter 893, relating to drug abuse prevention and control.

29. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

30. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

(b) Any conduct which is subject to indictment or information as a criminal offense and listed in 18 U.S.C. s. 1961(1) (A), (B), (C), or (D).

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing *and*, horseracing~~, and jai alai frontons~~.

2. *Chapter 550* ~~Section 551.09~~, relating to jai alai frontons.

3. Section 687.071, relating to criminal usury, loan sharking, and shylocking.

4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious if punishable as a crime under state or federal law.

Section 43. Subsections (1) and (2) of section 895.02, Florida Statutes, as amended by section 4 of chapter 92-125, Laws of Florida, are amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 403.727(3)(b), relating to environmental control.

3. Section 409.325, relating to public assistance fraud.

4. Section 409.920, relating to Medicaid provider fraud.

5. Chapter 517, relating to sale of securities and investor protection.

6. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing *and*, horseracing~~, and jai alai frontons~~.

7. *Chapter 550* ~~Section 551.09~~, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution, and use of explosives.

9. Chapter 562, relating to beverage law enforcement.

10. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

11. Chapter 687, relating to interest and usurious practices.

12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

13. Chapter 782, relating to homicide.

14. Chapter 784, relating to assault and battery.

15. Chapter 787, relating to kidnapping.

16. Chapter 790, relating to weapons and firearms.

17. Section 796.01, s. 796.03, s. 796.04, s. 796.05, or s. 796.07, relating to prostitution.

18. Chapter 806, relating to arson.

19. Chapter 812, relating to theft, robbery, and related crimes.

20. Chapter 815, relating to computer-related crimes.

21. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

22. Section 827.071, relating to commercial sexual exploitation of children.

23. Chapter 831, relating to forgery and counterfeiting.

24. Chapter 832, relating to issuance of worthless checks and drafts.

25. Section 836.05, relating to extortion.

26. Chapter 837, relating to perjury.

27. Chapter 838, relating to bribery and misuse of public office.

28. Chapter 843, relating to obstruction of justice.

29. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

30. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

31. Chapter 893, relating to drug abuse prevention and control.

32. Chapter 896, relating to offenses related to financial transactions.

33. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

34. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(b) Any conduct defined as "racketeering activity" under 18 U.S.C. s. 1961(1).

(2) "Unlawful debt" means any money or other thing of value constituting principal or interest of a debt that is legally unenforceable in this state in whole or in part because the debt was incurred or contracted:

(a) In violation of any one of the following provisions of law:

1. Section 550.24, s. 550.35, or s. 550.36, relating to dogracing *and*, horseracing~~, and jai alai frontons~~.

2. *Chapter 550* ~~Section 551.09~~, relating to jai alai frontons.

3. Chapter 687, relating to interest and usury.

4. Section 849.09, s. 849.14, s. 849.15, s. 849.23, s. 849.24, or s. 849.25, relating to gambling.

(b) In gambling activity in violation of federal law or in the business of lending money at a rate usurious under state or federal law.

Section 44. Each fiscal year, the first $250,000 of the funds credited to the Pari-mutuel Wagering Trust Fund shall be used to fund the establishment and implementation of research and development programs at educational institutions within the State University System. The distribution of the funds shall be administered by the Board of Regents. These programs shall include, but not necessarily be limited to:

(1) Research related to the breeding, health, feeding, or training of dogs and horses.

(2) Development of continuing education programs for individuals involved in the care and treatment of dogs and horses at the pari-mutuel facilities.

(3) Establishment of a post mortem evaluation program for break down injuries of dogs and horses.

Section 45. (1) Sections 27, 28, and 30 of chapter 91-197, Laws of Florida, are repealed.

(2) Sections 550.011, 550.021, 550.031, 550.04, 550.041, 550.051, 550.061, 550.065, 550.066, 550.067, 550.068, 550.07, 550.075, 550.08, 550.081, 550.082, 550.083, 550.0831, 550.0841, 550.096, 550.11, 550.131, 550.14, 550.15, 550.17, 550.19, 550.21, 550.215, 550.22, 550.23, 550.2406, 550.2634, 550.29, 550.291, 550.32, 550.34, 550.351, 550.355, 550.356, 550.371, 550.39, 550.48, 550.51, 550.525, 550.60, 550.64, 550.67, 550.68, 551.01, 551.02, 551 03, 551 031, 551.04, 551.06, 551.061, 551.07, 551.08, 551.09, 551.10, 551 11, 551 115, 551.12, 551.15, 551.152, 551 153, 551.1535, 551.155, 551 16, 551 17, and 551.19, Florida Statutes, are repealed.

Section 46. This act applies to the racing season beginning June 1, 1992, and seasons thereafter. The racing dates provided in this act supersede all racing dates requested or awarded before the effective date of this act.

Section 47. This act shall take effect upon becoming a law, except that, if this act becomes a law after June 30, 1992, section 2 and subsection (1) of section 46 shall operate retroactively to June 30, 1992.

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 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; providing for the deregulation of jai alai operating days; 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.; prescribing purse distributions; 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 additional operating days; providing operating conditions for licensed thoroughbred permitholders; creating a special thoroughbred racing meet; providing tax benefit for certain 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 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.

On motion by Senator Childers, the rules were waived and the staff of the Committee on Commerce was instructed to make title amendments and technical changes to **SB 186-H** as necessary.

On motion by Senator Childers, by two-thirds vote **SB 186-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—None

RECESS

The President declared the Senate in recess at 6:29 p.m. to reconvene at 8:30 p.m.

EVENING SESSION

The Senate was called to order by the President at 9:04 p.m. A quorum present—36:

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

SPECIAL ORDER, continued

Consideration of **HB 413-H** was deferred.

HB 371-H—A bill to be entitled An act relating to citizen participation in efficient state government; providing legislative findings and intent; requiring the Comptroller to establish and operate a statewide toll-free hotline for certain purposes; providing for confidentiality; requiring a report the Legislature; providing an effective date.

—was read the second time by title.

Senator Malchon moved the following amendment which was adopted:

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

Section 1. Subsections (1), (5), (6), (7), (8), (9), and (10) of section 112.3187, Florida Statutes, are amended, paragraph (e) is added to subsection (3) of that section, and subsection (11) is added to that section, to read:

112.3187 Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.—

(1) SHORT TITLE.—*Sections 112.3187 through 112.31895* ~~This section shall be known and~~ may be cited as the "Whistle-blower's Act ~~of 1986~~."

(3) DEFINITIONS.—As used in this section, the following words or terms shall have the meanings indicated:

(e) "Gross mismanagement" means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.

(5) NATURE OF INFORMATION DISCLOSED.—The information disclosed under this section *must* ~~shall~~ include:

(a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by *an employee or agent of* an agency or independent contractor *which* ~~that~~ creates and presents a substantial and specific danger to the public's health, safety, or welfare.

(b) Any act or suspected act of *gross mismanagement,* malfeasance, misfeasance, *nonfeasance,* gross waste of *public* funds, or neglect of duty committed by *an employee or agent of* an agency *or independent contractor.*

(6) TO WHOM INFORMATION DISCLOSED.—The information disclosed under this section *must* ~~shall~~ be disclosed to any agency or federal government entity having the authority to investigate, police, manage, or otherwise remedy the violation or act, *including, but not limited to, the Office of the Chief Inspector General, an agency inspector general or chief internal auditor, the Office of the Public Counsel, and the whistle-blower's hotline created under s. 112.3189. However, for disclosures concerning a local governmental entity, including any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing, the information must be disclosed to a chief executive officer or other appropriate official.*

(7) EMPLOYEES AND PERSONS PROTECTED.—This section *protects* ~~shall protect~~ employees and persons who disclose information on their own initiative in a written and signed complaint; who are requested to participate in an investigation, hearing, or other inquiry conducted by any agency or federal government entity; ~~or~~ who refuse to participate in any adverse action prohibited by this section*; or who initiate a complaint through the whistle-blower's hotline; or employees who file any written complaint to their supervisory officials, to the Chief Inspector General in the Office of the Governor, or to the Office of the Public Counsel. The provisions of this section may not be used by a person while he is incarcerated within the state correctional system or, after his release from incarceration, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under ss. 112.3187-112.31895 applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under ss. 112.3187-112.31895 is being sought.*

(8) REMEDIES.—

(a) Any employee *of or applicant for employment with any state agency, as the term "state agency" is defined in s. 216.011,* who is discharged, disciplined, or *subjected* ~~subject~~ to other adverse personnel action*, or denied employment, because he engaged in an activity protected by this section may file a complaint, which complaint must be made in accordance with s. 112.31895. Upon receipt of notice from the Public Counsel of termination of the investigation, the complainant may elect to pursue the administrative remedy available under s. 112.31895 or bring a civil action within 180 days after receipt of the notice.*

(b) Within 60 days after the action prohibited by this section, any local public employee protected by this section may file a complaint with the appropriate local governmental authority, if that authority has established by ordinance an administrative procedure for handling such complaints or has contracted with the Division of Administrative Hearings under s. 120.65(9) to conduct hearings under this section. The administrative procedure created by ordinance must provide for the complaint to be heard by a panel of impartial persons appointed by the appropriate local governmental authority. Upon hearing the complaint, the panel must make findings of fact and conclusions of law for a final decision by the local governmental authority. Within 180 days after entry of a final decision by the local governmental authority, the public employee who filed the complaint may bring a civil action in any court of competent jurisdiction. If the local governmental authority has not established an administrative procedure by ordinance or contract, a local public employee may, within 180 days after the action prohibited by this section, bring a civil action in a court of competent jurisdiction. For the purpose of this paragraph, the term "local governmental authority" includes any regional, county, or municipal entity, special district, community college district, or school district or any political subdivision of any of the foregoing.

(c) Any other person protected by this section may, after exhausting all available contractual or administrative remedies, bring a civil action

in any court of competent jurisdiction within 180 days after the action prohibited by this section ~~by an agency or independent contractor, or any person whose rights or interests are adversely affected by an agency or independent contractor, as a result of disclosing information under this section may, after exhausting all available contractual or administrative remedies, bring a civil action within 90 days of the final administrative determination or the violation, whichever is later, in the appropriate court having venue for any of the relief specified in this section~~.

(9) RELIEF.—In any action brought *under* ~~pursuant to~~ this section, the relief *must* ~~may~~ include the following:

(a) Reinstatement of the employee to the same position held before the adverse action was commenced, or to an equivalent position *or reasonable front pay as alternative relief.*

(b) Reinstatement of the employee's full fringe benefits and seniority rights, *as appropriate.*

(c) Compensation, *if appropriate,* for lost wages, benefits, or other lost remuneration caused by the adverse action.

(d) Payment of reasonable costs, including attorney's fees, to *a substantially* ~~the~~ prevailing *employee, or to the prevailing employer if the employee filed a frivolous action in bad faith* ~~party~~.

(e) Issuance of an injunction, *if appropriate,* by a court of competent jurisdiction.

(f) Temporary reinstatement to the employee's former position or to an equivalent position, pending the final outcome on the complaint, if an employee complains of being discharged in retaliation for a protected disclosure and if a court of competent jurisdiction or the Public Counsel, as applicable under s. 112.31895, determines that the disclosure was not made in bad faith or for a wrongful purpose or occurred after an agency's initiation of a personnel action against the employee which includes documentation of the employee's violation of a disciplinary standard or performance deficiency.

(10) DEFENSES.—It *is* ~~shall be~~ an affirmative defense to any action brought pursuant to this section, *as shown by clear and convincing evidence,* that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by this section.

(11) EXISTING RIGHTS.—Sections 112.3187-112.31895 do not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in s. 447.401 also applies to whistle-blower actions.

Section 2. Section 112 3189, Florida Statutes, is created to read:

112.3189 Investigative procedures upon receipt of whistle-blower information.—

(1) This section applies to any disclosure of information by an employee or former employee of, or an applicant for employment with, a state agency, as the term "state agency" is defined in s. 216.011, to the Office of the Chief Inspector General of the Executive Office of the Governor, to the agency inspector general or, if an agency does not have an inspector general, to an employee designated by the head of the state agency, as the term "state agency" is defined in s. 216.011, to receive such information that the employee, former employee, or applicant reasonably believes evidences:

(a) A violation of a law, rule, or regulation; or

(b) Gross mismanagement, neglect of duty, malfeasance, misfeasance, nonfeasance, gross waste of public funds, or a substantial and specific danger to public health or safety.

(2) To facilitate the receipt of information described in subsection (1), the Chief Inspector General shall maintain an in-state toll-free whistle-blower's hotline and shall circulate among the various state agencies an advisory for all employees which indicates the existence of the toll-free number and its purpose and provides an address to which written whistle-blower information may be forwarded.

(3) When the Chief Inspector General or other appropriate agency official receives information described in subsection (1), the Chief Inspector General or other official shall review the information and, within 30 days after receiving the information, shall determine whether a substantial likelihood exists that the information discloses a violation of any law, rule, or regulation, or gross mismanagement, neglect of duty, malfeasance, misfeasance, nonfeasance, gross waste of public funds, or a substantial and specific danger to public health and safety.

(4) If the Chief Inspector General or other official does not make a positive determination under subsection (3), the Chief Inspector General or other official shall:

(a) Make available, upon request by the complainant, any documents and other materials provided by the individual who made the disclosure; and

(b) Inform the individual who made the disclosure of:

1. The reasons why the disclosure may not be further acted on under this section; and

2. The names of other offices that may be available for receiving disclosures, if the individual seeks to pursue the matter further.

(5)(a) If the Chief Inspector General or other official makes a positive determination under subsection (3), the Chief Inspector General or other official shall:

1. Conduct an investigation with respect to the information and any related matters; and

2. Submit to the complainant and the Chief Inspector General, within 60 days after the date on which a positive determination is made under subsection (3) or within any longer period of time agreed to in writing by the Chief Inspector General, a written report that sets forth preliminary findings, except as provided under subsection (8). The complainant may submit comments to the Chief Inspector General and agency official within 15 days after receiving a copy of the report.

(b) If the employee files the initial complaint within an agency, the agency head shall conduct an investigation and submit a written report to the Chief Inspector General only if the information was transmitted to the agency by:

1. An employee or former employee of, or an applicant for employment with, the agency that the information concerns; or

2. An employee who obtained the information in connection with the performance of the employee's duties and responsibilities.

(6) A report required under paragraph (5)(b) must be reviewed and signed by the head of the agency and must include:

(a) A summary of the information with respect to which the investigation was initiated;

(b) A description of the conduct of the investigation;

(c) A summary of any evidence obtained from the investigation;

(d) A listing of any violation or apparent violation of any law, rule, or regulation; and

(e) A description of any action taken or planned as a result of the investigation, such as:

1. A change in an agency rule, regulation, or practice;

2. The restoration of an aggrieved employee;

3. A disciplinary action against an employee; and

4. The referral to the Department of Law Enforcement of any evidence of a criminal violation.

(7)(a) A report required under paragraph (5)(b) shall be submitted to the Chief Inspector General within 90 days after the agency receives the complaint or within any longer period of time agreed to in writing by the Chief Inspector General, and the Chief Inspector General shall transmit a copy to the complainant, except as provided under subsection (8). The complainant may submit comments on the report to the Chief Inspector General within 15 days after receiving a copy of the report.

(b) Upon receiving a report required under paragraph (5)(b), the Chief Inspector General shall review the report and determine whether the report contains the information required by subsection (6).

(c) The Chief Inspector General shall transmit any final report under subsection (5), any comments provided by the complainant, and any appropriate comments or recommendations by the Chief Inspector General to the Governor, to the Joint Legislative Auditing Committee, to the investigating agency, and to the Comptroller.

(d) If the Chief Inspector General does not receive the report of the agency within the time prescribed in paragraph (a), the Chief Inspector General shall report the complaint to the Governor, to the Joint Legislative Auditing Committee, and to the investigating agency, together with a statement noting the failure of the agency head to file the required report.

(8) If an investigation under subsection (5) produces evidence of a criminal violation:

(a) The report may not be transmitted to the complainant; and

(b) The agency shall notify the Chief Inspector General and the Department of Law Enforcement.

(9)(a) If the Chief Inspector General or other official receives information described in subsection (1) from an employee other than an employee, former employee, or applicant for employment described in paragraph (5)(b), the Chief Inspector General or other official shall initiate a preliminary investigation of the complaint and related matters under subsection (3).

(b) If the Chief Inspector General or other official does not make a positive determination under subsection (3), the Chief Inspector General or other official shall:

1. Copy and return any documents and other materials provided by the individual who made the disclosure; and

2. Inform the individual who made the disclosure of:

a. The reasons why the disclosure may not be further acted on under this section; and

b. The names of other offices that may be available for receiving disclosures, if the individual seeks to pursue the matter further.

(10) The identity of any individual who makes a disclosure described in subsection (1), or who makes a disclosure in good faith through the whistle-blower's hotline, may not be disclosed by an investigating official without the individual's consent, unless the Chief Inspector General or agency inspector general or agency head determines that the disclosure of the individual's identity is necessary because of an imminent danger to public health or safety or imminent commission of a crime.

(11) Except as specifically authorized in this section, or as expressly waived by the complainant, all information received by the Chief Inspector General in the Executive Office of the Governor, agency inspector general, or chief internal auditor, or produced or derived from fact-finding or other investigations conducted by the Department of Legal Affairs, the Office of Public Counsel, or the Department of Law Enforcement, under this section or s. 112.31895 is confidential and exempt from s. 119.07(1) while the investigation or inquiry is active, and thereafter as provided by s. 112.3188.

(a) An investigation or inquiry is active under this subsection as long as it is an ongoing investigation or inquiry or collection of information and evidence and is continuing with a reasonable, good-faith anticipation of resolution in the foreseeable future.

(b) Notwithstanding paragraph (a), an investigation under paragraph (5)(b) ceases to be active under this subsection when the written report required under paragraph (5)(b) has been received by the Chief Inspector General, when disclosure by the Chief Inspector General under subsection (7) has been delivered to the recipients named in that subsection, or when the investigating official has taken the action under paragraph (9)(b). However, any investigation or inquiry is active while all or a portion of the matters under investigation or inquiry are active criminal intelligence information or active criminal investigative information under s. 119.011.

(c) Notwithstanding paragraphs (a) and (b), information or records received or produced under this section which are otherwise confidential under law or exempt from disclosure under chapter 119 retain their confidentiality or exemption.

(d) Any person who willfully and knowingly discloses information or records made confidential under this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

The exemptions from s. 119.07(1) provided in this subsection are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3 Section 112.31895, Florida Statutes, is created to read:

112.31895 Investigative procedures in response to prohibited personnel actions —

(1)(a) If a disclosure under s. 112.3189 includes or results in alleged retaliation by an employer, the employee so affected may file a complaint alleging a prohibited personnel action, which complaint must be made in accordance with s. 112.3187 by means of the whistle-blower's hotline in the Office of the Chief Inspector General in the Executive Office of the Governor, or by making a complaint to the Department of Legal Affairs or the Public Counsel, no later than 60 days after the prohibited personnel action.

(b) Within three working days after receiving a complaint under this section, the office or officer receiving the complaint shall acknowledge receipt of the complaint and provide copies of the complaint and any other preliminary information available concerning the disclosure of information under s. 112.3187 to each of the other parties named in paragraph (a), which parties shall each acknowledge receipt of such copies to the complainant.

(2) FACT FINDING.—The Department of Legal Affairs shall:

(a) Receive any allegation of a personnel action prohibited by s. 112.3187, including a proposed or potential action, and conduct informal fact finding regarding any allegation under this section, to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel action under s. 112.3187 has occurred, is occurring, or is to be taken.

(b) Notify the complainant, within 15 days after receiving a complaint, that the complaint has been received by the department.

(c) Within 90 days after receiving the complaint, provide the Public Counsel, the agency head, and the complainant with a fact-finding report that may include recommendations to the parties or proposed resolution of the complaint. The fact-finding report shall be presumed admissible in any subsequent or related administrative or judicial review.

(3) CORRECTIVE ACTION AND TERMINATION OF INVESTIGATION.—

(a) The Public Counsel established by s. 350.061, in accordance with this act and for the sole purpose of this act, is empowered to:

1. Receive and investigate complaints from employees alleging retaliation by state agencies, as the term "state agency" is defined in s. 216.011.

2. Protect employees and applicants for employment with such agencies from prohibited personnel practices under s. 112.3187.

3. Petition for stays and petition for corrective actions, including, but not limited to, temporary reinstatement.

4. Recommend disciplinary proceedings pursuant to investigation and appropriate agency rules and procedures.

5. Coordinate with the Chief Inspector General in the Executive Office of the Governor and the Department of Legal Affairs to receive, review, and forward to appropriate agencies, legislative entities, or the Department of Law Enforcement disclosures of a violation of any law, rule, or regulation, or disclosures of gross mismanagement, malfeasance, misfeasance, nonfeasance, neglect of duty, or gross waste of public funds.

6. Review rules pertaining to personnel matters issued or proposed by the Department of Administration, the Public Employees Relations Commission, and other agencies, and, if the Public Counsel finds that any rule or proposed rule, on its face or as implemented, requires the commission of a prohibited personnel practice, provide a written comment to the appropriate agency.

7. Investigate, request assistance from other governmental entities, and, if appropriate, bring actions concerning, allegations of retaliation by state agencies under subparagraph 1.

8. Administer oaths, examine witnesses, take statements, issue subpoenas, order the taking of depositions, order responses to written interrogatories, and make appropriate motions to limit discovery, pursuant to investigations under subparagraph 1.

9. Intervene or otherwise participate, as a matter of right, in any appeal or other proceeding arising under this section before the Public Employees Relations Commission or any other appropriate agency, except that the Public Counsel must comply with the rules of the commission or other agency and may not seek corrective action or intervene in an appeal or other proceeding without the consent of the person protected under ss. 112.3187-112.31895.

10. Conduct an investigation, in the absence of an allegation, to determine whether reasonable grounds exist to believe that a prohibited action or a pattern of prohibited action has occurred, is occurring, or is to be taken.

(b) Within 15 days after receiving a complaint that a person has been discharged from employment allegedly for disclosing protected information under s. 112.3187, the Public Counsel shall review the information and determine whether temporary reinstatement is appropriate under s. 112.3187(9)(f). If the Public Counsel so determines, he shall apply for an expedited order from the appropriate agency or circuit court for the immediate reinstatement of the employee who has been discharged subsequent to the disclosure made under s. 112.3187, pending the issuance of the final order on the complaint.

(c) The Public Counsel shall notify a complainant of the status of the investigation and any action taken by the Public Counsel at such times as the Public Counsel considers appropriate.

(d) The Public Counsel shall review the fact-finding reports submitted by the Department of Legal Affairs and may rely upon the findings and recommendations of those reports.

(e) If the Public Counsel is unable to conciliate a complaint within 60 days after receipt of the fact-finding report, the Public Counsel shall terminate the investigation. Upon termination of any investigation, the Public Counsel shall notify the complainant and the agency head of the termination of the investigation, providing a summary of relevant facts found during the investigation and the reasons for terminating the investigation. A written statement under this paragraph is presumed admissible as evidence in any judicial or administrative proceeding but is not admissible without the consent of the complainant.

(f)1. The Public Counsel may request an agency or circuit court to order a stay, on such terms as the court requires, of any personnel action for 45 days if the Public Counsel determines that reasonable grounds exist to believe that a prohibited personnel action has occurred, is occurring, or is to be taken. The Public Counsel may request that such stay be extended for appropriate periods of time.

2. If, in connection with any investigation, the Public Counsel determines that reasonable grounds exist to believe that a prohibited action has occurred, is occurring, or is to be taken which requires corrective action, the Public Counsel shall report the determination together with any findings or recommendations to the agency head and may report that determination and those findings and recommendations to the Governor and the Comptroller. The Public Counsel may include in the report recommendations for corrective action to be taken.

3. If, after 20 days, the agency does not implement the recommended action, the Public Counsel shall terminate the investigation and notify the complainant of the right to appeal under subsection (4), or may petition the agency for corrective action under this subsection.

4. If the Public Counsel finds, in consultation with the Department of Legal Affairs or the individual subject to the prohibited action, that the agency has implemented the corrective action, the Public Counsel shall file such finding with the agency head, together with any written comments that the individual provides, and terminate the investigation.

(g) If the Public Counsel finds that there are no reasonable grounds to believe that a prohibited personnel action has occurred, is occurring, or is to be taken, he shall terminate the investigation.

(h)1. If, in connection with any investigation under this section, it is determined that reasonable grounds exist to believe that a criminal violation has occurred which has not been previously reported, the Public Counsel shall report this determination to the Department of Law Enforcement and to the state attorney having jurisdiction over the matter.

2. If an alleged criminal violation has been reported, the Public Counsel shall confer with the Department of Law Enforcement and the state attorney before proceeding with the investigation of the prohibited personnel action and may defer the investigation pending completion of the criminal investigation and proceedings The Public Counsel shall inform the complainant of the decision to defer the investigation and, if appropriate, of the confidentiality of the investigation.

(i) If, in connection with any investigation under this section, the Public Counsel determines that reasonable grounds exist to believe that a violation of a law, rule, or regulation has occurred, other than a criminal violation or a prohibited action under this section, the Public Counsel may report such violation to the head of the agency involved. Within 30 days after the agency receives the report, the agency head shall provide to the Public Counsel a certification that states that the head of the agency has personally reviewed the report and indicates what action has been or is to be taken and when the action will be completed.

(j) During any investigation under this section, disciplinary action may not be taken against any employee of a state agency, as the term "state agency" is defined in s. 216.011, for reporting an alleged prohibited personnel action that is under investigation, or for reporting any related activity, or against any employee for participating in an investigation without notifying the Public Counsel.

(k) The Public Counsel may also petition for an award of reasonable attorney's fees and expenses from a state agency, as the term "state agency" is defined in s. 216.011, pursuant to s. 112.3187(9).

(4) RIGHT TO APPEAL.—

(a) Not more than 60 days after receipt of a notice of termination of the investigation from the Public Counsel, the complainant may file, with the Public Employees Relations Commission, a complaint against the employer-agency regarding the alleged prohibited personnel action. The Public Employees Relations Commission shall have jurisdiction over such complaints under ss. 112.3187 and 447.503(4) and (5).

(b) Judicial review of any final order of the commission shall be as provided in s. 120.68.

Section 4. Powers and authority of the Attorney General.—This act does not limit the powers or authority of the Attorney General granted by the State Constitution, the laws of this state, or common law.

Section 5. 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 whistle-blowers; amending s. 112.3187, F.S.; amending the short title of the Whistle-blower's Act of 1986; providing a definition; specifying persons and entities to whom information must be disclosed; amending the list of employees and persons protected by that act; providing remedies; increasing the time period within which a civil action may be brought; requiring specified types of relief; allowing the employer to receive an award of reasonable costs, including attorney's fees; providing for temporary reinstatement to employment; providing for defenses; providing that this section does not diminish existing rights; creating s. 112.3189, F.S.; providing investigative procedures upon receipt of whistle-blower information, providing applicability; providing for a whistle-blower's hotline; requiring the Chief Inspector General or other appropriate official to review information disclosed by the whistle-blower and make a preliminary determination; requiring, in specified circumstances, that the Chief Inspector General or another official conduct an investigation and submit written preliminary findings to the complainant; requiring an agency head, in specified circumstances, to conduct an investigation and submit a written report to the Chief Inspector General; specifying the contents of and deadline for that report; providing duties of the Chief Inspector General; providing for confidentiality of the whistle-blower's identity, with exceptions; providing for confidentiality of information pertaining to an active investigation or inquiry; providing penalties for violations; providing for review of that exemption under the Open Government Sunset Review Act; creating s. 112.31895, F.S.; providing for administrative procedures in response to prohibited actions; establishing certain responsibilities in the Department of Legal Affairs; providing responsibilities of the Office of the Public Counsel; providing procedures for fact finding, reporting, investigations, and corrective action; providing prerequisites to a complainant's seeking corrective

action from agencies other than the Public Counsel; providing for appropriate relief to be granted; providing for judicial review; providing for reporting suspected criminal violations to the Department of Law Enforcement; authorizing the Public Counsel to review fact-finding reports of the Department of Legal Affairs and to take appropriate action; providing for reporting certain suspected violations to an agency head; requiring the agency head to respond; prohibiting disciplinary action in specified circumstances; allowing the Public Counsel to petition for an award of attorney's fees and reasonable expenses; providing the right to file a complaint with the Public Employees Relations Commission if the Public Counsel terminates an investigation; providing for judicial review; providing that this act does not limit the powers of the Attorney General; providing an effective date.

On motion by Senator Malchon, by two-thirds vote **HB 371-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—1

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

HB 459-H—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; repealing s 932.708, F.S., as created by section 97 of CS for SB 48-H, relating to the Agricultural Law Enforcement Trust Fund; amending s. 932.705, F.S., as created by chapter 92-54, Laws of Florida; providing for the deposit of forfeiture proceeds when the seizing agency is the Department of Agriculture and Consumer Services; amending s. 570.48, F.S., as amended by sections 29 and 30 of CS for SB 48-H; authorizing internal quality inspections for any fruit or vegetable; amending s. 570.55, F.S., as amended by section 42 of CS for SB 48-H; authorizing certain confiscation by law enforcement officers; amending s. 500.11, F.S., as amended by section 98 of CS for SB 48-H; updating terminology; amending s. 523.21, F.S., as amended by section 99 of CS for SB 48-H; reinstating evidentiary provisions and providing for certification by the department; revising repeal dates established in section 103 of CS for SB 48-H for ss. 534.081(3), 570.151, 570.36(6), and 590.02(4), F.S.; revising repeal dates established in section 93 of CS for SB 48-H for ss. 525.06, 525.17, and 525.18, F.S.; amending s. 403.709, F.S.; providing an appropriation; specifying an allocation of certain funds; repealing s. 403.717(8), F.S., relating to proposals to dispose of waste tires; amending s. 403.719, F.S.; providing for collection and removal of waste tires; providing effective dates and a contingent retroactive effective date.

—was read the second time by title.

Senator Souto moved the following amendment which failed:

Amendment 1 (with Title Amendment)—On page 1, strike all of lines 5-13 and on page 7, between lines 6 and 7, insert:

Section 9. Effective July 1, 1992, or upon becoming a law, whichever occurs later, subsection (4) of section 500.12, Florida Statutes, as amended by section 11 of chapter 92-180, Laws of Florida, is amended to read:

(4) It is the intent of the Legislature to eliminate duplication of regulatory inspections of foods *and food-related industries, and to that end all regulatory functions are preempted to the state.* Regulatory and permitting authority over food manufacturing, processing, packing, holding, transporting, and preparing, or selling food at retail, *including the byproduct of any such process, such as the creation of wastewater*, is preempted to the department except as provided in chapters 370 and 372, *and except as such authority is provided to the Department of Environmental Regulation. However, any political subdivision of the state to which such authority of the department or the Department of Environmental Regulation is delegated may not adopt standards, penalties, fees, or other requirements different from or in addition to those adopted by the state agency which delegated the authority.*

(a) Food establishments or retail food stores which have ancillary food service activities shall be permitted and inspected by the department.

(b) Primary food service establishments, as defined in chapters 500 and 509, which have ancillary prepackaged retail food sales shall be licensed and inspected by the Department of Business Regulation.

(c) The department and the Department of Business Regulation shall cooperate to assure equivalency of inspection and enforcement and to share information on those establishments identified in paragraphs (a) and (b) and to address any other areas of potential duplication. The department and the Department of Business Regulation are authorized to adopt rules to enforce statutory requirements under their purview regarding foods.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 17-24 and on page 1, line 25, of the bill, after the semicolon (;) insert: amending s. 500.12, F.S., as amended by chapter 92-180, Laws of Florida; clarifying legislative intent as to preemption of regulatory and permitting authorities;

The vote was:

Yeas—16 Nays—16

Senator Gardner moved the following amendment which failed:

Amendment 2 (with Title Amendment)—On page 8, strike all of lines 20-23 and insert:

Section 11. Section 91 of Committee Substitute for Senate Bill 48-H (1992) is amended to read:

Section 91. Section 616.0915, Florida Statutes, is created to read:

616.0915 Safety standards for operation of amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and parking lot still dates.—Safety standards for the operation of amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and parking lot still dates are as follows:

(1)(a) The purpose of this section is to guard against personal injuries in the assembly, disassembly, and use of amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and any parking lot still dates. Such devices, attractions, and structures shall be designed, constructed, assembled or disassembled, maintained, and operated so as to prevent such injuries.

(b) It is the express intent of the Legislature that the department is responsible for inspecting and testing each amusement device at every public fair and exposition, carnival, festival, celebration, bazaar, permanent facility, and parking lot still date conducted in the state. However, the department may, by rule, establish exemptions for unpowered, nonmechanized equipment and coin-actuated equipment.

(2) This section applies throughout the state to amusement devices, amusement attractions, and temporary structures at public fairs and expositions, carnivals, festivals, celebrations, bazaars, permanent facilities, and any parking lot still dates. With the exception of paragraph (5)(b), this section does not apply to permanent facilities that employ at least 1,000 full-time employees and that maintain full-time in-house safety inspectors approved by the department.

(3) As used in this section, the term:

(a) "Amusement device" means any mechanical device or combination of devices which carries or conveys passengers on, along, around, over, or through a fixed or restricted course or within a defined area for the purpose of giving its passengers amusement, pleasure, or excitement.

(b) "Temporary amusement device" means a device that is used as an amusement device or amusement attraction that is regularly relocated from time to time, with or without disassembly.

(c) "Permanent amusement device" means a device that is used, or intended to be used, as an amusement device or amusement attraction that is erected to remain a lasting part of the premises.

(d) "Sponsor of event" means the agency, organization, or entity that hosts and promotes the event.

(e) "Permit" means that document which signifies that the amusement device or amusement attraction has undergone and passed its annual inspection. The department shall affix a decal that clearly shows the month and year of expiration.

(f) "Certificate to operate" means that document which indicates that the temporary amusement device has undergone the inspection required after setup. It shall show the date of inspection, the location of the inspection, the name of the inspector, and the maximum amount of weight allowed per car or rideable unit.

(g) "Serious injury" means an injury requiring an overnight stay in a hospital for treatment or observation.

(h) "Manager" means a person having possession, custody, or managerial control of an amusement device, amusement attraction, or temporary structure, whether as owner, lessee, or agent or otherwise.

(i) "Amusement attraction" means any building or structure around, over, or through which persons may move or walk, without the aid of any moving device integral to the building or structure, which building or structure provides amusement, pleasure, thrills, or excitement. The term does not include enterprises principally devoted to the exhibition of products of agriculture, industry, education, science, religion, or the arts. Further, the terms "amusement device" and "amusement attractions" shall not include playgrounds operated by schools, local government, or businesses licensed by chapter 509, which are not primarily engaged in providing amusement, pleasure, thrills, or excitement and provide the playground as an incidental amenity.

(j) "Permanent facility" means a location or place where amusement devices or attractions operate as a lasting part of the premises.

(4)(a) An amusement device or amusement attraction may not be operated in the state without a permit issued by the department. Temporary amusement devices and amusement attractions must also have a certificate to operate. The permits and certificates are not transferable, and if any permitholder voluntarily discontinues operation of the amusement device or amusement attraction, all rights secured under the permit are terminated.

(b) Before commencement of the operation of a permanent or temporary amusement device or amusement attraction, the owner shall make written application to the department for a permit to operate. The permit is valid for 1 year.

(c) A temporary amusement device or amusement attraction may not be used at any time or location unless prior notice of intent to use it has been given to the department. Notice of planned schedules must:

1. Be in writing.

2. Identify the temporary device or attraction.

3. State the intended dates and locations of use.

4. Be mailed to the department at least 15 days before the first intended date of use.

(d) Permits and certificates to operate shall be issued to the owner of an amusement device or amusement attraction when:

1. Written application has been made to the department.

2. The amusement device has passed all required inspections.

3. The liability insurance or bond has been met in the amount prescribed.

(e) The department shall revoke any permit issued under this chapter or impose an administrative fine of up to $500 per violation per day if it finds that the amusement device or amusement attraction for which it is issued is:

1. Being operated without the inspections required by this section;

2. Being operated without the insurance required by this section; or

3. Being operated with a mechanical, structural, or electrical defect which presents a risk of serious injury to passengers.

(f) Any other violation of this section may result in a revocation of the permit or certificate to operate or both, or imposition of an administrative fine of up to $500 per violation per day, if written notice of noncompliance is served upon the owner specifying the violation and directing the owner to correct the violations within 30 days after receipt of the notice. If the owner and the department fail to agree that the violation referred to in this paragraph has in fact been corrected, the department shall give notice of and provide a hearing for the owner to determine whether compliance has in fact been met.

(g) Nothing in this section prevents an owner whose permit to operate an amusement device or amusement attraction has been revoked under this section from reapplying for a permit. Upon application by an owner to have a revoked permit reinstated under this section, the department shall inspect the amusement device or amusement attraction in question as promptly as practical, but not later than 72 hours after the submission of the application.

(h) The permit in the form of a decal shall be displayed at a conspicuous place on the amusement device or amusement attraction. The certificate to operate shall be displayed at a conspicuous place for patrons of the amusement device or amusement attraction.

(5)(a) Before a permit may be issued as provided in this section, an inspection of the amusement device or amusement attraction must be made in compliance with the procedures set by the department. The inspection must have been conducted within 1 year prior to the permit application.

(b) A permanent amusement device must be inspected by the department at the time of application for the initial permit. However, a permanent facility that employs in-house, full-time safety inspectors who meet the requirements of the department may provide the department with an affidavit stating that all devices or attractions on the premises have been inspected and tested as required by the department. Thereafter, as a requirement for the issuance of each subsequent permit, it must be inspected at least annually by a professional ~~mechanical~~ engineer, *qualified inspector of an insurance underwriter, or other qualified inspector, each of whom must be approved by the department* ~~licensed by the State of Florida or another state with comparable standards for licensure~~. The inspection shall, at a minimum, comply with the requirements of the department and shall include some form of ~~nondestructive~~ test for metal fatigue ~~recognized by the American Society for Non-Destructive Testing~~. An affidavit of the annual inspection must be filed with the department.

(c) A temporary amusement device or amusement attraction, upon first entry into the state, must be inspected by the department for the permit to be issued. Thereafter, as a requirement for issuance of each subsequent permit, it must be inspected at least annually by a professional ~~mechanical~~ engineer, *qualified inspector of an insurance underwriter, or other qualified inspector, each of whom must be approved by the department* ~~licensed by the State of Florida or another state with comparable standards for licensure~~. The inspection shall, at a minimum, comply with the requirements of the department and shall include some form of ~~nondestructive~~ test for metal fatigue ~~recognized by the American Society for Non-Destructive Testing~~. An affidavit of the annual inspection must be filed with the department.

(d) A temporary amusement device or amusement attraction, upon first entry into the state, requires only visual inspection by the department as to the device or attraction being correctly assembled if:

1. The owner of the device or attraction supplies a valid and current certificate of inspection from another jurisdiction; and

2. The jurisdiction providing the certificate of inspection offers similar reciprocity for certificates of inspection issued by this state.

(e) If an amusement device or amusement attraction is substantially rebuilt or substantially modified so as to change the structure, mechanism, or capacity of the device or attraction, the owner shall give written notice to the department, which shall cause the device or attraction to be inspected prior to the time it is put into operation and shall cause any current permit to be updated so as to include any modifications made to the device or attraction.

(f) If an owner is unable to secure an inspection within 1 year after the date of the previous inspection, the previous inspection is valid for purposes of this chapter for a period of 30 additional days if the owner made an inspection request to an individual qualified to make the inspection at least 60 days prior to the inspection anniversary date.

(g) Upon proper presentation of credentials, an authorized employee of the department may enter unannounced and inspect amusement devices at any time and in a reasonable manner and has the right to question any owner, manager, or agent of the owner; to inspect, investigate, photograph, and sample all pertinent places, areas, and devices; and to examine and reproduce all pertinent documents and records for the purpose of enforcing this chapter. A fee may not be charged for these unannounced inspections.

(h) An amusement device or an amusement attraction that fails to pass an inspection may not be operated for public use until it has passed a subsequent inspection. If the department or the manager finds that an amusement device or attraction presents an imminent danger, the department shall issue an imminent danger order and shall issue and attach a stop operation order prohibiting the use of the device or attraction. Such order may not be removed until the device or attraction is made safe, and may be removed only by the department.

(6) All amusement devices, amusement attractions, and temporary structures operating in the state shall be permitted and, when required, certified and inspected by the department. Fees for such permits and certificates and inspections shall be established by rule of the department at a rate that will cover 100 percent of the cost of the program, and the fees shall be deposited in the General Inspection Trust Fund.

(7) Each amusement device shall be inspected and tested by the department before operation so as to test the full operation of all control devices, speed-limiting devices, brakes, and other equipment provided for safety before a certificate to operate is issued A copy of the inspection report shall be on file in the office of the manager of the fair or coordinator of the event before the ride is opened to the public.

(8) Every amusement device or amusement attraction shall be identified by a trade or descriptive name and an identification number; and there shall be firmly attached thereto, in a readily visible location, a metal plate upon which there is legibly impressed the name and number of the device, its model number, if any, and the name and address of the manufacturer. Upon such metal plate or another metal plate, the maximum safe number of passengers and the maximum safe speed shall be stated.

(9) Parts shall be properly aligned; and they may not be bent, distorted, cut, or otherwise injured to force a fit. Parts requiring lubrication shall be lubricated in the course of assembly. Fastening and locking devices shall be installed where required for dependable operation.

(10) A sufficient number of persons to do the work properly shall be engaged for such assembly or disassembly. Persons not engaged in such work shall be prevented from entering the area in which the work may create a hazard.

(11)(a) Each temporary amusement device or amusement attraction must be inspected upon setup at each location by the department. The temporary amusement device or amusement attraction may not be permitted to operate unless the inspection has taken place.

(b) The manager of a temporary amusement device or amusement attraction must visually inspect the device daily. This inspection shall be recorded daily on a form devised by the department. The last 14 daily forms must be kept with the temporary amusement device or amusement attraction. A copy of the inspection report shall be on file in the office of the manager of the fair or coordinator of the event before the ride is opened to the public.

(c) If an accident involving an amusement device or amusement attraction results in death or serious injury, the department shall impound the amusement device or amusement attraction and perform all necessary tests to determine the cause of the accident. The cost of impounding the amusement device or amusement attraction and performing necessary tests shall be borne by the owner of the amusement device or amusement attraction.

(12) An amusement device or amusement attraction may not be overcrowded or loaded in excess of its safe carrying capacity; nor may it be operated at an unsafe speed or at any speed beyond that recommended by the manufacturer.

(13) Before being used by the public, an amusement device or amusement attraction shall be placed or secured with blocking, cribbing, outriggers, guys, or other means so as to be stable under all operating conditions.

(14) An amusement device may not be used or operated while any person is so located as to be endangered by it. Areas in which persons may be endangered shall be fenced, barricaded, or otherwise effectively guarded against contact.

(15) Machinery used in or with an amusement device or amusement attraction shall be enclosed, barricaded, or otherwise effectively guarded against contact.

(16) An amusement device or amusement attraction powered so as to be capable of exceeding its maximum safe operating speed shall be provided with a maximum-speed-limiting device.

(17) The interior and exterior parts of all passenger-carrying amusement devices or amusement attractions with which a passenger may come in contact shall be smooth and rounded and free from sharp, rough, or splintered edges and corners, with no projecting studs, bolts, screws, or other projections which might cause injury. Interior parts upon or against which a passenger may be forcibly thrown by the action of the amusement device or amusement attraction shall be adequately padded.

(18)(a) The outlets of electrical powerlines carrying more than 120 volts shall be clearly marked to show their voltages.

(b) Electrical apparatus and wiring located outdoors shall be of such quality and so constructed or protected that exposure to weather will not interfere with its normal operation.

(c) Bare wires and other uninsulated current-carrying parts shall be guarded against inadvertent contact by means of a proper location or by a fence or other barrier.

(d) Wiring laid on a surface traversed by vehicular or pedestrian traffic shall be adequately protected against wear and abrasion.

(19)(a) Fabrics constituting part of an amusement device or amusement attraction or a temporary structure shall be fire-resistant.

(b) Flammable waste such as oily rags and other flammable materials shall be placed in covered metal containers kept in easily accessible locations. Such containers may not be kept at or near exits.

(20) A suitable number of containers for refuse shall be provided in and around all amusement devices, amusement attractions, and temporary structures. Excessive accumulations of trash or refuse shall be promptly removed. All parts of amusement devices, amusement attractions, and temporary structures used by passengers or customers shall be maintained in a clean condition.

(21) A person may not operate an amusement device or amusement attraction unless at the time of operation there is in existence:

(a) An insurance policy in an amount of not less than $1 million per occurrence insuring the owner or lessee against liability for injury to persons arising out of the use of the amusement device or amusement attraction; or

(b) A bond in a like amount; however, the aggregate liability of the surety under such bond may not exceed the face amount thereof.

The policy or bond shall be procured from one or more insurers or sureties licensed to transact business in this state or approved as surplus lines insurers.

(22) All amusement devices and attractions operated in the state shall comply with the American Society for Testing and Materials Committee F-24 Standards on Amusement Rides and Devices which are hereby adopted.

(a) In the absence of applicable American Society for Testing and Materials testing requirements, the department shall establish minimum requirements for nondestructive tests for metal fatigue.

(b) When the department determines it necessary due to environmental conditions, the department may establish more stringent test requirements for an amusement device or attraction.

(23) Each manager in charge of an amusement device or attraction shall report every accident relating to the amusement device or attraction to the department within 24 hours after the occurrence of the accident.

(24) This subsection establishes permitting and inspection procedures for companies engaged in the rental of amusement devices and amusement attractions.

(a) All companies engaged in the rental of amusement devices and amusement attractions shall make application to the department for permits to operate pursuant to this section. Once the annual inspection is completed and the application is approved, amusement devices and amusement attractions owned or operated by rental companies shall be subject to inspection and regulation as specified in paragraphs (b) and (c).

(b) Rental companies operating amusement devices singularly or jointly with an amusement device company at a public event are subject to onsite inspections and issuance of a certificate to operate, pursuant to this section, at a particular event.

(c) Any amusement device used at a private event for which no admission is charged must comply with all requirements of this section. However, such amusement device does not have to be inspected by the department at the time of setup.

(25) The operation of amusement attractions, commonly known in the trade as moonwalks, which are not enclosed on all sides and on the top is prohibited at both public and private functions, unless the sides are 6 feet high or higher in which case the top need not be enclosed.

Section 12. Except as otherwise provided herein, this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later; however, if this act becomes a law after that date, this act, except for section 11, shall be retroactive to that date.

And the title is amended as follows:

In title, on page 1, line 29, after the semicolon (;) insert: amending s. 91, Committee Substitute for Senate Bill 48-H (1992); changing provisions pertaining to inspection of amusement devices and attractions;

On motion by Senator Dantzler, by two-thirds vote **HB 459-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—2

HB 413-H—A bill to be entitled An act relating to state programs and expenditures; providing legislative intent; providing for temporary suspension or delay of specified activities by state agencies in the areas of social services, environmental programs and natural resources, governmental operations, highway safety and motor vehicles, and education; amending s. 316.302, F.S.; exempting certain drivers of commercial motor vehicles from described federal requirements; providing severability; providing an effective date, including a contingent retroactive effective date.

—was read the second time by title.

Senators Myers, McKay and Kiser offered the following amendment which was moved by Senator Myers and adopted:

Amendment 1 (with Title Amendment)—On page 15, between lines 2 and 3, insert:

Section 7. Section 403.93, Florida Statutes, is amended to read:

403.93 Definitions of terms used in ss. *403.931-403.938* ~~403.93-403.938~~.—For the purposes of ss. *403.931-403.938* ~~403.93-403.938~~, the term:

~~(1) "Alter" means to cut, remove, defoliate, or otherwise destroy but does not mean selective trimming which does not eliminate the biological integrity of the individual plant.~~

(1)~~(2)~~ "Mangrove" means any specimen of the species Laguncularia racemosa (white mangrove), Rhizophora mangle (red mangrove), or Avicennia germinans (black mangrove).

(2) "Alter" means to destroy by any means.

(3) "Prune" means to cut back.

Section 8. Section 403.931, Florida Statutes, is amended to read:

403.931 Alteration of mangroves; permit procedure.—

(1) No person may alter or cause to be altered any mangrove in waters where a permit is required for dredging or filling except pursuant to a permit issued by the department or as otherwise provided by ss. *403.931-403.938* ~~403.93-403.938~~. Any violation of this section shall be presumed to have occurred with the knowledge and consent of any owner, trustee, or other person who directly or indirectly has charge, control, or management, either exclusively or with others, of the property upon which such violation occurs. However, this presumption may be rebutted by competent, substantial evidence that the violation was not authorized by the owner, trustee, or other person.

(2) No separate application is required for an alteration permit if the alteration is addressed in an application for a dredge or fill permit or certification or application for boat dock or walkway under this chapter; the procedures for dredge or fill permitting will control in such instances.

(3) The department, on or before September 30, 1986, shall adopt a general permit in accordance with s. 403.814, which permit authorizes the alteration of mangroves in accordance with procedures designed to protect the integrity of mangrove trees. The department, on or before September 30, 1986, shall establish a special general permit to allow for alteration of mangroves in manmade canals constructed after January 1, 1957, which were upland of waters of the state as defined in s. 403.817 ~~and are not directly connected to a Class II water body or to Outstanding Florida Waters~~.

(4) The provisions of ss. *403.931-403.938* ~~403.93-403.938~~ do not apply to any alteration that was addressed in a dredge and fill application which was complete prior to July 1, 1984, unless the applicant chooses to come under this act.

(5) Notwithstanding the provisions in subsection (3), a landowner has the right to *prune* ~~selectively trim individual~~ mangrove plants in order to ~~better~~ enjoy the coastal water vistas, *economic benefits,* and other ~~aesthetic~~ qualities associated with the ownership of riparian lands. *Pruning shall not require a permit, a sovereignty submerged land lease, or any approval by the Board of Trustees of the Internal Improvement Trust Fund, but shall be subject to the following limitations:*

(a) White or black mangroves may not be pruned to less than 4 feet in height, red mangroves may not be pruned to less than 6 feet in height, so that these mangrove plants can continue to grow and produce leaves, flowers, and propagules, and provide wildlife habitat functions, and contribute to marine productivity;

(b) Pruning must be conducted only during the months of October, November, December, January, February, or March, and only one time each year on any individual mangroves;

(c) Pruning may not disturb the mangrove plant roots, including prop roots, and pneumatophores;

(d) Pruning must be for the purpose of pruning living or dead mangroves on property of the landowner which he owns or controls and on adjacent state-owned lands lying waterward of the landowner's property for a distance not to exceed 100 feet solely to better enjoy the coastal water vistas and other aesthetic qualities associated with the ownership of riparian lands; and

(e) The disposal of the materials resulting from trimming shall not harm any other living mangrove plants.

Section 9. Section 403.936, Florida Statutes, is amended to read:

403.936 Enforcement of provisions relating to mangroves.—The responsibility of the department for the enforcement of the provisions of ss. *403.931-403.938* ~~403.93-403.938~~ shall be pursuant to ss. 403.141 and 403.161.

Section 10. Section 403.938, Florida Statutes, is amended to read:

403.938 Variance relief.—Upon application, the department may grant a variance from the provisions of ss. *403.931-403.938* ~~403.93-403.938~~ if compliance therewith would impose a unique and unnecessary hardship on the owner or any other person in control of the affected property. Relief may be granted only upon demonstration that such hardship is peculiar to the affected property and is not self-imposed and that the grant of the variance will be consistent with the general intent and purpose of ss. *403.931-403.938* ~~403.93-403.938~~. The department may grant variances as it deems appropriate.

(Renumber subsequent sections)

And the title is amended as follows:

In title, on page 1, line 11, after the semicolon (;) insert: amending ss. 403.93, 403.931, 403.936, and 403.938, F.S.; revising provisions relating to the alteration of mangroves, providing definitions; revising permit requirements;

Senator Johnson moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 15, line 3, insert:

Section 8. Section 258.3928, Florida Statutes, is created to read:

258.3928 Point of Rocks Aquatic Preserve.—The following described area in Sarasota County located in the Gulf of Mexico adjacent to Siesta

Key is designated by the Legislature for inclusion in the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. Such area, to be known as the Point of Rocks Aquatic Preserve, is included in the aquatic preserve system and consists of all state-owned sovereignty lands lying waterward of the mean high-water line that begins in Section 19 of Township 37 South, Range 18 East, with the intersection of the westerly mean high-water line of Siesta Key and latitude 27° 14′ 58″; thence southwesterly approximately 2,500 feet to latitude 27° 14′ 45″, longitude 082° 32′ 37″; thence southeasterly approximately 6,800 feet to latitude 27° 13′ 47″; longitude 082° 31′ 58″; thence northeasterly to the intersection of latitude 27° 14′ 00″ with the westerly mean high-water line of Siesta Key in Section 29 of Township 37 South, Range 18 East; thence northwesterly along said mean high-water line of Siesta Key to the point of beginning. All geodetic positions are referenced to the North American Datum of 1983, readjustment of 1990.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 13, after the comma (,) insert: creating s. 258.3928, F.S.; creating the Point of Rocks Aquatic Preserve; designating lands included in the preserve;

On motion by Senator Kirkpatrick, by two-thirds vote **HB 413-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—1

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

HB 315-H—A bill to be entitled An act relating to public lands; amending s. 201.02, F.S.; exempting certain transfers of real property by nonprofit organizations; amending s. 253.023, F.S.; revising the purposes and specified uses of the Conservation and Recreation Lands Trust Fund; providing for payment in lieu of taxes to certain counties for lands acquired under the Florida Preservation 2000 Program; amending s. 253.025, F.S.; revising appraisal thresholds for purchasing state lands; authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain time limitations with respect to negotiating the purchase of land under certain circumstances; amending s. 259.035, F.S.; revising criteria for land acquisition proposals by the Land Acquisition Advisory Council; authorizing the Department of Natural Resources to adopt rules; amending s. 259.101, F.S.; delaying the repeal of certain provisions specifying distribution of moneys in the Preservation 2000 Trust Fund; revising criteria for projects for which certain bond proceeds may be spent; amending s. 259.04, F.S.; expanding the scope of the board's plan to conserve and protect certain lands; amending s. 259.07, F.S.; requiring the council to hold additional public hearings before recommending certain land purchases; amending s. 260.015, F.S.; expanding the types of projects for which certain evaluation and selection procedures do not apply; amending ss. 375.031 and 380.08, F.S.; deleting a requirement that a seller include certain tax assessment information in certain statements; requiring water management district governing boards to give preferential consideration to the State University System in awarding research projects or studies; amending s. 380.0666, F.S.; providing for nonapplication of a certain restriction to certain land purchases; amending s. 373.093, F.S.; creating s. 373.1395, F.S.; limiting the liability of water management districts for damages that occur on real property or water areas of the district that are made available to the public under specified conditions; requiring that leases of certain lands be consistent with the purposes for which the land was acquired; amending s. 373.59, F.S.; increasing allowable allocations from the Water Management Lands Trust Fund for certain purposes; providing for payment in lieu of taxes to certain counties for lands acquired under the Florida Preservation 2000 Program; providing a conditional appropriation for certain purposes; adding a requirement to the annual report required by s. 380.512, F.S.; repealing s. 259.035(3), F.S., relating to certain duties of the Land Acquisition Advisory Council; repealing s. 375.031(11), F.S., relating to land acquisition projects of a certain value; providing an effective date.

—a companion measure, was substituted for **CS for SB 100-H** and by two-thirds vote read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 315-H** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Senate resumed consideration of—

CS for HB 295-H—A bill to be entitled An act relating to taxation; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 154.235, F.S.; authorizing health facilities authorities to refund any revenue bonds or debt obligations issued in connection with a project; providing for the use of proceeds; amending s. 193.023, F.S.; requiring property appraisers to use sales data as the primary measure of just valuation in specified circumstances; amending s. 193.085, F.S.; providing venue for actions challenging assessed value of certain railroad property; correcting a reference; amending s. 193.1142, F.S.; requiring the department to use sales data in determining if assessment rolls meet requirements of law; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax to use sales data in conducting in-depth reviews of assessment rolls; requiring property appraisers to report real estate transfers to the division with specified information; requiring property appraisers to submit information as to disqualified transactions to the division; requiring the department to develop a methodology for using sales data and a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers in connection with intangible personal property taxes; amending s. 199.282, F.S.; providing penalties for security dealers and investment advisers who do not timely file or who fail to file required statements; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of intangible personal property taxes and severability; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; amending s. 212.0515, F.S., relating to sales from vending machines; revising the method for calculating the tax for certain beverages; revising notice requirements; revising reporting requirements for persons who sell food and beverages to vending machine operators; removing a requirement that dealers purchasing food or beverages for resale provide certain information to the dealer from whom such items are purchased; revising penalties and providing additional penalties; amending s. 212.055, F.S.; deleting the repeal date for the indigent care surtax for certain counties; repealing s. 3, ch. 91-81, Laws of Florida, which specifies the repeal date for said surtax, to conform; amending s. 213.053, F.S.; authorizing the department to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for review and repeal; restricting use of such information; amending s. 213.27, F.S.; authorizing the department to contract with collection or auditing agencies to ascertain or collect taxes due; revising the taxpayer notice requirement; amending s. 216.262, F.S.; providing an additional condition under which an increase in the number of positions beyond those provided in the appropriations acts may be authorized; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages; amending s. 200.065, F.S.; requiring 3 years of budget summaries to be available upon request and at public budget hearings; amending s. 4, ch. 92-168, Laws of Florida; providing retroactive application of the exemption from sales and use taxes granted to certain promotional materials; amending s. 212.0305, F.S.; revising language with respect to Legislative intent concerning convention development taxes; amending s. 197.432, F.S.; providing that ad valorem taxes due on governmental leaseholds become liens on such leaseholds and may be collected pursuant to chapter 197, F.S.; amending s. 365.171, F.S.; specifying that pay telephone service is not subject to assessment of fees for "911" service; amending s. 212.08, F.S; providing for an exemption for the lease or license to use of taxicabs and related equipment; amending ss. 207.003, 207.005 and 207.026, F.S; allowing for proration of taxes levied under part IV of chapter 206 for certain commercial motor carriers; providing for credits; providing for distribution; providing effective dates.

—which had been previously reconsidered this day.

On motion by Senator Jenne, by two-thirds vote the Senate reconsidered the vote by which **CS for HB 295-H** was read the third time.

On motion by Senator Jenne, the Senate reconsidered the vote by which **Amendment 1** was adopted.

Senator Jenne moved the following substitute amendment which was adopted:

Substitute Amendment for Amendment 1 (with Title Amendment)—On page 5, line 3 through page 40, line 28, strike all of said lines and insert:

Section 1. Effective October 1, 1992, subsection (11) is added to section 125.0104, Florida Statutes, as amended by section 3 of chapter 92-175, Laws of Florida, and section 1 of chapter 92-204, Laws of Florida, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(11) INTEREST PAID ON DISTRIBUTIONS.—

(a) Interest shall be paid on undistributed taxes collected and remitted to the Department of Revenue under this section. The interest shall be included along with the tax proceeds distributed to the counties and shall be paid from moneys transferred from the General Revenue Fund. The department shall calculate the interest for net tax distributions using the average daily rate that was earned by the State Treasury for the preceding calendar quarter and paid to the General Revenue Fund. This rate shall be certified by the Treasurer to the department by the 20th day following the close of each quarter.

(b) The interest applicable to taxes collected under this section shall be calculated by multiplying the tax amounts to be distributed times the daily rate times the number of days after the 3rd working day following the date the tax is due and payable pursuant to s. 212.11 until the date the department issues a voucher to request the Comptroller to issue the payment warrant. The warrant must be issued within 7 days after the request.

(c) If an overdistribution of taxes is made by the department, interest shall be paid on the overpaid amount beginning on the date the warrant including the overpayment was issued until the 3rd working day following the due date of the payment period from which the overpayment is being deducted. The interest on an overpayment shall be calculated using the average daily rate from the applicable calendar quarter and shall be deducted from moneys distributed to the county under this section.

Section 2. Beginning with the 1992-1993 fiscal year, the state or any local governmental entity that administers a local option tax under section 125.0104, section 125.0108, section 212.0305, section 212.055, section 336.021, or section 336.025, Florida Statutes, or under chapter 83-220, Laws of Florida, and that is authorized to deduct a portion of the tax proceeds to cover the costs of administering the tax shall, within 60 days after the close of each fiscal year, provide the levying authority, the Legislature, and the agency, authority, board, or other governmental entity that is the principal recipient of the tax proceeds, if other than the levying authority, a report enumerating the amounts of proceeds of the tax that are withheld, deducted, or otherwise redirected from the principal recipient, and the purpose of such withholding, deduction, or redirection. This section expires January 1, 1995.

Section 3. Effective January 1, 1993, section 193.023, Florida Statutes, is amended to read:

193.023 Duties of the property appraiser in making assessments.—

(1) The property appraiser shall complete his assessment of the value of all property no later than July 1 of each year, except that the department may for good cause shown extend the time for completion of assessment of all property.

(2) In making his assessment of the value of real property, the property appraiser is required to inspect physically the property every 3 years to ensure that his tax roll meets all the requirements of law. However, he shall physically inspect any parcel of taxable real property upon the request of the taxpayer or owner.

(3) In revaluating property in accordance with constitutional and statutory requirements, the property appraiser may adjust the assessed value placed on any parcel or group of parcels based on mass data collected, on ratio studies prepared by an agency authorized by law, or pursuant to regulations of the Department of Revenue.

(4) In making his assessment of leasehold interests in property serving the unit owners of a condominium or cooperative subject to a lease, including property subject to a recreational lease, the property appraiser shall assess the property at its fair market value without regard to the income derived from the lease.

(5) In assessing any parcel of a condominium or any parcel of any other residential development having common elements appurtenant to the parcels, if such common elements are owned by the condominium association or owned jointly by the owners of the parcels, the assessment shall apply to the parcel and its fractional or proportionate share of the appurtenant common elements.

(6) In making assessments of cooperative parcels, the property appraiser shall use the method required by s. 719.114.

(7) When considering the factors in s. 193.011 to assess real property, the property appraiser must use sales data as the primary measure of just valuation when such data is available and can be used in accordance with generally accepted appraisal standards and procedures.

Section 4. Subsection (4) of section 193.085, Florida Statutes, is amended to read:

193.085 Listing all property.—

(4) The department shall *adopt* ~~promulgate such~~ rules ~~as are necessary~~ to ensure that all railroad property of all types is properly listed in the appropriate county and shall submit the county railroad property assessments to the respective county property appraisers not later than June 1 in each year. However, in those counties in which railroad assessments are not completed by the department by June 1, for millage certification purposes, the property appraiser may *use* ~~utilize~~ the prior year's values for such property.

(a) All railroad and railroad terminal companies maintaining tracks or other fixed assets in the state and subject to assessment under the unit-rule method of valuation shall make an annual return to the Department of Revenue. Such returns shall be filed on or before April 1 and shall be subject to the penalties provided in s. 193.072. The department shall make an annual assessment of all operating property of every description owned by or leased to such companies. Such assessment shall be apportioned to each county, based upon actual situs and, in the case of property not having situs in a particular county, shall be apportioned based upon track miles. Operating property shall include all property owned or leased to such company, including right-of-way presently in use by the company, track, switches, bridges, rolling stock, and other property directly related to the operation of the railroad. Nonoperating property shall include that portion of office buildings not used for operating purposes, property owned but not directly used for the operation of the railroad, and any other property that is not used for operating purposes. The department shall *adopt* ~~promulgate~~ rules ~~necessary~~ to ensure that all operating property is properly valued, apportioned, and returned to the appropriate county, including rules governing the form and content of returns. The evaluation and assessment of utility property shall be the duty of the property appraiser.

(b)1. All private car and freight line and equipment companies operating rolling stock in Florida shall make an annual return to the Department of Revenue. The department shall make an annual determination of the average number of cars habitually present in Florida for each company and shall assess the just value thereof.

2. The department shall *adopt* ~~promulgate~~ rules respecting the methods of determining the average number of cars habitually present in Florida, the form and content of returns, and such other rules as are necessary to ensure that the property of such companies is properly returned, valued, and apportioned to the state.

3. For purposes of this paragraph, "operating rolling stock in Florida" means having ownership of rolling stock which enters Florida.

4. The department shall apportion the assessed value of such property to the local taxing jurisdiction based upon the number of track miles and the location of mainline track of the respective railroads over which the rolling stock has been operated in the preceding year in each taxing jurisdiction. The situs for taxation of such property shall be according to the apportionment.

(c) The values determined by the department pursuant to *this subsection* ~~subsections (4) and (5)~~ shall be certified to the property appraisers when such values have been finalized by the department. Prior to finalizing the values to be certified to the property appraisers, the department shall provide an affected taxpayer a notice of a proposed assessment and an opportunity for informal conference before the executive director's designee. A property appraiser shall certify to the tax collector for collection the value as certified by the Department of Revenue.

(d) In any action challenging final assessed values certified by the Department of Revenue under this subsection, venue is in Leon County. This paragraph applies to all actions pending on or filed after January 1, 1991.

Section 5. Effective January 1, 1993, subsection (1) of section 193.1142, Florida Statutes, is amended to read:

193.1142 Approval of assessment rolls.—

(1) Each assessment roll shall be submitted to the executive director of the Department of Revenue for review in the manner and form prescribed by the department on or before July 1. The roll submitted to the department need not contain centrally assessed properties prior to approval under this subsection and subsection (2). Such review by the executive director shall be made to determine if the rolls meet all the appropriate requirements of law relating to form and just value. *In conducting reviews, sales data shall be used to the greatest extent possible.* Upon approval of the rolls by the executive director or his designee, the hearings required in s. 194 032 may be held.

Section 6. Effective January 1, 1993, section 195.096, Florida Statutes, as amended by section 3 of chapter 92-32, Laws of Florida, is amended to read:

195.096 Review of assessment rolls.—

(1) The assessment rolls of each county shall be subject to review by the Division of Ad Valorem Tax.

(2) Beginning with the 1982 assessment rolls, the Division of Ad Valorem Tax shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. Such reviews need not include personal property tax rolls until 1983; however, such reviews shall include the 1982 personal property tax rolls if positions are provided therefor in the 1982-1983 budget. The Division of Ad Valorem Tax need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection *(4)*~~(3)~~. Such in-depth review may include proceedings of the value adjustment board.

(a) The Division of Ad Valorem Tax shall, at least 30 days prior to the beginning of an in-depth review in any county, notify the property appraiser in the county of the pending review. At the request of the property appraiser, the Division of Ad Valorem Tax shall consult with the property appraiser regarding the classifications and strata to be studied, in order that the review will be useful to the property appraiser in evaluating his procedures.

(b) Every property appraiser whose upcoming roll is subject to an in-depth review shall, if requested by the department on or before January 1, deliver upon completion of the assessment roll a list of the parcel numbers of all parcels that did not appear on the assessment roll of the previous year, indicating the parcel number of the parent parcel from which each new parcel was created or "cut out."

(c) In conducting assessment ratio studies, the Division of Ad Valorem Tax must use a statistically reliable sample of properties in tests of each classification, stratum, or roll made the subject of a ratio study published by it. For purposes of this section, the division may use an assessment-to-sales-ratio study in conducting assessment ratio studies. The department shall compute the median and the value-weighted mean for each classification or subclassification studied and for the roll as a whole.

(d) In the conduct of these reviews, the Division of Ad Valorem Tax shall adhere to all standards to which the property appraisers are required to adhere.

(e) The Division of Ad Valorem Tax and each property appraiser shall cooperate in the conduct of these reviews, and each shall make available to the other all matters and records bearing on the preparation and computation of the reviews. The property appraisers shall provide any and all data requested by the Division of Ad Valorem Tax in the conduct of the studies, including electronic data processing tapes. Any and all data and samples developed or obtained by the Division of Ad Valorem Tax in the conduct of the studies shall be confidential and exempt from the provisions of s. 119.07(1) until a presentation of the findings of the study is made to the property appraiser. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. After the presentation of the findings, the Division of Ad Valorem Tax shall provide any and all data requested by a property appraiser developed or obtained in the conduct of the studies, including tapes. Direct reimbursable costs of providing the data shall be borne by the party who requested it. Copies of existing data or records, whether maintained or required pursuant to law or rule, or data or records otherwise maintained, shall be submitted within 30 days from the date requested, in the case of written or printed information, and within 14 days from the date requested, in the case of computerized information.

(f) Within 120 days following the receipt of a county assessment roll by the executive director of the department pursuant to s. 193.1142(1), or within 10 days after approval of the assessment roll, whichever is later, the Division of Ad Valorem Tax shall complete the review for that county and forward its findings, including a statement of the confidence interval for the median and such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, employing a 95-percent level of confidence, and related statistical and analytical details to the Senate Finance, Taxation, and Claims Committee; the House Finance and Taxation Committee; and the appropriate property appraiser.

(3) In conducting biennial in-depth reviews of county assessment rolls, the Division of Ad Valorem Tax shall, to the greatest extent possible, use sales data in lieu of fee appraisal data. Using an electronic medium that is compatible with the medium used by the Division of Ad Valorem Tax, the property appraiser shall report to the division each real estate transfer within the county, the selling price as evidenced by documentary stamps, and any other information the division, by rule, requires. For disqualified transactions, the property appraiser must also submit an indication, in a manner prescribed by the division, of the reasons for such disqualification.

(4)~~(3)~~(a) Upon completion of review pursuant to paragraph (2)(f), the Division of Ad Valorem Tax shall publish the results of reviews conducted pursuant to this section. The results shall include all statistical and analytical measures computed pursuant to this section for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following real property classes:

1. Single-family, condominium, cooperative, mobile home, and other owner-occupied residential property.

2. Residential income property.

3. Agricultural and other use-valued property.

4. Vacant lots.

5. Nonagricultural acreage and other undeveloped parcels.

6. Taxable institutional and governmental property.

7. Improved commercial property.

8. Improved industrial, utility, locally assessed railroad, oil, gas and mineral lands, subsurface rights, and other real property.

If there are fewer than 30 parcels in any property class, such parcels may be included with the parcels described in subparagraph 8. for purposes of sampling, conducting assessment ratio studies, and publishing results. The division shall also publish such results for any subclassifications of the above classes or assessment rolls it may have chosen to study. For each improved subclassification or property class and for the real property roll as a whole, the division shall also publish separate assessment ratio statistics for land valuations and for improvement valuations.

(b) When necessary for compliance with s. 236.081, and for those counties not being studied in the current year, the Division of Ad Valorem Tax shall project value-weighted mean levels of assessment for each county. The Division of Ad Valorem Tax shall make its projection based upon the best information available, *using* ~~utilizing~~ professionally accepted methodology, and shall separately allocate changes in total assessed value to:

1. New construction, additions, and deletions.

2. Changes in the value of the dollar.

3. Changes in the market value of property other than those attributable to changes in the value of the dollar.

4. Changes in the level of assessment.

In lieu of the statistical and analytical measures published pursuant to paragraph (a), the department shall publish details concerning the computation of estimated assessment levels and the allocation of changes in assessed value for those counties not subject to an in-depth review.

(5)~~(4)~~ It is declared to be the legislative intent that approval of the rolls by the department pursuant to s. 193.1142 and certification by the value adjustment board pursuant to s. 193.122(1) shall not be deemed to impugn the use of postcertification reviews to require adjustments in the preparation of succeeding assessment rolls to ensure that such succeeding assessment rolls do meet the constitutional mandates of just value.

(6)~~(5)~~ It is the legislative intent that the Division of Ad Valorem Tax *use* ~~utilize~~ to the fullest extent practicable objective measures of market value in the conduct of reviews pursuant to this section.

(7)~~(6)~~ Reviews conducted pursuant to this section shall include an evaluation of whether nonhomestead exempt values determined by the appraiser pursuant to applicable provisions of chapter 196 are correct and whether agricultural classifications were granted in accordance with law.

(8)~~(7)~~ The Auditor General shall have the responsibility to perform performance audits of the administration of ad valorem tax laws by the department pursuant to the general authority granted in chapter 11. Such performance audits shall be conducted biennially following completion of reviews pursuant to this section. The first performance audit conducted pursuant to this subsection shall be formally submitted to the Legislature no later than April 1, 1984, reporting on the activities of the Division of Ad Valorem Tax related to the 1982 and 1983 ad valorem tax rolls, and biennially thereafter. The Auditor General shall include, for at least four counties so reviewed, findings as to the accuracy of assessment procedures, projections, and computations made by the division, *using* ~~utilizing~~ the same generally accepted appraisal standards and procedures to which the division and the property appraisers are required to adhere. However, the report shall not include any findings or statistics related to any ad valorem tax roll which is in litigation between the state and county officials at the time the report is to be issued.

(9)~~(8)~~ When a roll is prepared as an interim roll pursuant to s. 193.1145, the department shall compute assessment levels for both the interim roll and the final approved roll.

(10)~~(9)~~ Chapter 120 *does* ~~shall~~ not apply to this section.

Section 7. The Department of Revenue shall develop a methodology for using sales data in conducting in-depth studies and annual reviews of county assessment rolls pursuant to sections 193.1142 and 195 096, Florida Statutes. A plan to implement this methodology must be prepared by the Department of Revenue and such plan must provide for the disqualification of sales data by the department. The plan must also include recommendations for reallocating resources of the Division of Ad Valorem Tax which reflect the reduction in the division's workload as a result of the increased reliance on sales data as opposed to fee appraisal data. The plan must be completed by July 1, 1993, and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 8. Effective January 1, 1993, subsection (3) of section 199.062, Florida Statutes, is amended to read:

199.062 Annual tax information reports.—

(3) On or before June 30 of each year, all security *dealers and investment advisers* ~~brokers~~ registered under the laws of this state shall file with the department a position statement as of December 31 of the preceding year for each customer whose mailing address is within the state *or a statement that the security dealer or investment adviser does not hold securities on account for its customers with mailing addresses in this state. The position* ~~Such~~ statement shall include the customer's name, address, social security number, or federal identification number; the number of units, value, and description, including the Committee on Uniform Security Identification Procedures (CUSIP) number, if any, of all securities held for the customer; and such other information as the department may reasonably require. The information required by this subsection shall be reported by *the dealer or investment adviser* ~~a broker~~ on magnetic media, using specifications and instructions of the department, unless the *dealer or investment adviser* ~~broker~~ demonstrates that an undue hardship exists.

Section 9. Effective January 1, 1993, subsection (6) of section 199.282, Florida Statutes, is amended to read:

199.282 Penalties for violation of this chapter.—

(6) ~~A~~ Late reporting *penalties* ~~penalty of $100~~ shall be imposed *as follows*:

(a) *A penalty of $100* upon any corporation which does not timely file a written notice required under s. 199.057(2)(c) or s. 199.062(2).

(b) *An initial penalty of $10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or $50 for each month or portion of a month, from the date due until filing is made,* upon any security *dealer or investment adviser who* ~~broker which~~ does not timely file *or fails to file* the ~~position~~ statements required by s. 199.062(3). *The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is $100.*

Section 10. Section 199.106, Florida Statutes, is created to read:

199.106 Credit for taxes imposed by other states.—

(1) For intangible personal property that has been deemed to have a taxable situs in this state solely pursuant to s. 199.175(2) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property that is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(2) For intangible personal property that has a taxable situs in this state under s. 199.175(1) or any similar predecessor statute, a credit against the tax imposed by s. 199.032 is allowed to a taxpayer, other than a natural person, in an amount equal to a like tax lawfully imposed and paid by that taxpayer on the same property in another state, territory of the United States, or the District of Columbia when the other taxing authority is also claiming situs under provisions similar or identical to those in s. 199.175(1) or any similar predecessor statute. For purposes of this subsection, the term "like tax" means an ad valorem tax on intangible personal property which is also subject to tax under s. 199.032. The credit may not exceed the tax imposed on the property under s. 199.032. Proof of entitlement to such a credit must be made pursuant to rules and forms adopted by the department.

(3) The credits provided by subsections (1) and (2) apply retroactively to December 31, 1979. However, notwithstanding the retroactivity of these credit provisions, this section does not reopen a closed period of nonclaim under s. 215.26 or any other statute or extend the period of nonclaim under s. 215.26 or any other statute.

Section 11. Section 199.303, Florida Statutes, is created to read:

199.303 Declaration of legislative intent.—

(1) If any section, subsection, sentence, clause, phrase, or word of this chapter is for any reason held or declared to be unconstitutional, invalid, inoperative, ineffective, inapplicable, or void, such invalidity or unconstitutionality shall not affect the portions of this chapter not so held to be unconstitutional, void, invalid, or ineffective, or affect the application of this chapter to other circumstances not so held to be invalid, it being the express legislative intent that any such unconstitutional, illegal, invalid, ineffective, inapplicable, or void portion or portions of this chapter did not induce its passage, and that without the inclusion of any such unconstitutional, illegal, invalid, ineffective, or void portions of this chapter, the Legislature would have enacted the valid and constitutional portions thereof.

(2) It is hereby declared to be the specific legislative intent to tax all intangible personal property that may constitutionally be taxed subject only to the exemptions and credits allowed by law. However, if any application of these statutes is declared unconstitutional, the taxes imposed shall nevertheless remain in force, but only to the extent permitted by the constitution of this state and of the United States.

Section 12. Present subsection (3) of section 201.022, Florida Statutes, as amended by section 10 of chapter 92-32, Laws of Florida, is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; failure to file does not impair validity.—

(3) If the return required by this section is not executed and filed, the clerk of the circuit court shall execute and file the return with the department. The clerk shall be compensated 1 percent of the value of the stamps sold for deeds as the cost of processing the return required by this section in the form of a deduction from the amount of the tax due and remitted by him, and the department shall allow the deduction to the clerk paying and remitting the tax in the manner provided for by the department. However, a deduction or allowance may not be granted if there is a manifest failure to maintain proper records or make proper reports. The compensation provided in this subsection is in addition to that provided in s. 201.11(2).

Section 13. Section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section, *the term*:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, ~~beginning January 1, 1992,~~ the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, plus any applicable local option tax authorized by this part, expressed as a decimal.

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed a notice to each vending machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his *sales tax registration* ~~social security~~ number. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT *ANY MACHINE WITHOUT A NOTICE* ~~ALL VIOLATIONS~~ TO (*TOLL-FREE* ~~TOLL FREE~~ NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county. ~~The report shall first be filed for the quarter ending December 31, 1991.~~

(b) A penalty of $250 per machine is imposed on the operator *who fails* ~~for failing~~ to properly obtain and display the required notice on any machine. A penalty of $250 is imposed on the operator *who fails* ~~for failing~~ to timely file a quarterly report *or who files false information.* ~~Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(c) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(5)(a) Any person who sells food or beverages *to an operator* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator *described in paragraph (b)* who has purchased such items from said person and states the *net* ~~gross~~ dollar amount of purchases made by each operator from said person. ~~The report shall first be filed for the quarter ending December 31, 1991.~~ In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of *25* ~~50~~ cases or more.

(b) Each ~~dealer or~~ operator *who purchases* ~~purchasing~~ food or beverages for resale *in vending machines* shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state *that* ~~whether or not~~ the purchaser is a vending machine operator. The certificate shall initially be provided ~~by November 1, 1991, or~~ upon the first transaction between the parties~~, whichever is later,~~ and by November 1 of each year thereafter.

(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so *or who files false information.* A penalty of *$250* ~~$5,000~~ is imposed on any operator who fails to comply with the requirements of this subsection *or who provides the dealer with false information.* ~~A penalty of $250 for such failure shall apply to other dealers who are not operators of vending machines. Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules necessary to administer the provisions of this section *and may establish a schedule for phasing in the requirement that existing notices be replaced with revised notices displayed on vending machines.*

Section 14. Subsection (2) of section 213.053, Florida Statutes, as amended by section 17 of chapter 92-138, Laws of Florida, and section 4 of chapter 92-146, Laws of Florida, is amended, and subsections (16) and (17) are added to that section, to read:

213.053 Confidentiality and information sharing.—

(2) Except as provided in subsections (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), ~~and~~ (15), *(16), and (17),* all information contained in returns, reports, accounts, or declarations received by the department, including investigative reports and information and including letters of technical advice, is confidential except for official purposes and is exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s.

119.14. Any officer or employee, or former officer or employee, of the department who divulges any such information in any manner, except for such official purposes or in accordance with the provisions of subsection (3), subsection (4), subsection (5), subsection (6), subsection (7), subsection (8), subsection (9), subsection (10), subsection (11), subsection (12), subsection (13), subsection (14), ~~or~~ subsection (15), *subsection (16), or subsection (17)* commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(16) The department may provide to the person against whom transferee liability is being asserted pursuant to s. 212.10(1) information relating to the basis of the claim.

(17) The department may disclose to a person entitled to compensation pursuant to s. 213.30 the amount of any tax, penalty, or interest collected as a result of information furnished by such person.

Section 15. Effective October 1, 1992, section 213.0535, Florida Statutes, is created to read:

213.0535 Registration Information Sharing and Exchange Program.—

(1) The Registration Information Sharing and Exchange Program, or "RISE," is established, to be coordinated by the Department of Revenue. Each participant in the program shall share the tax administration information specified in this section on a periodic basis in the format prescribed by the department. To the fullest extent practicable, the information must be shared on a computer-processable medium.

(2) Information that is subject to sharing includes the registrant's, licensee's, or taxpayer's name, mailing address, business location, federal employer identification number or social security number, any applicable business type code, any applicable county code, and such other tax registration information as the department prescribes.

(3) Each local government that participates in the program is responsible for transmitting its shared data to participating state agencies. Each state agency participating in the program is responsible for transmitting its shared data to the other participating state agencies and to the appropriate participating local governments. Data shall be transmitted within 20 days after the close of the reporting period.

(4) There are two levels of participation:

(a) Each unit of state and local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level one participant. Level one participants shall exchange, monthly, the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued under chapter 509.

7. Beverage law licenses issued under chapter 561.

(b) Level two participants include the Department of Revenue and local officials responsible for collecting the tourist development tax pursuant to s. 125.0104, the tourist impact tax pursuant to s. 125.0108, or a convention development tax pursuant to s. 212.0305. Level two participants shall, in addition to the data shared by level one participants, exchange data relating to tax payment history, audit assessments, and registration cancellations of dealers engaging in transient rentals, and such data shall relate only to sales and use taxes, tourist development taxes, and convention development taxes. The department shall prescribe, by rule, the data elements to be shared and the frequency of sharing; however, audit assessments must be shared at least quarterly.

(5) Any provision of law imposing confidentiality upon data shared under this section, including, but not limited to, any provision imposing penalties for disclosure, applies to recipients of this data and their employees. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Data exchanged under this section may not be provided to any person or entity other than those administering the tax or licensing provisions of those provisions of law enumerated in paragraph (4)(a), and such data may not be used for any purpose other than for enforcing those tax or licensing provisions.

(6) In addition to data on new registrants, the information shared by level one participants in the first month of the program shall include data for all active registrants, taxpayers, licensees, or permittees under the provisions of law enumerated in paragraph (4)(a).

Section 16. Subsections (1) and (5) of section 213.27, Florida Statutes, are amended to read:

213.27 Contracts with debt collection agencies.—

(1) The Department of Revenue may, for the purpose of collecting any ~~delinquent~~ taxes due from a taxpayer, contract with any debt collection agency or attorney doing business within or without this state for the collection of such ~~delinquent~~ taxes including penalties and interest thereon. The department may also share confidential information pursuant to the contract necessary for the collection of ~~delinquent~~ taxes. Contracts will be made pursuant to chapter 287 The taxpayer must be notified by ~~certified~~ mail by the department, its employees, or its authorized representative 30 days prior to commencing any litigation to recover any ~~delinquent~~ taxes. The taxpayer must be notified by ~~certified~~ mail by the department 30 days prior to the department assigning the collection of any ~~delinquent~~ taxes to the debt collection agency.

(5) The department may, for the purpose of ascertaining the amount of or collecting any ~~delinquent~~ taxes due from a person doing mail order business in this state, contract with any auditing agency doing business within or without this state for the purpose of conducting an audit of such mail order business; however, such audit agency may not conduct an audit on behalf of the department of any person domiciled in this state, person registered for sales and use tax purposes in this state, or corporation filing a Florida corporate tax return, if any such person or corporation objects to such audit in writing to the department and the auditing agency. The department shall notify the taxpayer by ~~certified~~ mail at least 30 days before the department assigns the collection of such ~~delinquent~~ taxes to the debt collection or auditing agency.

Section 17. Paragraph (a) of subsection (1) of section 216.262, Florida Statutes, as amended by section 68 of chapter 92-142, Laws of Florida, and section 89 of chapter 92-279, Laws of Florida, is amended to read:

216.262 Authorized positions.—

(1)(a) Unless otherwise expressly provided by law, the total number of authorized positions may not exceed the total provided in the appropriations acts. In the event any state agency or entity of the judicial branch finds that the number of positions so provided is not sufficient to administer its authorized programs, it may file an application with the Executive Office of the Governor or the Chief Justice; and, if the office or Chief Justice certifies that there are no authorized positions available for addition, deletion, or transfer within the agency as provided in paragraph (c) and recommends an increase in the number of positions, the commission or the Chief Justice may, after a public hearing, authorize an increase in the number of positions for the following reasons only:

1. To implement or provide for continuing federal grants or changes in grants not previously anticipated;

2. To meet emergencies pursuant to s. 252.36;

3. To satisfy new federal regulations or changes therein;

4. To take advantage of opportunities to reduce operating expenditures or to increase the revenues of the state *or local government*; and

5. To authorize positions which were not fixed by the Legislature through error in drafting the appropriations acts.

The provisions of this paragraph are subject to the notice and review procedures set forth in s. 216.177. A copy of the application, the certification, and the final authorization shall be filed with the legislative appropriations committees and with the Auditor General.

Section 18. Effective upon this act becoming a law, and operating retroactively to January 1, 1992, paragraphs (a) and (b) of subsection (2) of section 624.5092, Florida Statutes, are amended to read:

624.5092 Administration of taxes; payments.—

(2)(a) Installments of the taxes to which this section is applicable shall be due and payable on April 15, June 15, and October 15 in each year~~, based upon the estimated gross amount of receipts of insurance premiums or assessments received during the immediately preceding calendar quarter~~. *Each installment payment must equal at least 30 percent of the tax finally due for the taxable year.* A final payment of tax due for the year shall be made at the time the taxpayer files his return for such year. On or before March 1 in each year, an annual return shall be filed ~~showing, by quarters, the gross amount of receipts taxable for the preceding year and the installment payments made during that year~~.

(b) Any taxpayer who fails to report and timely pay any installment of tax, who estimates any installment of tax to be less than ~~90 percent of~~ the amount *required under paragraph (a)* ~~finally shown to be due in any quarter~~, or who fails to report and timely pay any tax due with the final return is in violation of this section and is subject to a penalty of 10 percent on any underpayment of taxes or delinquent taxes due and payable for that quarter or on any delinquent taxes due and payable with the final return~~; provided, however, for purposes of this calculation credits and deductions shall not apply~~. Any taxpayer paying, for each installment required in this section, 27 percent of the amount of the *total* ~~annual~~ tax *due as* reported on his return for the preceding year *is* ~~shall~~ not ~~be~~ subject to the penalty provided by this section *for underpayment of estimated taxes.*

Section 19. Except as otherwise expressly provided in this act, 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, on page 1, line 3 through page 4, line 31, strike all of said lines and insert: 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the Department of Revenue; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 193.023, F.S.; requiring the property appraiser to use sales data as the primary measure of just valuation in specified circumstances; amending s. 193.085, F.S.; providing venue for actions challenging assessed value of certain railroad property; amending s. 193.1142, F.S.; requiring the department to use sales data in determining if assessment rolls meet requirements of law; amending s. 195.096, F.S.; requiring the Division of Ad Valorem Tax of the Department of Revenue to use sales data in conducting in-depth reviews of assessment rolls; requiring property appraisers to report real estate transfers to the Division of Ad Valorem Tax with specified information; requiring the property appraiser to submit information as to disqualified transactions to the Division of Ad Valorem Tax; requiring the Department of Revenue to develop a methodology for using sales data and develop a plan to implement such methodology; requiring recommendations to be included for the reallocation of resources; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers; amending s. 199.282, F.S.; clarifying penalties with respect to intangible personal property taxes; expanding penalties for security dealers and investment advisers; creating s. 199.106, F.S.; providing credits against the annual tax on certain intangible personal property in the amount of any like tax paid on such property in another state or territory or the District of Columbia; providing for retroactive application; creating s. 199.303, F.S.; providing legislative intent regarding application of such taxes and severability; amending s. 201.022, F.S.; requiring the clerk of the circuit court to execute and file the returns required as a condition precedent to recording any deed transferring an interest in real property under certain circumstances; providing for compensation; amending s. 212.0515, F.S.; revising reporting requirements for vending machine operators and persons who sell food and beverages to vending machine operators; providing additional penalties; amending s. 213.053, F.S.; authorizing the Department of Revenue to disclose certain confidential information to specified persons; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing an exemption from public records requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; restricting use of such information; amending s. 213.27, F.S.; allowing the Department of Revenue to contract with a collection agency to collect taxes due; removing the requirement that taxpayers be notified by certified mail and replacing with regular mail; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions beyond those provided in the appropriations acts; amending s. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; providing effective dates.

Senator Jennings moved the following amendment which was adopted:

Amendment 13 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Contingent on the rejection by vote of the electors at the general election in November 1992, of a constitutional amendment that proposes an amendment to section 9 of Article VII of the State Constitution which authorizes a municipality or county to levy, pursuant to referendum, a 1-cent sales tax for the purpose of funding local governmental services, paragraphs (a) and (g) of subsection (2) of section 212.055, Florida Statutes, as amended by section 1 of chapter 91-423, Laws of Florida, and section 148 of chapter 92-279, Laws of Florida, are amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(a) The governing authority in each county may levy, for a period of up to 15 years from the date of levy, a discretionary sales surtax of 0.5 percent or 1 percent. The levy of the surtax shall be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax shall be placed on the ballot and shall take effect if approved by a majority of the electors of the county voting in the referendum on the surtax. ~~No referendum election called pursuant to the provisions of this subsection shall be held between March 9 and December 31, 1988~~.

(g) No referendum proposing the levying of such surtax shall be held after November 30, *1994* ~~1992~~.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.055, F.S.; extending the authority of a county to levy the local government infrastructure sales surtax for an additional period, contingent on the rejection of a specified constitutional amendment;

Senator Scott moved the following amendment which was adopted:

Amendment 14 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Notwithstanding the provisions of chapter 91-197, Laws of Florida, which provide for review and repeal of chapter 550, Florida Statutes, sections 550.2635 and 550.26355, Florida Statutes, shall not stand repealed on July 1, 1992, but are repealed on July 1, 1993. If this act does not become a law by June 30, 1992, this section shall operate retroactively to that date.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: providing for retroactive effect; delaying the repeal of ss. 550.2635, 550.26355, F.S., relating to the Breeders' Cup Meet;

Senator Forman moved the following amendment which was adopted:

Amendment 15 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Section 561.025, Florida Statutes, is amended to read:

561.025 Alcoholic Beverage and Tobacco Trust Fund.—There is created within the State Treasury the Alcoholic Beverage and Tobacco Trust Fund. All funds collected by the division under the provisions of ss. 210.15, 210.40, 561.14(6), 561.181, 561.19(2) and (3), 561.27, 561.32, 561.331, 561.422, 561.57, 561.65, 563.02, 563.025, 563.045, 564.02, 564.025, 564.041, 565.02, *565.025,* 565.03, and 565.09 shall be deposited in the State Treasury to the credit of the trust fund, notwithstanding any other provision of law to the contrary. All moneys deposited to the credit of the trust fund shall be used to operate the division and to provide a proportionate share of the operation of the office of the Secretary of Business Regulation, except that the revenue transfer provisions of ss. 561.32 and 561.342(1) and (2) shall continue in full force and effect, and the division shall cause such revenue to be returned to the municipality or county in the manner provided for in s. 561.32 or s. 561.342(1) and (2). The Department of Business Regulation shall review annually the balance remaining in the trust fund, and any funds found to be in excess of the needs of the division shall be transferred to the General Revenue Fund. In no event shall the department permit the fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

Section 2. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 563.02, Florida Statutes, as amended by section 7 of chapter 92-176, Laws of Florida, are amended, and subsection (4) is added to that section, to read:

563.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume shall pay an annual state license tax as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$300* ~~$200~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$240* ~~$160~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$180* ~~$120~~.

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$120* ~~$80~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, *$60* ~~$40~~.

(4) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), and one-half of the foregoing amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 3. Section 563.025, Florida Statutes, is amended to read:

563.025 Surtax on license fees.—Each vendor of malt beverages containing alcohol of 0.5 percent or more by volume *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 563.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent.*

Section 4. Paragraphs (b), (c), (d), (e), and (f) of subsection (1) of section 564.02, Florida Statutes, as amended by section 8 of chapter 92-176, Laws of Florida, are amended, and subsection (4) is added to that section, to read:

564.02 License fees; vendors; manufacturers and distributors.—

(1) Each vendor authorized to sell brewed beverages containing malt, wines, and fortified wines shall pay an annual state license tax, as follows:

(b) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$380* ~~$280~~.

(c) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$320* ~~$240~~.

(d) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 50,000 and less than 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$260* ~~$200~~

(e) Vendors operating places of business where consumption on the premises is permitted in counties having a population of over 25,000 and less than 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$200* ~~$160~~.

(f) Vendors operating places of business where consumption on the premises is permitted in counties having a population of less than 25,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$140* ~~$120~~.

(4) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), and one-half of the foregoing amounts for licenses issued pursuant to paragraph (1)(a) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 5. Section 564.025, Florida Statutes, is amended to read:

564.025 Surtax on license fees.—Each vendor of beverages containing alcohol of 0.5 percent or more by volume and not more than 14 percent by weight and of wines regardless of alcoholic content *who is licensed under this chapter* shall pay an annual surtax in an amount *not to exceed 50* ~~equal to 40~~ percent of the license fee imposed by s. 564.02(1). *The surtax shall be established, by rule, by the division. Until the division establishes a specific rate by rule, the surtax is 40 percent of the license fee.*

Section 6. Subsections (1), (4), and (5) of section 565.02, Florida Statutes, as amended by section 9 of chapter 92-176, Laws of Florida, are amended, and subsection (12) is added to that section, to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(1) The following state license taxes apply to vendors who are permitted to sell any alcoholic beverages regardless of alcoholic content:

(a) A vendor operating a place of business where beverages are sold only in sealed containers for consumption off the premises where sold shall pay an amount equal to 75 percent of the amount of the license tax for vendors in the same county as provided in paragraphs (b), (c), (d), (e), and (f).

(b) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,920* ~~$1,820~~.

(c) A vendor operating a place of business where consumption on the premises is permitted in a county having a population over 75,000 and not over 100,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,640* ~~$1,560~~.

(d) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 50,000 and not over 75,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$1,360* ~~$1,300~~.

(e) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of over 25,000 and not over 50,000, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$898* ~~$858~~.

(f) A vendor operating a place of business where consumption on the premises is permitted in a county having a population of 25,000 or less, according to the latest population estimate prepared *under* ~~pursuant to~~ s. 186.901, for such county, shall pay *$644* ~~$624~~.

(g) A vendor operating a place of business where consumption on the premises is permitted and which has more than three separate rooms or enclosures in which permanent bars or counters are located from which alcoholic beverages are served for consumption on the licensed premises shall pay, in addition to the license tax imposed in paragraphs (b)-(f), $1,000. However, such permanent bars or counters do not include service bars not accessible to the public or portable or temporary bars being used for a single occasion or event. A golf club licenseholder may operate service bars or portable or temporary bars on the grounds contiguous to its licensed premises and shall pay $100 for a certified copy of the club license, which shall be posted on the bar. The area contiguous to the licensed premises shall be considered an extension of the licensed premises upon payment of the fee, posting of the certified copy of the license, and notation of such extension upon the sketch accompanying the original license application.

(4) Persons associated together as a chartered or incorporated club, including any social club incorporated by order of a circuit judge after its charter has been found to be for objects authorized by law and approved by the judge as organized for lawful purposes and not for the purpose of evading license taxes on dealers in beverages defined herein, which such organization is a bona fide club, and has been at the time of application for license hereunder in continuous active existence and operation for a period of not less than 2 years in the county where it exists, shall before serving or distributing to its members or nonresident guests the beverages defined herein, whether such service or distribution is made upon contribution to the club of money or by check or other device, pay an annual state license tax of *$460* ~~$400~~. However, any golf club operated by or on behalf of any incorporated municipality in this state, and any veterans' or fraternal organization of national scope, need not have been, or need not be, in continuous active existence or operation for any required period of time prior to an application for license hereunder. The payment of such club license tax shall authorize the service and distribution to members and nonresident guests of the club only, and such service and distribution to the members and nonresident guests shall not be deemed sales within the meaning of the law in this state; but any service or distribution to anyone other than a member or nonresident guest of such licensed club shall be deemed a sale, and any officer, member, or employee of any such licensed club who sells or distributes or serves any such beverages to any person other than a member or nonresident guest of such club for money or other value shall be deemed guilty of selling such beverages without a license and shall be punished as provided by law. The holders of a golf club license may sell alcoholic beverages to those other than members and their nonresident guests on days when the club is open to the public. For each such day of service to nonmembers, the club shall obtain from the division for a fee of $50 an extension of its license to permit such sales. Such license extensions shall be limited to one event per year, not to exceed 8 consecutive days. Any officer of any such club which has not paid such license who knowingly permits such service or distribution by such club of the beverages herein defined to members or nonresident guests of such club shall, upon conviction thereof, be punished as herein provided. However, this subsection does not apply to a club organized or used for the purpose of evading the payment of the license tax on vendors of such beverages; such club is subject to the payment of the license tax imposed by the Beverage Law upon vendors. The president, vice president, secretary, or treasurer, or officers of corresponding duties by any name they may be called, of any club required by this section to pay a license tax are required to see that such license tax is paid and, in default thereof, shall each be personally liable to the punishment provided by the Beverage Law for nonpayment of the license tax hereby required. Clubs which are not authorized to obtain licenses under this subsection or which do not obtain licenses under this subsection may, if they comply with this provision of the Beverage Law, obtain licenses as vendors. A club obtaining such club license shall not purchase any beverage herein defined from anyone other than a distributor or vendor licensed under the Beverage Law; nor shall such club dispense or serve any beverage defined herein unless such beverage has been purchased by such club from such licensed distributor or vendor; nor shall the club dispense or serve any such beverage on which a tax is required by the Beverage Law unless such beverage tax has been paid as required by that law. Such club license cannot be transferred in any manner whatsoever.

(5) A caterer at a horse or dog racetrack or jai alai fronton may obtain a license upon the payment of an annual state license tax of *$735* ~~$675~~. Such caterer's license shall permit sales only within the enclosure in which such races or jai alai games are conducted, and such licensee shall be permitted to sell only during the period beginning 10 days before and ending 10 days after racing or jai alai under the authority of the Division of Pari-mutuel Wagering of the Department of Business Regulation is conducted at such racetrack or jai alai fronton. Except as in this subsection otherwise provided, caterers licensed hereunder shall be treated as vendors licensed to sell by the drink the beverages mentioned herein and shall be subject to all the provisions hereof relating to such vendors.

(12) Notwithstanding the provisions of s. 561.342, $100 of the license fee established in paragraph (1)(b), $80 of the license fee established in paragraph (1)(c), $60 of the license fee established in paragraph (1)(d), $40 of the license fee established in paragraph (1)(e), $20 of the license fee established in paragraph (1)(f), three-fourths of the foregoing amounts for licenses issued pursuant to paragraph (1)(a), $60 of the license fee established in (4) and $60 of the license fee established in subsection (5) shall not be subject to distribution to counties and municipalities but shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The balance of the license fee shall be distributed as provided in s. 561.342.

Section 7. Effective July 1, 1993, section 565.025, Florida Statutes, is created to read:

565.025 Surtax on license fees.—Each vendor of liquor, distilled spirits, spirituous liquors, spirituous beverages, or distilled spirituous liquors, or of beverages containing one-half of 1 percent or more of alcohol by volume, who is licensed under this chapter, including a club licensed under s. 565.02(4) and a pari-mutuel facility licensed under s. 565.02(5), shall pay an annual surtax. The exact percentage of the surtax shall be set by rule, but may not exceed 10 percent of the license fee imposed by s. 565.02.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 561.025, F.S.; providing for the deposit of proceeds of the surtax on beverage license fees into the Alcoholic Beverage and Tobacco Trust Fund; amending ss. 563.02, 564.02, 565.02, F.S.; increasing the license fees for vendors of alcoholic beverages sold for consumption on the premises; increasing the license fees for certain clubs and pari-mutuel facilities; providing for the disposition of increased license fees; amending ss. 563.025, 564.025, F.S.; increasing the surtax imposed on license fees for vendors of certain alcoholic beverages and wines; creating s. 565.025, F.S.; imposing a surtax on the license fees of vendors of alcoholic beverages licensed under ch. 565, F.S., including certain clubs and pari-mutuel facilities;

VOTES RECORDED

Senators Kurth and Diaz-Balart requested that they be recorded as voting nay on **Amendment 15**.

Senator Grant moved the following amendment which was adopted:

Amendment 16 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Paragraph (d) is added to subsection (13) of section 365.171, Florida Statutes, to read:

365.171 Emergency telephone number "911."—

(13) "911" FEE.—

(d) Pay telephone service shall not be subject to the fee authorized in this section.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 365.171, F.S.; specifying that pay telephone service is not subject to assessment of fees for "911" service;

Senator Wexler moved the following amendment which was adopted:

Amendment 17 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Subsections (1), (2), and (3) of section 154.235, Florida Statutes, are amended to read:

154.235 Refunding bonds.—

(1) The authority is hereby authorized to provide for the issuance of revenue bonds for the purpose of refunding any ~~of its~~ revenue bonds *or other debt obligations issued in connection with a project and* ~~then~~ outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such revenue bonds *or other debt obligations*.

(2) The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds *or other debt obligations* may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds *or other debt obligations* either on their earliest or any subsequent redemption date, or upon the purchase or at the maturity thereof, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(3) Any such escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States, in any obligations of which the principal and interest are unconditionally guaranteed by the United States, in certificates of deposit or time deposits secured by direct obligations of the United States, or in any obligations of which the principal and interest are unconditionally guaranteed by the United States, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding revenue bonds *or other debt obligations* to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds *or other debt obligations* to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 154 235, F.S.; providing authority to health facilities to refund outstanding debt obligations;

Senator Gordon moved the following amendment which was adopted:

Amendment 18 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Paragraph (i) of subsection (3) of section 212.055, Florida Statutes, as amended by section 1 of chapter 91-423, Laws of Florida, is amended to read:

212.055 Discretionary sales surtaxes, legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(3) INDIGENT CARE SURTAX.—

(i) *No county, other than any county as defined in s. 125.011(1), may levy the tax authorized in this subsection after* ~~This subsection is repealed on~~ October 1, 1998.

Section 2. Section 3 of chapter 91-81, Laws of Florida, is repealed.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: deleting a repeal date for the indigent care surtax for some counties; repealing s. 3 of ch. 91-81, Laws of Florida; abrogating a repeal of s. 212.055(3), (4), F.S.;

Senators Childers, Dantzler and Walker offered the following amendment which was moved by Senator Dantzler and adopted:

Amendment 19 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective May 1, 1993, paragraph (j) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(j)1. Effective July 1, 1991, *and until April 30, 1993,* a tax is imposed at the rate of 6 percent on the charges for the use of coin-operated amusement machines. *Notwithstanding any other provision of law, beginning May 1, 1993, the amount of the tax is 3 percent and shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor is equal to the sum of 1.03, plus any applicable local option tax authorized by this part, expressed as a decimal.* When a machine is activated by a slug, token, coupon, or any similar device which has been purchased, the tax *is* ~~shall be~~ on the price paid by the user of the device for such device.

2.a. If a coin-operated amusement machine is placed at the location of a person other than the machine owner and the receipts are shared by the machine owner and the location owner, the machine owner is deemed to be leasing the machine to the location owner. Under such an agreement, the machine owner is deemed to be the operator of the machine and is liable for remitting the tax on sales generated through use of the machine as well as remitting the tax on the portion of the receipts he receives as consideration for the lease of the machine.

b. If the owner of a coin-operated amusement machine leases the machine to a lessee for a fixed amount that is not based on the amount of sales generated through the machine, the owner shall collect and remit the tax on the lease of the machine from the lessee. The lessee is liable for remitting the tax on sales generated through use of the machine.

c. Any person who leases a coin-operated amusement machine as provided in sub-subparagraph a. or sub-subparagraph b. is exempt from payment of the sales tax on the purchase of the machine if, at the time of purchase, he provides the vendor a sales tax resale certificate.

d. The owner of a coin-operated amusement machine who operates the machine at his business location is liable for payment of the sales tax on the purchase of the machine as well as remitting the tax on sales generated through use of the machine.

~~2. As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.~~

~~a. If the owner of the machine is also the operator of it, he shall be liable for payment of the tax without any deduction for rent or a license fee paid to a location owner for the use of any real property on which the machine is located.~~

~~b. If the owner or lessee of the machine is also its operator, he shall be liable for payment of the tax on the purchase or lease of the machine, as well as the tax.~~

3.a. ~~An operator of~~ A coin-operated amusement machine may not ~~operate or cause to~~ be operated in this state ~~any such machine~~ until the

owner of the machine ~~operator~~ has registered with the department and has affixed *an identifying device on each machine operated. The identifying device must be conspicuously displayed on the machine when it is being operated in this state. The device must bear a unique identification number issued by the department, the manufacturer's serial number of the machine, and the owner's sales tax registration number. An identifying device may not be transferred from one machine to another machine or from one owner to another owner. The identifying device must* ~~a notice to each machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his social security number. The notice must be conspicuously displayed on the machine when it is being operated in this state and shall~~ contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL AMUSEMENT MACHINES. REPORT *ANY MACHINE WITHOUT A NOTICE* ~~ALL VIOLATIONS~~ TO (*TOLL-FREE* ~~TOLL FREE~~ NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

b. The owner of the machine must obtain an identifying device before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each identifying device is $10 and is due and payable upon application for the identifying device.

c. An identifying device must be displayed on any coin-operated amusement machine operated in this state on or after May 1, 1993. An identifying device issued before July 1, 1993, is valid until July 1, 1994.

d. The county tax collector may issue the identifying devices upon payment of the annual fee. The tax collector shall submit a form to the department, in a format specified by the department, which contains the name of the owner of the amusement machine, the owner's sales tax registration number, the manufacturer's serial number of the machine, and the unique identificiation number assigned to each identifying device issued to the owner. The tax collector may charge and retain an additional $5 for each form submitted to the department. The tax collector shall submit payment for, and report the transmittal of, identifying devices to the department by the 15th day of each month for identifying devices issued during the previous month.

e. ~~b.~~ The department shall establish a toll-free number to report any violations of this paragraph. Upon a determination that a violation has occurred, the department shall pay the informant up to 10 percent of *any amount* ~~previously unpaid taxes~~ recovered as a result of the information provided.

f. ~~c.~~ A penalty of $250 per machine is imposed on the *owner* ~~operator~~ for failing to properly obtain and display the required *identifying device* ~~notice~~ on any machine. Such penalty *accrues* ~~shall accrue~~ interest as provided for delinquent taxes under this part and *applies* ~~shall apply~~ in addition to all other applicable taxes, interest, and penalties.

g. By April 1 of each year, the owner of a coin-operated amusement machine shall send to the department a copy of the tangible personal property return that he submitted to the county property appraiser under s. 193.052 for the current tax year.

h. ~~d.~~ *Owners* ~~Operators~~ of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the *owner's* ~~operator's~~ machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

5. In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6. The department may adopt rules necessary to administer the provisions of this paragraph.

Section 2. Paragraph (b) of subsection (1) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(1) Notwithstanding any other provision of law and for the purpose of compensating persons granting licenses for and the lessors of real and personal property taxed hereunder, for the purpose of compensating dealers in tangible personal property, for the purpose of compensating dealers providing communication services and taxable services, for the purpose of compensating owners of places where admissions are collected, and for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, as compensation for the keeping of prescribed records and the proper accounting and remitting of taxes by them, such seller, person, lessor, dealer, owner and remitter (except dealers who make mail order sales) shall be allowed 2.5 percent of the amount of the tax due and accounted for and remitted to the department, in the form of a deduction in submitting his report and paying the amount due by him; the department shall allow such deduction of 2.5 percent of the amount of the tax to the person paying the same for remitting the tax in the manner herein provided, for paying the amount due to be paid by him, and as further compensation to dealers in tangible personal property for the keeping of prescribed records and for collection of taxes and remitting the same. However, if the amount of the tax due and remitted to the department for the reporting period exceeds $1,200, the 2.5-percent allowance shall be reduced to 0.83 percent for all amounts in excess of $1,200. The executive director of the department is authorized to negotiate a collection allowance, pursuant to rules promulgated by the department, with a dealer who makes mail order sales. The rules of the department shall provide guidelines for establishing the collection allowance based upon the dealer's estimated costs of collecting the tax, the volume and value of the dealer's mail order sales to purchasers in this state, and the administrative and legal costs and likelihood of achieving collection of the tax absent the cooperation of the dealer. However, in no event shall the collection allowance negotiated by the executive director exceed 10 percent of the tax remitted for a reporting period.

(b) The Department of Revenue may reduce the collection allowance by 10 percent or $50, whichever is less, if a taxpayer files an incomplete return.

1. An "incomplete return" is, for purposes of this chapter, a return which is lacking such uniformity, completeness, and arrangement that the physical handling, verification, or review of the return may not be readily accomplished.

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. For returns remitted on or after February 1, 1992, the department shall ~~also~~ require that sales made through vending machines as defined in s. 212.0515 be separately shown. *For returns remitted on or after May 1, 1993, sales made through coin-operated amusement machines as defined in s. 212.02 and the number of machines operated must be separately shown on the return, or a form, prescribed by the department, must be submitted which indicates the number of machines operated and the sales made through the machines.*

Section 3. Effective May 1, 1993, paragraph (f) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this part shall be as follows:

(f) Proceeds from the *fees* ~~fee~~ imposed *under ss. 212.05(1)(j)3. and* ~~pursuant to s.~~ 212.18(3) shall remain with the General Revenue Fund.

Section 4. Effective May 1, 1993, subsection (8) is added to section 381.0072, Florida Statutes, as amended by section 4 of chapter 92-180, Laws of Florida, to read:

381 0072 Food service protection.—It shall be the duty of the Department of Health and Rehabilitative Services to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and require-

ments for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

(8) In conducting inspections of food service establishments regulated under this section, the department shall determine if each coin-operated amusement machine that is operated on the premises of the food service establishment is properly registered with the Department of Revenue. Each month, the department shall report to the Department of Revenue the sales tax registration number of the operator of any food service establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 5. Effective May 1, 1993, subsection (3) is added to section 500.1465, Florida Statutes, as created by section 12 of chapter 92-180, Laws of Florida, to read:

500.1465 Inspection of permitted establishments.—

(3) In conducting inspections of establishments permitted under this chapter, the department shall determine if each coin-operated amusement machine that is operated on the premises of the establishment is properly registered with the Department of Revenue. Each month, the department shall report to the Department of Revenue the sales tax registration number of the operator of any establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 6. Effective May 1, 1993, paragraph (f) is added to subsection (2) of section 509.032, Florida Statutes, as amended by section 22 of chapter 92-180, Laws of Florida, to read:

509.032 Duties.—

(2) INSPECTION OF PREMISES.—

(f) In conducting inspections of establishments licensed under this chapter, the division shall determine if each coin-operated amusement machine that is operated on the premises of a licensed establishment is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed establishment that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

Section 7. Effective May 1, 1993, section 561.1105, Florida Statutes, is created to read:

561.1105 Inspection of licensed premises; coin-operated amusement machines.—In conducting inspections of establishments licensed under the Beverage Law, the division shall determine if each coin-operated amusement machine that is operated on the licensed premises is properly registered with the Department of Revenue. Each month, the division shall report to the Department of Revenue the sales tax registration number of the operator of any licensed premises that has on location a coin-operated amusement machine that does not have an identifying device affixed as required by s. 212.05(1)(j).

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.05, F.S.; revising the rate of the tax imposed on the charges for the use of coin-operated amusement machines; requiring that an identifying device issued by the department or county tax collector be affixed to each amusement machine; imposing an annual fee for such devices; providing additional reporting requirements; amending s. 212.12, F.S.; requiring taxpayers to report sales made through coin-operated amusement machines and other information; amending s. 212.20, F.S.; providing for disposition of the proceeds of the annual fee for coin-operated amusement machine identifying devices; amending ss. 381.0072, 500.1465, 509.032, F.S., and creating s. 561.1105, F.S.; requiring the Department of Health and Rehabilitative Services, the Department of Agriculture and Consumer Services, the Division of Hotels and Restaurants of the Department of Business Regulation, and the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation, in performing inspection duties, to inspect coin-operated amusement machines for compliance with s. 212.05(1)(j), F.S.; requiring that violations be reported to the Department of Revenue;

VOTE RECORDED

Senator Weinstock requested that she be recorded as voting nay on **Amendment 19**.

Senator Diaz-Balart moved the following amendment which was adopted:

Amendment 20 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective September 1, 1992, subsection (26) is added to section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(26) "Sea trial" means a voyage for the purpose of testing repair or modification work, which is in length and scope reasonably necessary to test repairs or modifications, or a voyage for the purpose of ascertaining the seaworthiness of a vessel. If the sea trial is to test repair or modification work, the owner or repair facility shall certify, in a form required by the department, what repairs have been tested. The owner and the repair facility may also be required to certify that the length and scope of the voyage were reasonably necessary to test the repairs or modifications.

Section 2. Effective September 1, 1992, paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed after July 1, 1985, pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or airplane by or through a registered dealer under this chapter to a purchaser who, *at the time of taking delivery, is a nonresident of this state, does not make his permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his permanent place of abode in, this state.* ~~removes such boat or airplane from this state within 10 days after the date of purchase or, when the boat or air-~~

~~plane is repaired or altered, within 10 days after completion of such repairs or alterations. In no event shall the boat or airplane remain in this state more than 90 days after the date of purchase.~~ This exemption shall not be allowed unless ~~the seller~~:

a. The purchaser removes the boat or airplane from this state within 10 days after the date of purchase or, when the boat or airplane is repaired or altered, within 20 days after completion of the repairs or alterations.

b.~~a. Obtains from~~ The purchaser within 90 days from the date of sale *provides the department with* written proof that the purchaser licensed, registered, or documented the boat or airplane outside the state;

c.~~b.~~ *The seller provides to the department a copy of the sales invoice and* ~~Requires the purchaser to sign~~ an affidavit *signed by the purchaser* that he has read the provisions of this section; and

d.~~c.~~ *The seller* makes the affidavit a part of his ~~permanent~~ record *for as long as required by s. 213.35.*

If ~~In the event~~ the purchaser fails to remove the boat or airplane from this state within 10 days after purchase or, when the boat or airplane is repaired or altered, within *20* ~~10~~ days after completion of such repairs or alterations, or permits the boat or airplane to return to this state within 6 months from the date of departure, the purchaser shall be liable for use tax on the cost price of the boat or airplane and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2) and is mandatory and shall not be waived by the department.

Section 3. Effective September 1, 1992, paragraph (t) of subsection (7) of section 212.08, Florida Statutes, as amended by section 3 of chapter 92-113, Laws of Florida, section 1 of chapter 92-164, Laws of Florida, section 1 of chapter 92-168, Laws of Florida, and section 10 of chapter 92-173, Laws of Florida, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(t) Boats temporarily docked in state.—

1. Notwithstanding the provisions of chapters 327 and 328, pertaining to the registration of vessels, a boat upon which *the state* sales *or use* tax has not been paid~~, which has not been licensed, titled, or registered in another taxing jurisdiction within the United States, or which is being used in the waters of this state under a permit issued by an agency of the United States government~~ is exempt from the use tax under this chapter if it enters and remains in this state for a period not to exceed a total of *20* ~~10~~ days in any calendar year calculated from the date of first dockage or slippage at a facility, registered with the department, that rents dockage or slippage space in this state. If a boat brought into this state for use under this paragraph is placed in a facility, registered with the department, for repairs, alterations, refitting, or modifications and such repairs, alterations, refitting, or modifications are supported by written documentation, the *20-day* ~~10-day~~ period shall be tolled during the time the boat is physically in the care, custody, and control of the repair facility, *including the time spent on sea trials conducted by the facility.* The *20-day* ~~10-day~~ time period may be tolled only once within a calendar year when a boat is placed for the first time that year in the physical care, custody, and control of a registered repair facility; however, the owner may request and the department may grant an additional tolling of the *20-day* ~~10-day~~ period for purposes of repairs that arise from a written guarantee given by the registered repair facility, which guarantee covers only those repairs or modifications made during the first tolled period. Within 72 hours after the date upon which the registered repair facility took possession of the boat, the facility must *have in its possession* ~~furnish to the department~~, on forms prescribed by the department, an affidavit which states that the boat is under its care, custody, and control and that the owner does not use the boat *while in the facility.* Upon completion of the repairs, alterations, refitting, or modifications, the registered repair facility must ~~furnish the department~~, within 72 hours after the date of release, *have in its possession* ~~with~~ a copy of the release form which shows the date of release and any other information the department requires. *The repair facility shall maintain a log that documents all alterations, additions, repairs, and sea trials during the time the boat is under the care, custody, and control of the facility. The affidavit shall be maintained by the registered repair facility as part of its records for as long as required by s. 213.35.* When, within 6 months after the date of its purchase, a boat is brought into this state under this paragraph, the 6-month period provided in *s. 212.05(1)(a)2. or* s. 212.06(8) shall be tolled.

2. During the period of repairs, alterations, refitting, or modifications and during the *20-day* ~~10-day~~ period referred to in subparagraph 1., the boat may be listed for sale, contracted for sale, or sold exclusively by a broker or dealer registered with the department without incurring a use tax under this part; however, the sales tax levied under this part applies to such sale.

3. The mere storage of a boat at a registered repair facility does not qualify as a tax-exempt use in this state.

4. As used in this paragraph, "registered repair facility" means:

a. A full-service facility that:

(I) Is located on a navigable body of water;

(II) Has haulout capability such as a dry dock, travel lift, railway, or similar equipment to service craft under the care, custody, and control of the facility;

(III) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(IV) Has necessary shops and equipment to provide repair or warranty work on vessels under the care, custody, and control of the facility;

b. A marina that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work on vessels; or

c. A shoreside facility that:

(I) Is located on a navigable body of water;

(II) Has adequate piers and storage facilities to provide safe berthing of vessels in its care, custody, and control; and

(III) Has necessary shops and equipment to provide repairs or warranty work.

Section 4. Effective September 1, 1992, subsection (12) is added to section 212.06, Florida Statutes, as amended by section 2 of chapter 92-168, Laws of Florida, and section 2 of chapter 92-207, Laws of Florida, to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(12) In lieu of any other facts which may indicate commingling, any boat which remains in this state for more than an aggregate of 183 days in any 1-year period, except as provided in subsection (8) or s. 212.08(7)(t), shall be presumed to be commingled with the general mass of property of this state.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.02, F.S.; defining "sea trial"; amending s. 212.05, F.S.; revising requirements and conditions relating to the tax exemption provided for boats and airplanes removed from the state after purchase; amending s. 212.08, F.S.; revising requirements and conditions relating to the tax exemption provided for boats temporarily docked in the state; amending s. 212.06, F.S.; providing a presumption with respect to when boats are considered commingled with the general mass of property of the state;

Senator Gordon moved the following amendment which was adopted:

Amendment 21 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Section 1 of chapter 67-930, Laws of Florida, is amended to read:

Section 1. All cities and towns, in counties of the state having a population of not less than three hundred thirty thousand (330,000) and not more than three hundred forty thousand (340,000) and in counties having a population of more than nine hundred thousand (900,000), according to the latest official decennial census, whose charter specifically provides now or whose charter is so amended prior to January 1, 1968, for the levy of the exact tax as herein set forth, are hereby given the right, power and authority by ordinance to impose, levy and collect a tax within their corporate limits, to be known as a municipal resort tax, upon the rent of every occupancy of a room or rooms in any hotel, motel, apartment house, rooming house, tourist or trailer camp, as the same are defined in part I, chapter 212, Florida Statutes, and upon the retail sale price of all items of food, beverages and alcoholic beverages~~, other than beer or malt beverages,~~ sold at retail for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department; provided, however, this tax shall not apply to those sales the amount of which is less than fifty cents (50¢).

Section 2. Section 2 of chapter 67-930, Laws of Florida, as amended by chapter 83-363, Laws of Florida, is amended to read:

Section 2. The tax authorized by section 1 shall not exceed two percent (2%) of the rent received by the person renting such room or rooms from the person paying said rent, and of the retail sales price paid by any guest, consumer or any person on the purchase of each sale of food, beverages and alcoholic beverages~~, other than beer or malt beverages,~~ for consumption on the premises of any place of business required by law to be licensed by the state hotel and restaurant commission or by the state beverage department. However, upon approval by referendum of a charter amendment so authorizing, the tax may be levied at a rate not to exceed 4 percent on the rent of such room or rooms.

Section 3. Section 3 of chapter 67-930, Laws of Florida, is amended to read:

Section 3. The tax imposed by this act shall be collected from the person paying said rent *or* ~~of~~ said retail sales price and shall be paid by such person for the use of the city or town to the person collecting and receiving the rent or the retail sales price at the time of the payment thereof. It shall be the duty of every person renting a room or rooms, as herein provided, and of every person selling at retail for consumption on the premises, food, beverages and alcoholic beverages, ~~other than beer or malt beverages,~~ as herein provided, in acting as the tax collection medium or agency of the city or town, to collect from the person paying the rent or the retail sales price, for the use of the city or town, the tax imposed and levied pursuant to this act, and to report and pay over to the city or town all such taxes imposed, levied and collected, in accordance with the accounting and other provisions of the enacted ordinance.

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending ss. 1, 2, and 3, ch. 67-930, Laws of Florida; revising provisions which authorize certain cities to levy a municipal resort tax, to remove an exemption for beer and malt beverages;

Senator Diaz-Balart moved the following amendment which was adopted:

Amendment 22 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Subsection (2) of section 212.0305, Florida Statutes, is amended to read:

212.0305 Convention development taxes; intent; administration; authorization; use of proceeds.—

(2) LEGISLATIVE INTENT.—No convention development tax on transient rentals shall be imposed by the governing body of any county unless specifically authorized herein. Any tax authorized pursuant to this section shall be administered and collected exclusively as provided herein and may consist of one or more component levies as enumerated in subsection (4). It is the legislative intent that any authorization for imposition of a convention development tax shall be published in the Florida Statutes as a paragraph of subsection (4), irrespective of the duration of the levy. Each enactment shall specify the types of local governments authorized to levy a convention development tax; the rate or rates which may be imposed; the maximum length of time the tax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. *One of the principal purposes of the convention development tax is to promote tourism and the use of hotel facilities by facilitating the improvement and construction of convention centers. Any municipality or county wherein the convention development tax is levied is specifically authorized to adopt and implement a convention center booking policy to apply to convention centers owned or operated by a municipality or county which gives priority to bookings after July 1, 1992, in accordance with the minimum number of hotel rooms to be utilized in connection with such convention center bookings or in accordance with the impact of such bookings on the convention development tax generated.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.0305, F.S.; revising language with respect to Legislative intent concerning convention development taxes;

Senator Grant moved the following amendment which failed:

Amendment 23 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Effective upon this act becoming a law, section 4 of chapter 92-168, Laws of Florida, is amended to read:

Section 4. *Except for this section, which shall take effect upon becoming a law, and except for section 2, which shall take effect upon becoming a law and operate retroactively to July 1, 1987,* this act shall take effect July 1, 1992.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 5, line 2, insert: amending s. 4, ch. 92-168, Laws of Florida; providing retroactive application of the exemption from sales and use taxes granted to certain promotional materials;

The vote was:

Yeas—17 Nays—19

Senator Childers moved the following amendment which was adopted:

Amendment 24 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Paragraph (dd) is added to subsection (7) of section 212.08, Florida Statutes, as amended by section 3 of chapter 92-113, Laws of Florida, section 1 of chapter 92-164, Laws of Florida, section 1 of chapter 92-168, Laws of Florida, and section 10 of chapter 92-173, Laws of Florida, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(dd) Military uniforms.—Exempt from the tax imposed by this chapter is the sale of military uniforms to military personnel currently on active duty. In order to claim the exemption, the purchaser must present a sworn statement that he is classified as on active duty status at the time of the purchase. The statement must contain the purchaser's name, military address, branch of service, and identification number and the date that his active duty status will expire. The seller shall maintain such proof at the location at which the exempt sale is made.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.08, F.S.; providing an exemption from sales and use taxes for the sale of military uniforms to military personnel on active duty;

Senator Forman moved the following amendment which was adopted:

Amendment 25 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Section 212.0515, Florida Statutes, is amended to read:

212.0515 Sales from vending machines; sales to vending machine operators; special provisions; registration; quarterly reports; penalties.—

(1) As used in this section, *the term*:

(a) "Vending machine" means a machine, operated by coin, currency, credit card, slug, token, coupon, or similar device, which dispenses food or beverage items.

(b) "Operator" means any person who possesses a vending machine for the purpose of generating sales through that machine and who maintains the inventory in and removes the receipts from that vending machine.

(2) Notwithstanding any other provision of law, ~~beginning January 1, 1992,~~ the amount of the tax to be paid on food and beverage items that are sold in vending machines shall be calculated by dividing the gross receipts from such sales for the applicable reporting period by a divisor, determined as provided in this subsection, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. The divisor shall be equal to the sum of 1.0665 for beverage items, or 1.0645 for food items, plus any applicable local option tax authorized by this part, expressed as a decimal. *However, the amount of the tax to be paid on natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, or similar milk products, natural fruit juices; or natural vegetable juices shall be calculated using the divisor that is specified for food items.*

(3)(a) An operator of a vending machine may not operate or cause to be operated in this state any vending machine until the operator has registered with the department and has affixed a notice to each vending machine which states the operator's name, address, and Federal Employer Identification (FEI) number. If the operator is not required to have an FEI number, the notice shall include his *sales tax registration* ~~social security~~ number. The notice must be conspicuously displayed on the vending machine when it is being operated in this state and shall contain the following language in conspicuous type: NOTICE TO CUSTOMER: FLORIDA LAW REQUIRES THIS NOTICE TO BE POSTED ON ALL FOOD AND BEVERAGE VENDING MACHINES. REPORT *ANY MACHINE WITHOUT A NOTICE* ~~ALL VIOLATIONS~~ TO (*TOLL-FREE* ~~TOLL FREE~~ NUMBER). YOU MAY BE ELIGIBLE FOR A CASH REWARD.

(b) The department shall establish a toll-free number to report any violations of this section. Upon a determination that a violation has occurred, the department shall pay the informant a reward of up to 10 percent of previously unpaid taxes recovered as a result of the information provided.

(4)(a) Each operator shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report in a format prescribed by the department which provides: the number of vending machines being operated by that operator in this state, which number is coded to indicate whether the machines are food or beverage machines; separate statements for food machines and for beverage machines which indicate the gross receipts from the operation of the machines during the quarterly period; and the amount of tax remitted pursuant to this part with respect to such receipts. All information shall be broken down by county. ~~The report shall first be filed for the quarter ending December 31, 1991.~~

(b) A penalty of $250 per machine is imposed on the operator *who fails* ~~for failing~~ to properly obtain and display the required notice on any machine. A penalty of $250 is imposed on the operator *who fails* ~~for failing~~ to timely file a quarterly report *or who files false information.* ~~Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(c) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(5)(a) Any person who sells food or beverages *to an operator* for resale *through vending machines* shall submit to the department on or before the 20th day of the month following the close of each calendar quarter a report which identifies by dealer registration number each operator *described in paragraph (b)* who has purchased such items from said person and states the *net* ~~gross~~ dollar amount of purchases made by each operator from said person. ~~The report shall first be filed for the quarter ending December 31, 1991.~~ In addition, the report shall also include the purchaser's name, dealer registration number, and sales price for any tax-free sale for resale of canned soft drinks of *25* ~~50~~ cases or more.

(b) Each ~~dealer or~~ operator *who purchases* ~~purchasing~~ food or beverages for resale *in vending machines* shall annually provide to the dealer from whom the items are purchased a certificate on a form prescribed and issued by the department. The certificate must affirmatively state *that* ~~whether or not~~ the purchaser is a vending machine operator. The certificate shall initially be provided ~~by November 1, 1991, or~~ upon the first transaction between the parties, ~~whichever is later,~~ and by November 1 of each year thereafter.

(c) A penalty of $250 is imposed on any person who is required to file the quarterly report required by this subsection who fails to do so *or who files false information.* A penalty of *$250* ~~$5,000~~ is imposed on any operator who fails to comply with the requirements of this subsection *or who provides the dealer with false information.* ~~A penalty of $250 for such failure shall apply to other dealers who are not operators of vending machines. Such~~ Penalties ~~shall~~ accrue interest as provided for delinquent taxes under this part and ~~shall~~ apply in addition to all other applicable taxes, interest, and penalties.

(d) The department is authorized to adopt rules regarding the form in which the quarterly report required by this subsection is to be submitted, which form may include magnetic tape or other means of electronic transmission.

(6) The provisions of this section do not apply to vending machines owned and operated by churches or synagogues.

(7) In addition to any other penalties imposed by this part, a person who knowingly and willfully violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules necessary to administer the provisions of this section *and may establish a schedule for phasing in the requirement that existing notices be replaced with revised notices displayed on vending machines.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.0515, F.S.; revising reporting requirements for vending machine operators and persons who sell food and beverages to vending machine operators; revising the method for calculating the tax for certain beverages; providing additional penalties;

The vote was:

Yeas—18 Nays—13

MOTION TO RECONSIDER AMENDMENT

Senator Burt moved that the Senate reconsider the vote by which **Amendment 23** failed. The motion was adopted. The vote was:

Yeas—22 Nays—12

The question recurred on **Amendment 23** which was adopted.

Senator Gardner moved the following amendment which was adopted:

Amendment 26 (with Title Amendment)—On page 5, line 2, insert:

Section 1. Paragraph (ee) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(ee) The lease of or license to use a taxicab or taxicab related equipment and services by a taxicab company to an independent taxicab operator are exempt.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: amending s. 212.08, F.S.; providing for an exemption for the lease of license to use of taxicabs and related equipment;

On motion by Senator Jenne, by two-thirds vote **CS for HB 295-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28 Nays—7

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

CS for CS for HB 193-H—A bill to be entitled An act relating to local government finance; amending s. 212.055, F.S.; authorizing additional uses of local government infrastructure surtax revenues by certain small counties and municipalities therein under certain conditions; authorizing such small counties to levy a small county discretionary sales surtax; specifying the rate; providing procedures and requirements for such levy; providing uses of surtax revenues and requiring a referendum for certain uses; revising provisions that authorize certain counties to levy a discretionary sales surtax for the purpose of funding a county public general hospital and deleting the repeal date for such surtax; repealing s. 3, ch. 91-81, Laws of Florida, which specifies the repeal date for said surtax, to conform; authorizing such small counties to levy a discretionary sales surtax for the purpose of funding indigent health care; specifying the rate; providing procedures and requirements for such levy; providing for repeal of the surtax; limiting the combined rate of specified discretionary sales surtaxes; amending s. 336.021, F.S.; authorizing such small counties to use the voted gas tax for certain additional purposes if certain conditions are met; amending s. 336.025, F.S.; authorizing such small counties to use the proceeds of the local option gas tax on motor fuel for certain additional purposes if certain conditions are met; creating the Small County Technical Assistance Program; requiring the Comptroller to enter into contracts with program providers for the purpose of assisting certain small counties in financial and administrative matters; requiring the Advisory Council on Intergovernmental Relations to advise the Comptroller and conduct performance reviews of the program; providing an effective date.

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

Yeas—28 Nays—6

MOTION

On motion by Senator Dudley, the House was requested to return **HB 459-H**.

RECESS

The President declared the Senate in informal recess at 10:53 p.m.

CALL TO ORDER

The Senate was called to order by the President at 10:58 p.m. A quorum present.

On motions by Senator Kiser, by two-thirds vote **SB 212-H** was withdrawn from the Committees on Commerce; and Finance, Taxation and Claims.

On motion by Senator Kiser, by unanimous consent—

SB 212-H—A bill to be entitled An act relating to the Department of Insurance; amending s. 527.01, F.S., relating to liquefied petroleum gas; revising a definition of the term "installer C"; providing a definition of the term "pipeline system operator"; amending s. 527.02, F.S.; providing and revising license fees for persons engaged in providing liquefied petroleum gas; requiring pipeline system operators to be licensed; amending s. 527.021, F.S.; providing for registration fees for persons who deliver liquefied petroleum gas in bulk; providing for inspection decals; amending s. 527.0605, F.S.; providing a fee for certain inspections of liquefied petroleum gas facilities; amending ss. 624.501, 624.5015, F.S.; revising fees related to engaging in the business of providing insurance; amending s. 624.5091, F.S.; revising the distribution of retaliatory taxes; amending s. 624.515, F.S.; requiring a policy surcharge for fire insurance insuring commercial property in this state; amending s. 624.516, F.S.; providing for deposit of that surcharge; amending s. 624.518, F.S.; requiring tax returns with respect to that surcharge; amending s. 626.989, F.S.; deleting a provision providing that certain investigators are not eligible for membership in the Special Risk Class of the Florida Retirement System; amending s. 648.31, F.S., relating to appointment taxes and fees for bail bondsmen and runners; deleting the provision providing for the deposit of such taxes and fees into the same funds and for the same uses as those of general lines agents; providing for retroactive effect; providing an effective date.

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

Senator Kiser moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 2, line 9, insert:

Section 1. Subsection (1) of section 494.006, Florida Statutes, is amended to read:

494.006 Exemptions.—

(1) None of the following persons are subject to the requirements of ss 494 006-494.0077 in order to act as a mortgage lender or correspondent mortgage lender:

(a) A bank, bank holding company, trust company, savings and loan association, savings bank, ~~or~~ credit union, *or insurance company if the insurance company is duly licensed in this state.*

(b) Any person acting in a fiduciary capacity conferred by authority of any court.

(c) Any person who, as a seller of his own real property, receives one or more mortgages in a purchase money transaction.

(d) Any person who receives a mortgage as security for an obligation arising out of materials furnished or as services rendered by the person in the improvement of the real property.

(e) Any person who makes only nonresidential mortgage loans and sells loans only to institutional investors.

(f) The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; an agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States.

(g) A consumer finance company licensed pursuant to chapter 516 as of October 1, 1991.

(h) Any person making or acquiring a mortgage loan with his own funds for his own investment, and who does not hold himself out to the public, in any manner, as being in the mortgage lending business.

(i) Any person selling a mortgage that was made or purchased with that person's funds for his own investment, and who does not hold himself out to the public, in any manner, as being in the mortgage lending business.

(j) Any person who acts solely under contract and as an agent for federal, state, or municipal agencies in the servicing of mortgage loans.

Section 2. Subsection (3) of section 624.472, Florida Statutes, is amended to read:

624.472 Member's liability.—

(3) Each policy issued by the fund shall contain a statement of the contingent liability. Both the application for insurance and the policy shall contain, in contrasting color and in not less than 10-point type, the following statements: "This is a fully assessable policy. In the event the fund is unable to pay its obligations, policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations." In lieu of the notice provided for above,

a fund with governmental entity members shall provide the following notice to members other than governmental entities: "This is a fully assessable policy. In the event the fund is unable to pay its obligations related to members which are not governmental entities, the policyholders which are not governmental entities will be required to contribute on a pro rata earned premium basis the money necessary to meet any such unfilled obligations." A fund with governmental entity members shall provide the following notice to governmental entity members: "This is a fully assessable policy. In the event the fund is unable to pay its obligations related to governmental entity members, governmental entity policyholders will be required to contribute on a pro rata earned premium basis the money necessary to meet any such unfilled obligations." *If the application is signed by the applicant, it must be conclusively presumed that there was an informed, knowing acceptance of the assessment liability that exists as a result of participation in the fund.*

Section 3. Workers' compensation group self-insurance fund application disclosure.—Each application for workers' compensation coverage under a group self-insurance fund authorized under chapter 440, Florida Statutes, must contain in contrasting color and in not less than 10-point type, the following statement: "This is a fully assessable policy. If the fund is unable to pay its obligations, policyholders must contribute on a pro rata earned premium basis the money necessary to meet any unfilled obligations." If the application is signed by the applicant, it must be conclusively presumed that there was an informed, knowing acceptance of the assessment liability that exists as a result of participation in the fund.

Section 4. Effective July 1, 1993, section 626.072, Florida Statutes, as amended by chapter 92-146, Laws of Florida, is amended to read:

626.072 "Customer representative" *and "limited customer representative"* defined.—For the purposes of this code:

(1) A "customer representative" is an individual appointed by a general lines agent or general lines agency to assist the agent or agency in transacting the business of insurance from the office of the agent or agency.

(2) A "limited customer representative" is a customer representative appointed by a general lines agent or general lines agency to assist the agent or agency in transacting only the business of private passenger motor vehicle insurance from the office of the agent or agency. A limited customer representative is subject to this code in the same manner as a customer representative unless otherwise specified.

Section 5. Effective July 1, 1993, subsection (5) of section 626.241, Florida Statutes, is amended to read:

626.241 Scope of examination.—

(5) Examinations given applicants for a limited license as agent *or as customer representative* shall be limited in scope to the kind of business to be transacted under such license.

Section 6. Subsections (3) and (4) of section 627.062, Florida Statutes, are amended to read:

627.062 Rate standards.—

(3)*(a)* For individual risks that are not rated in accordance with the insurer's rates, rating schedules, rating manuals, and underwriting rules filed with the department and which have been submitted to the insurer for individual rating, the insurer *must maintain documentation on each risk subject to individual risk rating. The documentation must identify the named insured and specify the characteristics and classification of the risk supporting the reason for the risk being individually risk rated, including any modifications to existing approved forms to be used on the risk. The insurer must maintain these records for a period of at least 5 years after the effective date of the policy.*

(b) Individual risk rates and modifications to existing approved forms are not subject to this part or part II, except for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404, 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132, 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426, 627.4265, 627.427, and 627.428, but are subject to all other applicable provisions of this code and rules adopted thereunder.

(c) This subsection does not apply to private passenger motor vehicle insurance ~~is required to file rates with the department for each such risk as soon as practicable following the effective date of the policy but in no event later than 90 days thereafter~~.

(4) *The establishment of* ~~Nothing contained in this section or elsewhere in this part shall be construed to repeal or modify the provisions of ss. 626.951, 626.9511, 626.9521, 626.9541, 626.9551, 626.9561, 626.9571, 626.9581, 626.9591, 626.9601, 626.9611, 626.9621, 626.9631, 626.9641, 626.9701, 626.9702, and 626.973, relating to unfair insurance trade practices; and~~ any rate, rating classification, rating plan or schedule, or variation thereof established in violation of *part X of chapter 626 is also in* ~~said sections shall, in addition to the consequences stated in said sections or elsewhere, be deemed a~~ violation of this section.

Section 7. Section 628.6011, Florida Statutes, is amended to read:

628.6011 Assessable mutual insurers.—

(1) An "assessable mutual insurer" is an insurer incorporated in Florida without permanent capital stock which has only *policyholders,* insureds, or risks located in Florida and which transacts insurance only within Florida. *An assessable mutual insurer may be* ~~and is~~ formed *only* in accordance with part I. Members of the assessable mutual have a contingent liability for discharge of its liabilities as provided in this part. An assessable mutual may be authorized to offer only property, health, and casualty insurance.

(2) The assessable mutual shall not participate in the Florida Insurance Guaranty Association or the Florida Life and Health Insurance Guaranty Association.

Section 8. Section 631.715, Florida Statutes, is amended to read:

631.715 Florida Life and Health Insurance Guaranty Association.—

(1) There is created a nonprofit legal entity to be known as the Florida Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state, and, further, as a condition of such authority, an insurer shall agree to reimburse the association for all claim payments the association makes on said insurer's behalf if such insurer is subsequently rehabilitated. The association shall perform its functions under the plan of operation established and approved under the provisions of s. 631.721 and shall exercise its powers through a board of directors established under the provisions of s. 631.716.

(2)(a) For purposes of administration and assessment, the association shall maintain three accounts:

1.~~(a)~~ The health insurance account;

2.~~(b)~~ The life insurance account; and

3.~~(c)~~ The annuity account.

(b) Borrowing between accounts for payment of policyholder and contract holder claims and other obligations of the association is authorized at the discretion of the board of directors, provided that the amounts so borrowed are restored to the appropriate accounts not less than annually.

(3)~~(2)~~ The association shall come under the immediate supervision of the department and shall be subject to the applicable provisions of the insurance laws of this state.

Section 9. Subsection (6) of section 631.717, Florida Statutes, is amended to read:

631.717 Powers and duties of the association.—

(6) The association may *assist* ~~render assistance~~ and *advise* ~~advice to~~ the department, upon its request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer. *The association may also assist and advise departments of insurance of other states; other guaranty associations; and conservators, rehabilitators, and receivers appointed or acting in regard to any member insured wherever located, for the purpose of developing plans to coordinate protection of policyholders. Costs of such activities may be charged against the health insurance account or the life insurance account, created by s. 631.715, at the discretion of the board of directors, notwithstanding any other provision of this part.*

Section 10. Section 631.719, Florida Statutes, is amended to read:

631.719 Premium or income tax credits for assessments paid.—

(1) A member insurer may offset against its premium or income tax liability or liabilities to this state any assessment described in *s. 631.718(8)* ~~s. 631.718(9)~~ to the extent of 0.1 percent of the amount of such assessment for each year following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium or corporate income tax liability or liabilities for the year it ceases doing business.

(2) Any sums acquired by refund pursuant to *s. 631.718(6)* ~~s. 631.718(7)~~ from the association which have theretofore been written off by contributing insurers and offset against premium or corporate income taxes as provided in subsection (1), and which are not needed for purposes of this part, shall be paid by the association to the department for deposit with the Treasurer to the credit of the General Revenue Fund.

Section 11. Section 635.061, Florida Statutes, is amended to read:

635.061 Premium cost.—*For purposes of computing finance charges or determining whether a mortgage loan is usurious, any* ~~The~~ premium cost of mortgage guaranty insurance *that is paid by or collected from the mortgagor as a separate charge* shall *be deemed to* not constitute a part of the cost of, or interest upon, *or charges or consideration or an amount in excess of permitted charges in connection with,* any mortgage loan.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, strike all of that line and insert: An act relating to insurance; amending s. 494.006, F.S.; providing an exemption from mortgage lending licensing for insurance companies; amending s. 624.472, F.S.; providing a presumption as to acceptance of assessment liability; providing for workers' compensation group self-insurance fund application disclosure; amending s. 626.072, F.S.; revising the definition of the term "customer representative" and defining the term "limited customer representative"; amending s. 626.241, F.S.; providing examination requirements for a limited license as a customer representative; amending s. 627.062, F.S.; providing rate standards; amending s. 628.6011, F.S.; including policyholders in definition of assessible mutual insurer; amending s. 631.715, F.S., relating to the Florida Life and Health Insurance Guaranty Association; authorizing the board of directors to borrow between the association's accounts for certain purposes if repaid annually; amending s. 631.717, F.S.; authorizing the association to assist and advise certain persons and to pay the costs of such activities from the health insurance account or the life insurance account at the discretion of the board; amending s. 631.719, F.S., relating to the premium or income tax credits for assessments paid; updating cross-references; amending s. 635.061, F.S.; providing that, for specified purposes, the premium cost of mortgage guaranty insurance paid by a mortgagor is not deemed to constitute an amount in excess of permitted charges for a mortgage loan;

Amendment 2—On page 2, line 9, insert:

Section . Section 628.6013, Florida Statutes is amended to read:

628.6013 Converted self-insurance fund; trade association; board of directors.—

(1) Any self-insurance fund regulated under the insurance code other than a commercial self-insurance fund may, with the approval of the department, elect to convert to an assessable mutual insurer in accordance with part I.

(2) An assessable mutual insurer formed by the conversion of a commercial self-insurance fund pursuant to s. 624.463 *or by the conversion of a group self-insurer's fund organized under s. 440.57* shall be endorsed at the time of conversion by a statewide not-for-profit trade association, industry association, or professional association of employers or professionals which has a constitution or bylaws, which is incorporated under the laws of this state, and which has been organized for purposes other than that of obtaining or providing insurance and operated in good faith for a continuous period of 1 year. The association shall not be liable for any actions of the insurer, nor shall it *require the establishment or enforcement of* ~~have any responsibility for establishing or enforcing~~ any policy of the insurer. Fees, services, and other aspects of the relationship between the association and the insurer *must be reasonable and are* ~~shall be~~ subject to contractual agreement.

(3) Neither the endorsing association nor any of its officers or directors may have any direct financial interest in the insurer's management company.

(4)~~(3)~~ The board of directors of the assessable mutual insurer shall:

(a) Be responsible to members of the insurer;

(b) Appoint independent certified public accountants *and* ~~, legal counsel,~~ actuaries~~, and investment advisors~~ as needed;

(c) Approve payment of dividends to members; ~~and~~

(d) Approve changes in corporate structure*; and*~~.~~

(e) Adopt a plan submitted by the management company establishing requirements for membership in the insurer, including, but not limited to, loss prevention, claims experience, billing, underwriting criteria and qualificaitons, including dues paid by members of the insurer for membership in the endorsing association, and the credit worthiness of membership applicants, termination, and reinstatement.

(5)~~(4)~~ The board of directors of the assessable mutual insurer *may* ~~shall have the authority to~~ contract with an authorized *management* ~~administrator or servicing~~ company *which, except as specifically provided in part II, shall be solely responsible for managing and administering* ~~to administer~~ the ~~day to day~~ affairs of the insurer, including, but not limited to, marketing, underwriting, billing, collection, claims administration, *termination, reinstatement,* safety and loss prevention, reinsurance, policy issuance, accounting, regulatory reporting, *investment,* and general administration. The fees or compensation for services under such contract shall be comparable to the costs for similar services incurred by insurers writing the same lines of insurance, or, where available, such expenses as filed by boards, bureaus, and associations designated by insurers to file such data.

(6)~~(5)~~ *At least one director, but less than a majority of the directors, must be an officer or director of the management company and must be appointed by the management company.* The *remaining* ~~majority of the~~ directors *must be elected by the membership, and must* ~~shall~~ be ~~individual members of, or~~ owners, partners, officers, *or* directors *of members of the insurer*~~, or employees of one or more members of, the insurer or the endorsing association~~*. Except for directors of the insurer who are officers or directors of the management company, no two directors of the insurer may be owners, partners, officers, or directors of the same member of the insurer.*

(7) If the board of directors contracts with a management company, no person may serve as an officer of the assessable mutual insurer unless he is an officer or director of the management company.

(8)~~(6)~~ If the board of directors contracts with *a management company* ~~an administrator authorized under s. 626.88 to administer the day-to-day affairs of the fund~~, a member of the board of directors is not personally liable for monetary damages to any person for any statement, vote, decision, or failure to act, regarding the management or policy of the fund, by a director, unless:

(a) The director breached or failed to perform his duties as a director; and

(b) The director's breach of, or failure to perform, his duties constitutes:

1. A violation of the criminal law, unless the director had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful. A judgment or other final adjudication against a director in any criminal proceeding for violation of the criminal law estops that director from contesting the fact that his breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the director from establishing that he had reasonable cause to believe that his conduct was lawful or had no reasonable cause to believe that his conduct was unlawful.

2. A transaction from which the director derived an improper personal benefit, either directly or indirectly; or

3. Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. For purposes of this section, the term "recklessness" means the acting, or omission to act, in conscious disregard of a risk:

a. Known, or so obvious that it should have been known, to the director; and

b. Known to the director, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

(9) A management company may be authorized by the department to manage and operate an assessable mutual insurer only if its owners, partners, stockholders, officers, or directors, and other persons who directly or indirectly exercise or have the ability to exercise effective control of the management company, possess the competency and business experience to manage and operate an assessable mutual insurer.

(10) As used in this section, the term "management company" includes the servicing company, if any, which administered the day-to-day affairs of the commercial self-insurance fund or group self-insurers fund before its conversion to an assessable mutual insurer.

Senator Jenne moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 2, line 10, through page 24, line 16, strike all of those lines and insert:

Section 1. Subsection (11) of section 527.01, Florida Statutes, is amended, and subsection (18) is added to said section, to read:

527.01 Definitions.—As used in this chapter:

(11) "Installer C" means any person who is engaged in the liquefied petroleum gas business and whose services include installing, *servicing, altering, or modifying appliances, equipment, or* piping or tubing to convey liquefied petroleum gas to appliances or equipment *and selling or offering to sell, or leasing or offering to lease, appliances and equipment for the use of liquefied petroleum gas. The scope of work that may be performed by an "installer C" does not include installing, servicing, altering, or modifying liquefied petroleum gas motor fuel systems, liquefied petroleum gas equipment, appliances, or systems on recreational vehicles, or liquefied petroleum gas containers or container assemblies.*

(18) "Pipeline system operator" means any person who owns or operates any liquefied petroleum gas jurisdictional pipeline system as defined by Title 49, Code of Federal Regulations.

Section 2. Subsections (1) and (2) of section 527.02, Florida Statutes, as amended by chapter 92-3, Laws of Florida, are amended to read:

527.02 License; penalty; fees.—

(1)(a) It is unlawful for any person to engage in this state in the activities of a *pipeline system operator,* category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category III liquefied petroleum gas cylinder exchange operator, installer A, installer B, installer C, installer D, dealer in liquefied petroleum gas appliances and equipment, manufacturer of liquefied petroleum gas appliances and equipment, requalifier of cylinders, or fabricator, repairer, and tester of vehicles and cargo tanks without first obtaining from the department a license to engage in one or more of these businesses. The sale of liquefied petroleum gas cylinders with a volume of 10 pounds water capacity or 4.2 pounds liquefied petroleum gas capacity or less is exempt from the requirements of this chapter. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, to intentionally or willfully engage in any of said activities without first obtaining appropriate licensure from the department. Each business location of a person having multiple locations shall be separately licensed and must meet the requirements of this section. Such license shall be granted to any applicant determined by the department to be competent, qualified, and trustworthy who files with the department a surety bond, insurance affidavit, or other proof of insurance, as hereinafter specified, and pays for such license the following original application fee for new licenses and annual renewal fees for existing licenses:

License Category	Original Application Fee	Renewal Fee	
Category I liquefied petroleum gas dealer	$525	*$425*	~~$375~~
Category II liquefied petroleum gas dispenser	525		375
Category III liquefied petroleum gas cylinder exchange operator	150		100
Installer A	300		200
Installer B	300		200
Installer C	300		200
Installer D	300		200
Dealer in appliances and equipment for use of liquefied petroleum gas	50		45
Manufacturer of liquefied petroleum gas appliances and equipment	525		375
Requalifier of cylinders	525		375
Fabricator, repairer, and tester of vehicles and cargo tanks	525		375

(b) The license fee for a pipeline system operator shall be $100 per system owned or operated by the person, not to exceed $400 per license year. Such license fee applies only to a pipeline system operator who owns or operates a liquefied petroleum gas pipeline system that is used to transmit liquefied petroleum gas from a common source to the ultimate customer and that serves 10 or more customers.

(c)~~(b)~~ The department shall promulgate rules specifying acts deemed by the department to demonstrate a lack of trustworthiness to engage in activities requiring a license under this section.

(2) In addition to the requirements of subsection (1), any person applying for a license to engage in the activities of a *pipeline system operator,* category I liquefied petroleum gas dealer, category II liquefied petroleum gas dispenser, category III liquefied petroleum gas cylinder exchange operator, installer A, installer B, installer C, installer D, requalification of cylinders, or fabricator, repairer, and tester of vehicles and cargo tanks, must prove competency by taking a written examination and passing it with a grade of 75 percent or above. Each applicant for examination shall submit a $20 nonrefundable fee. The examination shall be based on information contained in this chapter, the National Fire Protection Association Standards relating to liquefied petroleum gas, and the rules adopted by the department. Application for examination for competency may be made by an individual or by an owner, a partner, or any person in a supervisory capacity of the license applicant. Every business organization shall possess such a full-time qualifier at all times who has successfully completed an examination in the corresponding category of the license held by the business organization. A vacancy in a qualifier position in a business organization which results from the departure of the qualifier shall be immediately reported to the department. In the event a business organization no longer possesses a duly designated qualifier, as required by this section, its liquefied petroleum gas licenses shall be suspended by order of the department after 20 working days and shall remain suspended until a competent qualifier has been retained. A vacancy in the qualifier position for a period of over 20 working days shall be deemed to constitute an immediate threat to the public health, safety, and welfare. Failure to obtain a replacement qualifier within 60 days of the vacancy shall be grounds for revocation of licensure or eligibility for licensure. Any individual's competency qualifications on file with the department may be transferred to any existing licenseholder, by written request to the department from the person so qualified. By request in writing to the department, any individual who has on file the competency examination requirement may use this evidence on file for a new license application. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Section 527.021, Florida Statutes, is amended to read:

527.021 Registration of transport vehicles.—

(1) Each liquefied petroleum gas bulk delivery *vehicle* ~~truck~~ owned or leased by a liquefied petroleum gas licensee~~, which is used for the transportation of liquefied petroleum gas for any purpose other than motor fuel for the vehicle,~~ must be registered with the department annually.

(2) For the purposes of this section, a "liquefied petroleum gas bulk delivery vehicle" means any vehicle that is used to transport liquefied petroleum gas on any public street or highway as liquid cargo in a cargo tank, which tank is mounted on a conventional truck chassis or is an integral part of a transporting vehicle in which the tank constitutes, in whole or in part, the stress member used as a frame and is a permanent part of the transporting vehicle.

(3) Vehicle registrations shall be submitted by the *vehicle owner or lessee* ~~dealer in liquefied petroleum gas~~ in conjunction with the annual

renewal of his liquefied petroleum gas license, but no later than August 31 of each year. A dealer who does not submit the required vehicle registration by August 31 of each year is subject to the penalties in s. 527.13.

(4) An inspection fee of $50 shall be assessed for each registered vehicle inspected by the department pursuant to s. 527.061. All inspection fees collected in connection with this section shall be deposited in the Insurance Commissioner's Regulatory Trust Fund for the purpose of administering the provisions of this chapter.

(5) The department shall issue a decal to be placed on each vehicle that is inspected by the department and found to be in compliance with applicable codes.

Section 4. Section 527.0605, Florida Statutes, is amended to read:

527.0605 Liquefied petroleum gas bulk storage locations; jurisdiction.—

(1) The provisions of this chapter shall apply to liquefied petroleum gas bulk storage locations when:

(a) ~~(1)~~ A single container in the bulk storage location has a capacity of 2,000 gallons or more;

(b) ~~(2)~~ The aggregate container capacity of the bulk storage location is 4,000 gallons or more; or

(c) ~~(3)~~ A container or containers are installed for the purpose of serving the public the liquid product.

(2) Prior to the installation of any bulk storage container, the licensee must submit to the department a *site plan* ~~diagram~~ of the facility which shows the proposed location of the container and must obtain written approval of such location from the department.

(3) A fee of $200 shall be assessed for each site plan reviewed by the division. The review shall include preconstruction inspection of the proposed site, plan review, and final inspection of the completed facility.

(4) No newly installed container may be placed in operation until it has been inspected and approved by the department.

Section 5. Section 624.501, Florida Statutes, as amended by chapter 92-146, Laws of Florida, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(1) Certificate of authority of insurer.

(a) Filing application for original certificate of authority *or modification thereof as a result of a merger, acquisition, or change of controlling interest due to a sale or exchange of stock*, including all documents required to be filed therewith, filing fee ..... *$1,500.00* ~~$25.00~~

(b) Reinstatement fee $50.00

(2) Charter documents of insurer.

(a) Filing articles of incorporation or other charter documents, other than at time of application for original certificate of authority, filing fee $10.00

(b) Filing amendment to articles of incorporation or charter, other than at time of application for original certificate of authority, filing fee $5.00

(c) Filing bylaws, when required, or amendments thereof, filing fee $5.00

(3) Annual license tax of insurer, each domestic insurer, foreign insurer, and alien insurer (except that, as to fraternal benefit societies insuring less than 200 members in this state and the members of which as a prerequisite to membership possess a physical handicap or disability, such license tax shall be $25) ..... *$1,000.00* ~~$200.00~~

(4) *Statements* ~~Annual statement~~ of insurer, filing (except when filed as part of application for original certificate of authority), filing *fees* ~~fee~~ $60.00

(a) Annual statement *$250.00*

(b) Quarterly statement *$250.00*

(5) All insurance representatives, application for license, each filing, filing fee ..... *$50.00* ~~$10.00~~

(6) Insurance representatives, property, marine, casualty, and surety insurance.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00
Total ..... *$60.00* ~~$40.00~~

(b) Solicitor's or customer representative's original appointment and biennial renewal or continuation thereof:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00
Total ..... *$60.00* ~~$40.00~~

(c) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer ..... *$60.00* ~~$20.00~~

(d) Service representatives; managing general agents.

Original appointment and biennial renewal or continuation thereof, each insurer or managing general agent, whichever is applicable ..... *$60.00* ~~$40.00~~

(7) Life insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00
Total ..... *$60.00* ~~$40.00~~

(b) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer ..... *$60.00* ~~$20.00~~

(8) Health insurance agents.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00
Total ..... *$60.00* ~~$40.00~~

(b) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer ..... *$60.00* ~~$20.00~~

(9) All limited appointments as agent, as provided for in s. 626.321. Agent's original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00
Total ..... *$60.00* ~~$40.00~~

(10) Fraternal benefit society agents. Original appointment and biennial renewal or continuation thereof, each insurer:

Appointment fee ..... *$42.00* ~~$22.00~~

State tax 12.00

County tax 6.00
Total ..... *$60.00* ~~$40.00~~

(11) Vending machines. Original appointment and biennial renewal or continuation thereof, each machine, appointment fee $100.00

(12) Surplus lines agent. Agent's appointment and biennial renewal or continuation thereof, appointment fee $150.00

(13) Adjusters:

(a) Adjuster's original appointment and biennial renewal or continuation thereof, appointment fee ..... *$60.00* ~~$40.00~~

(b) Nonresident adjuster's original appointment and biennial renewal or continuation thereof, appointment fee ..... *$60.00* ~~$40.00~~

(c) Emergency adjuster's license, appointment fee $10.00

(d) Fee to cover actual cost of credit report, when such report must be secured by department.

(14) Examination—Fee to cover actual cost of examination.

(15) Temporary license and appointment as agent or adjuster, where expressly provided for, rate of fee for each month of the period for which the license and appointment is issued $5.00

(16) *Issuance,* reissuance, reinstatement, modification resulting in a modified license being issued, or duplicate copy of any insurance representative license $5.00

(17) Additional license continuation fees as prescribed in chapter 626 ..... $5.00

(18) Filing application for permit to form insurer as referred to in chapter 628, filing fee $25.00

(19) Annual license fee of rating organization, each domestic or foreign organization $25.00

(20) Miscellaneous services:

(a) For copies of documents or records on file with the department, per page ..... $ .50

(b) For each certificate of the department under its seal, authenticating any document or other instrument (other than a license or certificate of authority) $5.00

(c) For preparing lists of agents, solicitors, adjusters, and other insurance representatives, and for other miscellaneous services, such reasonable charge as may be fixed by the department.

(d) For processing requests for approval of continuing education courses, processing fee $100.00

(e) Insurer's registration fee for agent exchanging business more than 24 times in calendar year under s. 626.752, s. 626.793, or s. 626.837, registration fee per agent per year ..... *$30.00* ~~$20.00~~

(21) Insurance agency *or adjusting firm,* 3-year license $60.00

(22) Limited surety agent, professional bail bondsman, or runner as defined in s. 648.25, each agent and each insurer represented. Original appointment and biennial renewal or continuation thereof, each agent or insurer, whichever is applicable:

Appointment fee $44.00

State tax 24.00

County tax 12.00
Total $80.00

(23) Health care risk manager. Original appointment and biennial renewal or continuation thereof, appointment fee $40.00

(24) Certain military installations, as authorized under s. 626.322: original appointment and biennial renewal or continuation thereof, each insurer $20.00

(25) Filing application for original certificate of authority for third-party administrator or original certificate of approval for a service company, including all documents required to be filed therewith, filing fee $100.00

(26) Fingerprinting processing fee—Fee to cover fingerprint processing.

(27) Sales representatives, miscellaneous lines. Original appointment and biennial renewal or continuation thereof, appointment fee ..... *$60.00* ~~$40.00~~

(28) Reinsurance intermediary:

(a) Application filing and license fee $50.00

(b) Original appointment and biennial renewal or continuation thereof, appointment fee $60.00

(29) Title insurance agents:

(a) Agent's original appointment or biennial renewal or continuation thereof, and agency's biennial license fee:

Appointment fee $42.00

State tax 12.00

County tax 6.00
Total $60.00

(b) Agency original license fee or biennial renewal or continuation thereof:

Licensing fee $42.00

State tax 12.00

County tax 6.00
Total $60.00

(c) Filing for title insurance agent's license:

Application for filing, each filing, filing fee $10.00

(d) Additional appointment continuation fee as prescribed by s. 626.843. ..... $5.00

(e) Title insurer and title insurance agency administrative surcharge:

1. On or before January 30 of each calendar year, each title insurer shall pay to the department for each licensed title insurance agent licensed by the title insurer and for each retail office of the insurer on January 1 of that calendar year an administrative surcharge of $200.00.

2. On or before January 30 of each calendar year, each licensed title insurance agency shall remit to the department an administrative surcharge of $200.00.

The administrative surcharge may be used solely to defray the costs to the department in its examination or audit of title insurance agents and retail offices of title insurers and to gather title insurance data for statistical purposes in its regulation of title insurance.

Section 6. Section 624.5015, Florida Statutes, is amended to read:

624.5015 Appointment fees and taxes, title insurance agents; miscellaneous service charges.—

(1) The Department of Insurance shall collect in advance from the applicant or licensee fees and taxes as *provided in s. 624.501.* ~~follows:~~

~~(1) Title insurance agents:~~

~~Agent's original appointment or biennial renewal or continuation thereof:~~

~~Appointment fee ..... $22.00~~

~~State tax ..... 12.00~~

~~County tax ..... 6.00~~

~~(2) Filing for title insurance agent's license:~~

~~Application for filing, each filing, filing fee ..... $10.00~~

~~(3) Additional appointment continuation fee as prescribed by s. 626.843 ..... $5.00~~

~~(4) Title insurer and title insurance agent administrative surcharge:~~

~~(a) On or before January 30 of each calendar year, each title insurer shall pay to the department for each licensed title insurance agent licensed by the title insurer and for each retail office of the insurer on January 1 of that calendar year an administrative surcharge of. $200.00~~

~~(b) On or before January 30 of each calendar year, each licensed title insurance agent shall remit to the department an administrative surcharge of ..... $200.00~~

~~(5) Miscellaneous services:~~

~~(a) For copies of documents or records on file with the department, per page ..... $ .50~~

~~(b) For each certificate of the department under its seal, authenticating any document or other instrument (other than a license or certificate of authority) ..... $5.00~~

~~(c) For reissuance, reinstatement, or modification resulting in a modified license being issued or a duplicate copy ..... $5.00~~

~~(d) For preparing lists of agents, and for the other miscellaneous services, such reasonable charges as may be fixed by the department.~~

(2)~~(6)~~ A title insurer shall not pay directly or indirectly without reimbursement from a title insurance agent any appointment fee required under this section. The failure of a title insurance agent to make reimbursement is not a ground for cancellation of the title insurance agent's appointment by the title insurer.

~~(7) All fees and taxes collected pursuant to this section shall be credited to the Insurance Commissioner's Regulatory Trust Fund, and the fees collected pursuant to subsection (4) shall be used to defray the costs of the department in its regulation of title insurance.~~

Section 7. Subsection (5) of section 624.5091, Florida Statutes, as amended by section 1 of chapter 91-425, Laws of Florida, is amended to read:

624.5091 Retaliatory provisions, insurers.—

(5) The excess amount of all fees, licenses, and taxes collected by the Department of Revenue under this section over the amount of similar fees, licenses, and taxes provided for in part IV, together with all fines, penalties, or other monetary obligations collected under this section and ss. 626.711 and 626.743 exclusive of such fees, licenses, and taxes, shall be deposited by the Department of Revenue to the credit of the Insurance Commissioner's Regulatory Trust Fund; provided that such excess amount shall not exceed *$125,000* ~~$5.2 million~~ for *1992* ~~1989~~, and for any subsequent year shall not exceed *$125,000* ~~$5.2 million~~ adjusted annually by the lesser of *20* ~~10~~ percent or the growth in the total of such excess amount. The remainder of such excess amount shall be deposited into the General Revenue Fund.

Section 8. Section 624 515, Florida Statutes, is amended to read:

624.515 State Fire Marshal regulatory assessment *and surcharge*; levy and amount.—

(1) In addition to any other license or excise tax now or hereafter imposed, and such taxes as may be imposed under other statutes, there is hereby assessed and imposed upon every domestic, foreign, and alien insurer authorized to engage in this state in the business of issuing policies of fire insurance, a regulatory assessment in an amount equal to 1 percent of the gross amount of premiums collected by each such insurer on policies of fire insurance issued by it and insuring property in this state. The assessment shall be payable annually on or before March 1 to the Department of Revenue by the insurer on such premiums collected by it during the preceding calendar year.

(2)(a) Every insurer authorized to transact insurance in this state shall collect, in addition to the applicable premium charge, an annual surcharge from each holder of a policy of fire, allied lines, or multi-peril insurance insuring commercial property located in this state. The surcharge shall be imposed at a rate of .1 percent on the gross direct premium written on commercial property located in this state. The surcharge shall be remitted by the insurer to the Department of Revenue pursuant to s. 624.5092.

(b) The surcharge imposed by this subsection shall be applicable to said policies issued or renewed on or after July 1, 1992.

(3)~~(2)~~ As used in this section, "fire insurance" means the insurance of structures or other property at fixed locations against loss or damage to such structures or other described properties from the risks of fire and lightning; and the terms "policies" and "premiums" respectively mean and include those policies or other contracts or agreements effecting and evidencing insurance, and premiums and other considerations for such policies, of the same character as described in and contemplated by the provisions of ss. 624.509 and 624.510. *As used in this section, "allied lines" means the insurance of structures or other property against loss or damage to such structures or other properties from the risks of tornado, windstorm, hail, sprinkler or water damage, explosion, riot or civil commotion, flood, rain, and damage from aircraft or vehicle.* The amount of such premiums upon which the regulatory assessment shall be computed by each such insurer shall be the amount thereof remaining after deducting therefrom those items described in and permitted by s. 624.509(1) relating to the premium receipts tax thereby imposed.

Section 9. Section 624.516, Florida Statutes, is amended to read:

624.516 State Fire Marshal regulatory assessment *and surcharge*; deposit and use of funds.—

(1) The regulatory assessment imposed under s. 624.515*(1)* shall be deposited by the Department of Revenue, when received and audited, into the Insurance Commissioner's Regulatory Trust Fund. *The surcharge imposed under s. 624.515(2) shall be deposited by the Department of Revenue, when received and audited, into the Fire College Trust Fund.*

(2) The moneys so received and deposited in the *funds* ~~fund~~, *as provided in subsection (1),* are hereby appropriated for use by the State Treasurer as ex officio State Fire Marshal, hereinafter referred to as "State Fire Marshal," to defray the expenses of the State Fire Marshal in the discharge of his administrative and regulatory powers and duties as prescribed by law, including the maintaining of offices and necessary supplies therefor, essential equipment and other materials, salaries and expenses of required personnel, and all other legitimate expenses relating to the discharge of the administrative and regulatory powers and duties imposed in and charged to him under such laws.

(3) If at the end of any fiscal year a balance of funds remains in the Insurance Commissioner's Regulatory Trust Fund *or the Fire College Trust Fund, respectively,* such balance shall not revert to the general fund of the state, but shall be retained in the Insurance Commissioner's Regulatory Trust Fund *or the Fire College Trust Fund* to be used for the purposes for which the same is appropriated as set forth above.

Section 10. Section 624.518, Florida Statutes, is amended to read:

624.518 State Fire Marshal regulatory assessment *and surcharge*; tax return, overpayment.—

(1) Tax returns with respect to the regulatory assessment *and surcharge* prescribed by s. 624.515 shall be made by each insurer liable for payment of such tax on forms to be prescribed by the Department of Revenue and sworn to by one or more of the executive officers or other persons charged under the law with the management of the insurer.

(2) In the event an insurer makes an overpayment on account of the assessment, a refund of the overpayment may be made to the remitter.

(3) The surcharge shall be state funds when collected and subject to refund only as provided in s. 213.756.

Section 11. Subsection (7) of section 626.989, Florida Statutes, is amended to read:

626.989 Division of Insurance Fraud; definition; investigative, subpoena powers; protection from civil liability; reports to division; division investigator's power to execute warrants and make arrests.—

(7) Division investigators shall have the power to make arrests for criminal violations established as a result of investigations only. The general laws applicable to arrests by law enforcement officers of this state shall also be applicable to such investigators. Such investigators shall have the power to execute arrest warrants and search warrants for the same criminal violations; to serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations; and to arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws. ~~However, such investigators are not eligible for membership in the Special Risk Class of the Florida Retirement System.~~ Investigators empowered to make arrests under this section shall be empowered to bear arms in the performance of their duties. In such a situation, the investigator must be certified in compliance with the provisions of s. 943.1395 or must meet the temporary employment or appointment exemption requirements of s. 943.131 until certified.

Section 12. Section 648.31, Florida Statutes, is amended to read:

648.31 Appointment taxes and fees.—

~~(1)~~ The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bondsman or runner, as provided in s. 624.501.

~~(2) The department shall deposit all appointment taxes and fees in such funds and for such uses as is provided by laws applicable to like appointment taxes and like fees in the case of general lines agents.~~

Section 13. Amendments to sections of the Florida Statutes enacted by this act shall not operate to repeal or otherwise negate amendments to the same sections which may have been previously enacted at a 1992 session of the Florida Legislature and which are not indicated herein, and full effect shall be given to each, if that is possible. If provisions of this act are in direct conflict with amendments so enacted, the provisions of this act shall control.

Section 14. This act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later, but if it becomes a law after such date, it shall operate retroactively to July 1, 1992.

And the title is amended as follows:

In title, on page 1, line 3, through page 2, line 6, strike all of said lines and insert: amending s. 527.01, F.S.; revising a definition of the term "installer C"; providing a definition; amending s. 527.02, F.S.; providing license fees for persons engaged in providing liquefied petroleum gas; requiring pipeline system operators to be licensed; amending s. 527.021, F.S.; providing for inspection fees for persons who deliver liquefied petroleum gas in bulk; providing for inspection decals; amending s. 527.0605, F.S.; providing a fee for certain inspections of liquefied petroleum gas facilities; amending ss. 624.501, 624.5015, 648.31, F.S.; revising fees related to engaging in the business of providing insurance; amending s. 624.5091, F.S.; revising the distribution of retaliatory taxes; amending s. 624.515, F.S.; requiring a surcharge for fire, allied lines, and multi-peril insurance insuring certain commercial property; amending s. 624.516, F.S.; providing for deposit of the surcharge; amending s. 624.518, F.S.; requiring tax returns with respect to the surcharge; amending s. 626.989, F.S.; deleting a provision prohibiting certain investigators from eligibility for membership in the Special Risk Class of the Florida Retirement System; providing for retroactive effect; providing an effective date.

On motion by Senator Kiser, by two-thirds vote **SB 212-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

REPORTS OF COMMITTEES

The Committee on Community Affairs recommends a committee substitute for the following: SB 174-H

The bill with committee substitute attached was referred to the Committee on Appropriations under the original reference.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senators Dantzler and Gardner—

SB 270-H—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; repealing s. 932.708, F.S., as created by section 97 of CS/SB 48-H, relating to the Agricultural Law Enforcement Trust Fund; amending s. 932.705, F.S., as created by chapter 92-54, Laws of Florida; providing for the deposit of forfeiture proceeds when the seizing agency is the Department of Agriculture and Consumer Services; amending s. 570.48, F.S., as amended by sections 29 and 30 of CS/SB 48-H; authorizing internal quality inspections for any fruit or vegetable; amending s. 570.55, F.S., as amended by section 42 of CS/SB 48-H; authorizing certain confiscation by law enforcement officers; amending s. 500.11, F.S., as amended by section 98 of CS/SB 48-H; updating terminology; amending s. 523.21, F.S., as amended by section 99 of CS/SB 48-H; reinstating evidentiary provisions and providing for certification by the department; revising repeal dates established in section 103 of CS/SB 48-H for ss. 534.081(3), 570.151, 570.36(6), and 590.02(4), F.S.; amending s. 500.12, F.S., as amended by chapter 92-180, Laws of Florida; clarifying legislative intent as to preemption of regulatory and permitting authorities; providing effective dates and a contingent retroactive effective date.

—was referred to the Committees on Agriculture and Appropriations.

SB 272-H was introduced out of order and passed June 24.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Community Affairs and Senator Thomas—

CS for SB 174-H—A bill to be entitled An act relating to educational facilities; creating s. 240.155, F.S.; requiring the Board of Regents and the board of trustees of each community college district to prepare a campus master plan for each institution under its jurisdiction; prescribing requirements for such plans; providing for the Board of Regents and the board of trustees of each community college district to enter into campus development agreements with units of local government within which universities or community colleges are located or which are affected by the universities or community colleges; providing for resolution of disputes with respect to campus development; providing for supersession of other comprehensive planning requirements; providing an effective date.

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 as amended HB 113-H, CS for CS for HB 193-H, HB 315-H, HB 333-H, HB 375-H; has admitted for introduction by the required constitutional two-thirds vote and passed as amended HB 459-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Mortham—

HB 113-H—A bill to be entitled An act relating to taxation; creating s. 213.015, F.S.; providing requirements with respect to the rights, safeguards, and protections afforded taxpayers during tax assessment, collection, and enforcement processes; creating s. 213.018, F.S.; providing for a taxpayer problem resolution program; providing for a taxpayers' rights advocate with authority to issue taxpayer assistance orders; amending s. 213.21, F.S.; providing a taxpayer's right to have representation and record informal conferences; creating s. 213.025, F.S.; requiring the Department of Revenue to conduct its audits, inspections, and interviews at reasonable times and places, with exceptions; amending s. 213.34, F.S.; directing the department to offset overpayments against deficiencies; creating s. 213.731, F.S.; requiring notice before collection action is taken; providing a taxpayer's right to protest and seek a review; creating s. 213.732, F.S.; providing procedural requirements, taxpayers' rights, and venue for certain legal actions with respect to jeopardy findings and assessments; creating s. 213.733, F.S.; providing for cancellation, amendment, or modification of warrants; amending ss. 199.262, 206.075, 211.125, 211.33, 212.14, 212.15, 220.719, and 220.815, F.S.; specifying procedures applicable if jeopardy to the revenue exists and is asserted in or with an assessment; repealing s. 220.719(4), F.S., relating to taxpayer protest regarding a jeopardy assessment lien; amending s. 20.21, F.S.; creating within the department the position of taxpayers' rights advocate and providing his responsibilities; amending s. 72.011, F.S.; prohibiting certain legal actions when an action has been initiated under s. 120.575, F.S.; amending s. 95.091, F.S.; requiring the department to commence an audit within a specified period of time after it issues a notice of intent to conduct an audit; amending s. 120.575, F.S., which provides procedures and requirements applicable when a taxpayer contests specified taxes, interest, penalties, or denials of refund; removing provisions which specify requirements applicable to proceedings involving tax on the sale or use of services; specifying conditions under which collection and enforcement of contested amounts is stayed; providing for recovery of legal costs, including attorney's fees; amending ss. 57.111 and 120.57, F.S., to conform; repealing s. 120.65(5), F.S., which provides for hearing officer panels for proceedings involving tax on the sale or use of services; providing an effective date.

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

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

CS for CS for HB 193-H—A bill to be entitled An act relating to local government finance; amending s. 212.055, F.S.; authorizing additional uses of local government infrastructure surtax revenues by certain small counties and municipalities therein under certain conditions; authorizing such small counties to levy a small county discretionary sales surtax; specifying the rate; providing procedures and requirements for such levy; providing uses of surtax revenues and requiring a referendum for certain uses; revising provisions that authorize certain counties to levy a discretionary sales surtax for the purpose of funding a county public general hospital and deleting the repeal date for such surtax; repealing s. 3, ch. 91-81, Laws of Florida, which specifies the repeal date for said surtax, to conform; authorizing such small counties to levy a discretionary sales surtax for the purpose of funding indigent health care; specifying the rate; providing procedures and requirements for such levy; providing for repeal of the surtax; limiting the combined rate of specified discretionary sales surtaxes; amending s. 336.021, F.S.; authorizing such small counties to use the voted gas tax for certain additional purposes if certain conditions are met; amending s. 336.025, F.S.; authorizing such small counties to use the proceeds of the local option gas tax on motor fuel for certain additional purposes if certain conditions are met; creating the Small County Technical Assistance Program; requiring the Comptroller to enter into contracts with program providers for the purpose of assisting certain small counties in financial and administrative matters; requiring the Advisory Council on Intergovernmental Relations to advise the Comptroller and conduct performance reviews of the program; providing an effective date.

(Considered on the Special Order Calendar this day.)

By the Committee on Natural Resources and Representative Rudd—

HB 315-H—A bill to be entitled An act relating to public lands; amending s. 201.02, F.S.; exempting certain transfers of real property by nonprofit organizations; amending s. 253.023, F.S.; revising the purposes and specified uses of the Conservation and Recreation Lands Trust Fund; providing for payment in lieu of taxes to certain counties for lands acquired under the Florida Preservation 2000 Program; amending s. 253.025, F.S.; revising appraisal thresholds for purchasing state lands; authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain time limitations with respect to negotiating the purchase of land under certain circumstances; amending s. 259.035, F.S.; revising criteria for land acquisition proposals by the Land Acquisition Advisory Council; authorizing the Department of Natural Resources to adopt rules; amending s. 259.101, F.S.; delaying the repeal of certain provisions specifying distribution of moneys in the Preservation 2000 Trust Fund; revising criteria for projects for which certain bond proceeds may be spent; amending s. 259.04, F.S.; expanding the scope of the board's plan to conserve and protect certain lands; amending s. 259.07, F.S.; requiring the council to hold additional public hearings before recommending certain land purchases; amending s. 260.015, F.S.; expanding the types of projects for which certain evaluation and selection procedures do not apply; amending ss. 375.031 and 380.08, F.S.; deleting a requirement that a seller include certain tax assessment information in certain statements; requiring water management district governing boards to give preferential consideration to the State University System in awarding research projects or studies; amending s. 380.0666, F.S.; providing for nonapplication of a certain restriction to certain land purchases; amending s. 373.093, F.S.; creating s. 373.1395, F.S.; limiting the liability of water management districts for damages that occur on real property or water areas of the district that are made available to the public under specified conditions; requiring that leases of certain lands be consistent with the purposes for which the land was acquired; amending s. 373.59, F.S.; increasing allowable allocations from the Water Management Lands Trust Fund for certain purposes; providing for payment in lieu of taxes to certain counties for lands acquired under the Florida Preservation 2000 Program; providing a conditional appropriation for certain purposes; adding a requirement to the annual report required by s. 380.512, F.S.; repealing s. 259.035(3), F.S., relating to certain duties of the Land Acquisition Advisory Council; repealing s. 375.031(11), F.S., relating to land acquisition projects of a certain value; providing an effective date.

(Substituted for **CS for SB 100-H** on the Special Order Calendar this day.)

By Representative Ritchie—

HB 333-H—A bill to be entitled An act relating to tanning facilities; amending s. 402.61, F.S.; revising language with respect to annual license and renewal fees; providing a limitation on fees; providing an effective date.

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

By Representative Logan—

HB 375-H—A bill to be entitled An act relating to community corrections; amending s. 944.026, F.S.; revising requirements for community-based residential drug treatment facilities; authorizing commitment of certain drug offenders to such facilities; amending s. 948.001, F.S.; revising, certain caseload restrictions for supervision of drug offenders; amending s. 948.09, F.S.; creating the Community Corrections Operating Trust Fund from cost of supervision funds collected by the department for purposes of funding the operating expenses of county work camps; amending s. 948.51, F.S.; requiring community corrections programs and plans to include provisions for public safety; revising county eligibility provisions and departmental responsibility; expanding purposes of community corrections funds; amending s. 950.002, F.S.; authorizing nonsentenced and pretrial detainees to be housed in county work camps; authorizing two or more counties to provide for the operation of work camps; providing for funding; amending s. 951.26, F.S.; redesignating the county correctional planning committees as county public safety coordinating councils; requiring meetings and records of the councils to be open to the public; amending s. 921.187, F.S.; conforming terminology; amending s. 893.13, F.S.; authorizing probation alternatives for persons convicted of second and third degree felonies for certain drug crimes; amending s. 921.187, F.S.; authorizing sentencing alternatives for persons convicted of second and third degree felonies for certain drug crimes; amending s. 948.001, F.S.; providing a definition; creating s. 948.034, F.S.; providing for placement on probation with set conditions; authorizing residential supervision in a community residential drug punishment center in certain circumstances; providing penalties for violation of probation; providing for reports; providing for the Department of Corrections to adopt rules; amending s. 948.04, F.S.; exempting drug probationers from time limit; providing for fines; providing an alternative for persons unable to pay fines; creating s. 948.085, F.S.; authorizing localities to fund and operate or contract for a secure incarcerative substance abuse treatment facility for certain offenders charged with violations of s. 893.13, F.S.; providing for qualified service providers; authorizing public and private funding; authorizing courts, at arraignment, to provide to appropriate drug offenders an option for a substance abuse treatment period of up to 18 months, with possible expungement of the arrest record upon successful completion; providing effective dates.

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

By Representative Harris and others—

HB 459-H—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; repealing s. 932.708, F.S., as created by section 97 of CS for SB 48-H, relating to the Agricultural Law Enforcement Trust Fund; amending s. 932.705, F.S., as created by chapter 92-54, Laws of Florida; providing for the deposit of forfeiture proceeds when the seizing agency is the Department of Agriculture and Consumer Services; amending s. 570.48, F.S., as amended by sections 29 and 30 of CS for SB 48-H; authorizing internal quality inspections for any fruit or vegetable; amending s. 570.55, F.S., as amended by section 42 of CS for SB 48-H; authorizing certain confiscation by law enforcement officers; amending s. 500.11, F.S., as amended by section 98 of CS for SB 48-H; updating terminology; amending s. 523.21, F.S., as amended by section 99 of CS for SB 48-H; reinstating evidentiary provisions and providing for certification by the department; revising repeal dates established in section 103 of CS for SB 48-H for ss. 534.081(3), 570.151, 570.36(6), and 590.02(4), F.S.; revising repeal dates established in section 93 of CS for SB 48-H for ss. 525.06, 525.17, and 525.18, F.S.; amending s. 403.709, F.S.; providing an appropriation; specifying an allocation of certain funds; repealing s. 403.717(8), F.S., relating to proposals to dispose of waste tires; amending s. 403.719, F.S.; providing for collection and removal of waste tires; providing effective dates and a contingent retroactive effective date.

(Considered on the Special Order Calendar this day.)

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

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote and passed HB 473-H and request the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Simone—

HB 473-H—A bill to be entitled An act relating to special districts; amending s. 189.403, F.S.; redefining the term "independent special district," for purposes of statutes governing special districts, to exclude districts that include more than one county but that lie wholly within the boundaries of a single municipality; providing an effective date.

On motions by Senator Johnson, by unanimous consent, **HB 473-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—33 Nays—None

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SJR 2-H by the required Constitutional three-fifths vote of the membership and requests the concurrence of the Senate.

John B. Phelps, Clerk

SJR 2-H—A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, state community college districts, and state universities, to continue using motor vehicle license revenues for capital outlay projects and other educational needs of public school districts and state community college districts, and to revise interest and maturity restrictions on education bonds.

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

That the amendment to Section 9 of Article XII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XII
SCHEDULE

SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secured by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, ~~and for fifty years thereafter,~~ all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, ~~(hereinafter called "gross receipts taxes"), as in existence as of the date of the adoption of this amendment or~~ as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, *community* ~~junior~~ colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later than *thirty years after the date of issuance thereof* ~~July 1, 2025~~. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

a. For the payment of the principal of and interest on any bonds *due* ~~maturing~~ in such fiscal year;

b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;

c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax

upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9, Subsection (d) of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended) as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminus with the school district of each county as provided in Article IX, Section 4, Subsection (a) of this constitution, in each year computed as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9, Subsection (d) of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded ~~at a lower net average interest cost rate~~ by the issuance of refunding bonds ~~maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (13) of this subsection (d)~~.

(3) Subject to the requirements of paragraph (1) of this subsection (d) beginning July 1, 1973 ~~and for thirty-five years thereafter~~, the first proceeds of the revenues derived from the licensing of motor vehicles *(hereinafter called "motor vehicle license revenues")* to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and *community* ~~junior~~ college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and *community* ~~junior~~ college districts in the ratio of the number of instruction units in each school district or *community* ~~junior~~ college district in each year computed as provided herein. The amount of the first *motor vehicle license* revenues ~~derived from the state motor vehicle license taxes~~ to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars ($600) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1967-68, plus an amount equal in the aggregate to the product of eight hundred dollars ($800) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1972-73 and for each school fiscal year thereafter which is in excess of the total number of such instruction units in all the school districts of Florida for the school fiscal year 1967-68, such excess units being designated "growth units." The amount of the first ~~revenues derived from the state~~ motor vehicle license *revenues* ~~taxes~~ to be so set aside in each year and distributed as provided herein shall additionally be an amount equal in the aggregate to the product of four hundred dollars ($400) multiplied by the total number of instruction units in all *community* ~~junior~~ college districts of Florida. The number of instruction units in each school district or *community* ~~junior~~ college district in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each school district for the school fiscal year 1967-68 or *community* ~~junior~~ college district for the school fiscal year 1968-69 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such school district, including growth units, or *community* ~~junior~~ college district for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (hereinafter called the state board), or (3) the number of instruction units in each school district, including growth units, or *community* ~~junior~~ college district on behalf of which the state board has issued bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued under this amendment which will mature and become due in such

year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2 of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first ~~part of the revenues derived from the licensing of~~ motor *vehicle license revenues* ~~vehicles~~ provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any *community* ~~junior~~ college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes to issue bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, and also to issue such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates to pay, fund or refund any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates theretofore issued by said state board. All such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates shall bear interest at not exceeding *the rate provided by general law and shall mature not later than thirty years after the date of issuance thereof.* ~~five per centum per annum, or such higher interest rate as may be authorized by statute heretofore or hereafter passed by a three-fifths (3/5) vote of each house of the legislature. All such bonds shall mature serially in annual installments commencing not more than three (3) years from the date of issuance thereof and ending not later than thirty (30) years from the date of issuance, or July 1, 2007, A.D., whichever is earlier. All such motor vehicle tax anticipation certificates shall mature prior to July 1, 2007, A.D.~~ The state board shall have power to determine all other details of *the* ~~said~~ bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates and to sell *in the manner provided by general law* ~~at public sale after public advertisement~~, or exchange *the* ~~said~~ bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, including refunding bonds or refunding motor vehicle *license revenue* ~~tax~~ anticipation certificates, all or any part from the ~~anticipated revenues to be derived from the licensing of~~ motor *vehicle license revenues* ~~vehicles~~ provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates shall ever be issued by the state board, *except to refund outstanding bonds or motor vehicle license revenue anticipation certificates,* until after the adoption of a resolution requesting the issuance thereof by the school board of the school district or board of trustees of the *community* ~~junior~~ college district on behalf of which the obligations are to be issued. The state board of education shall limit the amount of such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates which can be issued on behalf of any school district or *community* ~~junior~~ college district to ninety percent (90%) of the amount which it determines can be serviced by the revenue accruing to the school district or *community* ~~junior~~ college district under the provisions of this amendment, *and shall determine the reasonable allocation of the interest savings from the issuance of refunding bonds or motor vehicle license revenue anticipation certificates,* and such *determinations* ~~determination~~ shall be conclusive. All such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the school board of the school district or board of trustees of the *community* ~~junior~~ college district requesting the issuance thereof, and no election or approval of qualified electors shall be required for the issuance thereof.

(8) The state board shall in each year use the funds distributable pursuant to this amendment to the credit of each school district or *community* ~~junior~~ college district only in the following manner and in order of priority:

a. To comply with the requirements of paragraph (1) of this subsection (d).

b. To pay all amounts of principal and interest *due* ~~maturing~~ in such year on any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued under the authority hereof, including refunding bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, issued on behalf of the school board of such school district or board of trustees of such *community* ~~junior~~ college district; subject, however, to any covenants or agreements made by the state board concerning the rights between holders of different issues of such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, as herein authorized.

c. To establish and maintain a sinking fund or funds to meet future requirements for debt service or reserves therefor, on bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued on behalf of the school board of such school district or board of trustees of such *community* ~~junior~~ college district under the authority hereof, whenever the state board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the state board shall in its discretion determine.

d. To distribute annually to the several school boards of the school districts or the boards of trustees of the *community* ~~junior~~ college districts for use in payment of debt service on bonds heretofore or hereafter issued by any such school boards of the school districts or boards of trustees of the *community* ~~junior~~ college districts where the proceeds of the bonds were used, or are to be used, in the acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects in such school districts or *community* ~~junior~~ college districts and which capital outlay projects have been approved by the school board of the school district or board of trustees of the *community* ~~junior~~ college district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or *community* ~~junior~~ college district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any *community* ~~junior~~ college district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any *community* ~~junior~~ college district and for the rank and priority of such pledge. Any such covenants or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To pay the expenses of the state board in administering this subsection (d), which shall be prorated among the various school districts and community college districts and paid out of the proceeds of the bonds or motor vehicle license revenue anticipation certificates or from the funds distributable to each school district and community college district on the same basis as such motor vehicle license revenues are distributable to the various school districts and community college districts.

f.~~e.~~ To distribute annually to the several school boards of the school districts or boards of trustees of the *community* ~~junior~~ college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or *community* ~~junior~~ college district as shall be requested by resolution of the school board of the school district or board of trustees of the *community* ~~junior~~ college district.

g.~~f.~~ When all major capital outlay needs of a school district or *community* ~~junior~~ college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or *community* ~~junior~~ college district as the school board of the

school district or board of trustees of the *community* ~~junior~~ college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or *community* ~~junior~~ college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle *license revenue* ~~tax~~ anticipation certificates and from the motor vehicle license *revenues* ~~taxes~~, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or *community* ~~junior~~ college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or *community* ~~junior~~ college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the *community* ~~junior~~ college district and with the approval of the state board; and provided, further, that this paragraph (9) shall not in any manner affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district, or board of trustees of any *community* ~~junior~~ college district.

~~(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district.~~

(10)~~(11)~~ The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license *revenues* ~~taxes~~ during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license *revenues* ~~taxes~~ from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates.

~~(12) The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.~~

(11)~~(13)~~ Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license *revenues* ~~taxes~~ as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of 1885, as amended prior to 1968, and bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state ~~only at a lower net average interest cost rate~~.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

~~(f) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.~~

~~(g) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.~~

~~(h) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (e) differs from that contained herein, then such other language as to subsection (e) shall prevail over the language of subsection (e) as contained herein. This amendment shall take effect as of July 1, 1975.~~

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

BONDS FOR THE CONSTRUCTION OF EDUCATIONAL FACILITIES

Proposing an amendment to Section 9 of Article XII of the State Constitution to:

(1) Continue indefinitely the current dedication of gross receipts taxes to fund construction of educational facilities for the state's public education system.

(2) Continue indefinitely the current dedication of some motor vehicle license taxes to fund construction of educational facilities for public schools and community colleges.

(3) Remove interest and maturity restrictions on education bond refunding.

And the title is amended as follows:

Strike the entire title and insert:

Senate Joint Resolution No. 2-H

A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, community college districts, and universities, to continue using motor vehicle license revenues for capital outlay projects and other educational needs of public school districts and community college districts, and to remove interest and maturity restrictions on education bond refunding.

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

SJR 2-H as amended was read in full as follows:

SJR 2-H—A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, community college districts, and universities, to continue using motor vehicle license revenues for capital outlay projects and other educational needs of public school districts and community college districts, and to remove interest and maturity restrictions on education bond refunding.

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

That the amendment to Section 9 of Article XII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XII
SCHEDULE

SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue

bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secured by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, ~~and for fifty years thereafter,~~ all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, ~~(hereinafter called "gross receipts taxes"), as in existence as of the date of the adoption of this amendment or~~ as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, *community* ~~junior~~ colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later than *thirty years after the date of issuance thereof* ~~July 1, 2025~~. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

a. For the payment of the principal of and interest on any bonds *due* ~~maturing~~ in such fiscal year;

b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;

c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including projects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of

roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9, Subsection (d) of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended) as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminus with the school district of each county as provided in Article IX, Section 4, Subsection (a) of this constitution, in each year computed as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9, Subsection (d) of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded ~~at a lower net average interest cost rate~~ by the issuance of refunding bonds ~~maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (13) of this subsection (d)~~.

(3) Subject to the requirements of paragraph (1) of this subsection (d) beginning July 1, 1973 ~~and for thirty-five years thereafter~~, the first proceeds of the revenues derived from the licensing of motor vehicles *(hereinafter called "motor vehicle license revenues")* to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and *community* ~~junior~~ college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and *community* ~~junior~~ college districts in the ratio of the number of instruction units in each school district or *community* ~~junior~~ college district in each year computed as provided herein. The amount of the first *motor vehicle license* revenues ~~derived from the state motor vehicle license taxes~~ to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars ($600) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1967-68, plus an amount equal in the aggregate to the product of eight hundred dollars ($800) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1972-73 and for each school fiscal year thereafter which is in excess of the total number of such instruction units in all the school districts of Florida for the school fiscal year 1967-68, such excess units being designated "growth units." The amount of the first ~~revenues derived from the state~~ motor vehicle license *revenues* ~~taxes~~ to be so set aside in each year and distributed as provided herein shall additionally be an amount equal in the aggregate to the product of four hundred dollars ($400) multiplied by the total number of instruction units in all *community* ~~junior~~ college districts of Florida. The number of instruction units in each school district or *community* ~~junior~~ college district in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each school district for the school fiscal year 1967-68 or *community* ~~junior~~ college district for the school fiscal year 1968-69 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such school district, including growth units, or *community* ~~junior~~ college district for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (hereinafter called the state board), or (3) the number of instruction units in each school district, including growth units, or *community* ~~junior~~ college district on behalf of which the state board has issued bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2 of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first ~~part of the revenues derived from the licensing of~~ motor *vehicle license revenues* ~~vehicles~~ provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any *community* ~~junior~~ college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes to issue bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, and also to issue such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates to pay, fund or refund any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates theretofore issued by said state board. All such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates shall bear interest at not exceeding *the rate provided by general law and shall mature not later than thirty years after the date of issuance thereof.* ~~five per centum per annum, or such higher interest rate as may be authorized by statute heretofore or hereafter passed by a three-fifths (3/5) vote of each house of the legislature. All such bonds shall mature serially in annual installments commencing not more than three (3) years from the date of issuance thereof and ending not later than thirty (30) years from the date of issuance, or July 1, 2007, A.D., whichever is earlier. All such motor vehicle tax anticipation certificates shall mature prior to July 1, 2007, A.D.~~ The state board shall have power to determine all other details of *the* ~~said~~ bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates and to sell *in the manner provided by general law* ~~at public sale after public advertisement~~, or exchange *the* ~~said~~ bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, including refunding bonds or refunding motor vehicle *license revenue* ~~tax~~ anticipation certificates, all or any part from the ~~anticipated revenues to be derived from the licensing of~~ motor *vehicle license revenues* ~~vehicles~~ provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates shall ever be issued by the state board, *except to refund outstanding bonds or motor vehicle license revenue anticipation certificates,* until after the adoption of a resolution requesting the issuance

thereof by the school board of the school district or board of trustees of the *community* ~~junior~~ college district on behalf of which the obligations are to be issued. The state board of education shall limit the amount of such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates which can be issued on behalf of any school district or *community* ~~junior~~ college district to ninety percent (90%) of the amount which it determines can be serviced by the revenue accruing to the school district or *community* ~~junior~~ college district under the provisions of this amendment, *and shall determine the reasonable allocation of the interest savings from the issuance of refunding bonds or motor vehicle license revenue anticipation certificates,* and such *determinations* ~~determination~~ shall be conclusive. All such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the school board of the school district or board of trustees of the *community* ~~junior~~ college district requesting the issuance thereof, and no election or approval of qualified electors shall be required for the issuance thereof.

(8) The state board shall in each year use the funds distributable pursuant to this amendment to the credit of each school district or *community* ~~junior~~ college district only in the following manner and in order of priority:

a. To comply with the requirements of paragraph (1) of this subsection (d).

b. To pay all amounts of principal and interest *due* ~~maturing~~ in such year on any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued under the authority hereof, including refunding bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, issued on behalf of the school board of such school district or board of trustees of such *community* ~~junior~~ college district; subject, however, to any covenants or agreements made by the state board concerning the rights between holders of different issues of such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, as herein authorized.

c. To establish and maintain a sinking fund or funds to meet future requirements for debt service or reserves therefor, on bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued on behalf of the school board of such school district or board of trustees of such *community* ~~junior~~ college district under the authority hereof, whenever the state board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the state board shall in its discretion determine.

d. To distribute annually to the several school boards of the school districts or the boards of trustees of the *community* ~~junior~~ college districts for use in payment of debt service on bonds heretofore or hereafter issued by any such school boards of the school districts or boards of trustees of the *community* ~~junior~~ college districts where the proceeds of the bonds were used, or are to be used, in the acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects in such school districts or *community* ~~junior~~ college districts and which capital outlay projects have been approved by the school board of the school district or board of trustees of the *community* ~~junior~~ college district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or *community* ~~junior~~ college district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any *community* ~~junior~~ college district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any *community* ~~junior~~ college district and for the rank and priority of such pledge. Any such covenants or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To pay the expenses of the state board in administering this subsection (d), which shall be prorated among the various school districts and community college districts and paid out of the proceeds of the bonds or motor vehicle license revenue anticipation certificates or from the funds distributable to each school district and community college district on the same basis as such motor vehicle license revenues are distributable to the various school districts and community college districts.

f. ~~e.~~ To distribute annually to the several school boards of the school districts or boards of trustees of the *community* ~~junior~~ college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or *community* ~~junior~~ college district as shall be requested by resolution of the school board of the school district or board of trustees of the *community* ~~junior~~ college district.

g. ~~f.~~ When all major capital outlay needs of a school district or *community* ~~junior~~ college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or *community* ~~junior~~ college district as the school board of the school district or board of trustees of the *community* ~~junior~~ college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or *community* ~~junior~~ college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle *license revenue* ~~tax~~ anticipation certificates and from the motor vehicle license *revenues* ~~taxes~~, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or *community* ~~junior~~ college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or *community* ~~junior~~ college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the *community* ~~junior~~ college district and with the approval of the state board; and provided, further, that this paragraph (9) shall not in any manner affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district, or board of trustees of any *community* ~~junior~~ college district.

~~(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district.~~

(10) ~~(11)~~ The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license *revenues* ~~taxes~~ during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license *revenues* ~~taxes~~ from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle *license revenue* ~~tax~~ anticipation certificates.

~~(12) The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.~~

(11) ~~(13)~~ Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license *revenues*

~~taxes~~ as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of 1885, as amended prior to 1968, and bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state ~~only at a lower net average interest cost rate~~.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

~~(f) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.~~

~~(g) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.~~

~~(h) If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (e) differs from that contained herein, then such other language as to subsection (e) shall prevail over the language of subsection (e) as contained herein. This amendment shall take effect as of July 1, 1975.~~

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

BONDS FOR THE CONSTRUCTION OF EDUCATIONAL FACILITIES

Proposing an amendment to Section 9 of Article XII of the State Constitution to:

(1) Continue indefinitely the current dedication of gross receipts taxes to fund construction of educational facilities for the state's public education system.

(2) Continue indefinitely the current dedication of some motor vehicle license taxes to fund construction of educational facilities for public schools and community colleges.

(3) Remove interest and maturity restrictions on education bond refunding.

SJR 2-H passed as amended by the required constitutional three-fifths vote of the membership and was ordered enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for CS for SB 68-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 68-H—A bill to be entitled An act relating to taxation; requiring the Department of Revenue to develop and implement a limited-duration tax amnesty program for certain state taxes; providing definitions; providing conditions for participation in such program; amending s. 72.011, F.S.; providing conditions for filing an action to contest assessment or denial of refund; amending s. 196.011, F.S.; requiring that forms prescribed by the Department of Revenue include specific information; requiring homestead exemption applications to include the social security numbers of the property owner and spouse before a property appraiser may issue or renew the homestead exemption; providing a time period for compliance; providing requirements for homestead exemption renewal applications; amending ss. 198.15, 198.18, F.S.; increasing penalties and interest for estate taxes due; amending s. 199.062, F.S.; requiring security dealers and investment advisers to file certain statements regarding customers' securities; allowing the department to require property appraisers to send intangible tax brochures to property owners; authorizing the department to require state-registered security dealers and investment advisers to transmit once every 2 years a copy of the department's intangible tax brochure to certain clients; amending s. 199.282, F.S.; increasing penalties and interest for intangible taxes due; requiring a person applying upon initial application or annual renewal for homestead exemption to certify in writing whether such person is required to file an annual intangible tax return in this state; providing a penalty; amending ss. 201.17, 203.01, 203.06, F.S., relating to the documentary stamp tax and the gross receipts tax on utility services, to increase the interest and penalties on those taxes due; amending ss. 206.06, 206.08, 206.09, 206.44, 206.87, 207.007, 211.076, 211.33, F.S., relating to motor and special fuel taxes, motor and special fuel use tax, and the severance tax, to increase the interest and penalties on those taxes due; amending s. 212.03, F.S.; requiring condominium associations or other persons responsible for the rental of condominium units to annually submit to the department certain information on rental units; providing a penalty; amending ss. 212.04, 212.085, F.S.; providing for increases in penalties on sales and use taxes due; amending s. 212.12, F.S.; providing for increases in interest and penalties on sales and use taxes due; amending s. 212.18, F.S.; providing that a state or local agency, board, or commission may not issue a license to any person engaged in any business without first ensuring that such person possesses a valid state sales tax registration certificate; providing an additional registration fee under certain circumstances; amending s. 213.051, F.S.; authorizing the department to issue subpoenas or subpoenas duces tecum under certain circumstances; amending s. 213.29, F.S.; increasing the penalty for failure to collect certain taxes; amending s. 213.30, F.S.; providing for compensation by the department to persons who provide information regarding a taxpayer not in compliance with registration requirements; creating s. 213.50, F.S.; providing for the revocation of a corporate charter under certain circumstances; prohibiting the Division of Corporations of the Department of State from issuing or reinstating a corporate charter under certain circumstances; creating s. 213.67, F.S.; authorizing the Department of Revenue to garnish property under certain circumstances; creating s. 213.69, F.S.; authorizing the department, upon final determination of unpaid taxes, to issue warrants for unpaid taxes; creating s. 213.70, F.S.; authorizing the department to require persons who are registered to submit certain state taxes to place them in escrow; amending ss. 220.181, 220.211, 220.801, 220.803, 220.807, 220.901, F.S.; increasing penalties and interest for corporate income taxes due; authorizing the Department of Revenue to adopt emergency rules; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for the exemption to be subject to the Open Government Sunset Review Act; restricting use of such information; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the department; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration of that requirement; amending s. 216.262, F.S.; providing an additional condition under which the Administration Commission may authorize an increase in the number of positions that were provided in an appropriations act; amending s. 213.053, F.S.; authorizing the department to provide certain information to eligible participants in the Registration Information Sharing and Exchange Program; establishing positions; providing for pilot projects to improve the collection and enforcement of taxes; providing applicability of increased penalty and interest provisions; providing effective dates.

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

Section 1. (1) *Tax amnesty program.—*

(1) The tax amnesty program authorized by this section shall last 3 months and shall be narrowly applied. This tax amnesty program applies only to those in-state persons and out-of-state persons who owe undisclosed or undiscovered state taxes. This program shall encourage such persons to file tax returns and remit the unpaid taxes during the nonextendable period of time granted by this section. The collection and enforcement powers of the Department of Revenue shall be

strengthened as an inducement for noncompliant taxpayers to file returns and remit unpaid taxes and as an inducement for every taxpayer to comply with state revenue laws.

(2) The Department of Revenue shall develop and implement, beginning October 1, 1992, a tax amnesty program for taxpayers subject to any revenue law enumerated in s. 213.05, Florida Statutes, for taxes that were due and payable before June 1, 1992. The tax amnesty program is a one-time opportunity for eligible taxpayers to satisfy their undisclosed or undiscovered state tax liabilities, thereby avoiding criminal prosecution and criminal penalties imposed under such laws. Eligible taxpayers shall have until December 31, 1992, to file returns or amended returns and to pay the amount determined to be due.

(3) For the purposes of this section:

(a) "Undisclosed tax liability" means a liability for unpaid taxes which the taxpayer has not reported to any employee or agent of the Department of Revenue.

(b) "Undiscovered tax liability" means a liability for unpaid taxes which the Department of Revenue has not previously identified through audit, collection, or enforcement activity.

(4) Participation in the amnesty program is conditioned upon the following actions:

(a) The taxpayer's affirmative statement under oath that the taxpayer is qualified to participate in the amnesty program, pursuant to the provisions of this section.

(b) The taxpayer's agreement to pay the outstanding amount finally determined to be due by the Department of Revenue and agreement that the taxpayer's right to protest or to initiate an administrative or judicial proceeding or to claim a refund of moneys paid under the amnesty program is barred with respect to the amounts paid except as provided in this section.

(5) This section does not authorize a refund of a penalty paid before the date the amnesty program is implemented. Any refund or credit of amounts paid as a result of participation in the amnesty program is strictly limited to amounts determined by the Department of Revenue to have been paid in error.

(6) A taxpayer who is under criminal investigation, indictment, information, or prosecution, or under a department notice, billing, or assessment procedure, for failure to pay taxes before June 1, 1992, is not eligible to participate in the amnesty program.

(7) The Department of Revenue may prescribe terms, conditions, and methods of payment as necessary for the administration of the amnesty program, may establish procedures and guidelines for the program, and may adopt forms and rules to implement the program.

(2) This section shall take effect upon this act becoming a law.

Section 2. Effective January 1, 1993, and applicable to actions filed on or after that date, subsection (1) of section 72.011, Florida Statutes, is amended to read:

72.011 Jurisdiction of circuit courts in specific tax matters; administrative hearings and appeals; time for commencing action; parties; deposits.—

(1)*(a)* A taxpayer may contest the legality of any assessment or denial of refund of tax, fee, surcharge, permit, interest, or penalty provided for under s. 125.0104, s. 125.0108, chapter 198, chapter 199, chapter 201, chapter 203, chapter 206, chapter 207, chapter 211, chapter 212, chapter 213, chapter 220, chapter 221, s. 336.021, s. 336.025, s. 336.026, s. 370.07(3), chapter 376, s. 403.717, s. 403.718, s. 403.7185, s. 403.7195, s. 538.09, s. 538.25, chapter 624, or s. 681.117 by filing an action in circuit court; or, alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. However, once an action has been initiated under s. 120.56, s. 120.565, or s. 120.57, no action relating to the same subject matter may be filed by the taxpayer in circuit court, and judicial review shall be exclusively limited to appellate review pursuant to s. 120.68; and once an action has been initiated in circuit court, no action may be brought under chapter 120.

(b) A taxpayer may not file an action under paragraph (a) to contest an assessment or a denial of refund of any tax, fee, surcharge, permit, interest, or penalty relating to the statutes listed in paragraph (a) until the taxpayer complies with the applicable registration requirements contained in those statutes which apply to the tax for which the action is filed.

Section 3. Subsection (2) of section 198.15, Florida Statutes, is amended to read:

198.15 When tax due; extension; interest; penalty.—

(2) For any tax that is due on or after July 1, 1991, and that is not paid by the due date or by the due date of any extension granted by the department, in addition to any other penalties, a specific penalty shall be added to the tax in the amount of *10* ~~5~~ percent of any unpaid tax if the failure is for not more than 30 days, or *20* ~~10~~ percent of the aggregate of any unpaid tax if the failure is for more than 30 days.

Section 4. Subsection (1) of section 198.18, Florida Statutes, is amended to read:

198.18 Failure to pay tax; penalties; delinquent or deficient taxes, interest.—

(1) If any part of a deficiency in tax due under the provisions of this chapter is due to negligence or intentional disregard of the provisions of this chapter or the rules and regulations issued pursuant hereto, with knowledge thereof but without intent to defraud, there shall be added as a penalty *10* ~~5~~ percent per month of the total amount of the deficiency in tax to a maximum of *50* ~~25~~ percent of the tax due; and, if any part of such deficiency is willfully made with intent to defraud, there shall be added as a penalty *100* ~~50~~ percent of the total amount of such deficiency, which penalty shall become due and payable upon notice and demand by the department. The personal representative shall be liable to the state personally and on his official bond, if any, for any loss to the state accruing under the provisions of this section through his negligence or willful neglect. No interest shall be collected upon the amount of any penalty. The department may settle or compromise such penalties pursuant to s. 213.21.

Section 5. Subsection (3) of section 199.062, Florida Statutes, is amended to read:

199.062 Annual tax information reports.—

(3)*(a)* On or before June 30 of each year, all security *dealers and investment advisers* ~~brokers~~ registered under the laws of this state shall file with the department a position statement as of December 31 of the preceding year for each customer whose mailing address is *in this* ~~within the~~ state *or a statement that the security dealer or investment adviser does not hold securities on account for any customer whose mailing address is in this state. The position* ~~Such~~ statement shall include the customer's name, address, social security number, or federal identification number; the number of units, value, and description, including the Committee on Uniform Security Identification Procedures (CUSIP) number, if any, of all securities held for the customer; and such other information as the department may reasonably require. The information required by this *paragraph* ~~subsection~~ shall be reported by *the dealer or investment adviser* ~~a broker~~ on magnetic media, using specifications and instructions of the department, unless the *dealer or investment adviser* ~~broker~~ demonstrates that an undue hardship exists.

(b)1. The department may require security dealers and investment advisers registered in this state to transmit once every 2 years a copy of the department's intangible tax brochure to each customer whose mailing address is in this state.

2. The department may require property appraisers to send, at such times and in such manner as the department and the property appraisers jointly determine, a copy of the department's intangible tax brochure to each owner of Florida property.

Section 6. Subsections (3), (4), and (6) of section 199.282, Florida Statutes, are amended to read:

199 282 Penalties for violation of this chapter.—

(3)(a) If any annual or nonrecurring tax is not paid by the due date, a delinquency penalty shall be charged. The delinquency penalty shall be *10* ~~5~~ percent of the delinquent tax for each calendar month or portion thereof from the due date until paid, up to a limit of *50* ~~25~~ percent of the total tax not timely paid.

(b) If any annual tax return required by this chapter is not filed by the due date, a penalty of *30* ~~15~~ percent of the tax due with the return shall be charged for each year or portion of the year during which the return remains unfiled.

(4) If an annual tax return is filed and property is either omitted from it or undervalued, then a specific penalty shall be charged. The specific penalty shall be *30* ~~15~~ percent of the tax attributable to each omitted item or to each undervaluation. No delinquency or late filing penalty shall be charged with respect to any undervaluation.

(6) ~~A~~ Late reporting *penalties* ~~penalty of $100~~ shall be imposed *as follows*:

(a) *A penalty of $100* upon any corporation which does not timely file a written notice required under s. 199.057(2)(c) or s. 199.062(2).

(b) *An initial penalty of $10 per customer position statement, plus an additional penalty of the greater of 1 percent of the initial penalty or $50 for each month or portion of a month, from the date due until filing is made,* upon any security *dealer or investment adviser who* ~~broker which~~ does not timely file *or fails to file* the ~~position~~ statements required by s. 199.062(3). *The submission of a position statement that does not comply with the department's specifications and instructions or the submission of an inaccurate position statement is not a timely filing. The department shall notify any security dealer or investment adviser who fails to timely file the required statements. The minimum penalty imposed upon a security dealer or investment adviser under this paragraph is $100.*

Section 7. Paragraph (b) of subsection (2) of section 201.17, Florida Statutes, is amended to read:

201.17 Penalties for failure to pay tax required.—

(2) Any document, instrument, or paper upon which the tax under this chapter is imposed and which, upon audit or at time of recordation, does not show the proper amount of tax paid shall subject the person or persons liable for the tax upon the document, instrument, or paper to:

(b) Payment of a penalty to the Department of Revenue equal to *50* ~~25~~ percent of the tax not paid. If it is determined by clear and convincing evidence that any part of a deficiency is due to fraud, there shall be added to the tax as a civil penalty, in lieu of the aforementioned penalty under this paragraph, an amount equal to *200* ~~100~~ percent of the deficiency. These penalties are to be in addition to, and not in lieu of, any other penalties imposed by law.

Section 8. Subsection (2) of section 203.01, Florida Statutes, is amended to read:

203.01 Tax on gross receipts for utility services.—

(2)(a) In addition to any other penalty provided by law, any person who fails to timely report and pay any tax imposed under this chapter shall pay a penalty equal to *10* ~~5~~ percent of any unpaid tax, if the failure is for less than 31 days, plus an additional *10* ~~5~~ percent of any unpaid tax for each additional 30 days or fraction thereof. However, such penalty may not be less than *$10* ~~$5~~ or exceed a total of *50* ~~25~~ percent in the aggregate of any unpaid tax.

(b) In addition to any other penalty provided by law, any person who falsely or fraudulently reports or unlawfully attempts to evade paying any tax imposed under this chapter shall pay a penalty equal to *100* ~~50~~ percent of any tax due and is guilty of a misdemeanor of the second degree punishable as provided under s. 775.082 or s. 775.083.

Section 9. Subsection (3) of section 206.06, Florida Statutes, is amended to read:

206.06 Estimate of amount of gas taxes due and unpaid.—

(3) If any refiner, importer, or wholesaler fails to make a complete report, including all schedules, the department shall add, in addition to any other penalty or interest due, a penalty in the amount of *$200* ~~$100~~.

Section 10. Subsection (3) of section 206.08, Florida Statutes, is amended to read:

206.08 Reports from persons who do not purchase tax-free motor fuel.—

(3) If any person required to file under this section fails to make a complete report, the department shall impose, in addition to any other penalty or interest due, a penalty in the amount of *$200* ~~$100~~.

Section 11. Subsection (4) of section 206.09, Florida Statutes, is amended to read:

206.09 Reports from carriers transporting motor fuel or similar products.—

(4) If any such person or company required to file under this section fails to make a complete report, the department shall impose, in addition to any other penalty or interest due, a penalty in the amount of *$200* ~~$100~~.

Section 12. Subsection (1) of section 206.44, Florida Statutes, is amended to read:

206.44 Penalty and interest for failure to report on time; penalty and interest on tax deficiencies.—

(1) If any refiner, importer, or wholesaler fails to make a report or pay the taxes due as required by this chapter, the department shall add a penalty in the amount of *10* ~~5~~ percent of any unpaid tax if the failure is for not more than 1 month, with an additional *10* ~~5~~ percent of any unpaid tax for each additional month or fraction thereof during which the failure continues. However, such penalty may not exceed *50* ~~25~~ percent in the aggregate of any unpaid tax. Furthermore, in no event may the penalty assessed be less than *$10* ~~$5~~. The department shall collect the tax, together with the penalty and costs, in the same manner as other delinquent taxes are collected.

Section 13. Subsection (8) of section 206.87, Florida Statutes, is amended to read:

206.87 Levy of tax.—

(8) Any person or dealer who:

(a) Issues or assists in issuing a fraudulent resale or exemption certificate to obtain nontaxed special fuel from a licensed dealer; or

(b) Has issued a resale or exemption certificate and whose exempt status has become nonexempt and who neglects, fails, or refuses to inform the licensed dealer to whom the certificate was issued of such change in status

is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. In addition, such person shall pay any tax due and any penalty and interest assessed, plus a mandatory penalty of not less than *$1,000* ~~$500~~ or an amount equal to *200* ~~100~~ percent of the tax, whichever is greater.

Section 14. Subsection (1) of section 207.007, Florida Statutes, is amended to read:

207.007 Offenses; penalties and interest.—

(1) If any motor carrier fails to file a return and pay any tax liability under this chapter, for any commercial vehicle other than a Florida-based commercial motor vehicle which travels Florida intrastate mileage only, within the time required hereunder, the department shall add a delinquency penalty of *20* ~~10~~ percent to the amount of the taxes due if the failure is for not more than 30 days, with an additional *20* ~~10~~ percent penalty for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of *200* ~~100~~ percent in the aggregate. However, in no event shall the penalty be less than *$50* ~~$25~~.

Section 15. Subsections (2) and (3) of section 211.076, Florida Statutes, are amended to read:

211.076 Interest and penalties; failure to pay tax or file return; estimated tax underpayments.—

(2) Failure to file any return required by this part by the due date shall require payment of a delinquency penalty. If tax is due with the return, the delinquency penalty shall be *10* ~~5~~ percent for each month, or portion thereof, of the amount of tax due with the return, not to exceed *50* ~~25~~ percent. If no tax is due with the return, the delinquency penalty shall be *$50* ~~$25~~ for each month, or portion thereof, during which the return was not filed, not to exceed *$300* ~~$150~~ in aggregate. The amount of tax due with a return shall be reduced by amounts properly creditable against the tax liability shown on the return on the date the return was due.

(3) Any taxpayer who makes a substantial underpayment of any tax due under this part shall pay a penalty of *30* ~~15~~ percent of the underpayment, in addition to the delinquency penalty imposed under subsection (2). A substantial underpayment of tax means a deficiency of tax in an amount which exceeds 35 percent of the total tax due for a month.

Section 16. Paragraph (f) of subsection (1) and paragraphs (c) and (e) of subsection (2) of section 211.33, Florida Statutes, are amended to read:

211.33 Administration of the tax; returns; delinquency penalties and interest; departmental inspections of records.—

(1)

(f) Except as provided in subparagraph 3., the taxpayer shall be liable for interest at the rate of 12 percent per year and for a penalty in an amount determined at the rate of *20* ~~10~~ percent per year upon the amount of any underpayment of estimated tax determined under this paragraph.

1. The amount of any underpayment of estimated tax shall be the excess of:

a. The amount of the installment which would be required to be paid if the estimated tax were equal to 80 percent of the tax shown on the return for the taxable year or, if no return were filed, 80 percent of the tax for such year, over

b. The amount, if any, of the installment paid on or before the last date prescribed for payment.

2. The period of the underpayment for which interest and penalties shall apply shall commence on the date the installment was required to be paid and shall terminate on the date on which the amount of underpayment is paid. A payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under sub-subparagraph 1.a. for such installment date.

3. No penalty or interest for underpayment of any installment of estimated tax shall be imposed if the total amount of all such payments made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were the lesser of:

a. An amount equal to 80 percent of the tax finally due for the taxable year; or

b. An amount equal to the tax shown on the taxpayer's return for the preceding taxable year, if a return showing a liability for tax was filed by the taxpayer for the preceding year.

(2)

(c) If a tax return is not filed by April 1 for any taxes due for the preceding year or if any part of a deficiency in the tax due for the preceding tax year is due to negligence or intentional disregard of this part or the rules promulgated pursuant hereto, the department shall levy a delinquency penalty of *10* ~~5~~ percent for each month, or portion thereof, on the amount of tax delinquent, not to exceed *50* ~~25~~ percent of the total tax due.

(e) Any taxpayer who makes a substantial underpayment of any tax due under this part shall pay a penalty of *30* ~~15~~ percent of the underpayment in addition to the delinquency penalty imposed under paragraph (c). A substantial underpayment of tax due and payable under this part means a deficiency which exceeds 35 percent of the total tax due for any month.

Section 17. Subsection (4) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(4) Each person who exercises the privilege of charging admission taxes, as herein defined, shall apply for, and at that time shall furnish the information and comply with the provisions of s. 212.18 not inconsistent herewith and receive from the department, a certificate of right to exercise such privilege, which certificate shall apply to each place of business where such privilege is exercised and shall be in the manner and form prescribed by the department. Such certificate shall be issued upon payment to the department of a registration fee of $5 by the applicant. Each person exercising the privilege of charging such admission taxes as herein defined shall cause to be kept records and accounts showing the admission which shall be in the form as the department may from time to time prescribe, inclusive of records of all tickets numbered and issued for a period of not less than the time within which the department may, as permitted by s. 95.091(3), make an assessment with respect to any admission evidenced by such records and accounts, and inclusive of all bills or checks of customers who are charged any of the taxes defined herein, showing the charge made to each for that period. The department is empowered to use each and every one of the powers granted herein to the department to discover the amount of tax to be paid by each such person and to enforce the payment thereof as are hereby granted the department for the discovery and enforcement of the payment of taxes hereinafter levied on the sales of tangible personal property. The failure of any person to pay such taxes before the 21st day of the succeeding month after the taxes are collected shall render such person liable to the same penalties that are hereafter imposed upon such person for being delinquent in the payment of taxes imposed upon the sales of tangible personal property; the failure of any person to render returns and to pay taxes as prescribed herein shall render such person subject to the same penalties, by way of charges for delinquencies, at the rate of *10* ~~5~~ percent per month for a total amount of tax delinquent up to a total of *50* ~~25~~ percent of such tax and at the rate of *100-percent* ~~50-percent~~ penalty for attempted evasion of payment of any such tax or for any attempt to file false or misleading returns that are required to be filed by the department.

Section 18. Section 212.085, Florida Statutes, is amended to read:

212.085 Fraudulent claim of exemption; penalties.—When any person shall fraudulently, for the purpose of evading tax, issue to a vendor or to any agent of the state a certificate or statement in writing in which he claims exemption from sales tax, such person, in addition to being liable for payment of the tax plus a mandatory penalty of *200* ~~100~~ percent of the tax, shall be liable for fine and punishment as provided by law for a conviction of a felony of the third degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 19. Subsection (2) of section 212.12, Florida Statutes, is amended to read:

212.12 Dealer's credit for collecting tax; penalties for noncompliance; powers of Department of Revenue in dealing with delinquents; brackets applicable to taxable transactions; records required.—

(2)(a) When any person, firm, or corporation required hereunder to make any return or to pay any tax or fee imposed by this chapter fails to timely file such return or fails to pay the tax or fee due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes or fees, a specific penalty shall be added to the tax or fee in the amount of *10* ~~5~~ percent of any unpaid tax or fee if the failure is for not more than 30 days, with an additional *10* ~~5~~ percent of any unpaid tax or fee for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of *50* ~~25~~ percent, in the aggregate, of any unpaid tax or fee. In no event may the penalty be less than *$10* ~~$5~~ for failure to timely file a tax return required by s. 212.11. In the case of a false or fraudulent return or a willful intent to evade payment of any tax or fee imposed under this chapter, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of such a tax or fee shall be liable for a specific penalty of *100* ~~50~~ percent of the tax bill or fee and for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree.

(b) When any person, firm, or corporation fails to timely remit the proper estimated payment required under s. 212.11, a specific penalty shall be added in an amount equal to *10* ~~5~~ percent of any unpaid estimated tax. Through December 31, 1984, this penalty shall be waived upon application by the dealer unless the department has determined that there was willful intent by the dealer to evade payment of the tax. Beginning with January 1, 1985 returns, the department, upon a showing of reasonable cause, is authorized to waive or compromise penalties imposed by this paragraph. However, other penalties and interest shall be due and payable if the return on which the estimated payment was due was not timely or properly filed.

(c) Dealers filing a consolidated return pursuant to s. 212.11(1)(d) shall be subject to the penalty established in paragraph (b) unless the

dealer has paid the required estimated tax for his consolidated return as a whole without regard to each location. If the dealer fails to pay the required estimated tax for his consolidated return as a whole, each filing location shall stand on its own with respect to calculating penalties pursuant to paragraph (b).

Section 20. Paragraph (a) of subsection (3) of section 212.18, Florida Statutes, is amended to read:

212.18 Administration of law; *registration of dealers;* rules ~~and regulations.~~—

(3)(a) Every person desiring to engage in or conduct business in this state as a dealer, as defined in this chapter, or to lease, rent, or let or grant licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property, as defined in this chapter, and every person who sells or receives anything of value by way of admissions, shall file with the department an application for a certificate of registration for each place of business, showing the names of the persons who have interests in such business and their residences, the address of the business, and such other data as the department may reasonably require. The application shall be made to the department before the person, firm, copartnership, or corporation may engage in such business, and it shall be accompanied by a registration fee of $5. However, no registration fee is required to accompany an application to engage in or conduct business to make mail order sales. The department, upon receipt of such application, will grant to the applicant a separate certificate of registration for each place of business, which certificate may be canceled by the department or its designated assistants for any failure by the certificateholder to comply with any of the provisions of this chapter. The certificate shall not be assignable and shall be valid only for the person, firm, copartnership, or corporation to which issued, and such certificate shall be placed in a conspicuous place in the business or businesses for which it is issued and shall be so displayed at all times. No person shall engage in business as a dealer or in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, nor shall any person sell or receive anything of value by way of admissions, without first having obtained such a certificate or after such certificate has been canceled; no person shall receive any license from any authority within the state to engage in any such business without first having obtained such a certificate or after such certificate has been canceled. The engaging in the business of selling or leasing tangible personal property or services or as a dealer, as defined in this chapter, or the engaging in leasing, renting, or letting of or granting licenses in living quarters or sleeping or housekeeping accommodations in hotels, apartment houses, roominghouses, tourist or trailer camps, or real property as hereinbefore defined, or the engaging in the business of selling or receiving anything of value by way of admissions, without such certificate first being obtained or after such certificate has been canceled by the department is prohibited. The failure or refusal of any person, firm, copartnership, or corporation to so qualify when required hereunder is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, or subject to injunctive proceedings as provided by law. *Such failure or refusal also subjects the offender to a $100 initial registration fee in lieu of the $5 registration fee authorized in this paragraph.*

Section 21. Section 213.29, Florida Statutes, is amended to read:

213.29 Failure to collect and pay over tax or attempt to evade or defeat tax —Any person who is required to collect, truthfully account for, and pay over any tax enumerated in chapter 201, chapter 206, chapter 212, s. 336.021, s. 336.025, or s. 336.026 and who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat such tax or the payment thereof; or any officer or director of a corporation who has administrative control over the collection and payment of such tax and who willfully directs any employee of the corporation to fail to collect or pay over, evade, defeat, or truthfully account for such tax shall, in addition to other penalties provided by law, be liable to a penalty equal to *twice* the total amount of the tax evaded or not accounted for or paid over. The filing of a protest based upon doubt as to liability or collection of a tax shall not be determined to be an attempt to evade tax under this section. The penalty imposed hereunder shall be in addition to any other penalty imposed or that should have been imposed under the revenue laws of this state, but shall be abated to the extent that the tax is paid. Any penalty may be compromised by the executive director of the Department of Revenue as set forth in s. 213.21. An assessment of penalty made pursuant to this section shall be deemed prima facie correct in any judicial or quasi-judicial proceeding brought to collect this penalty.

Section 22. Subsection (1) of section 213.30, Florida Statutes, is amended to read:

213.30 Compensation for information relating to a violation of the tax laws.—

(1) The executive director of the department, pursuant to rules adopted by the department, is authorized to compensate persons providing information to the department leading to:

(a) The punishment of, or collection of taxes, penalties, or interest from, any person with respect to the taxes enumerated in s. 213.05. The amount of any payment made under this *paragraph* ~~subsection~~ may not exceed 10 percent of any tax, penalties, or interest collected as a result of such information.

(b) The identification and registration of a taxpayer who is not in compliance with the registration requirements of any tax statute that is listed in s. 213.05. The amount of the payment made to any person who provides information to the department which results in the registration of a noncompliant taxpayer shall be $100. The reward authorized in this paragraph shall be paid only if the noncompliant taxpayer:

1. Conducts business from a permanent, fixed location;

2. Is engaged in a bona fide taxable activity; and

3. Is found by the department to have an unpaid tax liability.

Section 23. Section 213.50, Florida Statutes, is created to read:

213.50 Failure to comply; revocation of corporate charter; refusal to reinstate charter.—

(1) Any corporation of this state which has an outstanding tax warrant that has existed for more than 3 consecutive months is subject to the revocation of its charter as provided in s. 607.1420.

(2) A request for reinstatement of a corporate charter may not be granted by the Division of Corporations of the Department of State if an outstanding tax warrant has existed for that corporation for more than 3 consecutive months.

Section 24. Section 213.67, Florida Statutes, is created to read:

213.67 Garnishment.—

(1) If a person is delinquent in the payment of any taxes, penalties, and interest owed to the department, the executive director or his designee may give notice of the amount of such delinquency by registered mail to all persons having in their possession or under their control any credits or personal property, exclusive of wages, belonging to the delinquent taxpayer, or owing any debts to such delinquent taxpayer at the time of receipt by them of such notice. Thereafter, any person who has been notified may not transfer or make any other disposition of such credits, other personal property, or debts until the executive director or his designee consents to a transfer or disposition or until 60 days after the receipt of such notice. The notice provided for in this section may be renewed when the taxpayer contests the intended levy in circuit court or under chapter 120, pending the final resolution of that action.

(2) All persons who have been notified must, within 5 days after receipt of the notice, advise the executive director or his designee of the credits, other personal property, or debts in their possession, under their control, or owing them.

(3) During the last 30 days of the 60-day period set forth in subsection (1), the executive director or his designee may levy upon such credits, other personal property, or debts. The levy must be accomplished by delivery of a notice of levy, upon receipt of which the person possessing the credits, other personal property, or debts shall transfer them to the department or pay to the department the amount owed to the delinquent taxpayer.

(4) A notice that is delivered under this section is effective at the time of delivery against all credits, other personal property, or debts of the delinquent taxpayer which are not at the time of such notice subject to an attachment, garnishment, or execution issued through a judicial process.

(5) Any person acting in accordance with the terms of the notice or levy issued by the executive director or his designee is expressly discharged from any obligation or liability to the delinquent taxpayer with

respect to such credits, other personal property, or debts of the delinquent taxpayer affected by compliance with the notice of freeze or levy.

(6)(a) Levy may be made under subsection (3) upon credits, other personal property, or debt of any person with respect to any unpaid tax, penalties, and interest only after the executive director or his designee has notified such person in writing of the intention to make such levy.

(b) No less than 30 days before the day of the levy, the notice of intent to levy required under paragraph (a) shall be given in person or sent by certified or registered mail to the person's last known address.

(c) The notice required in paragraph (a) must include a brief statement that sets forth in simple and nontechnical terms:

1. The provisions of this section relating to levy and sale of property;

2. The procedures applicable to the levy under this section;

3. The administrative and judicial appeals available to the taxpayer with respect to such levy and sale, and the procedures relating to such appeals; and

4. The alternatives, if any, available to taxpayers which could prevent levy on the property.

(7) A taxpayer may contest the notice of intent to levy provided for under subsection (6) by filing an action in circuit court. Alternatively, the taxpayer may file a petition under the applicable provisions of chapter 120. After an action has been initiated under chapter 120 to contest the notice of intent to levy, an action relating to the same levy may not be filed by the taxpayer in circuit court, and judicial review is exclusively limited to appellate review pursuant to s. 120.68. Also, after an action has been initiated in circuit court, an action may not be brought under chapter 120.

(8) An action may not be brought to contest a notice of intent to levy under chapter 120 or in circuit court, later than 21 days after the date of receipt of the notice of intent to levy.

Section 25. Section 213.69, Florida Statutes, is created to read:

213.69 Authority to issue warrants.—Upon a final determination of unpaid taxes, interest, or penalties due under the revenue laws of this state, the department may issue warrants for those taxes listed in s. 213.05 or placed under the control of the department by law. Such warrants may direct:

(1) The sheriff of any county within the state to levy upon and sell the goods of such person which are found within the sheriff's jurisdiction for the payment of the amount of the delinquency, plus the penalties, interest, and cost of executing the warrant and conducting the sale, and to return the warrant and the money collected to the department. However, any surplus resulting from the sale after the costs, penalties, and delinquent taxes have been accounted for must be returned to the person in default; or

(2) A deputy, agent, or employee of the department or of the Department of Law Enforcement, after receiving written designation by the executive director, to execute that warrant in the same manner as a sheriff.

Section 26. Section 213.70, Florida Statutes, is created to read:

213.70 Taxpayers' escrow requirement.—For the purpose of ensuring the continued payment of any taxes, penalties, and interest due the state, the executive director or his designee may require a person who is registered to remit sales tax, motor or special fuel tax, or any other transaction-based excise tax administered by the department and who has collected and knowingly failed, or repeatedly failed, to remit such taxes in a timely manner or has otherwise failed to comply with the requirements of such tax law to deposit such amount upon receipt into a jointly controlled escrow account, subject to conditions provided by the department.

Section 27. Paragraph (a) of subsection (8) of section 220.181, Florida Statutes, is amended to read:

220.181 Enterprise zone jobs credit.—

(8)(a) Any person who fraudulently claims this credit is liable for repayment of the credit, plus a mandatory penalty in the amount of *200* ~~100~~ percent of the credit, plus interest at the rate provided in s. 220.807, and *commits* ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 28. Subsection (1) of section 220.211, Florida Statutes, is amended to read:

220.211 Penalties; incomplete return.—

(1) In the case where an incomplete return is made, notwithstanding that no tax is finally determined to be due for the taxable year, there shall be added to the amount of tax, penalty, and interest otherwise due a penalty in the amount of *$300* ~~$150~~ or *10* ~~5~~ percent of the tax finally determined to be due, whichever is greater; however, such penalty shall not exceed *$10,000* ~~$5,000~~. The department may settle or compromise such penalties pursuant to s. 213.21.

Section 29. Subsections (1) and (2) of section 220.801, Florida Statutes, are amended to read:

220.801 Penalties; failure to file timely returns.—

(1) In case of failure to file any tax return required under this chapter on the date prescribed therefor, including any extensions thereof, there shall be added as a penalty to the amount of tax due with such return *10* ~~5~~ percent of the amount of such tax, if the failure is not for more than 1 month, plus an additional *10* ~~5~~ percent for each additional month or fraction thereof during which such failure continues, not exceeding *50* ~~25~~ percent in the aggregate. The department may settle or compromise such penalties pursuant to s. 213.21. For purposes of this section, the amount of tax due with any return shall be reduced by any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which was properly allowable on the date the return was required to be filed.

(2) In case of failure to file any tax return required by this chapter, notwithstanding that no tax is shown to be due thereon, a penalty in the amount of *$50* ~~$25~~ for each month or portion thereof, not to exceed *$300* ~~$150~~ in the aggregate, shall be assessed and paid for each such failure to file. This subsection shall only apply to corporations when they also are required to file a federal income tax return.

Section 30. Subsections (1) and (2) of section 220.803, Florida Statutes, are amended to read:

220.803 Penalties; failure to pay tax.—

(1) If any part of a deficiency is due to negligence or intentional disregard of rules and regulations prescribed by or under this chapter, but without intent to defraud, there shall be added to the tax as a penalty an amount equal to *10* ~~5~~ percent of the deficiency.

(2) If any part of a deficiency is due to fraud, there shall be added to the tax as a penalty, in lieu of the penalty under subsection (1), an amount equal to *100* ~~50~~ percent of the deficiency.

Section 31. Effective October 1, 1992, section 213.0535, Florida Statutes, is created to read:

213.0535 Registration Information Sharing and Exchange Program.—

(1) The Registration Information Sharing and Exchange Program, or "RISE," is established and shall be coordinated by the Department of Revenue. Periodically, each participant in the program shall share the tax administration information specified in this section in the format prescribed by the department. To the fullest extent practicable, the information shall be shared in a computer-processable medium.

(2) Information that is subject to sharing includes the registrant's, licensee's, or taxpayer's name, mailing address, business location, and federal employer identification number or social security number; any applicable business type code; any applicable county code; and such other tax registration information as the department prescribes.

(3) Each local government that participates in the program is responsible for transmitting its shared data to participating state agencies. Each state agency participating in the program is responsible for transmitting its shared data to the other participating state agencies and to the appropriate participating local governments. Data shall be transmitted within 20 days after the close of the reporting period.

(4) There are two levels of participation:

(a) Each unit of state or local government responsible for administering one or more of the provisions specified in subparagraphs 1.-7. is a level-one participant. Level-one participants shall exchange, monthly, the data enumerated in subsection (2) for each new registrant, new filer, or initial reporter, permittee, or licensee, with respect to the following taxes, licenses, or permits:

1. The sales and use tax imposed under chapter 212.

2. The tourist development tax imposed under s. 125.0104.

3. The tourist impact tax imposed under s. 125.0108.

4. Local occupational license taxes imposed under chapter 205.

5. Convention development taxes imposed under s. 212.0305.

6. Public lodging and food service establishment licenses issued pursuant to chapter 509.

7. Beverage law licenses issued pursuant to chapter 561.

(b) Level-two participants include the Department of Revenue and local officials responsible for collecting the tourist development tax pursuant to s. 125.0104, the tourist impact tax pursuant to s. 125.0108, or a convention development tax pursuant to s. 212.0305. Level-two participants shall, in addition to the data shared by level-one participants, exchange data relating to tax payment history, audit assessments, and registration cancellations of dealers engaging in transient rentals, and such data may relate only to sales and use taxes, tourist development taxes, and convention development taxes. The department shall prescribe, by rule, the data elements to be shared and the frequency of sharing; however, audit assessments must be shared at least quarterly.

(5) Any provision of law imposing confidentiality upon data shared under this section, including, but not limited to, any provision imposing penalties for disclosure, applies to recipients of this data and their employees. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Data exchanged under this section may not be provided to any person or entity other than a person or entity administering the tax or licensing provisions of those provisions of law enumerated in paragraph (4)(a), and such data may not be used for any purpose other than for enforcing those tax or licensing provisions.

(6) In addition to data on new registrants, the information shared by level-one participants in the first month of the program includes data for all active registrants, taxpayers, licensees, or permittees under the provisions of law enumerated in paragraph (4)(a).

Section 32. Effective October 1, 1992, subsection (11) is added to section 125.0104, Florida Statutes, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(11) INTEREST PAID ON DISTRIBUTIONS.—

(a) Interest shall be paid on undistributed taxes collected and remitted to the Department of Revenue under this section. Such interest shall be included along with the tax proceeds distributed to the counties and shall be paid from moneys transferred from the General Revenue Fund. The department shall calculate the interest for net tax distributions using the average daily rate that was earned by the State Treasury for the preceding calendar quarter and paid to the General Revenue Fund. This rate shall be certified by the Treasurer to the department by the 20th day following the close of each quarter.

(b) The interest applicable to taxes collected under this section shall be calculated by multiplying the tax amounts to be distributed times the daily rate times the number of days after the third working day following the date the tax is due and payable pursuant to s. 212.11 until the date the department issues a voucher to request the Comptroller to issue the payment warrant. The warrant shall be issued within 7 days after the request.

(c) If an overdistribution of taxes is made by the department, interest shall be paid on the overpaid amount beginning on the date the warrant including the overpayment was issued until the third working day following the due date of the payment period from which the overpayment is being deducted. The interest on an overpayment shall be calculated using the average daily rate from the applicable calendar quarter and shall be deducted from moneys distributed to the county under this section.

Section 33. *Effective October 1, 1992, the state or any local governmental entity that administers a local option tax under s. 125.0104, s. 125.0108, s. 212.0305, s. 212.055, s. 336.021, or s. 336.025, Florida Statutes, or under ch. 83-220, Laws of Florida, and that is authorized to deduct a portion of the tax proceeds to cover the costs of administering the tax shall, within 60 days after the close of its fiscal year, provide the levying authority, the Legislature, and the agency, authority, board, or other governmental entity that is the principal recipient of the tax proceeds, if other than the levying authority, a report enumerating the amounts of proceeds of the tax that are withheld, deducted, or otherwise redirected from the principal recipient, and the purpose of such withholding, deduction, or redirection. This section expires January 1, 1995.*

Section 34. Effective October 1, 1992, paragraph (a) of subsection (1) of section 216.262, Florida Statutes, as amended by chapter 92-142, Laws of Florida, is amended to read:

216.262 Authorized positions.—

(1)(a) Unless otherwise expressly provided by law, the total number of authorized positions may not exceed the total provided in the appropriations acts. In the event any state agency or entity of the judicial branch finds that the number of positions so provided is not sufficient to administer its authorized programs, it may file an application with the Executive Office of the Governor or the Chief Justice; and, if the office or Chief Justice certifies that there are no authorized positions available for addition, deletion, or transfer within the agency as provided in paragraph (c) and recommends an increase in the number of positions, the commission or the Chief Justice may, after a public hearing, authorize an increase in the number of positions for the following reasons only:

1. To implement or provide for continuing federal grants or changes in grants not previously anticipated;

2. To meet emergencies pursuant to s. 252.36;

3. To satisfy new federal regulations or changes therein;

4. To take advantage of opportunities to reduce operating expenditures or to increase the revenues of the state *or local government*; and

5. To authorize positions which were not fixed by the Legislature through error in drafting the appropriations acts.

The provisions of this paragraph are subject to the notice and review procedures set forth in s. 216.177. A copy of the application, the certification, and the final authorization shall be filed with the legislative appropriations committees and with the Auditor General.

Section 35. Effective October 1, 1992, paragraph (j) is added to subsection (7) of section 213.053, Florida Statutes, to read:

213.053 Confidentiality and information sharing.—

(7) Notwithstanding any other provision of this section, the department may provide:

(j) Information authorized pursuant to s. 213.0535 to eligible participants in the Registration Information Sharing and Exchange Program.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 36. (1) *It is the intent of the Legislature that the Department of Revenue shall develop and implement pilot projects for each of the programs provided in this section. The Legislature finds that these pilot projects offer significant opportunities for the Department of Revenue, in conjunction with other state agencies and selected local governments, to improve the collection and enforcement of specific state taxes which are shared with counties and municipalities, as well as used to support the operations of state agencies.*

(1) In conjunction with the Department of Professional Regulation and the county tax collectors of at least two counties, including the finance officers of all municipalities located therein, the Department of Revenue shall establish pilot projects dealing with taxpayer registration. These projects shall include the development of methods whereby specific state sales tax registration information is provided to these state agencies, county tax collectors, and municipal finance officers, notwithstanding provisions of law otherwise prohibiting such disclosure. Based on information provided by the Department of Revenue, the project participants shall be authorized to refuse to issue or renew a profes-

sional, occupational, or annual local occupational license to any applicant to engage in any activity subject to taxation under chapter 212, Florida Statutes, if the applicant is not properly registered with the Department of Revenue.

(2) These pilot projects shall begin no later than January 1, 1993, and shall end on December 31, 1995, unless reenacted by the Legislature.

(2) This section shall take effect October 1, 1992.

Section 37. *The increased penalty provisions contained in this act shall only apply to taxes, returns, and information reports due on or after January 1, 1993, regardless of the date the tax liability or reporting requirement was incurred.*

Section 38. (1) *The Department of Revenue may adopt emergency rules under s. 213.06(2), Florida Statutes, to implement and administer the provisions of this act.*

(2) This section shall take effect upon this act becoming a law.

Section 39. (1) *Amendments to sections of the Florida Statutes enacted by this act shall not operate to repeal or otherwise negate amendments to the same sections which may have been previously enacted at a 1992 session of the Florida Legislature and which are not indicated herein, and full effect shall be given to each, if that is possible. If provisions of this act are in direct conflict with amendments so enacted, the provisions of this act shall control.*

(2) This section shall take effect upon this act becoming a law.

Section 40. Except as otherwise provided herein, this act shall take effect January 1, 1993.

And the title is amended as follows:

On page 1, line 1 through page 5, line 13, strike all of said lines and insert: A bill to be entitled An act relating to taxation; requiring the Department of Revenue to develop and implement a limited-duration tax amnesty program for certain state taxes; providing conditions for participation in the program; amending s. 72.011, F.S.; providing conditions for filing an action to contest an assessment or denial of refund; amending ss. 198.15 and 198.18, F.S.; increasing penalties for estate taxes; amending s. 199.062, F.S.; revising certain reporting requirements for security dealers and investment advisers in connection with intangible personal property taxes; providing that the department may require security dealers and investment advisers and property appraisers to distribute certain intangible tax information; amending s. 199.282, F.S.; increasing penalties for intangible taxes; providing penalties for security dealers and investment advisers who do not timely file or who fail to file required statements; amending s. 201.17, F.S., relating to the documentary stamp tax, and s. 203.01, F.S., relating to the gross receipts tax on utility services, to increase penalties; amending ss. 206.06, 206.08, 206.09, 206.44, and 206.87, F.S., relating to motor and special fuel taxes, s. 207.007, F.S., relating to the motor and special fuel use tax, and ss. 211.076 and 211.33, F.S., relating to the severance tax, to increase penalties; amending ss. 212.04, 212.085, and 212.12, F.S.; increasing penalties for sales and use taxes; amending s. 212.18, F.S.; providing an increased sales tax dealer's registration fee under certain circumstances; amending s. 213.29, F.S.; increasing the penalty for failure to collect certain taxes; amending s. 213.30, F.S.; authorizing the department to compensate persons who provide information regarding a taxpayer not in compliance with registration requirements; creating s. 213.50, F.S.; providing for the revocation or denial of reinstatement of a corporate charter under certain circumstances; creating s. 213.67, F.S.; authorizing the department to garnish property under certain circumstances; creating s. 213.69, F.S.; authorizing the department to issue warrants for unpaid taxes; creating s. 213.70, F.S.; authorizing the department to require certain persons to place certain taxes in escrow; amending ss. 220.181, 220.211, 220.801, and 220.803, F.S.; increasing penalties for corporate income taxes; creating s. 213.0535, F.S.; establishing the Registration Information Sharing and Exchange Program; requiring certain local governments and state agencies to share specified tax and licensing information; providing duties of the department; providing for application of confidentiality and penalty provisions; providing for review and repeal; restricting use of such information; amending s. 125.0104, F.S.; providing for the payment of interest on local option tourist development taxes remitted to the department; requiring state and local governmental entities administering specified local option taxes to make certain reports regarding the amounts and purposes for which moneys are withheld from tax proceeds; providing for expiration; amending s. 216.262, F.S.; providing an additional condition under which an increase in the number of positions may be authorized beyond those provided in the appropriations acts; amending s. 213.053, F.S.; authorizing the department to provide certain information to participants in the Registration Information Sharing and Exchange Program; directing the department to implement certain pilot projects relating to taxpayer registration; providing for expiration; providing application of increased penalty provisions; providing for emergency rules; providing effective dates.

WHEREAS, the government of this state is experiencing a critical revenue shortfall of lengthening duration, and

WHEREAS, the current national and state economic recessions prevent the state tax structure from producing revenues adequate to fund critical governmental programs that protect the public health, safety, and welfare, and

WHEREAS, state government should ensure that all reasonable efforts are made to collect every dollar of revenue owed under the existing state tax structure, and

WHEREAS, the Department of Revenue requires additional statutory authority, as well as specific taxpayer incentives, to further improve its revenue collection and enforcement capabilities, NOW, THEREFORE,

Senator Johnson moved the following amendment which was adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1—On page 31, between lines 26 and 27, insert:

Section 35. Effective October 1, 1992, section 213.051, Florida Statutes, is amended to read:

213.051 Service of subpoenas.—*(1)* For the purpose of administering and enforcing the provisions of the revenue laws of this state, the Executive Director of the Department of Revenue, or any of his assistants designated in writing by him, shall be authorized to serve subpoenas and subpoenas duces tecum issued by the state attorney relating to investigations concerning the taxes enumerated in s. 213.05 *or otherwise placed under the control and administration of the department by law.*

(2) For purposes of collection of taxes, penalties, and interest or enforcement of the revenue laws of this state, the department may issue subpoenas or subpoenas duces tecum compelling the attendance and testimony of witnesses and the production of books, records, written materials, and electronically recorded information. Subpoenas shall be issued with the written and signed approval of the executive director or his designee on written and sworn application by any employee of the department. The application must set forth the reason for the application, the name of the person subpoenaed, the time and place of appearance of the witness, and a description of any books, records, or electronically recorded information to be produced, together with a statement by the applicant that the department has unsuccessfully attempted other reasonable means of securing information and that the testimony of the witness or the written or electronically recorded materials sought in the subpoena are necessary for the collection of taxes, penalty, or interest or the enforcement of the revenue laws of this state. A subpoena shall be served in the manner provided by law and by the Florida Rules of Civil Procedure and shall be returnable only during regular business hours and at least 5 calendar days after the date of service of the subpoena. Every subpoena served upon the witness or records custodian must be accompanied by a copy of the provisions of this subsection. If a person refuses to obey a subpoena or subpoena duces tecum, the department may apply to any circuit court of this state to enforce compliance with the subpoena. Witnesses shall be paid mileage and witness fees as authorized for witnesses in civil cases.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 36, line 27, after the semicolon (;) insert: amending s. 213.051, F.S.; authorizing the department to issue subpoenas or subpoenas duces tecum under certain circumstances;

On motion by Senator Johnson, the Senate concurred in the House amendment as amended and the House was requested to concur in the Senate amendment to the House amendment.

CS for CS for SB 68-H passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—32 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote and passed as amended SB 74-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 74-H—A bill to be entitled An act relating to health care and human services; amending s. 400.23, F.S.; revising legislative intent under part I, ch. 400, F.S.; providing requirements for rules adopted by the Agency for Health Care Administration; creating the Nursing Home Advisory Committee; providing membership of the committee; providing duties of the committee; revising evaluation requirements for nursing home facilities; revising requirements for rating such facilities; amending s. 400.063, F.S.; conforming a cross-reference to changes made by the act; amending s. 400.401, F.S.; revising purposes of part II, ch. 400, F.S.; providing legislative findings regarding the significance of a license under part II, ch. 400, F.S.; amending s. 400.402, F.S.; adding and amending definitions of terms used in that part; amending s. 651.011, F.S.; conforming a cross-reference to changes made by the act; amending s. 400.407, F.S.; revising a violation relating to failure to obtain a license after receiving notification; creating a violation and penalties relating to failure to obtain a license and the maintenance of a threatening condition; revising the provisions relating to the issuance of licenses; amending s. 400.412, F.S., relating to sale or transfer of ownership of a facility; revising the penalties and responsibilities of the transferor and the transferee of certain facilities; requiring a plan of correction or the correction of the condition before issuance of a license or lifting of a moratorium on admissions; amending s. 400.414, F.S.; listing the categories of licenses that the Agency for Health Care Administration may deny, revoke, or suspend; revising the actions that may result in license denial, revocation, or suspension or the imposition of a fine; prohibiting certain actions; providing for applicability to a part owner of a facility; providing for denial of licenses to certain applicants who had licenses denied or suspended, facilities closed under certain circumstances, or unpaid fines; providing a time period for a hearing under ch. 120, F.S., by the Division of Administrative Hearings; amending s. 400.415, F.S.; providing for immediate imposition of a moratorium on admissions under certain circumstances; amending s. 400.419, F.S.; requiring the Agency for Health Care Administration to list facilities cited for violations of part II, ch. 400, F.S.; amending s. 400.616, F.S.; redesignating the Adult Foster Home Care Act as the Adult Family-Care Home Act; amending s. 400.617, F.S.; revising legislative intent; amending s. 400.618, F.S.; providing definitions; amending s. 400.619, F.S.; providing for licensure; providing license fees; providing access for the nursing home and long-term care facility ombudsman council; prohibiting the transfer of licenses; providing for conditional licenses; providing circumstances under which the Department of Health and Rehabilitative Services may deny, suspend, or revoke a license, creating s. 400.6196, F.S.; authorizing the department to impose penalties and require corrective action for certain violations; creating a civil cause of action for abuse or neglect of residents of adult family-care homes; creating s. 400.6197, F.S.; requiring certain adult congregate living facilities to become licensed as adult family-care homes within a specified time; amending s. 400.621, F.S.; providing for rules; providing for placement of clients; creating s. 400.6211, F.S.; requiring the department to provide training and education for persons who operate adult family-care homes; amending s. 400.622, F.S.; providing for injunctive proceedings; amending s. 400.623, F.S.; requiring the department to recruit and license adult family-care homes; deleting obsolete provisions; creating s. 400.625, F.S.; providing contract requirements for residents of adult family-care homes; creating s. 400.455, F.S.; prescribing duties of the Department of Health and Rehabilitative Services with respect to coordinating certain safety and other matters with the Department of Business Regulation; amending ss. 410.033, 410.035, F.S.; providing for subsidy payments to providers of goods and services under the home care program for disabled adults and elderly persons; authorizing payment for goods and extraordinary medical, dental, or pharmaceutical expenses as a special supplement; amending s. 196.012, F.S.; deleting obsolete terminology with respect to certain tax exemptions allowed for homes for the aged; amending s. 509.241, F.S.; clarifying that the division may defer disposition of an application for licensure of facilities previously licensed under part II of ch. 400, F.S., in certain circumstances; preserving rulemaking authority of the Department of Health and Rehabilitative Services with respect to licensure of intermediate care facilities for the developmentally disabled, crisis stabilization units and residential treatment facilities, adult congregate living facilities, and adult day care centers, notwithstanding ch. 92-33, Laws of Florida; directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill to make certain changes consistent with the intent and purposes of ch. 92-33, Laws of Florida, as amended; repealing s. 11, ch. 92-33, Laws of Florida, relating to directions for preparing the official edition of the Florida Statutes; providing effective dates.

House Amendment 1 (with Title Amendment)—On page 5, line 3, strike everything after the enacting clause and insert:

Section 1. Section 400.623, Florida Statutes, as amended by section 30 of chapter 92-33, Laws of Florida, is amended to read:

400.623 Recruitment.—The *department* ~~Agency for Health Care Administration~~ shall recruit and license an appropriate number of adult ~~family care~~ foster homes to serve the *department's* clients *and to meet the needs of the state's elderly population* ~~of the Department of Health and Rehabilitative Services~~. When a licensed adult foster home accepts more than one resident not placed in the home by the Department of Health and Rehabilitative Services, the *department* ~~Agency for Health Care Administration~~ shall cancel the license issued pursuant to this section and require the home to make application for licensure as an adult congregate living facility in accordance with the provisions of part II of this chapter.

Section 2. Notwithstanding section 10 of chapter 92-33, Laws of Florida, the Department of Health and Rehabilitative Services, in consultation with the Agency for Health Care Administration, shall develop rules for the licensure of intermediate care facilities for the developmentally disabled under sections 393.067-393.0678, Florida Statutes, crisis stabilization units and residential treatment facilities under section 394.875, Florida Statutes, adult congregate living facilities under part II of chapter 400, Florida Statutes, and adult day care centers under part IV of chapter 400, Florida Statutes. Rulemaking authority for the licensure of those facilities shall be retained by the Department of Health and Rehabilitative Services and shall not be transferred to the Agency for Health Care Administration.

Section 3. The Division of Statutory Revision of the Joint Legislative Management Committee shall prepare a reviser's bill to change "Department of Health and Rehabilitative Services" to "Agency for Health Care Administration," and "Secretary of Health and Rehabilitative Services" to "Director of Health Care Administration," wherever the terms appear:

(1) With respect to the regulation of the specified health facilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes:

(a) Section 381.6021, relating to organ and tissue procurement organizations.

(b) Sections 383.30-383.335, relating to birth centers.

(c) Chapter 390, relating to abortion clinics.

(d) Part II of chapter 391, relating to prescribed pediatric extended care centers.

(e) Sections 393.067-393.0678, relating to intermediate care facilities for the developmentally disabled, except for provisions relating to rulemaking.

(f) Section 394.875, relating to crisis stabilization units and residential treatment facilities, except for provisions relating to rulemaking.

(g) Chapter 395, relating to hospitals, mental health institutions, and ambulatory surgical centers.

(h) Parts I, III, and V of chapter 400, relating to nursing homes, home health agencies, and hospices.

(i) Parts II and IV of chapter 400, relating to adult congregate living facilities and adult day care centers, except for provisions relating to rulemaking.

(j) Parts I-III of chapter 483, relating to clinical laboratories, multiphasic health testing centers, and cholesterol screening centers.

(k) Part III of chapter 641, relating to health maintenance organizations and prepaid health clinics.

(2) With respect to other regulatory responsibilities, as consistent with the intent and purposes of chapter 92-33, Laws of Florida, as amended by this act, in the following subdivisions of the Florida Statutes: sections 154.304(7), 196.1975(2), 205.1965, 381.6022 through 381.6024, 408.05, 415.107(2)(a), 766.105(2)(c)2., and 766.105(2)(d)2.

Section 4. Section 11 of chapter 92-33, Laws of Florida, is repealed.

Section 5. This act shall take effect upon becoming a law, provided that if this act becomes a law after July 1, 1992, the provisions of this act shall operate retroactively to July 1, 1992.

And the title is amended as follows:

On page 1, line 2, strike the entire title and insert: A bill to be entitled An act relating to health care and human services; amending s. 400.623, F.S.; requiring the Department of Health and Rehabilitative Services to recruit and license adult family-care homes; deleting obsolete provisions; preserving rulemaking authority of the Department of Health and Rehabilitative Services with respect to licensure of intermediate care facilities for the developmentally disabled, crisis stabilization units and residential treatment facilities, adult congregate living facilities, and adult day care centers, notwithstanding ch. 92-33, Laws of Florida; directing the Division of Statutory Revision of the Joint Legislative Management Committee to prepare a reviser's bill to make certain changes consistent with the intent and purposes of ch. 92-33, Laws of Florida, as amended; repealing s. 11, ch. 92-33, Laws of Florida, relating to directions for preparing the official edition of the Florida Statutes; providing an effective date.

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

SB 74-H passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 80-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 80-H—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.

House 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.—

(1) The Legislature encourages privately supported higher education and intends to aid in protecting the integrity of 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 further recognizes the role of regional accrediting associations in setting standards for colleges and universities and encourages the use of the standards of regional accrediting associations as general guidelines for the licensing of nonpublic colleges.

(2) The Legislature recognizes that a degree serves several purposes. Employers rely upon a person's degree in judging that individual's qualifications for employment. Educators rely upon a person's degree to assess the adequacy of that individual's preparation for the pursuit of further education. Therefore, the Legislature intends that the provisions of ss. 246.011-246.151 aid in protecting the integrity of degrees offered by nonpublic colleges by providing for the evaluation of minimum educational requirements.

(3) It is the intent of the Legislature that a nonpublic college which offers both degrees and vocational certificates or diplomas shall be 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.

(4) It is the intent of the Legislature to prohibit the granting of false or misleading educational credentials and to prohibit misleading literature, advertising, solicitation, or representations by nonpublic colleges or their agents.

Section 2. Subsection (1) of section 246.013, Florida Statutes, is amended to read:

246.013 Participation in the common course designation and numbering system.—

(1) Nonpublic colleges and schools that have been issued a regular license and that are fully accredited by a member of the Council on Postsecondary Accreditation and accredited nonpublic postsecondary colleges exempt from state licensure pursuant to s. 246.085*(1)*~~(2)~~(a) may participate in the common course designation and numbering system. Participating colleges and schools shall bear the costs associated with inclusion in the system and shall meet the terms and conditions for institutional participation in the system. The department shall adopt a fee schedule that includes the expenses incurred through data processing, faculty task force travel and per diem, and staff and clerical support time. Such fee schedule may differentiate between the costs associated with initial course inclusion in the system and costs associated with subsequent course maintenance in the system. Any college that participated in the system prior to July 1, 1986, shall not be required to pay the costs associated with initial course inclusion in the system. *Fees collected for participation in the common course designation and numbering system pursuant to the provisions of this section shall be deposited in the Institutional Assessment Trust Fund created by s. 246.31.*

Section 3. Section 246.021, Florida Statutes, is amended to read:

246.021 Definitions.—As used in ss. 246.011-246.151, unless the context otherwise requires:

(1)~~(4)~~ "Agent" means a person *who is* employed by ~~or representing~~ a college *that is* subject to the licensing requirements provided in ss. ~~246.051,~~ 246.081, 246.091, and 246.095, or *an out-of-state* ~~a~~ college, *and who solicits business for the college at any* ~~not chartered by the Secretary of State as a domestic Florida corporation, to procure Florida students, enrollees, or subscribers by solicitation in any form made at a~~ place ~~or places~~ other than the ~~office or~~ legal place of business of *the* ~~a~~ 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) "Authorization" means an acknowledgment by the board that an ecclesiastical institution meets the criteria of s. 246.083.

(3)~~(7)~~ "Board" means the State Board of Independent Colleges and Universities.

(4) "Certificate of exemption" means a document issued by the board to a nonpublic college, signifying that the college has demonstrated that it meets the statutorily prescribed exemption criteria and is not required to participate in the board's licensing review process.

(5)~~(1)~~ "College" means any educational ~~facility maintained or conducted by any person, association, partnership, corporation, or trust and operating as an institute, community college, college, university, or~~ entity *which confers or offers to confer a degree* ~~of whatever kind which furnishes or offers to furnish a degree as defined herein~~ or which furnishes or offers to furnish instruction leading toward, or prerequisite to, college credit or *a* ~~an academic~~ degree beyond the secondary level ~~and which requires that, in order to obtain a degree, the recipient thereof satisfactorily complete appropriate courses or classes or laboratory or research study in person or by correspondence~~. *The term* ~~"College"~~ includes any *nonpublic* college chartered in this state and any Florida center of an out-of-state college.

(6) "Degree" means any *credential awarded which* ~~academic or honorary title of designation, mark, appellation, series of letters, numbers, or words, such as, but not limited to, "bachelor's," "master's," "doctorate," or "fellow," which signifies, purports, or~~ is generally taken to signify satisfactory completion of the requirements of an academic, educational, or professional program of study beyond the ~~secondary school~~ level *of a specialized associate degree* or *any honorary credential* ~~for a recognized title~~ conferred for meritorious recognition ~~and an associate of arts or associate of science degree awarded by a community college or other institution which may be used for any purpose whatsoever~~.

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

(8) "License" means a regular license, provisional license, or temporary license, as provided by rule ~~of the board~~.

(9)~~(2)~~ "Out-of-state college" or "college outside the state" 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. ~~The incorporation in this state of a branch or center of an out-of-state college or university shall not cause the branch or center of the college or university to be considered an in-state institution.~~

(10) "Religious institution" means a church, synagogue, or well-recognized ecclesiastical or denominational organization having established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted.

~~(3) "Instruction" means the dissemination of knowledge or practice which signifies, purports, or is generally taken to signify the preparation or education of a person, generally or specifically, for further understanding, study, skill, or training.~~

~~(5) "Colleges whose credits or degrees are accepted for credit by at least three accredited colleges" means those colleges which have notarized letters from appropriate officials from colleges accredited by an accrediting agency recognized by the United States Department of Education stating that the credits are accepted with no limitation of their full acceptance, such as validation upon successful completion of a probationary period such as a quarter or semester of full-time work.~~

Section 4. Section 246.031, Florida Statutes, is amended to read:

246.031 State Board of Independent Colleges and Universities.—

(1) There shall be established in the Department of Education a State Board of Independent Colleges and Universities. The department shall *serve as* ~~perform~~ the ~~payroll, procurement, related~~ administrative *agent* ~~functions~~ of the board *by providing services, including payroll, procurement, and legal counsel.* The board shall exercise independently all *duties* ~~other functions~~ prescribed by law. ~~This board shall include nine members appointed by the Governor 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) The State Board of Independent Colleges and Universities shall consist of nine citizens of this state, a majority of whom represent independent colleges and universities within the state. For terms beginning after October 1, 1992, members shall be residents of the state, selected from the state at large. Members shall be appointed by the Governor and confirmed by the Senate.

(3)~~(2)~~ *The terms of office for the members of the board shall be* ~~Each of the members shall be appointed, subject to confirmation by the Senate, for a term of~~ 3 years *and until their successors are appointed and qualified.* ~~All members 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.

(4)~~(3)~~ The board shall meet *not less than four times in every fiscal year* ~~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~~.

(5)~~(4)~~ Members *of the board 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~~.

(6)~~(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 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) Authorize an individual, or a designated group of individuals, to represent one or more nonpublic colleges in appearances before the board on official matters if each college agrees formally to designate the individual or group of individuals to represent it.

(g)~~(f)~~ Administer ss. 246.011-246.151.;

(h)~~(g)~~ Appoint, on the recommendation of its chairperson, executives, deputies, clerks, and employees of the board.;

(i)~~(h)~~ Maintain a record of its proceedings.;

(j)~~(i)~~ Cooperate with other state and federal agencies in administering the provisions of ss. 246.011-246.151.~~;~~

(k)~~(j)~~ Prepare an annual budget.~~;~~

(l)~~(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.~~;~~

(m)~~(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, *the number of complaints investigated by the board, and the number of complaints forwarded to the appropriate accrediting agency for action, by college and type of complaint. The report shall include a summary of the actions taken by the accrediting agency following receipt of the complaint* ~~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~~

(n)~~(m)~~ Serve as a central agency for *collecting* ~~collection~~ and *distributing* ~~distribution of~~ current information regarding *colleges* ~~institutions~~ licensed by the board *and colleges granted a certificate of exemption by the board* ~~, institutions exempt from licensure by the board pursuant to s. 246.085(2)(a) or (e), and any other nonpublic colleges eligible to participate in state student financial aid programs or eligible to receive federal Title IV funds~~.

1. *The board shall annually 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. *To the extent that such information is available in the institution's current catalog, a copy of the catalog accompanied by an index indicating where the information may be found shall be sufficient to demonstrate compliance with this provision.* ~~Other information shall be collected in response to specific needs or inquiries.~~ Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. The board shall annually collect information on students, faculty, and degrees awarded. To the extent that data submitted to the Federal Government for compilation into the Integrated Postsecondary Education Data System (IPEDS) provide the information required pursuant to this paragraph, submission to the board of copies of such reports shall be sufficient to demonstrate compliance with this provision.

3. The board shall collect annually from each college a descriptive inventory of consumer practices 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.

e. A copy of the college's refund policy. Such refund policy shall provide students with a minimum of 3 working days from the date a student signs an enrollment contract or financial agreement with a college for the student to cancel the contract and receive a full refund of any tuition or registration fees paid. This provision of the refund policy shall be prominently displayed on the contract form. The refund policy shall also provide for a full refund of tuition and registration fees paid by the student prior to the commencement of instruction if the student submits a written request to the institution within 3 working days of the payment.

f. Evidence that the college has provided students with a clear and specific statement regarding the transferability of credits to and from other colleges.

To the extent that such information is available in the institution's current catalog, a copy of the catalog accompanied by an index indicating where the information may be found shall be sufficient to demonstrate compliance with this provision.

*4.*2. The board shall *annually* provide to each *college* ~~participating institution annually~~ the format, definitions, and instructions for submitting the required information.

*5.*3. *Each college shall 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, *that the policies reported are provided in writing to all prospective students at least 1 week prior to enrollment or collection of tuition fees, and that the college observes the polices and practices as reported to the board.*

*6.*4. *The board shall 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.

7. If a college fails to provide the information required by the board under this paragraph, the board may impose a fine for every month the information is not made available. Repeated failure to supply the information required by this paragraph or to pay the fines imposed by the board may result in the revocation of the license or certificate of exemption. The board shall adopt rules for these actions.

(o) Advise nonpublic colleges of policies adopted by the Legislature and of their responsibility to follow such policies.

(p) Forward complaints against colleges which hold a certificate of exemption by virtue of accreditation to the college and appropriate accrediting agency for action. The board shall request that the college and accrediting agency inform the board of any and all actions taken in response to the complaint.

(q) Annually review the accreditation standards 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, and, upon request, other Council on Postsecondary Accreditation and United States Department of Education recognized accrediting associations, to determine for each of these accrediting bodies the comparability of the accreditation standards with the minimum licensing requirements of the board.

(r) Provide information and documentation on an annual basis to the Office of Student Financial Assistance of the Department of Education regarding the requirements set forth for nonpublic colleges in s. 240.605, relating to state tuition vouchers, s. 240.607, relating to access grants for community college graduates, and s. 240.609, relating to Florida postsecondary endowment grants.

(s) Cooperate with the Board of Regents and the Department of Education, pursuant to s. 240.53, in establishing one or more approved postdoctoral training programs to train currently employed college or university faculty to deliver postsecondary courses, inservice training programs, and technical assistance related to middle childhood education programs.

(t) Provide annually to the Office of Student Financial Assistance of the Department of Education information and documentation which can be used in determining a college's eligibility to participate in state student financial assistance programs.

(u) Coordinate and convey annual reports to the Commissioner of Education relating to campus crime statistics for nonpublic colleges, pursuant to s. 240.2683, and on the assessment of physical plant safety, pursuant to s. 240.2684.

(v) Appoint two representatives to the board of directors of the Florida Endowment Fund for Higher Education, pursuant to s. 240.498.

(w) Affirm, on an annual basis, that all nonpublic colleges whose students are eligible to receive state student financial assistance have adopted and implemented a written antihazing policy, pursuant to s. 240.1325.

(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 *standing* committees to assist it in developing *rules;* ~~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, *certificates of exemption, or requests for authorization;*~~,~~ in evaluating ~~annual~~ reports *submitted by colleges;*~~,~~ or in *legislative or other matters. Special committees may be appointed to advise the board or to conduct* ~~conducting~~ onsite evaluation visits at colleges.

(e) Advise the Governor, the Legislature, the State Board of Education, the Postsecondary Education Planning Commission, and the Commissioner of Education on issues relating to private postsecondary education.

~~(e) Issue a license to any college which is exempt from licensure pursuant to 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.

(g) Following evaluation by the board, recommend to the Legislature any changes to the accrediting associations included in s. 246.085(1)(a). Accrediting associations included in s. 246.085(1)(a) shall be Council on Postsecondary Accreditation or United States Department of Education recognized accrediting associations whose standards are comparable with state licensing standards.

(h) Assist nonpublic colleges in formulating articulation agreements with public colleges and universities.

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

246.081 License, *certificate of exemption, or authorization* required*; exceptions.*—

(1) The following colleges are not under the jurisdiction of the board and do not need a license, a certificate of exemption, or an authorization to operate:

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

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

(2)~~(1)~~ No nonpublic college shall continue operation or be established within the state unless such college shall apply for, and obtain from the board, a license, *a certificate of exemption,* or authorization in the manner and form prescribed by the board. Upon receipt of approved articles of incorporation from the Department of State that purport to be for a college *as defined in s 246 021* ~~within the meaning and intent of ss. 246.011-246.151~~, the newly formed corporation shall, within 60 days *after* ~~of~~ such approval, make an application to the board for a license, *a certificate of exemption, or other authorization* as required by law. The approval of articles of incorporation by the Department of State shall not be deemed to be an *approval* ~~authorization~~ to engage in the operation of an institution of higher learning ~~until such time as a license has been obtained from the board~~. *Such institution shall not advertise or operate until a license, certificate of exemption, or authorization to operate has been obtained from the board. When* ~~Upon~~ articles of incorporation *are* ~~being~~ issued to an institution of higher learning, the Department of State shall immediately furnish a copy of the articles of incorporation to the board.

(3)~~(2)~~ No nonpublic college shall continue to conduct or begin to conduct any 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 such diploma program* in the manner and form prescribed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

(4)~~(3)~~ *An* ~~No~~ agent ~~as defined in s. 246.021(4)~~ shall *not* solicit prospective students in this state for enrollment in any *nonpublic* college subject to the provisions of subsection *(2)* ~~(1)~~ or in any *out-of-state* college ~~chartered without the state or in a foreign country~~ unless such agent has received a license in the manner prescribed by the board. *An agent shall not be compensated by commissions or bonuses based upon the number of students recruited.*

(5)~~(4) No nonpublic college which is required to have a license and no person acting on behalf of such college 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 issued pursuant to the provisions of ss. 246.011-246.151 and ss. 246.201-246.231; nor shall any such~~ *A* nonpublic college or any person acting on behalf of such college *shall 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.

Section 7. Section 246.083, Florida Statutes, is created to read:

246.083 Authorization to operate.—

(1) Upon demonstration to the board that a nonpublic college ~~affiliated with a religious institution~~ meets the criteria listed in this section, the college shall be granted an authorization to operate. The board shall notify an institution within 30 days of receipt of materials of any failure to demonstrate compliance.

(a) The only purpose of the college is to prepare students for missionary, ministerial, or religious educational purposes.

(b) The degree offerings of the college are limited to programs within the disciplines of Religion, Theology, Divinity, Biblical Studies, Missions or Ministry, Pastoral Counseling, Pastoral Psychology, Sacred Music, and Religious Education.

(c) The nomenclature on the face of the degrees, certificates, diplomas, or transcripts issued by the college shall reflect the distinctive religious nature of the ecclesiastical program or major in letters equal in size to the degree title.

(d) The name of the college shall include a religious modifier or the name of a religious patriarch of the church.

(e) The catalog of the college shall contain a statement of institutional purpose which reflects that all degree programs of the college are designed for ecclesiastical purposes only; a description of all degrees, programs, and courses offered including requirements for degree completion; tuition costs; refund policies; a listing of all faculty; and a statement regarding the transferability of credits.

(f) The college shall be in compliance with chapter 501 and s. 817.06.

(2) Any institution which was exempt prior to January 1, 1992, has until January 1, 1993, to demonstrate compliance with the provisions of this section.

(3) To operate by authorization, a college shall submit to the board the institution's name; local address; telephone number; the address of all branch campuses in state; a count of the total number of students for both the current year and the preceding year; a copy of the institution's

catalog; and any additional documentation that demonstrates compliance with the provisions of subsection (1).

(4) The State Board of Independent Colleges and Universities shall determine compliance with this section and may request additional information in making its determination.

(5) If the board determines that a college meets the requirements of subsection (1), the board shall present the college with an authorization to operate.

(6) Each authorization issued by the board shall be subject to an annual review by the board to determine if the college remains eligible. Colleges which have applied for and received an authorization to operate under this section may remain eligible for the authorization by annually submitting to the board the information required by this section to demonstrate that the college remains in compliance with the provisions of this section. Failure to demonstrate compliance with these provisions shall place the college on probation for 90 days. Continued failure by the college to demonstrate compliance shall result in the board's revocation of the college's authorization.

Section 8. Section 246.085, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 246.085, F.S., for present text.)

246.085 Certificate of exemption.—

(1) As an alternative to applying for a license from the board, the following nonpublic colleges may apply for a certificate of exemption from the board:

(a) Colleges chartered in Florida and accredited by:

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

2. The Accrediting Commission for 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 Council on Postsecondary Accreditation to accredit professional degree programs above the baccalaureate level.

Each nonpublic college seeking exemption pursuant to this paragraph shall submit to the board a current catalog and a letter from the recognized accrediting agency by whom the college is accredited, confirming the current accredited status of the college.

(b) 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 through this category of exemption prior to July 1, 1982, and which enroll no students who receive any state or federal financial aid for education. Each college seeking exemption pursuant to this paragraph shall submit to the board a current catalog and letters from the three colleges confirming acceptance of the credits.

(2) If the board determines that a nonpublic college meets the requirements of subsection (1), the board shall present the college with a certificate of exemption. Colleges which receive a certificate of exemption from the board are not required to apply for a license from the board.

(3) Any college which holds a certificate of exemption and which conducts any diploma program, as defined in s. 246.203, shall be subject to licensure of such diploma program by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

(4) Each certificate of exemption issued by the board shall be subject to an annual review by the board to determine if the college remains eligible for the exemption. Colleges which have applied for and received exemption under this section may remain in compliance for exemption by annually submitting evidence that the college remains in compliance with the provisions of subsection (1), the information required by s. 246.041(1)(n), and a current catalog. The burden of determining compliance shall rest with the board, and the board may make such further investigation and may require further evidence, in addition to the information submitted, as may be necessary in its judgment.

(5) Exemption applied for by any nonpublic college or granted by the board to any nonpublic college pursuant to subsection (1) may be denied, placed on probation, or revoked for repeated failure to comply with the provisions of ss. 246.011-246.151. The board shall adopt rules for these actions. Revocation or denial of exemption shall immediately bring the college under the requirements for licensure.

Section 9. Section 246.095, Florida Statutes, is amended to read:

246.095 Disclosure to prospective students; condition of *operation* ~~licensing~~.—

(1) Every college which is *either* ~~required to be~~ licensed *by the board or has been granted a certificate of exemption by the board* ~~under the provisions of s. 246.081~~ and which either directly or indirectly solicits for enrollment any student 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 regarding the transferability of credits to and from other colleges. In addition, colleges which are required to be licensed by the board shall disclose to prospective students* ~~and 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 shall make the required* disclosures ~~required to be made under the provisions of this subsection shall be made~~ in writing *at least 1 week* ~~and~~ prior to *enrollment or* ~~the~~ collection of any ~~fee or~~ tuition from the prospective student ~~to whom disclosure is required to be made~~. *The required disclosures may be made in the institution's current catalog.*

(2) *A* ~~No~~ license *or certificate of exemption* shall *not* be granted or renewed by the board ~~under the provisions of s. 246.081 or s. 246.091~~ unless the college seeking *the action* ~~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* ~~Such statement shall be made in~~ the manner and form *of the statement* ~~prescribed by the board~~.

(3) The board may examine any complaint of nondisclosure to prospective students of colleges under the jurisdiction of the board and, if the college is found to be routinely handling these matters correctly, the complaint shall be disregarded. Complaints of nondisclosure against accredited colleges shall be forwarded by the board to the college and appropriate accrediting agency with a request that the board be advised of any and all actions taken in response to the complaint.

(4)~~(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 *or a certificate of exemption* under ~~the provisions of~~ s. 246.111.

Section 10. 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 appropriated 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 proposed 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 licensure, 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 three 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 three 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 educational programs.

(g) Approval to use the term "college" or "university."

(h) Other workload activities as 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 shall not be refundable.

Section 11. Section 246.111, Florida Statutes, is amended to read:

246.111 Denial, probation, or revocation of license *or certificate of exemption*.—

(1) Any temporary license, provisional license, or regular license, *agent's license, certificate of exemption, or other authorization* required under the provisions of ss. 246.011-246.151 may be denied, placed on probation, or revoked by the board. *A college which has its certificate of exemption revoked shall become subject to the licensing provisions of the board.* The board shall promulgate rules for *these actions* ~~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)~~. Placement of a college on probation 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.

Section 12. 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 Florida or out-of-state college which has been in active operation and using the name since April 1, 1970.~~; or~~

(c) 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.

(2)~~(c)~~ A college *for which the board has issued a license or a certificate of exemption 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 such* ~~When~~ a college is approved under *subsection (2)* ~~paragraph (1)(c)~~ to use the designation "college" or "university," a branch or extension of that college may use the name of the parent college, but shall include an indication of the location of the branch or extension.

(4)~~(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.

(5)~~(4)~~ *An* ~~No~~ entity ~~of any kind~~ shall *not* use the term "college" or "university" in its name in Florida without *approval* ~~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 13. Subsection (1) of section 246.31, Florida Statutes, is amended, and paragraph (d) is added to subsection (2) of said section, to read:

246.31 Institutional Assessment Trust Fund.—

(1) There is created an Institutional Assessment Trust Fund to be administered by the Department of Education pursuant to this section and rules of the State Board of Education. The trust fund shall consist of all fees and fines imposed upon nonpublic colleges and schools pursuant to this chapter, *including all fees collected from nonpublic colleges for participation in the common course designation and numbering system.* The department shall maintain separate revenue accounts for the

State Board of Independent Colleges and Universities, ~~and~~ the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools, *and the Department of Education.*

(2) Funds from the trust fund shall be used for purposes including, but not limited to, the following:

(d) Authorized expenses of the Department of Education incurred as a result of the inclusion of nonpublic colleges in the common course designation and numbering system.

Section 14. Paragraph (a) of subsection (2) of section 240.4093, Florida Statutes, is amended to read:

240.4093 Vocational Student Assistance Grant Fund; eligibility for grants.—

(2) Vocational student assistance grants from the fund may be made only to full-time students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. A grant from the fund may be awarded to a student who:

(a)1. Is enrolled in a public vocational-technical center, community college, or any nonpublic postsecondary vocational, technical, trade, or business school accredited by the National Association of Trade and Technical Schools, the Association of Independent Colleges and Schools, the Accrediting Bureau of Health Education Schools, or the Southern Association of Colleges and Schools, which accrediting association maintains membership in the Council on Postsecondary Accreditation, and which school has never had its accreditation removed for any reason, has been in continuous operation for at least 5 years, has been issued a biennial license under s. 246.217, has not been the subject of a finding of probable cause and subsequent disciplinary action under s. 246.226 or s. 246.228, is not required by the Federal Government to apply for reimbursement for Title IV funding, and is located in and chartered by the state; or

2. Is enrolled in an institution that has been licensed continuously for the preceding 5 years by the State Board of Independent Colleges and Universities, or has met the requirements of s. 246.085*(1)*~~(2)~~(a), and is accredited by the National Association of Trade and Technical Schools, the Association of Independent Colleges and Schools, the Accrediting Bureau of Health Education Schools, or the Southern Association of Colleges and Schools, which accrediting association maintains membership in the Council on Postsecondary Accreditation, and which school has not been the subject of a finding of probable cause and subsequent disciplinary action under s. 246.111, s. 246.226, or s. 246.228, has been issued a license under s. 246.217, is not required by the Federal Government to apply for reimbursement for Title IV funding, and is located in and chartered by the state.

Section 15. Paragraph (a) of subsection (2) of section 240.4095, Florida Statutes, is amended to read:

240.4095 Florida Private Student Assistance Grant Fund; eligibility for grants.—

(2)(a) Florida private student assistance grants from the fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed a total of $1,500 per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a Florida private student assistance grant. Recipients of such grants must have been accepted at a baccalaureate-degree-granting independent nonprofit college or university, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, and which has a secular purpose, ~~so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious sect,~~ and which is located in and chartered as a domestic corporation by the state. No student may receive an award for more than the equivalent of 9 semesters or 14 quarters in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

Section 16. Paragraph (a) of subsection (2) of section 240.4097, Florida Statutes, is amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Fund; eligibility for grants.—

(2)(a) Florida postsecondary student assistance grants from the fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed a total of $1,500 per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than $200 shall render the applicant ineligible for a Florida postsecondary student assistance grant. Recipients of such grants must have been accepted at a postsecondary institution that is located in and chartered as a domestic corporation by the state and that is:

1. A private nursing diploma school approved by the Florida Board of Nursing; or

2. An institution either licensed by the State Board of Independent Colleges and Universities or exempt from licensure pursuant to s. 246.085*(1)*~~(2)~~(a), excluding those institutions the students of which are eligible to receive a Florida private student assistance grant pursuant to s. 240.4095.

No student may receive an award for more than the equivalent of 9 semesters or 14 quarters in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

Section 17. Section 240.607, Florida Statutes, is created to read:

240.607 Access grants for community college graduates.—

(1) The Legislature finds and declares that there exist severe limitations on access to State University System courses and programs for graduates of Florida community colleges; that accredited baccalaureate-degree-granting independent nonprofit colleges and universities are an integral part of the higher education system in this state; that there exist significant numbers of upper division spaces in such institutions; that the burdens on public colleges and universities would be lessened if community college graduates had the ability to utilize such institutions for completion of their baccalaureate degrees; and that creation of a state program to provide access grants for community college graduates would further the improvement of the overall educational system in the state.

(2) There is created the Access Grant Fund for Community College Graduates to be administered by the Department of Education. The State Board of Education shall adopt rules for the administration of such fund.

(3) Effective with the 1993-1994 academic year, the department shall issue from the fund an access grant to any full-time degree-seeking undergraduate student who has received an associate of arts degree from a Florida community college and who is registered at an eligible independent nonprofit college or university. An eligible independent nonprofit college or university is one which has signed an articulation agreement with a state community college, which is located in and chartered by the state, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, which grants baccalaureate degrees, which is not a state university or state community college, and which has a secular purpose.

(4) A person is eligible to receive an access grant if:

(a) He or she meets the general requirements, including residency, for student eligibility as provided in s. 240.404, except as otherwise provided in this section.

(b)1. He or she is enrolled as a full-time undergraduate student at an eligible independent nonprofit college or university.

2. He or she is not enrolled in a program of study leading to a degree in theology or divinity.

3. He or she is making satisfactory academic progress as defined in the college or university in which he is enrolled.

(c) Application for the access grant is made during the student's first term of enrollment at the eligible independent college or university.

(5)(a) In the absence of specifications to the contrary in an appropriations act, the amount of the access grant issued to a full-time student shall be for the amount of demonstrated unmet need, but shall not, in

combination with other state-funded private tuition assistance, exceed 50 percent of the full cost to the state per academic year of an undergraduate student in public postsecondary education established pursuant to s. 240.209. The access grant may be paid on a prorated basis in advance of the registration period. The department shall make such payments to the college or university in which the student is enrolled for credit to the student's account for payment of tuition and fees. Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances or refunds within 60 days of the end of regular registration. Students shall not be eligible to receive the award for more than 5 semesters or 7 quarters.

(b) The priority in the distribution of access grants shall be on the basis of the lowest family contribution as calculated under the congressional methodology for Title IV of the Higher Education Act. The access grant is intended to supplement other awards to the student.

Section 18. Section 817.566, Florida Statutes, is amended to read:

817.566 Misrepresentation of association with, or academic standing at, postsecondary educational institution.—Any person who, with intent to defraud, misrepresents his association with, or academic standing or other progress at, any postsecondary educational institution by falsely making, altering, simulating, or forging a document, degree, certificate, diploma, award, record, letter, transcript, form, or other paper; or any person who causes or procures such a misrepresentation; or any person who utters and publishes or otherwise represents such a document, degree, certificate, diploma, award, record, letter, transcript, form, or other paper as true, knowing it to be false, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *Individuals who present a religious academic degree from any college, university, seminary, or institution which is not licensed by the State Board of Independent Colleges and Universities or which is not exempt pursuant to the provisions of s. 246.085 shall disclose the religious nature of the degree upon presentation.*

Section 19. Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, sections 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, Florida Statutes, shall not stand repealed on October 1, 1992, and shall continue in full force and effect as amended herein.

Section 20. Sections 246.011-246.151, Florida Statutes, are repealed on October 1, 2002, and shall be reviewed by the Legislature pursuant to s. 11.61, Florida Statutes. In the event that s. 11.61, Florida Statutes, is repealed prior to October 1, 2002, this section shall stand repealed on the effective date of the repeal of said section.

Section 21. Paragraph (g) is added to subsection (10) of section 240.1201, Florida Statutes, to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(10) The following persons shall be classified as residents for tuition purposes:

(g) McKnight Doctoral Fellows who are United States citizens.

Section 22. Paragraph (p) of subsection (3) of section 240.209, Florida Statutes, is amended, and subsection (8) is added to said section, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(p) Notwithstanding the provisions of ss. 216.044, 255.248, 255.249, 255.25, 255.28, 255.29, and 287.055, adopt rules to administer a program for the maintenance and construction of facilities in the State University System *and to secure, or otherwise provide as a self-insurer pursuant to s. 440.38(6), workers' compensation coverage for contractors and subcontractors, or each of them, employed by or on behalf of the Board of Regents when performing work on or adjacent to property owned or used by the Board of Regents or the State University System.*

(8) Notwithstanding the provisions of s. 283.33, books published by the State University System press shall not be subject to the bid requirements provided in s. 287.017.

Section 23. Subsection (2) of section 240.213, Florida Statutes, is amended to read:

240.213 Board authorized to secure liability insurance.—

(2) In the event the Board of Regents adopts a self-insurance program, the Administration Commission is authorized pursuant to s. 215.32 to establish the necessary trust funds in the State Treasury. *Provided that the annual actuarial report to the Self Insurance Trust Fund Council is provided each year to the Auditor General within 60 days of acceptance by the council, the assets of a self-insurance program may be deposited outside the State Treasury at the option of the Board of Regents.* Such *self-insurance program* trust funds shall be administered in accordance with rules established by the Board of Regents.

Section 24. Paragraph (a) of subsection (3) of section 240.277, Florida Statutes, is amended to read:

240.277 Additional appropriation.—

(3)(a) All moneys received by institutions under the management of the Board of Regents for the Auxiliary Enterprises and Contracts, Grants and Donations budget entities, *and the self-insurance program authorized in s. 240.213,* shall be exempt from the requirements of s. 216.023. The Board of Regents, in consultation with the appropriations committees of the Legislature, shall approve an estimated level of expenditures, salary rates, and positions for each of these budget entities. If such expenditures exceed the prior year level by more than 25 percent, the full membership of the appropriations committees shall be notified of the increase.

Section 25. Section 240.35, Florida Statutes, as amended by chapter 92-136, Laws of Florida, is amended to read:

240.35 Student fees.— *Unless otherwise provided,* the provisions of this section apply only to fees charged for college-credit instruction.

(1) The State Board of Community Colleges shall establish the matriculation and tuition fees for credit instruction that may be counted toward an associate or higher degree. This instruction includes advanced programs, professional programs, and postsecondary vocational programs.

(2)(a) Any student for whom the state is paying a foster care board payment pursuant to s. 409.145(3) or parts III and V of chapter 39, for whom the permanency planning goal pursuant to part V of chapter 39 is long-term foster care or independent living, is exempt from the payment of all undergraduate fees, including fees associated with enrollment in college preparatory instruction or completion of the college-level communication and computation skills testing program. Before a fee exemption can be given, the student shall have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees.

(b) Any student qualifying for a fee exemption under this subsection shall receive such an exemption for not more than 2 consecutive years or 4 semesters, unless the student is participating in college preparatory instruction or requires additional time to complete the college-level communication and computation skills testing program. Such a student is eligible to receive a fee exemption for a maximum of 3 consecutive years or 6 semesters.

(c) As a condition for continued fee exemption, a student shall earn a grade point average of at least 2.0 on a 4.0 scale for the previous term, maintain at least an overall 2.0 average for college work, or have an average below 2.0 for only the previous term and be eligible for continued enrollment in the institution.

(3) Students enrolled in dual enrollment and early admission programs pursuant to s. 240.116 and students enrolled in employment and training programs pursuant to s. 409.029 are exempt from the payment of registration, matriculation, and laboratory fees; however, such students may not be included within calculations of fee-waived enrollments. Students enrolled in programs pursuant to s. 409.029 shall be granted a fee exemption only if they have applied for student financial aid including Job Training Partnership Act or Family Support Act funds and did not receive financial assistance. Colleges shall assist these students in applying for financial aid, and these students shall not be denied participation in programs during the application process for financial aid. These students shall not be required to obtain loans as a part of their financial aid package. Fee-exempt instruction provided pursuant to this subsection shall generate an additional one-fourth full-time equivalent enrollment.

(4)(a) Fees shall be waived for certain members of the active Florida National Guard pursuant to the provisions of s. 250.10(6).

(b) Community colleges may waive fees for any fee-nonexempt student. A student whose fees are waived in excess of the amount authorized annually in the General Appropriations Act may not be included in calculations of full-time equivalent enrollments for state funding purposes. Any community college that waives fees and requests state funding for a student in violation of the provisions of this subsection shall be penalized at a rate equal to two times the value of the full-time equivalent student enrollment reported served. Such penalty shall be charged against the following year's allocation from the Community College Program Fund.

(5) Subject to review and final approval by the State Board of Education, the State Board of Community Colleges shall adopt by December 31 of each year a resident fee schedule for the following fall for advanced and professional, postsecondary vocational, and college-preparatory programs which produces revenues in the amount of 25 percent of the full prior year's cost of these programs. However, the board may not adopt an annual fee increase in any program for resident students which exceeds 10 percent. Beginning with fiscal year 1992-1993 and, in the absence of a provision to the contrary in an appropriations act, the fee schedule shall take effect and the colleges shall expend the funds on instruction. If the Legislature provides for an alternative fee calculation in an appropriations act, the board shall establish a fee schedule that produces the fee revenue established in the appropriations act based on the assigned enrollment.

(6) Each community college board of trustees shall establish matriculation and tuition fees, which may vary no more than 10 percent from the fee schedule adopted by the State Board of Community Colleges.

(7) The sum of nonresident student matriculation and tuition fees must be sufficient to defray the full cost of each program. Beginning with fiscal year 1992-1993, the annual fee increases for nonresident students established by the board, in the absence of legislative action to the contrary in an appropriations act, may not exceed 25 percent.

(8) The State Board of Community Colleges shall adopt a rule specifying the definitions and procedures to be used in the calculation of the percentage of cost paid by students. The rule must provide for the calculation of the full cost of educational programs based on the allocation of all funds provided through the general current fund to programs of instruction, and other activities as provided in the annual expenditure analysis. The rule shall be developed in consultation with the Legislature.

(9) Each community college district board of trustees may establish a separate activity and service fee not to exceed 10 percent of the matriculation fee, according to rules of the State Board of Education. The student activity and service fee shall be collected as a component part of the registration and tuition fees. The student activity and service fees shall be paid into a student activity and service fund at the community college and shall be expended for lawful purposes to benefit the student body in general. These purposes shall include, but are not limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the community college without regard to race, sex, or religion.

(10)(a) Each community college is authorized to collect for financial aid purposes an additional amount up to, but not to exceed, 5 percent of the total student tuition or matriculation fees collected. However, if the amount generated by the additional 5 percent is less than $125,000, a community college that charges tuition and matriculation fees at least equal to the average fees established by rule may transfer from the general current fund to the scholarship fund an amount equal to the difference between $125,000 and the amount generated by the additional 5 percent of the total student tuition and matriculation fees. No other transfer from the general current fund to the loan, endowment, or scholarship fund, by whatever name known, is authorized.

(b) All funds collected under this program shall be placed in the loan and endowment fund or scholarship fund of the college, by whatever name known. Such funds shall be disbursed to students as quickly as possible. An amount not greater than 40 percent of the fees collected in a fiscal year may be carried forward unexpended to the following fiscal year. However, funds collected prior to July 1, 1989, and placed in an endowment fund may not be considered part of the balance of funds carried forward unexpended to the following fiscal year.

(c) Up to 25 percent or $125,000, whichever is greater, of the fees collected may be used to assist students who demonstrate academic merit or who participate in athletics, public service, cultural arts, and other extracurricular programs as determined by the institution. A minimum of 50 percent of the balance of these funds shall be used to provide financial aid based on absolute need, and the remainder of the funds shall be used for academic merit purposes and other purposes approved by the district boards of trustees. Such other purposes shall include the payment of child care fees for students with financial need. The State Board of Community Colleges shall develop criteria for making financial aid awards. Each college shall report annually to the Department of Education on the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards. Awards which are based on financial need shall be distributed in accordance with a nationally recognized system of need analysis approved by the State Board of Community Colleges. An award for academic merit shall require a minimum overall grade point average of 3.0 on a 4.0 scale or the equivalent for both initial receipt of the award and renewal of the award.

(d) These funds may not be used for direct or indirect administrative purposes or salaries.

(11) Any community college that reports students who have not paid fees in an approved manner in calculations of full-time equivalent enrollments for state funding purposes shall be penalized at a rate equal to two times the value of such enrollments. Such penalty shall be charged against the following year's allocation from the Community College Program Fund and shall revert to the General Revenue Fund. The State Board of Education shall specify, as necessary, by rule, approved methods of student fee payment. Such methods shall include, but not be limited to, student fee payment, payment through federal, state, or institutional financial aid, and employer fee payments. A community college may not charge any fee except as authorized by law or rules of the State Board of Education.

(12) Each community college shall report only those students who have actually enrolled in instruction provided or supervised by instructional personnel under contract with the community college in calculations of actual full-time equivalent enrollments for state funding purposes. No student who has been exempted from taking a course or who has been granted academic or vocational credit through means other than actual coursework completed at the granting institution shall be calculated for enrollment in the course from which he has been exempted or granted credit. Community colleges that report enrollments in violation of this subsection shall be penalized at a rate equal to two times the value of such enrollments. Such penalty shall be charged against the following year's allocation from the Community College Program Fund and shall revert to the General Revenue Fund.

(13) Each community college board of trustees may establish a separate fee for capital improvements *or equipping buildings* which may not exceed $1 per credit hour or credit-hour equivalent for residents and which equals or exceeds $3 per credit hour for nonresidents. Funds collected through these fees may not be bonded. The fee shall be collected as a component part of the registration and tuition fees, paid into a separate account, and expended only to *construct,* maintain, improve, *equip,* or enhance the educational facilities of the community college. Projects funded through the use of the capital improvement fee shall meet the survey and construction requirements of chapter 235. Pursuant to s. 216.0158, each community college shall identify each project, including maintenance projects, proposed to be funded in whole or in part by such fee. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the community college.

(14) Each community college is authorized to grant student fee exemptions from all fees adopted by the State Board of Community Colleges and the community college board of trustees for up to 40 full-time equivalent students at each institution.

Section 26. Subsection (1) of section 240.522, Florida Statutes, is amended, and subsection (5) is added to said section, to read:

240.522 Establishment of university in Southwest Florida.—

(1) There is hereby established in Southwest Florida the 10th university of the State University System of Florida. The Board of Regents shall take all actions necessary to implement the establishment of the university in Southwest Florida, including any transfer of positions and resources. The *establishment of a foundation with status as a direct-*

support organization and the acquisition and donation of lands, buildings, and equipment for the purpose of establishing the university in Southwest Florida are hereby authorized and shall be deemed for a public purpose. *The Board of Regents is authorized to serve in lieu of the president as prescribed in s. 240.299.*

(5) By December 1, 1992, the Board of Regents shall complete a 10-year plan for the development and expansion of the new university in Southwest Florida. The plan shall provide for:

(a) The transition of responsibility for state university programs in Southwest Florida from the Ft. Myers branch of the University of South Florida to the new university.

(b) The orderly and timely evolution of programs at the Ft. Myers branch of the University of South Florida into the program offerings of the new university.

(c) The development of new academic programs consistent with the master plan for the 10th state university in Southwest Florida.

For the duration of the period of transition, the Board of Regents shall separately identify the assigned enrollment and the allocation of resources appropriated in response to enrollment at the Ft. Myers branch of the University of South Florida.

Section 27. Effective January 1, 1993, section 240.155, Florida Statutes, is created to read:

240.155 Educational leadership enhancement grants.—

(1) There is created the Educational Leadership Enhancement Grant Program to be administered by the Commissioner of Education. The purpose of the Educational Leadership Enhancement Grant Program is to improve the recruitment, retention, and promotion of minorities and women into leadership positions in public postsecondary education in Florida.

(2) State universities, public community colleges, the Board of Regents, or the State Board of Community Colleges may submit a proposal for educational leadership enhancement grants to the Commissioner of Education. Proposals shall be funded competitively.

(3) The grant program shall be implemented to the extent funded from recurring and nonrecurring sources by the Legislature.

(4) To be eligible for funding, institutions shall submit proposals which:

(a) Provide documentation of substantial progress towards implementation of the institution's equity accountability plan.

(b) Provide documentation of the commitment of institutional funds or resources for improving the representation of minorities and women.

(c)1. Enhance the ability of the institution to competitively recruit minorities and women;

2. Provide for the retention of minorities and women;

3. Enhance the academic credentials of minorities and women; or

4. Provide opportunities for internship in administrative management and leadership offices for minorities and women.

(d) Ensure that grant funds supplement and not supplant existing resources.

(5) Each proposal shall include clearly stated goals, outcome objectives, and provisions for evaluation.

(6) The State Board of Education may adopt rules necessary to implement this program.

Section 28. Subsection (4) is added to section 240.214, Florida Statutes, to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process shall provide for the adoption of systemwide performance standards and performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. The accountability process shall be implemented in incremental phases, as follows:

(4) Each state university shall develop a plan for increasing the number of women and minorities in administrative leadership and tenure earning positions, for increasing the number of women and minorities in ranked faculty positions, and for increasing the number of women and minorities granted tenure. The plan shall include specific measurable performance goals and objectives, specific strategies for accomplishing these goals and objectives, and a time period for accomplishing these goals and objectives based upon each university's affirmative action plan. The plan shall be submitted to the Board of Regents for review and approval. The plan development and report shall be implemented as follows:

(a) On or before December 1, 1992, the Board of Regents shall provide to the Legislature an initial equity accountability report which shall include:

1. A systemwide 3-year historical profile for each university on the number and percentage of women and minorities in ranked faculty and administrative leadership positions with a separate identification of tenure granted each year.

2. A status report of current strategies for the elimination of impediments to the hiring, promotion, and retention of women and minorities.

(b)1. By March 1, 1993, the Board of Regents shall develop recommendations, including, but not limited to: minimum systemwide criteria for granting tenure and promotion which reflect consideration of instruction, academic advising, student supervision, public service, research, and scholarly publication; minimum systemwide guidelines for the review and recommendation process for tenure; minimum systemwide policies and procedures concerning the annual feedback to faculty on progress towards achievement of tenure; and incentives or rewards which may be granted for increasing the representation of women and minorities.

2. By July 1, 1993, the Board of Regents shall submit to the Legislature an equity accountability plan which includes:

a. Specific measurable performance goals and objectives for increasing the number of women and minorities in tenured faculty and administrative leadership positions.

b. Action steps to be implemented and the schedule for accomplishing these goals and objectives.

(c)1. Beginning December 1, 1993, each state university president shall annually submit an access and equity accountability report to the Chancellor and the Board of Regents which shows the number of vacant administrative positions, in the faculty and in the administrative and professional pay plans, which were filled during the previous fiscal year. Administrative positions include all faculty positions that, in whole or in part, are defined as academic administration under standard practice CM 87-17.1 and all positions in the administrative and professional pay plan which are defined as administrative positions under the Board of Regents' classification of occupational groupings. The report shall provide information for each division, school, or college on:

a. The number of vacant positions filled in the previous year by job classification, title, gender, and ethnicity.

b. Within each component, the number which were tenure earning versus nontenure earning.

c. Within each component, a distribution of starting salaries by years of experience and highest degree.

d. Steps taken to provide a gender and ethnic balance in the composition of the selection committee for vacancies.

e. Guidelines used and steps taken to recruit a diverse pool of candidates for each vacancy.

2. Each university's access and equity accountability report shall also provide information on:

a. The total number of tenured faculty by rank, gender, and ethnicity.

b. The number of faculty by rank, gender, and ethnicity who applied for tenure during the previous fiscal year.

c. The number of faculty by rank, gender, and ethnicity who were granted tenure during the previous fiscal year.

d. The number of faculty by rank, gender, and ethnicity who met minimum requirements for tenure but were not granted tenure during the previous year.

(d) Beginning January 1, 1994, the Board of Regents shall annually assess each university's accomplishment of the annual goals, as well as the long-range goals, for increasing the number of women and minorities as prescribed in paragraph (c). If the university has not realized an increase in the percentage of women and minorities, an explanation shall be included with suggested modifications to the university's strategies for increasing its female and minority representation. A factor in the evaluation of university presidents, vice presidents, deans, and chairpersons shall be their progress in achieving the goals established in the equity accountability plan.

(e) Effective February 1, 1994, a copy of each university's access and equity accountability report shall be forwarded to the Legislature by February 1 of each year.

Section 29. Subsection (4) is added to section 240.324, Florida Statutes, to read:

240.324 Community college accountability process.—

(4) As part of the accountability process, each community college shall develop an accountability plan for increasing the number of women and minorities in administrative leadership positions, for increasing the number of women and minorities in each faculty rank of positions, and for increasing the number of women and minorities who have attained continuing contract status. The plan shall include specific measurable performance goals and objectives, specific strategies for accomplishing these goals and objectives, and a time period for accomplishing these goals and objectives. The plan shall be submitted to the State Board of Community Colleges for review and approval. The plan development and report shall be implemented as follows:

(a) On or before December 1, 1992, the State Board of Community Colleges shall provide to the Legislature an initial equity accountability report which shall include:

1. A systemwide 3-year historical profile for each community college on the number and percentage of women and minorities in continuing contract faculty and administrative leadership positions.

2. A status report of current strategies for the elimination of impediments to the hiring, promotion, and retention of women and minorities.

3. Recommendations developed by the State Board of Community Colleges on a set of possible: minimum systemwide criteria for granting faculty continuing contracts; minimum systemwide guidelines for the composition of committees that make recommendations for continuing contracts; minimum systemwide policies and procedures for the annual evaluation of faculty that provides written feedback on achievement of requirements for a continuing contract; and incentives or rewards which may be granted for increasing the representation of women and minorities.

(b) By August 1, 1993, the State Board of Community Colleges shall submit to the Legislature an equity accountability plan which includes:

1. Specific measurable performance goals and objectives for increasing the number of women and minorities in continuing contract faculty and administrative leadership positions.

2. Action steps to be implemented and the schedule for accomplishing these goals and objectives.

(c)1. Beginning April 1, 1994, utilizing data collected by the Personnel Data Base of the State Board of Community Colleges, each community college president shall annually submit an access and equity accountability report to the Executive Director of the State Board of Community Colleges which shows the number of permanent administrative and faculty positions which were new hires or promotions in the previous fiscal year. Administrative positions include faculty positions that, in whole or in part, are defined as academic administration and positions that are defined as administrative positions under the Community College System's Management Information System. The report shall show the composition of these positions, including, but not limited to:

a. The number of new hires by job classification, title, gender, and ethnicity.

b. Within each component, the number of new hires which were continuing contract versus noncontinuing contract.

c. Within each component, a distribution of starting salaries by years of experience and highest degree.

d. Steps taken to provide a gender and ethnic balance in the composition of the selection committee for vacancies.

e. Guidelines used and steps taken to recruit a diverse pool of candidates for each vacancy.

2. Each community college's access and equity accountability report shall also provide information on:

a. The number of faculty by rank, gender, and ethnicity who received a continuing contract during the previous fiscal year.

b. The number of faculty by rank, gender, and ethnicity who fulfilled the institutional criteria for a continuing contract but were not granted a continuing contract during the previous year.

(d) Beginning May 1, 1994, the State Board of Community Colleges shall annually assess each community college's accomplishment of the annual goals, as well as the long-range goals, for increasing the number of women and minorities as prescribed in paragraph (c). If the community college has not realized an increase in the percentage of women and minorities, an explanation shall be included with suggested modifications to the community college's strategies for increasing its female and minority representation. The community college presidents and heads of each major administrative division shall be evaluated on their progress in achieving the goals and objectives established in the equity accountability plan.

(e) Effective July 1, 1994, a copy of each institution's access and equity accountability report shall be forwarded to the Legislature by July 1 of each year.

Section 30. 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.*

Section 31. Amendments to sections of the Florida Statutes enacted by this act shall not operate to repeal or otherwise negate amendments to the same sections which may have been previously enacted at a 1992 session of the Florida Legislature and which are not indicated herein, and full effect shall be given to each, if that is possible. If provisions of this act are in direct conflict with amendments so enacted, the provisions of this act shall control.

Section 32. Except as otherwise provided herein, this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to education; 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; amending s. 240.1201, F.S.; adding certain persons to the classification of residents for tuition purposes; amending s. 240.209, F.S.; requiring the Board of Regents to secure or provide certain workers' compensation coverage; providing an exemption from bid requirements; amending s. 240.213, F.S.; revising provisions relating to a Board of Regents self-insurance program; amending s. 240.277, F.S., relating to an exemption for certain moneys received by institutions; amending s. 240.35, F.S.; revising provisions relating to establishment of community college student fees; revising provisions relating to the fee for capital improvement; authorizing certain fee exemptions; amending s. 240.522, F.S.; providing for the establishment of a foundation for the university in Southwest Florida; requiring a plan for development and expansion of the university; amending s. 240.2011, F.S.; conforming provisions; creating s. 240.155, F.S.; providing for educational leadership enhancement grants; providing eligibility for grants; amending ss. 240.214 and 240.324, F.S., relating to the State University System and community college accountability processes; requiring access and equity accountability plans and reports; amending s. 455.212, F.S., relating to educational requirements of licensing boards; providing technical revisions; providing for certification of student demonstration of competencies; providing exemption for licensing boards under certain conditions; providing effective dates.

Senator Johnson moved the following amendments which were adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1—On page 1, line 13 through page 36, line 21, strike all of said lines 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 *distributing* ~~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.~~

~~(c) 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.~~

~~(c) 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* ~~Placement of~~ 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)~~(c)~~ 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)(c)~~ 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)~~c.~~ 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.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 56, line 6 through page 57, line 24, strike all of said lines and insert: 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; amending s. 240.1201. F.S.; adding

Senate Amendment 2 (with Title Amendment) to House Amendment 1—On page 44, line 27 through page 45, line 3, strike all of said lines and insert: establish a separate fee for capital improvements which may not exceed $1 per credit hour or credit-hour equivalent for residents and which equals or exceeds $3 per credit hour for nonresidents. Funds collected through these fees may not be bonded. The fee shall be collected as a component part of the registration and tuition fees, paid into a separate account, and expended only to maintain, improve, or enhance the educational facilities of the

And the title is amended as follows:

In title, on page 58, strike all of lines 6 and 7 and insert: student fee; authorizing

Senate Amendment 3 (with Title Amendment) to House Amendment 1—On page 55, between lines 16 and 17, insert:

Section 31. Section 240.528, Florida Statutes, is amended to read:

240.528 Broward County *campuses* ~~branch~~ of Florida Atlantic University.—

~~(1) There is hereby established in Broward County a branch campus of Florida Atlantic University to be known as the "Southeast Campus." The Board of Regents shall take all actions necessary to implement the establishment of the Southeast Campus, including any transfer of positions and resources. Initially, modular buildings may be used as necessary to provide classroom and office facilities; however, the Board of Regents shall initiate steps to secure funding for the planning and construction of permanent facilities. Such facilities shall accommodate instructional needs as well as administrative and other support and auxiliary services of the Southeast Campus. Planning conducted pursuant to this section shall be consistent with the provisions of chapter 235. The City of Davie, Broward Community College, and the Board of County Commissioners of Broward County shall cooperate with the Board of Regents in establishing the Southeast Campus. The acquisition and donation of lands, buildings, and equipment for the purpose of establishing the Southeast Campus are hereby authorized and shall be deemed for a public purpose. Undergraduate instruction leading to a baccalaureate degree shall be offered at the Southeast Campus beginning with the 1989 fall semester.~~

~~(2)~~ The Board of Regents and Florida Atlantic University shall consult with Broward Community College and Florida International University in coordinating course offerings at the postsecondary level in Broward County. Florida Atlantic University may contract with the Board of Trustees of Broward Community College and with Florida International University to provide instruction in courses offered at the Southeast Campus. Florida Atlantic University shall increase course offerings at the Southeast Campus as facilities become available.

~~(3) The Postsecondary Education Planning Commission and the Board of Regents, as a function of each board's comprehensive master planning process, shall continue to evaluate the need for undergraduate program offerings in Broward County and shall assess the extent to which existing postsecondary programs are addressing those needs. One section of the Board of Regents' 5-year Master Plan for 1993-1998 shall address and make recommendations concerning the establishment of a 4-year public university in Broward County. The board's plan shall include the effectiveness of the branch campus operation, including operating and capital budget and a description of programmatic and administrative relationships with public and private institutions in the area. Prior to January 1, 1993, the Legislature shall review that section of the master plan and make recommendations for implementation no later than July 1, 1993.~~

Section 32. Section 240 5285, Florida Statutes, is created to read:

240.5285 Florida Atlantic University campuses.—

(1) The Broward County campuses of Florida Atlantic University are hereby established as a partner of the Florida Atlantic University campus in Boca Raton. The Broward County campuses of Florida Atlantic University shall be known as "Florida Atlantic University Broward." The Boca Raton campuses of Florida Atlantic University shall be known as "Florida Atlantic University Boca Raton." The office of the president shall be at the campus in Boca Raton.

(2) Florida Atlantic University shall develop and administer a separate budget for Florida Atlantic University Broward. The budget shall include, at a minimum, an allocation of those operating and capital outlay funds appropriated annually by the Legislature in the General Appropriations Act for the Broward campuses; a proportional share, based on student credit hours produced at the Broward campuses, of any allocations received by the university from student matriculation and tuition fees and fees, except for athletic fees, specifically authorized by law; all overhead charges from sponsored research conducted on the Broward campuses; and all revenues derived from vending funds, auxiliary enterprises and contracts, and grants and donations, as authorized by s. 240.277, which result from activities on Broward campuses. Florida Atlantic University Broward and Florida Atlantic University Boca Raton may pay reasonable charges to appropriate levels of administration of Florida Atlantic University for services delivered university-wide.

(3) The Board of Regents shall take all actions necessary to assure that Florida Atlantic University Broward and Florida Atlantic University Boca Raton are partners in the overall policymaking and academic governance structures of the university. Annual legislative budget requests for operations and facilities shall separately identify those funds requested for Florida Atlantic University Broward and Florida Atlantic University Boca Raton. Florida Atlantic University Broward and Florida Atlantic University Boca Raton shall have local management authority over their campus faculty, staff, and programs, but there shall be university-wide standards and processes for evaluating requests for promotion and tenure; there shall be complete transferability of credits and uniform pro-

grams across campuses; and colleges operating on multiple campuses shall have only one dean for each college. Florida Atlantic University Broward shall establish a faculty senate and may establish a direct-support organization.

(4) The Postsecondary Education Planning Commission and the Board of Regents, as a function of each board's comprehensive master planning process, shall continue to evaluate the need for undergraduate programs in Broward County and shall assess the extent to which existing postsecondary programs are addressing those needs. One section of the Board of Regents' 5-year Master Plan for 1993-1998 shall address and make recommendations concerning the establishment of a 4-year public university in Broward County. The board's plan shall include the effectiveness of branch campus operation, including operating and capital budget and a description of programmatic and administrative relationships with public and private institutions in the area. Before January 1, 1993, the Legislature shall review that section of the master plan and, by July 1, 1993, shall make recommendations for implementing that section.

Section 33. Subsection (6) of section 240.2011, Florida Statutes, is amended to read:

240.2011 State University System defined.—The State University System shall consist of the following:

(6) The Florida Atlantic University, with *partner campuses* ~~a main campus~~ located in Palm Beach County *and Broward County*.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 58, line 26, after the semicolon (;) insert: amending s. 240.528, F.S.; revising and conforming provisions relating to the Broward County campuses of Florida Atlantic University; creating s. 240.5285, F.S.; establishing partner campuses in Broward County and Palm Beach County; providing for a separate budget for the Broward campuses; providing duties of the Board of Regents; requiring the board and the Postsecondary Education Planning Commission to continue to evaluate the need for undergraduate programs in Broward County; providing requirements for the board's comprehensive plan; requiring legislative review and recommendations;

On motion by Senator Johnson, the Senate concurred in the House amendment as amended and the House was requested to concur in the Senate amendments to the House amendment.

SB 80-H passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—1

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for CS for SB 94-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 94-H—A bill to be entitled An act relating to affordable housing; providing a short title; amending s. 201.02, F.S.; increasing the excise tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; revising the distribution of excise taxes on documents; allocating a portion of the excise tax on documents to the State Housing Trust Fund and to the Local Government Housing Trust Fund; providing for the use of moneys deposited in those trust funds; amending s. 240.5111, F.S.; requiring the Multidisciplinary Center for Affordable Housing to establish a research agenda in cooperation with the Department of Community Affairs; amending s. 420.0001, F.S.; revising the short title of the State Housing Incentive Partnership Act of 1988; amending s. 420.0002, F.S.; revising the legislative findings; amending s. 420.0005, F.S.; providing that funds from the State Housing Trust Fund may be used to administer housing programs; amending s. 420.306, F.S.; revising and providing definitions for the Housing Predevelopment and Elderly Homeowner Rehabilitation Assistance Act; amending s. 420.307, F.S.; revising provisions relating to administration of the Housing Predevelopment Trust Fund and providing for availability of funds; amending s. 420.308, F.S.; revising provisions relating to authorized loans and grants made from the trust fund and activities eligible for support; amending s. 420.309, F.S.; revising application procedures for receipt of funds; requiring notice and establishment of a review committee and scoring system; amending s. 420.31, F.S.; revising provisions relating to rules and annual reports; amending s. 420.32, F.S.; revising provisions relating to default on a loan; providing for deposit of funds; creating s. 420.36, F.S.; creating the Low-income Emergency Home Repair Program; providing eligibility, allowable expenses, fund distribution, and departmental powers; creating s. 420.37, F.S.; providing additional powers of the Florida Housing Finance Agency; amending s. 420.503, F.S.; providing additional definitions under the Florida Housing Finance Agency Act; amending s. 420.507, F.S.; revising powers of the agency with respect to loans under the Florida Homeownership Assistance Program and the State Apartment Incentive Loan Program; amending s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program; amending provisions relating to eligibility for loans; amending provisions relating to allocation of loans; transferring certain duties of the Department of Community Affairs to the Florida Housing Finance Agency; amending s. 420.5088, F.S.; amending provisions relating to the Florida Homeownership Assistance Program; amending requirements with respect to mortgage loans; providing requirements with respect to construction loans; providing for allocation of program funds; providing for transfer of moneys to the Florida Homeownership Assistance Trust Fund; creating s. 420.5089, F.S.; creating the HOME Partnership Program and establishing a trust fund; providing for loans based on competitive selection; providing for pilot programs; providing for eligible activities; providing for a review committee; providing for approval and determination of loans; providing agency powers; providing for the deposit of funds; creating s. 420.5091, F.S.; providing for rules to implement the HOPE Program; providing for the acquisition of property; creating s. 420.5092, F.S., creating the Florida Affordable Housing Guarantee Program and authorizing agency action; providing purposes; providing definitions; providing for funding; providing for establishing rates and fees for guarantees; providing for the issuance of revenue bonds; providing a specified maximum amount of such bonds; providing for an annual audit; providing for a feasibility study; amending s. 420.601, F.S.; revising the short title; amending s. 420.6015, F.S.; revising the legislative findings; amending s. 420.606, F.S.; requiring the Department of Community Affairs to provide technical support for the implementation of the State Housing Initiatives Partnership Program; amending s. 420.6075, F.S.; requiring the Department of Community Affairs to participate in establishing an annual research agenda for the Multidisciplinary Center for Affordable Housing; amending s. 420.609, F.S.; requiring the Affordable Housing Study Commission to make recommendations regarding an annual research agenda for the Multidisciplinary Center for Affordable Housing; creating ss. 420.907, 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, 420.9079, F.S.; providing a short title; providing definitions relating to affordable housing; establishing the State Housing Initiatives Partnership Program; providing legislative findings and intent; providing for administration of the program and for rules; providing approval procedures and requirements; providing for the distribution and use of funds; providing criteria for the issuance of revenue bonds by local governments; establishing criteria and administrative procedures for local housing assistance programs adopted by local governments; requiring a report; requiring reporting of violations to the Office of the Governor and the Auditor General; requiring adoption of affordable housing incentive plans; providing for affordable housing advisory committees; providing for state administration of remaining local housing distribution funds; providing for notice of the availability of funds; creating the Local Government Housing Trust Fund; providing for the distribution of moneys from the trust fund; transferring the program functions of the Housing Predevelopment Trust Fund to the Florida Housing Finance Agency; providing that each county that has implemented ch. 83-220, Laws of Florida, as amended, shall not be subject to section 2 of the act and shall be eligible for certain programs on a limited basis; amending s. 1, ch. 83-220, Laws of Florida, as amended; providing appropriations from the Local Government Housing Trust Fund and from the State Housing Trust Fund to fund housing programs; repealing ss. 420.603, 420.604, 420.605, F.S., relating to the Florida Affordable Housing Trust Fund, the Florida Affordable Housing Demonstration Program, and the Affordable Housing Loan Program, repealing ss. 420.801, 420.802, 420.803, 420.804, 420.805, 420.806, 420.808, 420.809, 420.810, 420.811, 420.812, 420.813, F.S., relating to the Pocket of Poverty Programs; repealing ss. 420.901, 420.902, 420.903, 420.904, 420.905,

420.906, F.S., the Maintenance of Housing for the Elderly Act of 1988; providing a severability clause; providing effective dates.

House Amendment 1 (with Title Amendment)—On page 5, line 31, strike everything after the enacting clause and insert:

Section 1. Sections 1 through 35 of this act may be cited as the "William E. Sadowski Affordable Housing Act."

Section 2. Effective August 1, 1992, subsection (1) of section 201.02, Florida Statutes, as amended by section 9 of chapter 92-32, Laws of Florida, is amended to read:

201.02 Tax on deeds and other instruments relating to real property or interests in real property.—

(1) On deeds, instruments, or writings whereby any lands, tenements, or other real property, or any interest therein, shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or any other person by his direction, on each $100 of the consideration therefor the tax shall be *70* ~~60~~ cents. When the full amount of the consideration for the execution, assignment, transfer, or conveyance is not shown in the face of such deed, instrument, document, or writing, the tax shall be at the rate of *70* ~~60~~ cents for each $100 or fractional part thereof of the consideration therefor. For purposes of this section, consideration includes, but is not limited to, the money paid or agreed to be paid; the discharge of an obligation; and the amount of any mortgage, purchase money mortgage lien, or other encumbrance, whether or not the underlying indebtedness is assumed. If the consideration paid or given in exchange for real property or any interest therein includes property other than money, it is presumed that the consideration is equal to the fair market value of the real property or interest therein.

Section 3. Effective September 1, 1992, section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under ~~the provisions of~~ this chapter shall be *subject to the service charge imposed in s. 215.20(1) and shall be* distributed as follows:

(1) *Seventy-one and twenty-nine* ~~Seventy-six and twenty one~~ hundredths percent of the *remaining* ~~total~~ taxes collected under ~~the provisions of~~ this chapter shall be used for the following purposes:

(a) Subject to the maximum amount limitations set forth in this paragraph, an amount as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund shall not exceed $90 million in fiscal year 1992-1993, $120 million in fiscal year 1993-1994, $150 million in fiscal year 1994-1995, $180 million in fiscal year 1995-1996, $210 million in fiscal year 1996-1997, $240 million in fiscal year 1997-1998, $270 million in fiscal year 1998-1999, and $300 million in fiscal year 1999-2000 and thereafter. No individual series of bonds may be issued pursuant to this paragraph unless the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Department of Natural Resources Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed pursuant to this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) *Seven and fifty-six* ~~Eight and forty nine~~ hundredths percent of the *remaining* ~~total~~ taxes collected under ~~the provisions of~~ this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) *One and ninety-four* ~~Two and eighteen~~ hundredths percent of the *remaining* ~~total~~ taxes collected under ~~the provisions of~~ this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) *Five and eighty-four* ~~Six and fifty-six~~ hundredths percent of the *remaining* ~~total~~ taxes collected under ~~the provisions of~~ this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) *Five and eighty-four* ~~Six and fifty-six~~ hundredths percent of the *remaining* ~~total~~ taxes collected under ~~the provisions of~~ this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

(6) Seven and fifty-three hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

Section 4. Effective July 1, 1995, section 201.15, Florida Statutes, as amended by section 3 of this act, is amended to read:

201 15 Distribution of taxes collected.—All taxes collected under this chapter shall be subject to the service charge imposed in s. 215.20(1) and shall be distributed as follows:

(1) *Sixty-two and sixty-three* ~~Seventy one and twenty nine~~ hundredths percent of the remaining taxes collected under this chapter shall be used for the following purposes:

(a) Subject to the maximum amount limitations set forth in this paragraph, an amount as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund shall not exceed $90 million in fiscal year 1992-1993, $120 million in fiscal year 1993-1994, $150 million in fiscal year 1994-1995, $180 million in fiscal year 1995-1996, $210 million in fiscal year 1996-1997, $240 million in fiscal year 1997-1998, $270 million in fiscal year 1998-1999, and $300 million in fiscal year 1999-2000 and thereafter. No individual series of bonds may be issued pursuant to this paragraph unless the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Department of Natural Resources Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed pursuant to this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) Seven and fifty-six hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) One and ninety-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) Five and eighty-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) Five and eighty-four hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

(6) Seven and fifty-three hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(7) Eight and sixty-six hundredths percent of the remaining taxes collected under this chapter shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Agency for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

Section 5. Effective August 1, 1992, subsection (1) of section 201.05, Florida Statutes, is amended to read:

201.05 Tax on stock certificates.—

(1) On each original issue, whether organization or reorganization, of certificates of stock or shares however designated issued in the state or of certificates of profits or of interest in property or accumulations, by any corporation or by any joint stock company or other association as set forth in subsection (2), on each $100 of face value or fraction thereof the tax shall be *35* ~~32~~ cents; provided that when a certificate is issued without face value, the tax shall be *35* ~~32~~ cents on each $100 of actual value or fraction thereof. The stamps representing the tax imposed by this section shall be attached to the stock books and not to the certificates issued. The provisions of this section do not apply to any stock or share issued in this state of an open-end or closed-end management company or a unit investment trust registered under the Investment Company Act of 1940, as amended.

Section 6. Effective August 1, 1992, section 201.07, Florida Statutes, is amended to read:

201.07 Tax on bonds, debentures, and certificates of indebtedness.—On all bonds, debentures, or certificates of indebtedness issued in the state by any person, and all instruments and documents, however termed, issued by any corporation with interest coupons or in registered form, on each $100 of the face value or fraction thereof, the tax shall be *35* ~~32~~ cents; provided, however, that only that part of the value of the bonds, debentures, or certificates of indebtedness issued by any such person, the property of which is located within the state shall bear to the whole value of the property described in said instrument or obligation shall be taxed hereunder.

Section 7. Effective August 1, 1992, subsections (1) and (2) of section 201.08, Florida Statutes, are amended to read:

201.08 Tax on promissory or nonnegotiable notes, written obligations to pay money, or assignments of wages or other compensation; exception.—

(1) On promissory notes, nonnegotiable notes, written obligations to pay money, or assignments of salaries, wages, or other compensation made, executed, delivered, sold, transferred, or assigned in the state, and for each renewal of the same, the tax shall be *35* ~~32~~ cents on each $100 or fraction thereof of the indebtedness or obligation evidenced thereby. On mortgages, trust deeds, security agreements, or other evidences of indebtedness filed or recorded in this state, and for each renewal of the same, the tax shall be *35* ~~32~~ cents on each $100 or fraction thereof of the indebtedness or obligation evidenced thereby. Mortgages, including, but not limited to, mortgages executed without the state and recorded in the state, which incorporate the certificate of indebtedness, not otherwise shown in separate instruments, are subject to the same tax at the same rate. When there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the tax shall be paid on the mortgage, trust deed, or security agreement at the time of recordation. A notation shall be made on the note, certificate of indebtedness, or obligation that the tax has been paid and the proper stamps affixed to the mortgage, trust deed, or security agreement. If the mortgage, trust deed, security agreement, or other evidence of indebtedness subject to the tax levied by this section secures future advances, as provided in s. 697.04, the tax shall be paid at the time of recordation on the initial debt or obligation secured, excluding future advances; at the time and so often as any future advance is made, the tax shall be paid on all sums then advanced regardless of where such advance is made. Notwithstanding the aforestated general rule, any increase in the amount of original indebtedness caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed. Failure to pay the tax shall not affect the lien for any such future advance given by s. 697.04, but any person who fails or refuses to pay such tax due by him is guilty of a misdemeanor of the first degree. The mortgage, trust deed, or other instrument shall not be enforceable in any court of this state as to any such advance unless and until the tax due thereon upon each advance that may have been made thereunder has been paid.

(2) On promissory notes, nonnegotiable notes, written obligations to pay money, or other compensation, made, executed, delivered, sold, transferred, or assigned in the state, in connection with sales made under retail charge account services, incident to sales which are not conditional in character and which are not secured by mortgage or other pledge of purchaser, the tax shall be *35* ~~32~~ cents on each $100 or fraction thereof of the gross amount of the indebtedness evidenced by such instruments, payable quarterly on such forms and under such rules and regulations as may be promulgated by the Department of Revenue. No documentary stamps shall be required to be attached to instruments under the provisions of this subsection.

Section 8. Section 240.5111, Florida Statutes, is amended to read:

240.5111 Multidisciplinary Center for Affordable Housing.—

(1) The Board of Regents shall establish the Multidisciplinary Center for Affordable Housing within the School of Building Construction of the College of Architecture of the University of Florida with the collaboration of other related disciplines such as agriculture, business administration, engineering, law, and medicine. The center shall work in conjunction with other colleges in the State University System. The Multidisciplinary Center for Affordable Housing shall:

(a) Conduct research relating to the problems and solutions associated with the availability of affordable housing in the state for families who are below the median income level and widely disseminate the results of such research to appropriate public and private audiences in the state. Such research shall emphasize methods to improve the planning, design, and production of affordable housing, including, but not limited to, the financial, maintenance, management, and regulatory aspects of residential development.

(b) Provide public services to local, regional, and state agencies, units of government, and authorities by helping them create regulatory climates that are amenable to the introduction of affordable housing within their jurisdictions.

(c) Conduct special research relating to firesafety.

(d) Provide a focus for the teaching of new technology and skills relating to affordable housing in the state.

(e) Develop a base of informational and financial support from the private sector for the activities of the center.

(f) Develop prototypes for both multifamily and single-family units.

(g) Establish a research agenda and general workplan in cooperation with the Department of Community Affairs which is the state agency responsible for research and planning for affordable housing and for training and technical assistance for providers of affordable housing.

(h)~~(g)~~ Submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives ~~by January 1, 1990, and~~ by January 1 of each year ~~thereafter~~. The annual report shall include information relating to the activities of the center, including collaborative efforts with public and private ~~sector~~ entities, affordable housing models, and any other findings and recommendations related to the production of safe, decent, and affordable housing.

(2) The Director of the Multidisciplinary Center for Affordable Housing shall be appointed by the Dean of the College of Architecture of the University of Florida.

Section 9. Section 420.0001, Florida Statutes, is amended to read:

420.0001 Short title.—This part may be cited as the "State Housing *Strategy* ~~Incentive Partnership (SHIP)~~ Act ~~of 1988~~."

Section 10. Section 420.0002, Florida Statutes, is amended to read:

420.0002 Legislative findings.—~~It is hereby found and declared by~~ The Legislature *finds* that:

(1) With cutbacks in federal assistance for housing programs, the projected population growth of the state, and the impact of the 1986 Tax Reform Act, Florida is experiencing a critical affordable housing shortage.

~~(2) This shortage necessitates an expansion of the state's role in the provision of housing by creating incentives for partnerships with federal, state, and local governments and the public and private sectors to stimulate the production of affordable housing.~~

(2)~~(3)~~ The failure of the state to ~~establish a housing policy and~~ commit sufficient resources to address the severe housing problems has resulted in many ~~Florida~~ residents *of this state continuing to live* ~~living~~ in substandard or unaffordable housing or without shelter.

(3)~~(4)~~ Only seven states report a greater per capita need for low-income rental housing units than *this state* ~~Florida~~.

(4)~~(5)~~ First-time homebuyers are growing in numbers, but, due to present trends, are finding it increasingly difficult to purchase a home because of the lack of up-front capital to pay higher down payments, insurance premiums, and other closing costs.

(5)~~(6)~~ Approximately 12 percent of *the* ~~Florida's~~ elderly population *of this state* live in poverty and in deplorable housing conditions.

(6)~~(7)~~ There exists a need for the construction, rehabilitation, and maintenance of multifamily elderly housing to meet existing and future housing needs.

(7)~~(8)~~ Escalating land and predevelopment costs and project financing contribute to the overall cost of housing and tend to restrict the development of housing affordable to very low-income *persons*, low-income *persons*, and moderate-income persons.

(8)~~(9)~~ Existing state housing programs do not provide an adequate remedy to meet current or future housing needs.

(9)~~(10)~~ As a matter of public policy, special programs are needed to stimulate public and private enterprises to build and rehabilitate housing in order to provide decent, safe, and sanitary conditions for very low-income *persons*, low-income *persons*, and moderate-income persons.

(10) The state should provide incentives for the formation of public-private partnerships as the means of achieving the greatest reduction in housing costs. The state should support partnership initiatives through regulatory relief, a streamlined application process for state-level programs, training, technical assistance, and flexible funding to enable local governments to meet local needs and to match federal funds.

Section 11. Section 420.0005, Florida Statutes, is amended to read:

420.0005 State Housing Trust Fund.—There is hereby established in the State Treasury a separate trust fund to be named the "State Housing Trust Fund." There shall be deposited in the fund all moneys appropriated by the Legislature, or moneys received from any other source, for the purpose of this chapter, and all proceeds derived from the use of such moneys. Portions of *the* ~~said~~ fund shall be administered by the Department of Community Affairs and the Florida Housing Finance Agency, as specified in this chapter. Administrative and personnel costs incurred in implementing ~~the provisions of~~ this *chapter* ~~part~~ may be paid from the fund *but such costs may not exceed 5 percent of the moneys deposited into the fund.* To this fund shall be credited all loan repayments, penalties, and other fees and charges accruing to the fund under this chapter. It is the intent of this chapter that all loan repayments, penalties, and other fees and charges collected be credited in full to the program account from which the loan originated. Moneys in the trust fund which are not currently needed for the purposes of this chapter shall be deposited with the Treasurer to the credit of the trust fund and may be invested in such manner as is provided for by statute. The interest received on any such investment shall be credited to the fund.

Section 12. Section 420.306, Florida Statutes, is amended to read:

420.306 Definitions.—For the purpose of this part, *the term*:

(1) "Agency" means the Florida Housing Finance Agency.

(2)~~(1)~~ "Application" means a written request for a predevelopment loan or grant to sponsor housing for the target population.

(3)~~(2)~~ "Aquaculture" means the cultivation and attendant handling, planting, harvesting, packing, processing, storing, or delivering of food products cultivated in fresh or salt water.

(4)~~(3)~~ "Community-based organization" or "not-for-profit organization" means any group incorporated under chapter 617 to provide housing and other services on a not-for-profit basis, and which is acceptable to federal and state agencies and financial institutions as a sponsor of *affordable* ~~low-income~~ housing.

(5)~~(4)~~ "Department" means the Department of Community Affairs.

(6)~~(5)~~ "Eligible housing project" means a housing project proposed by an eligible sponsor which will ensure that a minimum of 20 percent of the completed housing units are rented or sold to very low-income persons or that a minimum of 50 percent of the completed housing units are rented or sold to low-income *households* or farmworker households.

(7)~~(6)~~ "Farmworker" means any laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derives at least 50 percent of his income in the immediately preceding 12 months from such employment. "Farmworker" also includes a person who has retired as a laborer due to age, disability, or illness. In order to be considered retired as a farmworker due to age under this part, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a farmworker prior to retirement. In order to be considered retired as a farmworker due to disability or illness, it must be:

(a) ~~Medically~~ Established *medically* that a person is unable to be employed as a farmworker due to *that* ~~such~~ disability or illness; and

(b) Established that he had previously met the definition of a farmworker.

(8)~~(7)~~ "Fund" means the Housing Predevelopment Trust Fund.

(9)~~(8)~~ "Local government" means any county, municipality, or other political subdivision.

(10)~~(9)~~ "Low-income persons" means one or more natural persons or a family, not including students, whose total annual household income does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(11)~~(10)~~ "Real property" means land, buildings, fixtures, and all other improvements to the land.

(12)~~(11)~~ "Secretary" means the secretary of the Department of Community Affairs.

(13)~~(12)~~ "Sponsor" means a unit of local government, a housing authority as established pursuant to chapter 421, ~~or~~ a not-for-profit organization, *or a limited partnership if its general partner is a not-for-profit organization* which makes application and is awarded predevelopment expenses from the fund.

(14)~~(13)~~ "Student" means any person not living with *that person's* ~~his or her~~ parent or guardian who is eligible to be claimed by *that person's* ~~his or her~~ parent or guardian as a dependent under the Federal Income Tax Code and who is enrolled on at least a half-time basis in a secondary school, vocational-technical center, community college, college or university. *The term does not include a person participating in an educational or training program approved by the agency.*

(15)~~(14)~~ "Target population" means farmworkers, very low-income persons and families, and low-income persons and families.

(16)~~(15)~~ "Very low-income persons" means one or more natural persons or a family, not including students, whose total annual household income does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater. *"Very low-income persons" also means, in projects for which the sponsor intends to use the federal low-income housing tax credit, persons or households having incomes that meet the eligibility requirements of s. 42 of the Internal Revenue Code of 1986, as amended.*

Section 13. Subsection (1) of section 420.307, Florida Statutes, is amended to read:

420.307 Housing Predevelopment Trust Fund.—

(1) There is established in the State Treasury a separate trust fund to be named the "Housing Predevelopment Trust Fund" which shall be administered by the *agency* ~~Department of Community Affairs~~ according to the provisions of this part. There shall be deposited into the fund all moneys appropriated by the Legislature, or moneys received from any other source, for the purpose of this part and all proceeds derived from the use of such moneys. Administrative and personnel costs incurred in implementing the provisions of this part may be paid from the fund. *If a loan commitment for program funds is entered into during the state fiscal year for which the program funds were appropriated, the funds shall continue to be made available for use during the entire predevelopment period, even if it extends beyond the fiscal year in which the loan commitment was entered. The budget amendment process created in s. 216.181 shall be used to make funds available throughout the predevelopment period.*

Section 14. Section 420.308, Florida Statutes, is amended to read:

420.308 Loans and grants authorized; activities eligible for support.—

(1) The *agency* ~~department~~ is authorized to *underwrite and* make loans and grants from the fund to eligible sponsors when it determines that:

(a) A need for housing for the target population exists in the area described in the application; and

(b) Federal, state, or local public funds or private funds are available or likely to be available to aid in the site acquisition, site development, construction, rehabilitation, maintenance, or support of the housing proposed in the application.

(2) The *agency* ~~department~~ shall not award a grant or loan to a sponsor *that is unable to demonstrate the ability to proceed as verified by a qualified development team* ~~whose staff and board members have not participated in the training and technical assistance program pursuant to s. 420.606. If such training is unnecessary due to the sponsor's prior experience in the development of housing, documentation shall be made available to the department verifying such experience.~~

(3) The *agency* ~~department~~ shall establish rules for the equitable distribution of the funds *in a manner that meets the need and demand for housing for the target population. However,* during the first 6 months of fund availability, at least 40 percent of the total funds made available under this program *shall* ~~must~~ be reserved for sponsors of farmworker housing.

(4) The activities of sponsors which are eligible for housing predevelopment loans shall include, but not be limited to:

(a) Site acquisition.

(b) Site development.

(c) Fees for requisite services from architects, engineers, surveyors, attorneys, and other professionals.

(d) Marketing expenses relating to advertisement.

(5) The activities of sponsors which are eligible for housing predevelopment grants shall include, but not be limited to:

(a) Administrative expenses.

(b) Market and feasibility studies.

(c) Consulting fees.

~~(d) Initial operating expenses.~~

~~(e) Development activities.~~

(6) Any funds paid out of the Housing Predevelopment Trust Fund for activities under this part which are reimbursed to the sponsor from another source shall be repaid to the fund.

(7) Sponsors receiving loans for professional fees may receive forgiveness of such loans if it is determined that the proposed project would not be feasible for housing for the target population.

(8) Terms and conditions of housing predevelopment loan agreements shall be established by rule and shall include:

(a) Provision for interest, which shall be set at 3 percent per year.

(b) Provision *of* ~~for~~ a schedule for the repayment of principal and interest *for* ~~with~~ a term not to exceed 3 years *or initiation of permanent financing, whichever event occurs first.* However, the *agency may* ~~secretary is authorized to~~ extend the term of a loan for an additional period not to exceed 1 year *if* ~~when~~ extraordinary circumstances exist and *if* ~~when~~ such extension would not jeopardize the *agency's* ~~department's~~ security interest.

(c) Provision *of* ~~for~~ reasonable security for the housing predevelopment loan to ensure the repayment of the principal and any interest accrued within the term specified. Reasonable security shall be a promissory note secured by:

~~1.~~ a ~~first or second~~ mortgage from the sponsor on the property to be purchased, improved, or purchased and improved *with* ~~from~~ the proceeds of the housing predevelopment loan *or other collateral acceptable to the agency.*~~; or~~

~~2. The department is authorized to ensure that the value of the land will adequately secure the loan by contracting for appraisal services with one or more appraisers in the state who possess M.A.I., S.R.A., S.R.P.A., or S.R.E.A. designation.~~

(d) Provisions to ensure that the land acquired will be *used* ~~utilized~~ for the development of housing and related services for the target population.

(e) Provisions to ensure, to the extent possible, that any accrued savings in cost due to the availability of these funds will be passed on to the target population in the form of lower land prices. The *agency* ~~department~~ shall ensure that such savings in land prices shall be passed on in the form of lower prices or rents for dwellings constructed on such land.

(f) Provisions to ensure that any land acquired through assistance under this part for housing for the target population shall not be disposed of or alienated in a manner that violates Title VII of the 1968 Civil Rights Act, which specifically prohibits discrimination based on race, sex, color, religion, or national origin *or that violates other applicable federal or state laws.*

(9) No predevelopment loan made under this section shall exceed the lesser of:

(a) The development and acquisition costs for the project, as determined by rule of the *agency* ~~department~~; or

(b) Five hundred thousand dollars.

(10) Any real property or any portion thereof purchased or developed under this part may be disposed of by the eligible sponsor upon the terms and conditions established by rule of the *agency* ~~department~~ and consistent with this part, at a price not to exceed the actual prorated land costs, development costs, accrued taxes, and interest.

Section 15. Section 420.309, Florida Statutes, is amended to read:

420.309 Application procedure.—

(1) Applications shall be submitted to the *agency* ~~department~~ in a form which it establishes by rule. ~~To be considered, an application must meet the requirements of this part and:~~

~~(a) Indicate that the sponsor meets all requirements of the proposed financial institutions providing construction and permanent financing.~~

~~(b) Be accompanied by a resolution of the governing board of the sponsor authorizing the application.~~

~~(c) Contain such other information or material required by the rules of the department.~~

(2) Applications which propose linkage of predevelopment funds with *other financing offered through the agency shall* ~~the State Apartment Incentive Loan Program administered by the Florida Housing Finance Agency will~~ receive preference in funding.

(3) The agency shall publish a notice of fund availability in a publication of general circulation throughout the state. Such notice shall be published at least 60 days before the application deadline.

(4) By rule, the agency shall establish a review committee composed of representatives of the department and of the agency and a scoring system for evaluating and ranking applications. The agency board shall make the final ranking and shall decide which applicants become program participants based on the scores received in the ranking, further review of applications, and the recommendations of the review committee. The agency board shall approve or reject applications for loans and grants and shall determine the tentative loan or grant amount available to each program participant. The actual loan or grant amount shall be determined pursuant to rule specifying credit underwriting procedures.

(5) The criteria to be used to score applications shall include, but are not limited to, the following:

(a) Income target objectives of the agency.

(b) Sponsor's agreement to reserve more than the minimum number of units for low-income households and very low-income households.

(c) Projects requiring the least amount of predevelopment funds compared to total predevelopment costs.

(d) Sponsor's prior experience.

(e) Commitments of other financing.

(f) Sponsor's ability to proceed.

(g) Project's consistency with the local government comprehensive plan.

Section 16. Section 420.31, Florida Statutes, is amended to read:

420.31 Rules; annual reports.—

(1) The *agency may* ~~department is authorized to~~ adopt rules necessary to implement this part and to further specify the purposes for which loan and grant funds may be expended, the required content of applications, the procedure for evaluating and competitively ranking all applications, and reporting requirements for sponsors awarded funds under this part.

(2) *The agency shall submit, within the annual report required by s. 420.511, a summary of* ~~The secretary shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, beginning in 1989, an annual report summarizing~~ loans and grants made, loan and grant recipients, loan commitments received by sponsors, persons or families housed, projects initiated and completed, and the balance on all loans outstanding at the end of each fiscal year.

Section 17. Section 420.32, Florida Statutes, is amended to read:

420.32 Default by sponsor~~; power of the secretary~~.—

~~(1)~~ *If a* ~~In the event of~~ default on a loan *occurs*, the *agency may* ~~secretary, on behalf of the state, is empowered to~~ foreclose on any mortgage or security interest or commence any legal action ~~necessary~~ to protect the interest of the *agency or the fund* ~~state~~ and recover the amount of the unpaid principal, accrued interest, and fees on behalf of the fund.

~~(2)~~ The *agency may also* ~~secretary is empowered to~~ acquire real and personal property or any interest *in the property if* ~~therein when~~ such acquisition is necessary or appropriate to protect any loan; to sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270; and, *if* ~~in the event that~~ such sale, transfer, or conveyance cannot be effected *within a reasonable time* ~~with reasonable promptness or at a reasonable price~~, to lease such property for occupancy by *eligible persons* ~~members of the target population~~. *All sums recovered from the sale, transfer, conveyance, or lease of such property shall be deposited into the Housing Predevelopment Trust Fund.*

~~(3) If the secretary and sponsor jointly determine that, because of a change in the characteristics of the parcel acquired or because of a change in federal, state, or local programs, it is not possible for the land to be developed for housing for the target population, the land shall be sold in accordance with the conveyance procedures for state lands as provided in chapters 253 and 270, with all net proceeds to be deposited in the fund.~~

Section 18. Section 420.36, Florida Statutes, is created to read:

420.36 Low-income Emergency Home Repair Program.—There is established within the Department of Community Affairs the Low-income Emergency Home Repair Program to assist low-income persons, especially the elderly and physically disabled, in making emergency repairs which directly affect their health and safety.

(1) As used in this section, the term:

(a) "Grantee" means a local public or private nonprofit agency currently receiving funds from the department to conduct a weatherization assistance program in one or more counties or a public or nonprofit agency chosen as outlined in subparagraph (4)(c)4.

(b) "Subgrantee" means a local public or private nonprofit agency experienced in weatherization, emergency repairs, or rehabilitation of housing.

(2) A person is eligible to receive assistance if that person has an income in relation to that person's family size which is at or below 125 percent of the poverty level as specified annually in the federal Office of Management and Budget Poverty Guidelines. Eligible persons over 60 years of age and eligible persons who are physically disabled shall be given priority in the program.

(3)(a) Allowable repairs, including materials and labor, which may be charged under the program include:

1. Correcting deficiencies in support beams, load-bearing walls, and floor joists.

2. Repair or replacement of unsafe or nonfunctional space heating or water heating systems.

3. Egress or physically disabled accessibility repairs, improvements, or assistive devices, including wheelchair ramps, steps, porches, handrails, or other health and safety measures.

4. Plumbing, pump, well, and line repairs to ensure safe drinking water and sanitary sewage.

5. Electrical repairs.

6. Repairs to deteriorating walls, floors, and roofs.

7. Other interior and exterior repairs as necessary for the health and safety of the resident.

(b) Administrative expenses may not exceed 10 percent of the total grant funds.

(c) Each grantee shall be required to provide an in-kind or cash match of at least 20 percent of the funds granted. Grantees and subgrantees shall be encouraged to use community resources to provide such match, including family, church, and neighborhood volunteers and mate-

rials provided by local groups and businesses. Grantees shall coordinate with local governments through their community development block grant entitlement programs and other housing programs, local housing partnerships, and agencies under contract to a lead agency for the provisions of services under the Community Care for the Elderly Act, ss. 410.021-410.029.

(4)(a) Funds appropriated to the department for the program shall be deposited in the Economic Opportunity Trust Fund. Administrative and personnel costs incurred by the department in implementing the provisions of this section may be paid from the fund.

(b) The grantee may subgrant these funds to a subgrantee if the grantee is unable to serve all of the county or the target population. Grantee and subgrantee eligibility shall be determined by the department.

(c) Funds shall be distributed to grantees and subgrantees as follows:

1. For each county, a base amount of at least $3,000 shall be set aside from the total funds available, and such amount shall be deducted from the total amount appropriated by the Legislature.

2. The balance of the funds appropriated by the Legislature shall be divided by the total poverty population of the state, and this quotient shall be multiplied by each county's share of the poverty population. That amount plus the base of at least $3,000 shall constitute each county's share. A grantee which serves more than one county shall receive the base amount plus the poverty population share for each county to be served. Contracts with grantees may be renewed annually.

3. The funds allocated to each county shall be offered first to an existing weatherization assistance program grantee in good standing, as determined by the department, that can provide services to the target population of low-income persons, low-income elderly persons, and low-income physically disabled persons throughout the county.

4. If a weatherization assistance program grantee is not available to serve the entire county area, the funds shall be distributed through the following process:

a. An announcement of funding availability shall be provided to the county. The county may elect to administer the program.

b. If the county elects not to administer the program, the department shall establish rules to address the selection of one or more public or private not-for-profit agencies that are experienced in weatherization, rehabilitation, or emergency repair to administer the program.

5. If no eligible agency agrees to serve a county, the funds for that county shall be distributed to grantees having the best performance record as determined by department rule. At the end of the contract year, any uncontracted or unexpended funds shall be returned to the Economic Opportunity Trust Fund and reallocated under the next year's contracting cycle.

(5) The department may perform all actions appropriate and necessary to carry out the purposes of this section, including, but not limited to:

(a) Entering into contracts and agreements with the Federal Government, agencies of the state, local governments, or any person, association, corporation, or entity.

(b) Seeking and accepting funding from any public or private source.

(c) Adopting and enforcing rules consistent with this section.

Section 19. Section 420.37, Florida Statutes, is created to read:

420.37 Additional powers of the agency.—The agency shall have all powers necessary or convenient to carry out and effectuate the purposes of this part, including the power to provide for the collection and payment of fees and charges, regardless of method of payment, including, but not limited to, reimbursement of costs of financing by the agency, credit underwriting fees, servicing charges, and insurance premiums determined by the agency to be reasonable and as approved by the agency. The fees and charges may be paid directly by the borrower to the insurer, lender, or servicing agent or may be deducted from the payments collected by such insurer, lender, or servicing agent.

Section 20. Section 420.503, Florida Statutes, as amended by section 309 of chapter 92-279, Laws of Florida, is amended to read:

420.503 Definitions.—As used in this part, the *term* ~~following words and terms have the following meanings unless the context indicates another or different meaning or intent~~:

(1) "Affordable housing debt" means debt issued by or loans made to the agency, counties, municipalities, or other public agencies of this state or not-for-profit corporations or for-profit corporations for the purpose of providing affordable housing to residents of the state.

(2)~~(1)~~ "Agency" means the Florida Housing Finance Agency created pursuant to this part.

(3)~~(20)~~ "Authorized investments" means ~~and includes~~ any of the following securities:

(a) Direct obligations of, or obligations guaranteed by, the United States of America.

(b) Bonds, debentures, notes, or other evidences of indebtedness issued by any of the following: Bank for Cooperatives; federal intermediate credit banks; federal home loan banks; Export-Import Bank of the United States; federal land banks; Federal National Mortgage Association; Government National Mortgage Association; Federal Financing Bank; Small Business Administration; or any other agency or instrumentality of the United States of America, created by an Act of Congress, substantially similar to the foregoing in its legal relationship to the United States of America.

(c) Public housing bonds issued by public housing agencies and fully secured as to the payment of both principal and interest by a pledge of annual contributions under an annual contributions contract or contracts with the United States of America, and temporary notes, preliminary loan notes, or project notes issued by public housing agencies, in each case fully secured as to the payment of both principal and interest by a requisition or payment agreement with the United States of America.

(d) Interest-bearing time or demand deposits, certificates of deposit, or other similar banking arrangements with any bank, trust company, national banking association, or other depository institution, including any trustee or other fiduciary with respect to the bonds of the agency, provided:

1. The deposits, certificates, and other arrangements are insured to the satisfaction of the agency by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

2. The depository institution has combined capital and surplus of at least $10 million and the deposits, certificates, and other arrangements are fully secured by obligations described in paragraphs (a) through (c), inclusive, or a combination thereof; or

3. The depository institution has combined capital and surplus of at least $25 million.

(e) Contracts for the purchase and sale of obligations described in paragraphs (a) and (b), provided that if the parties with which the contracts are made are not members of the Federal Reserve System or if the parties, including members of the Federal Reserve System, are not required to set aside and otherwise identify, to the satisfaction of the agency, obligations described in paragraph (a) or paragraph (b) to such contracts as security or reserve therefor in an amount at least equal to the face value of each contract, the obligations shall be delivered to and held by a trustee or other fiduciary with respect to the bonds of the agency during the term of the contracts.

(4)~~(3)~~ *"Bond"* ~~"Bonds"~~ means any *bond* ~~bonds~~, *debenture* ~~debentures~~, *note* ~~notes~~, or other *evidence* ~~evidences~~ of financial indebtedness issued on behalf of the agency under and pursuant to this act.

(5) "Commercial fishing worker" means a laborer who is employed on a seasonal, temporary, or permanent basis in fishing in saltwater or freshwater and who derives at least 50 percent of his income in the immediately preceding 12 months from such employment. The term includes a person who has retired as a laborer due to age, disability, or illness. In order to be considered retired due to age, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a commercial fishing worker. In order to be considered retired due to disability or illness, a person must:

(a) Establish medically that he is unable to be employed as a commercial fishing worker due to that disability or illness; and

(b) Establish that he was previously employed as a commercial fishing worker.

(6) "Community-based organization" means a private corporation organized under chapter 617 to assist in the provision of housing-related services on a not-for-profit basis within a designated area, which may include a municipality, a county, or more than one municipality or county.

(7) "Community housing development organization" means a nonprofit organization that has among its purposes the provision of affordable housing for low-income families and moderate-income families, maintains accountability to low-income community residents, has demonstrated the capacity to carry out affordable housing activities, and has a history of serving the local community.

(8)~~(23)~~ "Department" means the Department of Community Affairs.

(9)~~(4)~~ "Development costs" means the sum total of all costs incurred in the development of a project which are approved by the agency as reasonable and necessary. Such costs may include, but are not limited to:

(a) The cost of acquiring real property and any buildings thereon, including payments for options, deposits, or contracts to purchase properties.

(b) The cost of site preparation, demolition, and development.

(c) Any expenses relating to the issuance of the bonds of the agency.

(d) Fees in connection with the planning, execution, and financing of the project, such as those of architects, engineers, attorneys, accountants, and the agency.

(e) The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction, rehabilitation, or reconstruction of the project.

(f) The cost of the construction, rehabilitation, and equipping of the project.

(g) The cost of land improvements, such as landscaping and offsite improvements, whether such costs are paid in cash, property, or services.

(h) Expenses in connection with initial occupancy of the project.

(i) A reasonable profit-and-risk fee in addition to job overhead to the general contractor and, if applicable, the sponsor.

(j) Allowances established by the agency for working capital, contingency reserves, and reserves for any anticipated operating deficits during the first 2 years after completion of the project.

(k) The cost of such other items, including relocation costs, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for the agency's bonds, as the agency shall determine to be reasonable and necessary for the development of the project.

(10)~~(18)~~ "Division" means the Division of Bond Finance of the State Board of Administration created by and referred to in the State Bond Act.

(11)~~(22)~~ "Elderly" *means* ~~describes~~ persons 62 years of age or older.

(12) "Eligible housing provider" means a for-profit developer or not-for-profit developer or a community housing development organization having demonstrated the capacity to construct or rehabilitate affordable housing.

(13)~~(5)~~ "Eligible persons" means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the agency pursuant to a rule to be of low, moderate, or middle income. Such determination shall not preclude any person or family earning up to 150 percent of the state or county median family income from participating in programs. Persons 62 years of age or older shall be defined as eligible persons regardless of income. In determining the income standards of eligible persons for its various programs, the agency may take into account the following factors:

(a) Requirements mandated by federal law.

(b) Variations in circumstances in the different areas of the state.

(c) Whether the determination is for rental housing or homeownership purposes.

(d) The need for family size adjustments to accomplish the purposes set forth in this act.

(14)~~(6)~~ "Energy audit" means an evaluation of energy-saving measures in which the estimates of costs and savings are based on an onsite inspection of the residence of an eligible customer by an auditor qualified pursuant to s. 366.82.

(15)~~(7)~~ "Energy conservation loan" means a loan made pursuant to s. 366.82(3).

(16) "Farmworker" means a laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derived at least 50 percent of his income in the immediately preceding 12 months from such employment. "Farmworker" also includes a person who has retired as a laborer due to age, disability, or illness. In order to be considered retired as a farmworker due to age under this part, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a farmworker before retirement. In order to be considered retired as a farmworker due to disability or illness, a person must:

(a) Establish medically that he is unable to be employed as a farmworker due to that disability or illness.

(b) Establish that he was previously employed as a farmworker.

(17) "Housing for the elderly" means, for purposes of s. 420.5087(3)(c)2., any nonprofit housing community that is financed by a mortgage loan made or insured by the United States Department of Housing and Urban Development under s. 202, s. 202 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the National Housing Act, as amended, and that is subject to income limitations established by the United States Department of Housing and Urban Development, or any program funded by the Farmers Home Administration and subject to income limitations established by the United States Department of Agriculture.

(18)~~(8)~~ "Lending institution" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, the Florida Housing Development Corporation, or other financial institution or governmental agency authorized to transact business in this state and which customarily provides service or otherwise aids in the financing of mortgages on real property located in the state.

(19) "Loan," for purposes of the State Apartment Incentive Loan Program and HOME Partnership Program, means any direct loan or loan guaranty issued or backed by such funds.

(20)~~(11)~~ "Local government" means a unit of local general purpose government as defined in s. 218.31(2).

(21) "Local partnership" means a formally constituted group, including representatives of local government, lenders, developers, nonprofit organizations, realtors, social service providers, and other entities in the community which are involved with the development of affordable housing.

(22)~~(9)~~ "Mortgage" means:

(a) A mortgage, mortgage deed, deed of trust, or other instrument:

1. Creating a first lien, subject only to such title exceptions as may be acceptable to the agency, on a fee interest in real property located within the state or on a leasehold on such a fee interest which has a remaining term at the time of computation that exceeds the maturity date of the mortgage loan by a number of years determined by the agency to be sufficient to protect its interests; and

2. Secured, insured, or guaranteed in such manner as the agency determines will protect its interests and those of the bondholders, pro-

vided the bonds issued to fund or finance such instrument are rated by a nationally recognized rating service in any one of the three highest classifications, which rating services and classifications are determined pursuant to rules adopted by the State Board of Administration under s. 215.84(3), unless the bonds are privately placed through a negotiated sale as authorized in s. 420.509(7)(a); or

(b) A pledge of stock in a cooperative association and a security interest in the related lease.

(23)~~(10)~~ "Mortgage loan" means a financial obligation secured by a mortgage.

(24) "Nonparticipating local jurisdiction" means a locality which is not a participating local jurisdiction.

(25) "Participating local jurisdiction" means a locality which has accrued at least $750,000 in HOME funds through the federal formula allocation process or which has supplemented its formula allocation by processes approved by the Federal Government to equal $750,000.

(26)~~(19)~~ "Pledged revenues" means revenues to be derived from the financing of residential housing, mortgages, or loan payments and any other revenues or assets that may be legally available to pay the principal of, redemption premium, if any, and interest on the bonds derived from sources other than ad valorem taxation, including revenues from other sources or any combination thereof; however, in no event shall the full faith and credit of the state be pledged to secure such revenue bonds.

(27)~~(12)~~ "Project" means any work or improvement located or to be located in the state, including real property, buildings, and any other real and personal property, designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing for four or more families, whether new construction, the acquisition of existing residential housing, or the remodeling, improvement, rehabilitation, or reconstruction of existing housing, together with such related nonhousing facilities as the agency determines to be necessary, convenient, or desirable.

(28)~~(14)~~ "Real property" means all lands, including improvements and fixtures thereon and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms of years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(29)~~(15)~~ "Residential housing" means one or more new or existing residential dwelling units located or to be located in the state, including any buildings, land, improvements, equipment, facilities, or other real or personal properties which are necessary in connection therewith, including, but not limited to, related facilities for streets, sewers, and utilities.

(30)~~(13)~~ "Sponsor" means any individual, association, corporation, joint venture, partnership, trust, local government, or other legal entity or any combination thereof which:

(a) Has been approved by the agency as qualified to own, construct, acquire, rehabilitate, reconstruct, operate, lease, manage, or maintain a project; and

(b) Except for a local government, has agreed to subject itself to the regulatory powers of the agency.

(31)~~(2)~~ "State" means the State of Florida.

(32)~~(17)~~ "State Board of Administration" means the State Board of Administration created by and referred to in s. 9, Art. XII of the State Constitution.

(33)~~(16)~~ "State Bond Act" means ss. 215.57-215.83, as the same may be amended from time to time.

(34) "State Housing Trust Fund" means the trust fund established pursuant to s. 420.0005.

(35)~~(21)~~ "Substantial rehabilitation" means repair or restoration of a dwelling unit where the value of such repair or restoration exceeds 40 percent of the value of the dwelling.

Section 21. Subsections (2), (22), and (23) of section 420.507, Florida Statutes, are amended, and subsection (25) is added to that section, to read:

420.507 Powers of the agency.—The agency shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(2) To undertake and carry out studies and analyses of housing needs within the state and ways of meeting those needs ~~upon request of the Governor pursuant to part I of this chapter~~.

(22) To develop and administer the State Apartment Incentive Loan Program ~~jointly with the department~~. In developing and administering *that* ~~said~~ program, the agency *may* ~~shall have the authority to~~:

(a) Make first, second, and other subordinated mortgage loans including variable or fixed rate loans subject to contingent interest. The agency shall make first mortgage loans available only to nonprofit organizations and public bodies which are able to secure grants, donations of land, or contributions from other sources. Mortgage loans shall be made available at the following rates of interest:

1. Zero to 3 percent interest for sponsors of projects that maintain an 80 percent occupancy of residents qualifying as farmworkers as defined in s. 420.306(6) over the life of the loan.

2. Three to 9 percent interest for sponsors of projects targeted at populations other than farmworkers.

(b) Geographically and demographically target the utilization of loans.

(c) Underwrite credit, and reject projects which do not meet the established standards of the agency.

(d) Negotiate with governing bodies within the state after a loan has been awarded to obtain local government contributions.

(e) Inspect any records of a sponsor at any time during the life of the loan or the agreed period for maintaining the provisions of s. 420.5087.

(f) ~~In consultation with the department,~~ Establish, by rule, the procedure for *evaluating, scoring, and competitively ranking all applications based on the criteria set forth in s. 420.5087(6)(c);* determining actual loan amounts~~;~~, making and servicing loans~~;~~, and exercising the powers authorized *in this subsection* ~~herein~~.

(g) Establish a loan loss insurance reserve to be used to protect the outstanding program investment in case of a default, deed in lieu of foreclosure, or foreclosure of a program loan.

(23) To develop and administer the Florida Homeownership Assistance Program. In developing and administering the program, the agency *may* ~~shall have the authority to~~:

(a)*1.* Make subordinated loans to eligible borrowers for down payments or closing costs related to the purchase of the borrower's primary residence ~~through the agency's single family mortgage revenue bond programs~~.

2. Make permanent loans to eligible borrowers related to the purchase of the borrower's primary residence.

3. Make subordinated loans to nonprofit sponsors or developers of housing for construction financing of housing to be offered for sale to eligible borrowers as a primary residence at an affordable price.

(b) Establish a loan loss insurance reserve to supplement existing sources of mortgage insurance with appropriated funds.

(c) Geographically and demographically target the utilization of loans.

(d) Defer repayment of loans for the term of the first mortgage.

(e) Establish flexible terms for loans with an interest rate not to exceed 3 percent per annum and which are nonamortizing for the term of the first mortgage.

(f) Require repayment of loans upon sale, transfer, refinancing, or rental of secured property.

(g) Accelerate a loan for monetary default, for failure to provide the benefits of the loans to eligible borrowers, or for violation of any other restriction placed upon the loan.

(h)~~(g)~~ *Adopt* ~~Promulgate~~ rules for the program and exercise the powers authorized *in this subsection* ~~herein~~.

(25) To develop and administer the Florida Affordable Housing Guarantee Program. In developing and administering the program, the agency may:

(a) Develop criteria for determining the priority for expending the moneys in the State Housing Trust Fund.

(b) Select affordable housing debt to be guaranteed or additionally secured by amounts on deposit in the Affordable Housing Trust Fund.

(c) Adopt rules for the program and exercise the powers authorized in this subsection.

Section 22. Section 420.5087, Florida Statutes, is amended to read:

420.5087 State Apartment Incentive Loan Program.—There is hereby created the State Apartment Incentive Loan Program for the purpose of providing first, second, or other subordinated mortgage loans *or loan guarantees* to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very low-income persons.

(1) ~~It is the legislative intent that~~ Program funds *shall* be distributed ~~as follows~~ over *successive* ~~a~~ 3-year *periods in a manner that meets the need and demand for very low-income housing throughout the state. That need and demand must be determined by using the most recent statewide low-income rental housing market studies available at the beginning of each 3-year period. However, at least 10-percent of the program funds distributed during a 3-year period must be allocated to each of the following categories of counties, as determined by using* ~~period utilizing~~ the population statistics ~~as~~ published in the most recent edition of the Florida Statistical Abstract:

(a) ~~Fifty percent of the program funds shall be distributed to~~ Counties *that have* ~~where the largest city has~~ a population of more than *500,000* ~~150,000~~ people;

(b) ~~Thirty five percent of the program funds shall be distributed to~~ Counties *that have* ~~where the largest city has~~ a population between *100,000* ~~25,000~~ and *500,000* ~~150,000~~ people; and

(c) ~~Fifteen percent of the program funds shall be distributed to~~ Counties *that have* ~~where the largest city has~~ a population *of 100,000 or* less ~~than 25,000 people~~.

Any increase in funding required to reach the 10-percent minimum shall be taken from the county category that has the largest allocation.

(2) The agency shall have the power to underwrite and make state apartment incentive loans *or loan guarantees* to sponsors, provided:

(a) The sponsor uses tax-exempt financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes which meet the income eligibility requirements of s. 8 of the United States Housing Act of 1937, as amended;

(b) The sponsor uses taxable financing for the first mortgage and at least 20 percent of the units in the project are set aside for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, which shall be adjusted by the agency for family size; or

(c) The sponsor uses the federal low-income housing tax credit and the project meets the tenant income eligibility requirements of section 42 of the Internal Revenue Code of 1986, as amended.

This subsection does not prohibit a tenant from qualifying under the income eligibility criteria of paragraph (a), paragraph (b), or paragraph (c) due to the tenant's participation in a job training program approved by the agency. Compliance with the provisions of this subsection must be contractually provided for the term of the loan or 12 years, whichever is longer; however, ~~the provisions of~~ this subsection *does* ~~shall~~ not apply to loans made to housing communities for the elderly to provide for life-safety, building preservation, health, sanitation, or security-related repairs or improvements. Such loans shall be subject to tenant income criteria established by agency rule.

(3) During the first 6 months of loan *or loan guarantee* availability, *program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for tenants in the three tenant groups designated in this subsection. The reservation of funds to each of these groups shall be determined using the most recent statewide very low-income rental housing market study available at the time of publication of each notice of fund availability required by paragraph (6)(b). The reservation of funds within each notice of fund availability to the three tenant groups designated in this subsection may not be less than 10 percent of the funds available at that time. Any increase in funding required to reach the 10-percent minimum shall be taken from the tenant group that has the largest reservation. The three tenant groups are:*

(a) *Commercial fishing workers and* ~~Ten percent of the program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for~~ farmworkers;

(b) ~~Forty-five percent of the program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for~~ Families; and

(c)1. ~~Forty-five percent of the program funds shall be reserved for use by sponsors who provide the housing set-aside required in subsection (2) for~~ Elderly persons.

2. Ten percent of the amount reserved pursuant to subparagraph 1. shall be reserved to provide loans to sponsors of housing for the elderly, as defined in *s. 420.503* ~~s. 420.904~~, for the purpose of making life-safety, building preservation, health, sanitation, or security-related repairs or improvements to such housing which are required by federal, state, or local regulation. A loan for a life-safety, building preservation, health, sanitation, or security-related repair or improvement may not exceed $100,000 per housing community for the elderly. In order to receive the loan, the sponsor of the housing community for the elderly must make a commitment to match at least 25 percent of the loan amount to pay the cost of such repair or improvement. The agency shall establish the rate of interest on the loan, which may not exceed 3 percent, and the term of the loan, which may not exceed 10 years. The term of the loan shall be established on the basis of a credit analysis of the applicant. The agency shall establish, by rule, the procedure and criteria for receiving, evaluating, and competitively ranking all applications for loans under this subparagraph. A loan application must include evidence of the *first* mortgagee's having reviewed and approved the sponsor's intent to apply for a loan. A nonprofit organization or sponsor may not use the proceeds of a loan received pursuant to this subparagraph to pay for administrative costs, routine maintenance, or new construction.

(4) Loans shall be in an amount not to exceed the lesser of 25 percent of the total project cost or the minimum amount required to make the project economically feasible; however, sponsors eligible for first mortgage loans or sponsors of projects eligible for zero to 3 percent interest loans shall be eligible for loans in excess of 25 percent of project cost.

(5) The amount of the mortgage provided under this program combined with any other mortgage in a superior position shall be less than the value of the project without the housing set-aside required by subsection (2).

(6) On all state apartment incentive loans, except loans made to housing communities for the elderly to provide for life-safety, building preservation, health, sanitation, or security-related repairs or improvements, the following provisions shall apply:

(a) The agency shall establish two interest rates in accordance with s. 420.507(22)(a)1. and 2.

(b) The *agency* ~~department~~ shall publish a notice of fund availability in a publication of general circulation throughout the state. Such notice shall be published at least 60 days prior to the application deadline ~~date~~ and shall provide notice of the temporary reservations of funds established in subsection (3).

(c) In consultation with the *department* ~~agency~~, the *agency* ~~department~~ shall provide by rule for ~~the exercise of the powers authorized herein and for~~ the establishment of a review committee composed of ~~representatives of the~~ department and agency staff and shall establish by rule a scoring system for evaluation and competitive ranking of applications submitted in this program, including, but not limited to, the following criteria:

1. Tenant income and demographic targeting objectives of the agency.

2. Targeting objectives of the agency which will ensure an equitable distribution of loans between rural and urban areas.

3. Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period to exceed the minimum required by federal law or the provisions of this part.

4. Sponsor's agreement to reserve more than:

a. Twenty ~~20~~ percent of the units in the project for persons or families who have incomes *that do not exceed* ~~below~~ 50 percent of the state or local median income, whichever is higher; *or*

(b) Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.

5. Provision for tenant counseling.

6. Sponsor's agreement to accept rental assistance certificates or vouchers as payment for rent; however, when certificates or vouchers are accepted as payment for rent on units *set aside* ~~set-aside~~ pursuant to subsection (2), the benefit must be divided between the agency and the sponsor, as provided by agency rule.

7. Projects requiring the least amount of a state apartment incentive loan compared to overall project cost.

8. Local government contributions and local government comprehensive planning and activities that promote affordable housing.

9. Project feasibility.

10. Economic viability of the project.

11. Commitment of first mortgage financing.

12. Sponsor's prior experience.

13. Sponsor's ability to proceed with construction.

(d) The ~~department and~~ agency *may* ~~shall have the authority to~~ reject any and all applications.

(e) The *agency may* ~~department shall have the authority to~~ approve and reject applications for the purpose of achieving geographic targeting.

(f) The review committee established by *agency* ~~department~~ rule pursuant to this subsection shall make recommendations to the Housing Finance Agency Board regarding program participation under the State Apartment Incentive Loan Program. The agency board shall make the final ranking and the decisions regarding which applicants shall become program participants based on the scores received in the competitive ranking, further review of applications, and the recommendations of the review committee. The agency board shall approve or reject applications for loans and shall determine the tentative loan amount available to each applicant selected for participation in the program. The actual loan amount shall be determined pursuant to rule adopted pursuant to s. 420.507(22)(f).

(g) The loan term shall be for a period of not more than 15 years; however, *if both a program loan and federal low-income housing tax credits are to be used to assist a project, the agency may set the loan term for a period commensurate with the investment requirements associated with the tax credit syndication.* The agency may renegotiate and extend the loan in order to extend the availability of housing for the targeted population. *The term of a loan may not extend beyond the period for which the sponsor agrees to provide the housing set-aside required by subsection (2).*

(h) The loan shall be subject to sale, transfer, or refinancing. However, all requirements and conditions of the loan shall remain following sale, transfer, or refinancing.

(i) The discrimination provisions of s. 420.516 shall apply to all loans.

(j) The agency may require units dedicated for the elderly.

(k) Rent controls shall not be allowed on any project except as required in conjunction with the issuance of tax-exempt bonds or federal low-income housing tax credits.

(l) The proceeds of all loans shall be used for new construction or substantial rehabilitation which creates affordable, safe, and sanitary housing units.

(m) Sponsors shall annually certify the adjusted gross income of all persons or families qualified under ~~the provisions of~~ subsection (2) at the time of initial occupancy, who are residing in a project funded by this program. All persons or families qualified under ~~the provisions of~~ subsection (2) may continue to qualify under ~~the provisions of~~ subsection (2) in a project funded by this program if the adjusted gross income of *those* ~~said~~ persons or families at the time of annual recertification meets the requirements established in s. 142(d)(3)(B) of the Internal Revenue Code of 1986, as amended. *If* ~~Should~~ the annual recertification of persons or families qualifying under ~~the provisions of~~ subsection (2) *results* ~~result~~ in noncompliance with income occupancy requirements, the next available unit must be rented to a person or family qualifying under ~~the provisions of~~ subsection (2) in order to ensure continuing compliance of the project.

(n) Upon submission and approval of a marketing plan which demonstrates a good faith effort of a sponsor to rent a unit or units to persons or families reserved under ~~the provisions of~~ subsection (3) and qualified under ~~the provisions of~~ subsection (2), the sponsor may rent such unit or units to any person or family qualified under ~~the provisions of~~ subsection (2) notwithstanding the reservation.

(o) Sponsors *may* ~~shall have the authority to~~ participate in federal mortgage insurance programs and *must* ~~shall~~ abide by the requirements of *those* ~~such~~ programs. *If* ~~When~~ a conflict occurs between the requirements of federal mortgage insurance programs and the requirements of this section, the requirements of federal mortgage insurance programs shall take precedence.

(7) There is established in the State Treasury a separate trust fund to be named the "State Apartment Incentive Loan Trust Fund," which shall be administered by the agency according to the provisions of this program. There shall be deposited into the fund moneys from the State Housing Trust Fund as created by s. 420.0005, or moneys received from any other source, for the purpose of this program and all proceeds derived from the use of such moneys. In addition, all loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the activities conducted under the provisions of the State Apartment Incentive Loan Program shall be deposited in the fund and shall not revert to the General Revenue Fund. If a loan commitment for program funds is entered into during the state fiscal year for which the program funds were appropriated, the funds shall continue to be made available for use during the entire construction period, even if it extends beyond the fiscal year in which the loan commitment was entered. The budget amendment process created in s. 216.181 shall be used to make funds available throughout the construction period.

(8) *If a* ~~In the event of~~ default on a loan *occurs*, the agency *may* ~~is empowered to~~ foreclose on any mortgage or security interest or commence any legal action to protect the interest of the agency or the fund and recover the amount of the unpaid principal, accrued interest, and fees on behalf of the fund. The agency *may* ~~is further empowered to~~ acquire real and personal property or any interest therein when *that* ~~such~~ acquisition is necessary or appropriate to protect any loan; to sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270; and, *if* ~~in the event~~ that ~~such~~ sale, transfer, or conveyance cannot be effected within a reasonable time, to lease such property for occupancy by eligible persons. All sums recovered from the sale, transfer, conveyance, or lease of such property shall be deposited into the State Apartment Incentive Loan Trust Fund. *The budget amendment process created in s. 216.181 shall be used to make funds available for the loan loss insurance reserve authorized in s. 420.507.*

Section 23. Section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program.—There is created the Florida Homeownership Assistance Program for the purpose of assisting low-income persons in purchasing a home *by reducing the cost of the home with below-market construction financing,* by reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly

payment to an affordable amount for the purchaser. *Loans shall be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold or transferred.* ~~The agency shall have the authority to provide by rule for preference to assisting low income persons purchasing a home by reducing the amount of down payment and closing costs.~~

(1) *For loans made available pursuant to s. 420.507(23)(a)1. or 2.:*

(a) The agency *may* ~~shall have the power to~~ underwrite and make *those* mortgage loans through the program to persons or families who are eligible to participate in the agency's single-family mortgage revenue bond programs and who have *incomes that do not exceed* ~~an income of less than~~ 80 percent of the state or local median income, whichever is greater, *adjusted for family size. If the agency determines that there is insufficient demand for such loans by persons or families who are eligible to participate in the agency's single-family mortgage revenue bond programs, the agency may make such mortgage loans to other persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater.* ~~No more than one-fifth of the funds available in the Florida Homeownership Assistance Trust Fund shall be made available to provide loan loss insurance reserve funds to facilitate homeownership for any person or family whose income is below 120 percent of the state or local median income, whichever is higher.~~

~~(2) On all Florida homeownership assistance loans the following provisions shall apply:~~

~~(a) Loans shall be made available at an interest rate not to exceed 3 percent.~~

(b) Loans shall be made available for the term of the first mortgage.

(c) Loans are limited to the lesser of 25 percent of the purchase price of the home or the amount necessary to enable the purchaser to meet credit underwriting criteria.

~~(d) The balance of the loans shall be due at closing in the event of the sale or transfer of the property.~~

(2) For loans made pursuant to s. 420.507(23)(a)3.:

(a) Availability is be limited to nonprofit sponsors or developers who are selected for program participation pursuant to this subsection.

(b) Preference must be given to community development corporations as defined in s. 290.033 and to community-based organizations as defined in s. 420.503.

(c) Priority must be given to projects that have received state assistance in funding project predevelopment costs.

(d) The benefits of making such loans shall be contractually provided to the persons or families purchasing homes financed under this subsection.

(e) At least 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater, adjusted for family size; and at least another 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who have incomes that do not exceed 50 percent of the state or local median income, whichever amount is greater, adjusted for family size.

(f) The maximum loan amount may not exceed 33 percent of the total project cost.

(g) A person who purchases a home in a project financed under this subsection is eligible for a loan authorized by s. 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the construction loan made pursuant to this subsection. The home purchaser must meet all the requirements for loan recipients established pursuant to the applicable loan program.

(h) The agency shall provide, by rule, for the establishment of a review committee composed of department and agency staff and shall establish, by rule, a scoring system for evaluating and ranking applications submitted for construction loans under this subsection, including, but not limited to, the following criteria:

1. The affordability of the housing proposed to be built.

2. The direct benefits of the assistance to the persons who will reside in the proposed housing.

3. The demonstrated capacity of the applicant to carry out the proposal, including the experience of the development team.

4. The economic feasibility of the proposal.

5. The extent to which the applicant demonstrates potential cost savings by combining the benefits of different governmental programs and private initiatives, including the local government contributions and local government comprehensive planning and activities that promote affordable housing.

6. The use of the least amount of program loan funds compared to overall project cost.

7. The provision of homeownership counseling.

8. The applicant's agreement to exceed the requirements of paragraph (e).

9. The commitment of first mortgage financing for the balance of the construction loan and for the permanent loans to the purchasers of the housing.

10. The applicant's ability to proceed with construction.

11. The targeting objectives of the agency which will ensure an equitable distribution of loans between rural and urban areas.

12. The extent to which the proposal will further the purposes of this program.

(i) The agency may reject any and all applications.

(j) The review committee established by agency rule pursuant to this subsection shall make recommendations to the agency board regarding program participation under this subsection. The agency board shall make the final ranking for participation based on the scores received in the ranking, further review of the applications, and the recommendations of the review committee. The agency board shall approve or reject applicants for loans and shall determine the tentative loan amount available to each program participant. The final loan amount shall be determined pursuant to rule adopted under to s. 420.507(23)(h).

(3) The agency shall publish a notice of fund availability in a publication of general circulation throughout the state at least 60 days prior to the anticipated availability of funds.

(4) During the first 9 months of each fiscal year:

(a) Sixty percent of the program funds shall be reserved for use by borrowers pursuant to s. 420.507(23)(a)1.;

(b) Twenty percent of the program funds shall be reserved for use by borrowers pursuant to s. 420.507(23)(a)2.; and

(c) Twenty percent of the program funds shall be reserved for use by borrowers pursuant to s. 420.507(23)(a)3.

If the application of these percentages would cause the reservation of program funds under paragraph (a) to be less than $1 million, the reservation for paragraph (a) shall be increased to $1 million or all available funds, whichever amount is less, with the increase to be accomplished by reducing the reservation for paragraph (b) and, if necessary, paragraph (c).

(5)~~(4)~~ There is established in the State Treasury ~~a separate trust fund to be named~~ the "Florida Homeownership Assistance Trust Fund" to be administered by the agency according to the provisions of this program. There shall be deposited in the fund moneys from the State Housing Trust Fund created by s. 420.0005, or moneys received from any other source, for the purpose of this program and all proceeds derived from the use of such moneys. *In addition, all unencumbered funds, loan repayments, proceeds from the sale of any property, existing funds remaining in the Affordable Housing Demonstration Loan Program and the Affordable Housing Trust Fund, and any other proceeds that would otherwise accrue pursuant to the activities of the programs funded by the Affordable Housing Trust Fund shall be transferred to this fund.* In addition, all loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the

activities conducted under the provisions of the Florida Homeownership Assistance Program shall be deposited in the fund and shall not revert to the General Revenue Fund.

(6) No more than one-fifth of the funds available in the Florida Homeownership Assistance Trust Fund may be made available to provide loan loss insurance reserve funds to facilitate homeownership for persons or families whose incomes do not exceed 120 percent of the state median income or local median income, whichever amount is higher.

Section 24. Section 420.5089, Florida Statutes, is created to read:

420.5089 HOME Partnership Program; trust fund.—

(1) There is established in the State Treasury the HOME Partnership Trust Fund, which shall be administered by the agency according to the provisions of the HOME Partnership Program which is hereby created. There shall be deposited into the fund moneys from the State Housing Trust Fund or moneys received from any other source for the purpose of this program, and all proceeds derived from the use of such moneys. In addition, all loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the activities conducted under the provisions of the HOME Partnership Program shall be deposited into the fund and shall not revert to the General Revenue Fund. If a loan commitment for program funds is entered into during the state fiscal year for which the program funds were appropriated, the funds shall continue to be made available for use during the entire construction period of any project financed by the program, even if it extends beyond the fiscal year in which the loan commitment was entered. The budget amendment process created in s. 216.181 shall be used to make funds available throughout the construction period.

(2) The agency shall make loans available to eligible housing providers on the basis of the competitive selection process established in subsections (5) and (6) and as described by agency rule. However, in the first year of this program, the secretary of the department, with the advice and consent of the agency board, may select demonstration pilot programs. Pilot programs shall be monitored by the agency for compliance with program requirements and evaluated to determine what modifications might need to be made to the administration of the HOME Partnership Program in following years. Selection of pilot programs shall be based upon the following criteria:

(a) Existence of a working local partnership.

(b) Geographic distribution of the demonstration areas throughout the state to include both urban and rural counties of varying sizes and populations.

(c) Need and demand for affordable housing stock.

(d) Conformance to strategies enumerated in the state's Comprehensive Housing Affordability Strategy.

(3) Loans made under this program shall be used for eligible activities enumerated in 24 C.F.R. Part 92, including acquisition, moderate and substantial rehabilitation, new construction, site improvement, demolition and relocation expenses, and rental assistance. Loans shall be made available directly to eligible housing providers for eligible activities relating to rental or homeownership projects the intended beneficiaries of which meet income guidelines and rent and sales price limits specified by agency rule.

(4) All loans must be matched with local funds as specified in 24 C.F.R. Part 92 and agency rule and must be limited to the amount needed to make the project economically feasible.

(5) Applications for loans made under this program shall be scored and ranked by a review committee established by agency rule which shall analyze factors, including, but not limited to, the following:

(a) Tenant and homeowner income and demographic targeting objectives of the agency.

(b) Agency portfolio diversification.

(c) Developer's agreement to make more than a minimum number of units in the project available for the targeted group.

(d) Developer's agreement to make units for the targeted group available for more than the minimum period required by rule.

(e) Incorporation of the proposed housing within a coordinated community or neighborhood development strategy.

(f) Leveraging of HOME funds.

(g) The project's feasibility and long-term economic viability.

(h) Demonstrated capacity of the proposed project's development team.

(i) Conformance with the comprehensive housing affordability strategy for the state and area in which the proposed project will be located.

(j) Evidence that the proposed project will be part of a comprehensive neighborhood strategy designed to offer full-service support to residents.

(k) Other factors determined from the evaluation of the first demonstration projects.

(6) The review committee established by agency rule pursuant to this subsection shall make recommendations to the Florida Housing Finance Agency board regarding program participation. The agency board shall make the final ranking and decide which applicants become program participants based on the scores received in the ranking, further review of the applications, and the recommendations of the review committee. The agency board shall approve or reject applications for loans and shall determine the tentative loan amount available to each applicant selected for participation in the program. The actual loan amount shall be determined pursuant to rule.

(7) The loan term shall be for a period of not more than 15 years for rental projects and 5 years for homeownership construction or rehabilitation loans. However, if both a program loan and federal low-income housing tax credits are to be used to assist a project, the agency may set the loan term for a period commensurate with the investment requirements associated with the tax-credit syndication. The agency may renegotiate and extend the loan in order to extend the availability of housing for the targeted population. The term of a loan may not extend beyond the period for which the sponsor agrees to set aside units for the target population.

(8) If a default on a loan occurs, the agency may foreclose on any mortgage or security interest or commence any legal action to protect the interest of the agency or the fund and recover the amount of the unpaid principal, accrued interest, and fees on behalf of the fund. The agency may acquire real and personal property or any interest in the property if that acquisition is necessary to protect any loan; sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270; and, if that sale, transfer, or conveyance cannot be effected within a reasonable time, lease such property for occupancy by eligible persons.

(9) All sums recovered from the sale, transfer, conveyance, or lease of such property shall be deposited into the HOME Partnership Trust Fund.

(10) The agency shall monitor all projects funded under this section to ensure compliance with federal and state requirements. The agency may inspect such projects or records pertaining to those projects at any reasonable time.

Section 25. Section 420.5091, Florida Statutes, is created to read:

420.5091 HOPE Program.—

(1) The agency may adopt rules to implement the HOPE Program, created by the 1990 National Affordable Housing Act, to make loans and grants, foreclose on any mortgage or security interest, or commence any legal action to protect the interest of the agency and recover the amount of the unpaid principal, accrued interest, and fees. The agency may acquire real and personal property or any interest in the property if that acquisition is necessary to protect any loan; sell, transfer, and convey any such property to a buyer without regard to the provisions of chapters 253 and 270; and, if that sale, transfer, or conveyance cannot be effected within a reasonable time, lease such property for occupancy by eligible persons. All sums recovered from the sale, transfer, conveyance, or lease of such property shall be deposited into the HOME Partnership Trust Fund.

(2) The agency shall monitor all projects funded under this section to ensure compliance with federal and state requirements. The agency may inspect such projects or records pertaining to those projects at any rea-

sonable time.

Section 26. Section 420.5092, Florida Statutes, is created to read:

420.5092 Florida Affordable Housing Guarantee Program.—

(1) There is created the Florida Affordable Housing Guarantee Program for the purposes of:

(a) Stimulating creative private-sector lending activities to increase the supply and lower the cost of financing or refinancing eligible housing;

(b) Creating security mechanisms to allow lenders to sell affordable housing loans in the secondary market; and

(c) Encouraging affordable housing lending activities that would not have taken place or that serve persons who would not have been served but for the creation of this program.

(2) As used in this part, the term:

(a) "Affordable housing guarantee" means an obligation of the guarantee fund to partially guarantee the payment of principal and interest on a loan made to finance or refinance the purchase, construction, or rehabilitation of eligible housing.

(b) "Agency" means the Florida Housing Finance Agency.

(c) "Annual debt service reserve" means the reserve maintained in the guarantee fund in an amount equal to the maximum reserve amount for each series of revenue bonds issued to establish the guarantee fund.

(d) "Eligible housing" means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for homeownership or rental for eligible persons as determined by the agency pursuant to rule.

(e) "Guarantee fund" means the Affordable Housing Guarantee Fund created and established with proceeds of revenue bonds issued by the agency pursuant to this section to implement the Florida Affordable Housing Guarantee Program.

(f) "Maximum reserve amount" means, for each series of outstanding revenue bonds issued to establish the guarantee fund, the largest aggregate amount of annual principal installments and interest payments becoming due in any state fiscal year in which the revenue bonds are outstanding.

(3) Amounts on deposit in the State Housing Trust Fund may also be used to support the Florida Affordable Housing Guarantee Program. Such use, if any, is in addition to those purposes for which the State Housing Trust Fund was created, and such moneys shall be obligated and committed in accordance with the agency certification provided for in subsection (6).

(4) The agency may, by rule, establish rates and fees for the issuance of an affordable housing guarantee, including contractual provisions to secure reimbursement, in the event of default, to the guarantee fund of payments made pursuant to an affordable housing guarantee issued for eligible housing.

(5) Pursuant to s. 16, Art. VII of the State Constitution, the agency may issue, in accordance with s. 420.509, revenue bonds of the agency to establish the guarantee fund. Such revenue bonds shall be primarily payable from and secured by annual debt service reserves, from interest earned on funds on deposit in the guarantee fund, from fees, charges, and reimbursements established by the agency for the issuance of affordable housing guarantees, and from any other revenue sources received by the agency and deposited by the agency into the guarantee fund for the issuance of affordable housing guarantees. To the extent such primary revenue sources are considered insufficient by the agency, pursuant to the certification provided in subsection (6), to fully fund the annual debt service reserve, the certified deficiency in such reserve shall be additionally payable from the first proceeds of the documentary stamp tax moneys deposited into the State Housing Trust Fund pursuant to s. 201.15(6)(a) during the ensuing state fiscal year.

(6) If the primary revenue sources to be used for repayment of revenue bonds used to establish the guarantee fund are insufficient for such repayment, the annual principal and interest due on each series of revenue bonds shall be payable from funds in the annual debt service reserve. The agency shall, before June 1 of each year, perform a financial audit to determine whether at the end of the state fiscal year there will be on deposit in the guarantee fund an annual debt service reserve from interest earned pursuant to the investment of the guarantee fund, fees, charges, and reimbursements received from issued affordable housing guarantees and other revenue sources available to the agency. Based upon the findings in such guarantee fund financial audit, the agency shall certify to the Comptroller the amount of any projected deficiency in the annual debt service reserve for any series of outstanding bonds as of the end of the state fiscal year and the amount necessary to maintain such annual debt service reserve. Upon receipt of such certification, the Comptroller shall transfer to the guarantee fund, from the first available taxes distributed to the State Housing Trust Fund pursuant to s. 201.15(6)(a) during the ensuing state fiscal year, the amount certified as necessary to maintain the annual debt service reserve.

(7) Funds on deposit in the guarantee fund shall be used to secure the performance by the agency of its obligation under an affordable housing guarantee issued by the agency as determined by rule. Such use of the funds on deposit in the guarantee fund is subordinate and junior to the use of moneys on deposit in the annual debt service reserve account established for any series of outstanding bonds.

(8) Before adopting the rule establishing the fees, charges, and other obligations and conditions for the issuance of an affordable housing guarantee and defining housing eligible to obtain a guarantee, the agency must perform an affordable housing guarantee feasibility study. Such study must determine the eligible housing for which a principal-and-interest guarantee is required for the investment of private capital, the anticipated risk of default for classifications of eligible housing, and the level of fees, charges, and reimbursement conditions necessary to establish a financially sound affordable housing guarantee program that minimizes the exposure of funds deposited into the guarantee fund. Revenue bonds may not be issued to create and establish a guarantee fund until the completion of such financial feasibility study and the adoption of the implementing rule.

(9) This section does not preclude the use of the remaining funds in the State Housing Trust Fund.

(10) Revenue bonds may not be issued to establish and create a guarantee fund until validated pursuant to the provisions of chapter 75.

(11) The maximum total amount of revenue bonds that may be issued by the agency pursuant to subsection (5) is $75 million.

Section 27. Section 420.601, Florida Statutes, is amended to read:

420.601 Short title.—*Sections 420.601-420.609* ~~This part shall be known and~~ may be cited as the "~~Florida~~ Affordable Housing *Planning and Community Assistance* Act ~~of 1986~~."

Section 28. Section 420.6015, Florida Statutes, is amended to read:

420.6015 Legislative findings.—In addition to the findings and declarations in ss. *420.0002*, ~~420.401,~~ 420.502, 421.02, 422.02, 423.01, and 424.02, which are hereby reaffirmed, ~~it is found by~~ the Legislature *finds* that:

(1) Decent, safe, and sanitary housing for persons of very low income, low income, and moderate income are a critical need in the state.

(2) New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need.

(3) The private-sector housing construction industry primarily produces housing units for middle-income *households* and upper-income households and often has limited experience in housing development which provides quality housing for low-income persons in economically declining or distressed areas.

(4) Among other things, the high cost of project financing tends to restrict the development of housing affordable to very low-income *persons*, low-income *persons*, and moderate-income persons.

(5) For these reasons, private capital and existing state housing programs do not provide an adequate remedy to this situation.

(6) Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very low-income *persons*, low-income *persons*, and moderate-income persons as a matter of public purpose.

(7) Public-private partnerships are an essential means of bringing together resources to provide affordable housing.

(8) Through the Affordable Housing Catalyst Program and other program and staff resources, the department shall facilitate the mobilization of public and private resources to provide affordable housing through its responsibilities in the areas of housing, comprehensive planning, and community assistance.

Section 29. Section 420.606, Florida Statutes, is amended to read:

420.606 Training and technical assistance program.—

(1) LEGISLATIVE FINDINGS.—In addition to the legislative findings set forth in s. 420.6015, the Legislature finds and declares that:

(a) Housing in economically declining or distressed areas is frequently substandard and is often unaffordable to very low-income *persons* and low-income persons;

(b) Community-based organizations often have limited experience in development of quality housing for very low-income *persons* and low-income persons in economically declining or distressed areas; and

(c) The staffs and board members of community-based organizations need additional training in housing development as well as technical support to assist them in gaining the experience they need to better serve their communities.

(d) The staffs of state agencies and local governments, whether directly involved in the production of affordable housing or acting in a supportive role, can better serve the goals of state and local governments if their expertise in housing development is expanded.

(2) PURPOSE.—The purpose of this section is to provide community-based organizations and staff of state and local governments with the necessary training and technical assistance to meet the needs of very low-income *persons*, low-income *persons*, and moderate-income persons for standard, affordable housing.

(3) TRAINING AND TECHNICAL ASSISTANCE PROGRAM.—The Department of Community Affairs shall be responsible for securing the necessary expertise to provide training and technical assistance to staff of local governments, to staff of state agencies, as appropriate, and to community-based organizations, and to persons forming such organizations, which are formed for the purpose of developing new housing and rehabilitating existing housing which is affordable for very low-income *persons*, low-income *persons*, and moderate-income persons.

(a) The training component of the program shall be designed to build the housing development capacity of community-based organizations and local governments as a permanent resource for the benefit of communities in this state.

1. The scope of training shall include real estate development skills related to affordable housing, including the construction process and property management and disposition, the development of public-private partnerships to reduce housing costs, model housing projects, and management and board responsibilities of community-based organizations.

2. Training activities may include, *but are not limited to,* materials for self-instruction, workshops, seminars, internships, coursework, and special programs developed in conjunction with state universities and community colleges.

(b) The technical assistance component of the program shall be designed to assist applicants for state-administered programs in developing applications and in expediting project implementation. Technical assistance activities for the staffs of community-based organizations and local governments who are directly involved in the production of affordable housing may include, *but are not limited to,* workshops for program applicants, on-site visits, guidance in achieving project completion, and a newsletter to community-based organizations and local governments.

(4) TECHNICAL SUPPORT FOR THE HOME, HOPE, AND STATE HOUSING INITIATIVES PARTNERSHIP PROGRAMS.—The department shall establish a program known as the Affordable Housing Catalyst Program to be responsible for securing the necessary expertise for providing specialized technical support to local governments to implement the HOME Partnership Program, the HOPE Program, and the State Housing Initiatives Partnership Program. The technical support shall, at a minimum, provide training relating to the following key elements of the partnership programs:

(a) The formation of local and regional housing partnerships as a means of bringing together resources to provide affordable housing.

(b) The implementation of regulatory reforms to reduce the risk and cost of developing affordable housing.

(c) The implementation of affordable housing programs included in local government comprehensive plans.

(d) The compliance with requirements of federally funded housing programs.

(5)~~(4)~~ POWERS.—The Department of Community Affairs may do all things necessary or appropriate to carry out the purposes of this section, including exercising the power to:

(a) Enter into contracts and agreements with the Federal Government or with other agencies of the state, with local governments, or with any other person, association, corporation, or entity;

(b) Seek and accept funding from any public or private source; and

(c) Adopt and enforce rules consistent with this section.

Section 30. Subsection (5) of section 420.6075, Florida Statutes, is amended to read:

420.6075 Research and planning for affordable housing; annual housing report.—

(5) The department shall:

(a) Conduct research on program options to address the need for affordable housing.

(b) Conduct research on training models to be replicated or adapted to meet the needs of community-based organizations and state and local government staff involved in housing development.

(c) Coordinate with the Multidisciplinary Center for Affordable Housing to develop an annual research agenda and general work plan for the center in order to avoid duplication and to ensure that priority issues are addressed.

Section 31. Subsection (8) is added to section 420.609, Florida Statutes, to read:

420.609 Affordable Housing Study Commission.—Because the Legislature firmly supports affordable housing in Florida for all economic classes:

(8) The commission shall recommend studies to be included in the annual research agenda of the Multidisciplinary Center for Affordable Housing. These recommendations shall be submitted to the department and the center in order to assist them in establishing an appropriate research agenda for the center.

Section 32. Sections 420.907, 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, and 420.9079, Florida Statutes, are created to read:

420.907 Short title.—Sections 420.907-420.9079 may be cited as the "State Housing Initiatives Partnership Act."

420.9071 Definitions.—As used in ss. 420.907-420.9079, the term:

(1) "Adjusted for family size" means adjusted in a manner which results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in subsection (17), subsection (18), or subsection (22), based upon a formula established by the United States Department of Housing and Urban Development.

(2) "Adjusted gross income" means wages, income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, minus the deductions allowable under s. 61 of the Internal Revenue Code of 1986, as amended.

(3) "Affordable" means that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (17), subsection (18), or subsection (22). However, it is not the intent to limit an individual's ability to devote more than 30 percent of his income for housing.

(4) "Agency" means the Florida Housing Finance Agency created under part V of this chapter.

(5) "Award" means a loan, grant, or subsidy funded wholly or partially by the local housing distribution.

(6) "Department" means the Department of Community Affairs.

(7) "Eligible housing" means any real and personal property located within the county or the eligible municipality which is designed and intended for the primary purpose of providing decent, safe, and sanitary residential units that are designed to meet the standards of chapter 553 for homeownership or rental for eligible persons as designated by each county or eligible municipality participating in the local housing assistance program.

(8) "Eligible municipality" means a municipality that is eligible for federal community development block grants as an entitlement community identified in 24 C.F.R. s. 570, Subpart D, Entitlement Grants.

(9) "Eligible person" means one or more natural persons or a family determined by the county or eligible municipality to be of very low income, low income, or moderate income according to the adjusted gross income of the resident with adjustment made for family size.

(10) "Eligible sponsor" means a person or a private or public for-profit or not-for-profit entity that applies for a loan under the local housing assistance program for the purpose of providing eligible housing for eligible persons.

(11) "Grant" means a distribution of a portion of a local housing distribution to an eligible sponsor or eligible person to partially assist in the construction or rehabilitation of eligible housing or to provide the cost of tenant or ownership qualifications.

(12) "Loan" means a pledge of the local housing distribution moneys to an eligible sponsor or eligible person to partially finance the construction or rehabilitation of eligible housing.

(13) "Local housing assistance plan" means a concise description of the local housing assistance program adopted by local government ordinance with an explanation of the way in which the program meets the requirements of ss. 420.907-420.9079.

(14) "Local housing assistance program" means the housing construction, rehabilitation, repair, and finance program implemented by a participating county or eligible municipality with the local housing distribution or other funds deposited into the local housing assistance trust fund.

(15) "Local housing distributions" means the proceeds of the taxes collected under chapter 201 deposited into the Local Government Housing Trust Fund and distributed to counties and eligible municipalities participating in the State Housing Initiatives Partnership Program pursuant to s. 420.9073.

(16) "Local housing partnership" means the implementation of the local housing assistance program in a manner that involves the applicable local government, lending institutions, housing developers, community-based housing and service organizations, and providers of professional services relating to affordable housing. The term includes initiatives to provide support services for housing program beneficiaries such as training to prepare persons for the responsibility of homeownership, counseling of tenants, and the establishing of support services such as day care, health care, and transportation.

(17) "Low-income person" means one or more natural persons or a family, not including students, that has a total annual adjusted gross household income that does not exceed 80 percent of the median annual adjusted gross income for households within the state or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county, whichever amount is greater. With respect to rental units, the low-income person's annual income at the time of initial occupancy may not exceed 80 percent of the state's median income adjusted for family size. While occupying the rental unit, a low-income person's annual income may increase to an amount not to exceed 140 percent of 80 percent of the state's median income adjusted for family size.

(18) "Moderate-income person" means one or more natural persons or a family, not including students, that has a total annual adjusted gross household income that is less than 120 percent of the median annual adjusted gross income for households within the state or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county, whichever is greater. With respect to rental units, the moderate-income person's annual income at the time of initial occupancy may not exceed 120 percent of the state's median income adjusted for family size. While occupying the rental unit, a moderate-income person's annual income may increase to an amount not to exceed 140 percent of 120 percent of the state's median income adjusted for family size.

(19) "Personal property" means major appliances, including a free-standing refrigerator or stove, to be identified on the encumbering documents.

(20) "Population" means the latest official state estimate of population certified pursuant to s. 186.901 prior to the beginning of the fiscal year.

(21) "Student" means a person not living with the person's parent or guardian who is eligible to be claimed by the person's parent or guardian as a dependent under the Federal Income Tax Code and who is enrolled at least half time in a secondary school, vocational-technical center, community college, or university. The term does not include a person participating in a job training program approved by the county or the eligible municipality.

(22) "Very low-income person" means one or more natural persons or a family, not including students, that has a total annual adjusted gross household income that does not exceed 50 percent of the median annual adjusted gross income for households within the state or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area or, if not within a metropolitan statistical area, within the county, whichever is greater. With respect to rental units, the very low-income person's annual income at the time of initial occupancy may not exceed 50 percent of the state's median income adjusted for family size. While occupying the rental unit, a very low-income person's annual income may increase to an amount not to exceed 140 percent of 50 percent of the state's median income adjusted for family size.

420.9072 State Housing Initiatives Partnership Program.—The State Housing Initiatives Partnership Program is created for the purpose of providing funds to local governments as an incentive for the creation of partnerships to produce and preserve affordable housing.

(1) In addition to the legislative findings set forth in s. 420.6015, the Legislature finds that affordable housing is most effectively provided by combining available public and private resources to conserve and improve existing housing and provide new housing for very low-income persons, low-income persons, and moderate-income persons. The Legislature intends to encourage partnerships in order to secure the benefits of cooperation by the public and private sectors and to reduce the cost of housing for the target group by effectively combining all available resources and cost-saving measures. The Legislature further intends that the State Housing Initiatives Partnership Program provide the maximum flexibility to local governments to determine the use of funds for housing programs while ensuring accountability for the efficient use of public resources and guaranteeing that benefits are provided to those in need. Extending the partnership concept to encompass cooperative efforts between local governments is specifically encouraged.

(2)(a) To be eligible to receive funds under the program, a county or eligible municipality must:

1. Submit to the agency and the department its local housing assistance plan describing the local housing assistance program established pursuant to s. 420.9075; and

2. Within 12 months after establishing, by ordinance, the local housing assistance program, submit to the agency and the department its affordable housing incentive plan pursuant to s. 420.9076.

(b) A county or an eligible municipality seeking approval to receive its share of the local housing distribution must adopt an ordinance containing the following provisions:

1. Creation of an affordable housing assistance trust fund.

2. Establishment of a local housing assistance program to be implemented by a local housing partnership.

3. Designation of the responsibility for the implementation and administration of the local housing assistance program. Such ordinance may also provide for the contracting of all or part of the administrative or other functions of the program to a third person or entity.

4. Creation of the affordable housing advisory committee as provided in s. 420.9076.

The ordinance must not take effect until at least 30 days after the date of formal adoption.

(3) The governing board of the county or of an eligible municipality must submit to the agency and the department by certified mail two copies of its local housing assistance plan. The plan must include a copy of the ordinance and such other information as the agency requires by rule; however, information to be included in the plan is intended to demonstrate consistency with the requirements of this program without posing an undue burden on the local government. Plans shall be reviewed by a committee composed of agency and department staff as established by agency rule, in consultation with the department. Within 30 days after receiving a plan, the review committee shall review the plan and either approve it or identify inconsistencies with the requirements of the program. The agency and the department shall assist a local government in revising its plan if it initially proves to be inconsistent with program requirements. A plan that is revised by the local government to achieve consistency with the program shall be reviewed within 30 days after submission. A local government may twice revise and resubmit its plan during any state fiscal year. The deadlines for submitting original and revised plans shall be established by agency rule. The Legislature intends that approval of plans be expedited to ensure that the production of needed housing and the related creation of jobs occur as quickly as possible. After being approved for funding, a local government may revise its local housing assistance program without seeking further approval if the program as revised complies with the requirements for such programs.

(4) Moneys in the Local Government Housing Trust Fund shall be distributed by the agency to each approved county and eligible municipality within the county as provided in s. 420.9073. Distributions shall be allocated to the participating county and to each eligible municipality within the county according to an interlocal agreement between the county governing authority and the governing body of the eligible municipality or, if there is no interlocal agreement, according to population. The portion for each eligible municipality is computed by multiplying the total moneys earmarked for a county by a fraction, the numerator of which is the population of the eligible municipality and the denominator of which is the total population of the county. The remaining revenues shall be distributed to the governing body of the county.

(5) Local governments are encouraged to make the most efficient use of their resources by cooperating to provide affordable housing assistance. Local governments may enter into an interlocal agreement for the purpose of establishing a joint local housing assistance program subject to the requirements of ss. 420.907-420.9079. The local housing distributions for such local governments shall be directly disbursed on a monthly basis to each local government to be administered in conformity with the interlocal agreement providing for a joint local housing assistance program.

(6) The moneys that otherwise would be distributed pursuant to s. 420.9073 to a local government that does not meet the program's requirements for receipts of such distributions shall remain in the Local Housing Trust Fund to be used by the agency to administer the local government housing program pursuant to s. 420.9078.

(7) A county or an eligible municipality must expend its portion of the local housing distribution only to:

(a) Implement a local housing assistance program.

(b) Supplement funds available to the agency to provide enhanced funding of state housing programs within the county or the eligible municipality.

(c) Provide the local matching share of federal affordable housing grants or programs.

(d) Fund emergency repairs by existing service providers under weatherization assistance programs pursuant to ss. 409.509-409.5093.

A county or an eligible municipality may not expend its portion of the local housing distribution to provide rent subsidies.

(8) Funds distributed under this program may not be pledged to pay the debt service on any bonds.

(9) The agency may adopt rules necessary to implement ss. 420.907-420.9079.

420.9073 Local Housing Distributions.—

(1) Distributions calculated in this section shall be disbursed on a monthly basis by the agency beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(6) shall be calculated by the agency for each fiscal year as follows:

(a) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.

(b) Each county other than a county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population excluding the population of any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(6) reduced by the guaranteed amount paid to all counties.

(2) Effective July 1, 1995, distributions calculated in this section shall be disbursed on a monthly basis by the agency beginning the first day of the month after program approval pursuant to s. 420.9072. Each county's share of the funds to be distributed from the portion of the funds in the Local Government Housing Trust Fund received pursuant to s. 201.15(7) shall be calculated by the agency for each fiscal year as follows:

(a) Each county shall receive the guaranteed amount for each fiscal year.

(b) Each county may receive an additional share calculated as follows:

1. Multiply each county's percentage of the total state population, by the total funds to be distributed.

2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.

3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to this percentage multiplied by the total funds received by the Local Government Housing Trust Fund pursuant to s. 201.15(7) as reduced by the guaranteed amount paid to all counties.

(3) Calculation of guaranteed amounts:

(a) The guaranteed amount under subsection (1) shall be calculated for each fiscal year by multiplying $250,000 by a fraction, the numerator of which is the amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15(6) and the denominator of which is the total amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15. For fiscal year 1992-1993, the guaranteed amount in s. 420.9073 shall be $250,000.

(b) The guaranteed amount under subsection (2) shall be calculated for each fiscal year, beginning in fiscal year 1995-1996, by multiplying $250,000 by a fraction, the numerator of which is the amount of funds

distributed to the Local Government Housing Trust Fund pursuant to s. 201.15(7) and the denominator of which is the total amount of funds distributed to the Local Government Housing Trust Fund pursuant to s. 201.15.

(4) Funds distributed pursuant to this section may not be pledged to pay debt service on any bonds.

420.9075 Local housing assistance programs.—

(1) Each county or eligible municipality participating in the State Housing Initiatives Partnership Program shall establish a local housing assistance program created to make affordable residential units available to persons of very low income, low income, or moderate income and to persons who have special housing needs, including, but not limited to, homeless people and migrant farmworkers. The programs are intended to increase the availability of affordable residential units by combining local resources and cost-saving measures into a local housing partnership and using private and public funds to reduce the cost of housing.

(2) Each local housing assistance program is governed by the following criteria and administrative procedures:

(a) The county or eligible municipality or its administrative representative shall advertise the availability of a housing assistance program in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, at least 30 days before the beginning of the application period.

(b) The county or the eligible municipality shall adopt a maximum award schedule or system of amounts that is commensurate with the intent of its local housing assistance program and ss. 420.907-420.9079.

(c) In accordance with the provisions of ss. 760.20-760.37, it is unlawful to discriminate on the basis of race, creed, religion, color, age, sex, marital status, familial status, national origin, or handicap in the loan application process for eligible housing.

(d) As a condition of receipt of an award, the eligible sponsor or eligible person must contractually commit to comply with the affordable housing criteria provided under ss. 420.907-420.9079 applicable to the affordable housing objective of the award. The program criteria adopted by the county or eligible municipality must prescribe the contractual obligations required to ensure compliance with award conditions.

(3) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(a) At least 65 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for homeownership for eligible persons.

(b) At least 75 percent of the funds made available in each county and eligible municipality from the local housing distribution must be reserved for construction, rehabilitation, or emergency repair of affordable housing.

(c) The sales price of new or existing eligible housing may not exceed 90 percent of the median area purchase price in the area where the eligible housing is located, as established by the United States Department of Treasury in accordance with s. 3(b)(2) of the United States Housing Act of 1937.

(d) All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance program must be occupied by very low-income persons, low-income persons, and moderate-income persons. At least 30 percent must be occupied by very low-income persons and at least an additional 30 percent by low-income persons.

(e) Loans shall be provided for periods not exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

(f) Eligible rental housing constructed, rehabilitated, or otherwise assisted from the housing assistance program moneys must be reserved for eligible persons for 15 years or the term of the assistance, whichever period is longer. Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible recipients.

(g) Eligible owner-occupied housing constructed, rehabilitated, or otherwise assisted from proceeds provided from the housing assistance program shall be subject to the recapture provisions of the mortgage revenue bond program contained in s. 143(m) of the Internal Revenue Code of 1986.

(h) The total amount of monthly mortgage payments or the amount of monthly rent charged by the eligible sponsor or his designee must be made affordable.

(i) The cost per unit and the maximum cost per unit for eligible housing benefiting from awards made pursuant to this section must be established by resolution.

(j) Each county, eligible municipality, or entity formed through interlocal agreement to implement a local housing assistance program must develop a qualification system for applications for awards consistent with the intent of its local housing assistance program and ss. 420.907-420.9079.

(k) The staff or entity that has administrative authority for a local housing assistance program assisting rental developments shall annually monitor and determine tenant eligibility and the amount of subsidy.

If both an award under the local housing assistance program and federal low-income housing tax credits are used to assist a project and there is a conflict between the criteria prescribed in this subsection and the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, the county or eligible municipality may resolve the conflict by giving precedence to the requirements of s. 42 of the Internal Revenue Code of 1986, as amended, in lieu of following the criteria prescribed in this subsection with the exception of paragraphs (a) and (d) of this subsection.

(4) Each county or eligible municipality receiving local housing distribution moneys shall establish and maintain a local housing assistance trust fund. All moneys of a county or an eligible municipality received from its share of the local housing distribution and other funds received or budgeted to provide the local housing assistance program shall be deposited into the trust fund. Expenditures other than for the administration and implementation of the local housing assistance program may not be made from the trust fund.

(5) The moneys deposited in the local housing assistance trust fund shall be used to administer and implement the local housing assistance program. The cost of administering the program may not exceed 5 percent of the local housing distribution moneys deposited into the trust fund. A county or an eligible municipality may not exceed the 5-percent limitation on administrative costs, unless its governing body finds, by resolution, that 5 percent of the local housing distribution is insufficient to adequately pay the necessary costs of administering the local housing assistance program. The cost of administering the program may not exceed 10 percent of the local housing distribution deposited into the trust fund.

(6) Pursuant to s. 420.606, the department shall provide technical assistance to local governments regarding the creation of partnerships, the design of housing assistance programs, the implementation of incentive plans, and the provision of support services. The department shall monitor the activities of local governments to determine compliance with program requirements and shall collect data on the operation and achievements of housing partnerships.

(7) Each county or eligible municipality shall submit to the department and to the agency by November 15 of each year a report of its affordable housing programs and accomplishments. The report must include, but is not limited to:

(a) The number of people served by income, age, family size, and race and data regarding any special needs populations such as farmworkers, rural residents, and the elderly.

(b) The number of units and the average cost of producing units under each program.

(c) The average sales price of a single-family unit and the amount of rent charged for a rental unit based on unit size.

(d) The number of mortgages made and the rate of default.

(e) A description of the implementation of the affordable housing incentive plan and the resulting reduction in housing costs.

(f) A concise description of the support services that are available to the residents of affordable housing provided by local programs.

(g) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality.

(7) The report shall be made available by the local government for public inspection. Members of the public may submit written comments on the report to the department.

(8) The agency shall review the report of each county or eligible municipality and any written comments from the public and transmit any comments concerning the effectiveness of local programs to the department. The department shall include a summary of local housing activities and public comment in the annual housing report required by s. 420.6075.

(9) If, as a result of the review of such report or at any other time, the agency or the department determines that a county or eligible municipality may have established a pattern of violation of the criteria for a local housing assistance program established under ss. 420.907-420.9079 or that an eligible sponsor or eligible person has violated the applicable award conditions, the agency or department shall report such pattern of violation of criteria or violation of award conditions to the Executive Office of the Governor and the Auditor General.

420.9076 Adoption of affordable housing incentive plans; committees.—

(1) Each county or eligible municipality participating in the State Housing Initiatives Partnership Program must adopt an affordable housing incentive plan within 12 months after the date of adoption of the ordinance by the county or eligible municipality establishing a local housing assistance program.

(2) The governing board of a county or an eligible municipality shall appoint the members of the affordable housing advisory committee by resolution. Pursuant to the terms of any interlocal agreement, a county and an eligible municipality may create and jointly appoint an advisory committee to prepare a joint plan. The ordinance adopted pursuant to s. 420.9075 which creates the advisory committee or the resolution appointing the advisory committee members must provide for nine committee members and their terms. The committee must include:

(a) One citizen who is actively engaged in the residential home building industry.

(b) One citizen who is actively engaged in the banking or mortgage banking industry.

(c) One citizen who is a representative of those areas of labor engaged in home building.

(d) One citizen who is designated as an advocate for low-income persons.

(e) One citizen who is a provider of affordable housing.

(f) One citizen who is a real estate professional.

(3) All meetings of the advisory committee are public meetings, and all committee records are public records. Staff, administrative, and facility support to the advisory committee shall be provided by the appointing county or eligible municipality.

(4) The resolution creating and appointing the advisory committee must define affordable housing as applicable to the county and eligible municipality in a way that is consistent with the adopted local comprehensive plan. The advisory committee shall review the established policies and procedures, ordinances, land development regulations, and adopted local comprehensive plan of the appointing local government and shall recommend specific initiatives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. Such recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations, or plan provisions; the creation of exceptions applicable to affordable housing; or the adoption of new policies, procedures, regulations, ordinances, or plan provisions. At a minimum, each advisory committee shall make recommendations on affordable housing incentives in the following areas:

(a) The affordable housing definition in the appointing resolution.

(b) The expedited processing of permits for affordable housing projects.

(c) The modification of impact-fee requirements, including reduction or waiver of fees and alternative methods of fee payment.

(d) The allowance of increased density levels.

(e) The reservation of infrastructure capacity for housing for very low-income persons and low-income persons.

(f) The transfer of development rights as a financing mechanism for housing for very low-income persons and low-income persons.

(g) The reduction of parking and setback requirements.

(h) The allowance of zero-lot-line configurations.

(i) The modification of sidewalk and street requirements.

(j) The establishment of a process by which a local government considers, before adoption, policies, procedures, ordinances, regulations, or plan provisions that have a significant impact on the cost of housing.

The advisory committee recommendations must also include other affordable housing incentives identified by the advisory committee. To the maximum extent feasible, the approved affordable housing incentive recommendations submitted to the governing board of the appointing county or eligible municipality must quantify the affordable housing cost reduction anticipated from implementing the specific recommendation.

(5) The approval by the advisory committee of its affordable housing incentive recommendations must be made by affirmative vote of a majority of the membership of the advisory committee taken at a public hearing. Notice of the time, date, and place of the public hearing of the advisory committee to adopt final affordable housing incentive recommendations must be published in a newspaper of general paid circulation in the county. Such notice must contain a short and concise summary of the affordable housing initiative recommendations to be considered by the advisory committee. The notice must state the public place where a copy of the tentative advisory committee recommendations can be obtained by interested persons.

(6) Within 90 days after the date of receipt of the affordable housing incentive recommendations from the advisory committee, the governing body of the appointing local government shall adopt an affordable housing incentive plan. Such plan must consist of the adoption of specific initiatives to encourage or facilitate affordable housing and a schedule for implementation and must include, at a minimum, a schedule for implementation of expedited permit processing for affordable housing projects and a process for review of local policies, ordinances, regulations, and plan provisions that significantly impact the cost of housing.

(7) The governing board of the county or the eligible municipality shall notify the agency by certified mail of its adoption of an affordable housing incentive plan. The notice must include a copy of the approved plan.

(a) If the agency fails to receive timely the approved affordable housing incentive plan, a notice of termination of its share of the local housing distribution shall be sent by certified mail by the agency to the affected county or eligible municipality. The notice of termination must specify a date of termination of the funding if the affected county or eligible municipality has not adopted an affordable housing incentive plan. If the county or the eligible municipality has not adopted an affordable housing incentive plan by the termination date specified in the notice of termination, the local distribution share terminates; and any uncommitted local distribution funds held by the affected county or eligible municipality in its local housing assistance trust fund shall be transferred to the State Housing Trust Fund to the credit of the agency to administer the local government housing program pursuant to s. 420.9078.

(b) If a county fails to adopt timely an affordable housing incentive plan but an eligible municipality within the county does timely adopt a plan, the agency, after receipt of a notice of termination, shall thereafter distribute directly to the participating eligible municipality its share calculated in the manner provided in s. 420.9071.

(c) Any county or eligible municipality whose local distribution share has been terminated may subsequently elect to receive directly its local distribution share by adopting an affordable housing incentive plan in the manner and according to the procedure provided in s. 420.9076 and by adopting an ordinance in the manner required in s. 420.9072.

420.9078 State administration of remaining local housing distribution funds.—

(1) With that portion of the documentary stamp tax moneys remaining in the Local Government Housing Trust Fund pursuant to s. 420.9072(6), the agency shall administer a local government housing program for counties, eligible municipalities, and eligible sponsors in conformity with the criteria prescribed in s. 420.9075.

(2) The agency shall, in cooperation with the department, provide by rule for a scoring system for evaluating applications submitted under the program. The scoring system must include the following factors:

(a) The existence of a local housing partnership.

(b) For a county or eligible municipality, the extent to which the local government applicant has adopted, in land development regulations, incentives to encourage or facilitate affordable housing.

(c) The extent to which the requested project will provide eligible housing.

(d) The amount of project funds other than the requested moneys.

(e) The provision of or assistance in securing support services for housing program beneficiaries, which may include:

1. Counseling to prepare persons for homeownership, which may address personal budgeting, home inspection and maintenance, the fundamentals of home mortgages and insurance, and other pertinent topics.

2. Counseling to assist tenants in improving their economic well-being, which may address educational opportunities, job placement, management of personal finances, and related concerns.

3. Providing social services, including day care, health care, and transportation.

(f) Sponsor's agreement to reserve the units for persons or families who have incomes below 50 percent of the state or local median income, whichever is higher, for a time period that exceeds the minimum required by federal law or the provisions of ss. 420.907-420.9079.

(g) Sponsor's agreement to reserve more than:

1. Twenty percent of the units in the project for persons or families who have incomes that do not exceed 50 percent of the state median income or local median income, whichever is higher; or

2. Forty percent of the units in the project for persons or families who have incomes that do not exceed 60 percent of the state median income or local median income, whichever is higher, without requiring a greater amount of the loans as provided in this section.

(3) The rule must provide for the establishment of a review committee composed of agency and department staff members. Department staff members shall be appointed by the secretary of the department.

(4) The rule must provide measures to be applied if there is a documented failure to perform in accordance with the award contract.

(5) At least 60 days before the application deadline, the agency must publish a notice of fund availability in a publication of general circulation throughout the state.

420.9079 Local Government Housing Trust Fund.—There is created in the State Treasury the Local Government Housing Trust Fund, which shall be administered by the agency according to the provisions of ss. 420.907-420.9078 and this section. There shall be deposited into the fund a portion of the documentary stamp tax revenues as provided in s. 201.15, moneys received from any other source for the purposes of ss. 420.907-420.9078 and this section, and all proceeds derived from the use of such moneys. Moneys in the trust fund that are not currently needed for the purposes of the programs administered pursuant to ss. 420.907-420.9078 and this section shall be deposited with the Treasurer to the credit of the trust fund and may be invested as provided by law. The interest received on any such investment shall be credited to the trust fund.

Section 33. The identifiable program functions of the Housing Predevelopment Trust Fund existing within the Department of Community Affairs are transferred to the Florida Housing Finance Agency, including all records, property, personnel, assets, and liabilities, except that position number 180, and the furniture and equipment associated with that position, shall remain at the Department of Community Affairs to continue its functions in the Elderly Homeowner Rehabilitation Program with support funding provided by the Florida Elderly Housing Trust Fund. In addition, that portion of the costs related to position numbers 30, 275, and 304 which is currently funded by the Housing Predevelopment Trust Fund in the Division of Housing and Community Development shall be redistributed based on the division's program cost allocation formula. Any continued appropriation for support of the housing predevelopment program must be made in the Florida Housing Finance Agency budget entity. Any rules adopted for this program function are included in such transfer. The Florida Housing Finance Agency shall notify, in writing, the Bureau of Administrative Code of the Division of Elections of the Department of State of the transfer of the rules.

Section 34. The 10-cent tax increase in the documentary stamp tax levied by section 2 of this act does not apply to deeds and other taxable instruments relating to real property located in any county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida. Each such county and each eligible jurisdiction within such county shall not be eligible to participate in programs funded pursuant to s. 201.15(6), Florida Statutes. However, each such county and each eligible jurisdiction within such county shall be eligible to participate in programs funded pursuant to s. 201.15(7), Florida Statutes.

Section 35. Subsection (3) of section 1 of chapter 83-220, Laws of Florida, as amended by chapter 84-270, Laws of Florida, is amended to read:

Section 1. Discretionary surtax on documents; adoption; application of revenue.—

(3) The county shall deposit revenues from the discretionary surtax in the Housing Assistance Loan Trust Fund of the county, *except that a portion of such revenues may be deposited into the Home Investment Trust Fund of the county as defined by and created pursuant to the requirements of federal law. The county* ~~and~~ shall use the revenues only to help finance the construction, rehabilitation, or purchase of housing for *low-income families* ~~low~~ and *moderate-income* ~~moderate income~~ families, ~~and~~ to pay necessary costs of collection and enforcement of the surtax, *and to fund any local matching contributions required pursuant to federal law.* For purposes of this section, authorized uses of the revenues ~~shall~~ include, but *are* not ~~be~~ limited to, providing funds for first and second mortgages and acquiring property for the purpose of forming housing cooperatives. Special consideration shall be given toward *using* ~~utilizing~~ the revenues in the neighborhood economic development programs of community development corporations. No more than 50 percent of the revenues collected each year pursuant to this section may be used to help finance new construction as provided herein. The proceeds of the surtax shall not be used for rent subsidies or grants.

Section 36. (1) Notwithstanding the requirement in sections 201.15(1)(a) and 375.051, Florida Statutes, that a specific appropriation be contained in the General Appropriations Act, there is hereby specifically appropriated $11 million from the Land Acquisition Trust Fund in fiscal year 1992-1993 to fund the first year's debt service on the series of Preservation 2000 bonds issued pursuant to sections 259.101 and 375.051, Florida Statutes, in fiscal year 1992-1993. Such appropriation is to implement the provisions of section 201.15(1)(a), Florida Statutes, regarding distributions of documentary stamp tax collections to the Land Acquisition Trust Fund and fully satisfy the requirements of sections 201.15(1)(a) and 375.051, Florida Statutes, concerning the appropriation of the first year's debt service.

(2) This section shall take effect February 1, 1993.

Section 37. From the Local Government Housing Trust Fund, the sum of $18.75 million is appropriated for the 1992-1993 fiscal year to implement the State Housing Initiatives Partnership Program established pursuant to section 420.9072, Florida Statutes.

Section 38. From the State Housing Trust Fund, the sum of $18.75 million is appropriated for the 1992-1993 fiscal year as follows:

(1) The sum of $11.5 million is appropriated to the Florida Housing Finance Agency to implement the State Apartment Incentive Loan Program established pursuant to sections 420.507 and 420.5087, Florida Statutes.

(2) The sum of $2 million is appropriated to the Florida Housing Finance Agency to implement the Florida Homeownership Assistance Program established pursuant to sections 420.507 and 420.5088, Florida Statutes.

(3) The sum of $750,000 is appropriated to the Florida Housing Finance Agency to implement the Housing Predevelopment Trust Fund Program established pursuant to section 420.307, Florida Statutes.

(4) The sum of $750,000 is appropriated to the Department to Community Affairs to implement the Elderly Homeowner Rehabilitation Program established pursuant to section 420.34, Florida Statutes.

(5) The sum of $2 million is appropriated to the Florida Housing Finance Agency to match funds available to the state from the federal HOME Partnership Program; however, any portion of that amount not needed to match federal moneys is appropriated to the State Apartment Incentive Loan Program.

(6) The sum of $1.2 million is appropriated to the Florida Housing Finance Agency to fund the debt service reserve account pursuant to section 420.5092(5) and (6), Florida Statutes, for bonds issued under the Florida Affordable Housing Guarantee Program; however, $100,000 may be used to provide for the affordable housing guarantee feasibility study required pursuant to section 420.5092(8), Florida Statutes. Any portion of this appropriation not needed to provide for the feasibility study or to cover debt service is appropriated to the State Apartment Incentive Loan Program.

(7) The sum of $250,000 is appropriated to the Department of Community Affairs to contract with the Division of Community Colleges to continue the affordable housing training program pursuant to section 420.606, Florida Statutes.

(8) The sum of $250,000 is appropriated to the Department of Community Affairs to provide training and technical assistance relating to the State Housing Initiatives Partnership Program and to federal programs as required pursuant to section 420.606(3) and (4), Florida Statutes. These funds shall be used to contract with nonprofit organizations and other entities and persons who have demonstrated experience in the successful implementation of affordable housing programs or in providing technical assistance relating to the development of affordable housing. The training and technical assistance shall include, but is not limited to, training related to the development and management of nonprofit organizations and project-specific technical assistance. To the extent feasible, training and technical assistance providers shall be geographically dispersed throughout the state in order to provide for direct assistance to local governments and nonprofit organizations.

(9) The sum of $50,000 is appropriated to the Department of Community Affairs for the Affordable Housing Study Commission to further its activities pursuant to section 420.609, Florida Statutes.

Section 39. Sections 420.603, 420.604, 420.605, 420.801, 420.802, 420 803, 420.804, 420.805, 420.806, 420.808, 420.809, 420.810, 420.811, 420.812, 420.813, 420.901, 420.902, 420.903, 420.904, 420.905, and 420.906, Florida Statutes, are repealed.

Section 40. 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 41. Amendments to sections of the Florida Statutes enacted by this act shall not operate to repeal or otherwise negate amendments to the same sections which may have been previously enacted at a 1992 session of the Florida Legislature and which are not indicated herein, and full effect shall be given to each, if that is possible. If provisions of this act are in direct conflict with amendments so enacted, the provisions of this act shall control.

Section 42. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 5, line 29, strike everything before the enacting clause, and insert: A bill to be entitled An act relating to documentary stamp tax revenues; providing a short title; amending s. 201.02, F.S.; increasing the excise tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; revising the distribution of excise taxes on documents; allocating a portion of the excise tax on documents to the State Housing Trust Fund and to the Local Government Housing Trust Fund; providing for the use of moneys deposited in those trust funds; amending ss. 201.05, 201.07, 201.08, F.S.; increasing the tax on certain stocks, bonds, and notes; amending s. 240.5111, F.S.; requiring the Multidisciplinary Center for Affordable Housing to establish a research agenda in cooperation with the Department of Community Affairs; amending s. 420.0001, F.S.; revising the short title of the State Housing Incentive Partnership Act of 1988; amending s. 420.0002, F.S.; revising the legislative findings; amending s. 420.0005, F.S.; providing that funds from the State Housing Trust Fund may be used to administer housing programs; amending s. 420.306, F.S.; revising and providing definitions for the Housing Predevelopment and Elderly Homeowner Rehabilitation Assistance Act; amending s. 420.307, F.S.; revising provisions relating to administration of the Housing Predevelopment Trust Fund and providing for availability of funds; amending s. 420.308, F.S.; revising provisions relating to authorized loans and grants made from the trust fund and activities eligible for support; amending s. 420.309, F.S.; revising application procedures for receipt of funds; requiring notice and establishment of a review committee and scoring system; amending s. 420.31, F.S.; revising provisions relating to rules and annual reports; amending s. 420.32, F.S.; revising provisions relating to default on a loan; providing for deposit of funds; creating s. 420.36, F.S.; creating the Low-income Emergency Home Repair Program; providing eligibility, allowable expenses, fund distribution, and departmental powers; creating s. 420.37, F.S.; providing additional powers of the Florida Housing Finance Agency; amending s. 420.503, F.S.; providing additional definitions under the Florida Housing Finance Agency Act; amending s. 420.507, F.S.; revising powers of the agency with respect to loans under the Florida Homeownership Assistance Program and the State Apartment Incentive Loan Program; amending s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program; amending provisions relating to eligibility for loans; amending provisions relating to allocation of loans; transferring certain duties of the Department of Community Affairs to the Florida Housing Finance Agency; amending s. 420.5088, F.S.; amending provisions relating to the Florida Homeownership Assistance Program; amending requirements with respect to mortgage loans; providing requirements with respect to construction loans; providing for allocation of program funds; providing for transfer of moneys to the Florida Homeownership Assistance Trust Fund; creating s. 420.5089, F.S.; creating the HOME Partnership Program and establishing a trust fund; providing for loans based on competitive selection; providing for pilot programs; providing for eligible activities; providing for a review committee; providing for approval and determination of loans; providing agency powers; providing for the deposit of funds; creating s. 420.5091, F.S.; providing for rules to implement the HOPE Program; providing for the acquisition of property; creating s. 420.5092, F.S.; creating the Florida Affordable Housing Guarantee Program and authorizing agency action; providing purposes; providing definitions; providing for funding; providing for establishing rates and fees for guarantees; providing for the issuance of revenue bonds; providing a specified maximum amount of such bonds; providing for an annual audit; providing for a feasibility study; amending s. 420.601, F.S.; revising the short title; amending s. 420.6015, F.S.; revising the legislative findings; amending s. 420.606, F.S.; requiring the Department of Community Affairs to provide technical support for the implementation of the State Housing Initiatives Partnership Program; amending s. 420.6075, F.S.; requiring the Department of Community Affairs to participate in establishing an annual research agenda for the Multidisciplinary Center for Affordable Housing; amending s. 420.609, F.S.; requiring the Affordable Housing Study Commission to make recommendations regarding an annual research agenda for the Multidisciplinary Center for Affordable Housing; creating ss. 420 907, 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, 420.9079, F.S.; providing a short title; providing definitions relating to affordable housing; establishing the State Housing Initiatives Partnership Program; providing legislative findings and intent; providing for administration of the program and for rules; providing approval procedures and requirements; providing for the distribution and use of funds; establishing criteria and administrative procedures for local housing assistance programs adopted by local governments; requiring a report; requiring reporting of violations to the Office of the Governor and the Auditor General; requiring adoption of affordable housing incentive plans; providing for affordable housing advisory committees; providing for state administration of remaining local housing distribution funds; providing for notice of the availability of funds; creating the Local Government Housing Trust Fund; providing for the distribution of moneys from the trust fund; transferring the program functions of the Housing Predevelopment Trust Fund to the Florida Housing Finance Agency; providing that each county that has implemented ch. 83-220, Laws of Florida, as amended, shall not be subject to section 2 of the act and shall be eligible for certain programs on a limited basis; amending s. 1, ch. 83-220, Laws of Florida, as amended; providing addi-

tional uses of the discretionary surtax on documents authorized thereunder; appropriating moneys from the Land Acquisition Trust Fund to fund debt service on certain Preservation 2000 bonds; providing appropriations from the Local Government Housing Trust Fund and from the State Housing Trust Fund to fund housing programs; repealing ss. 420.603, 420.604, 420.605, F.S., relating to the Florida Affordable Housing Trust Fund, the Florida Affordable Housing Demonstration Program, and the Affordable Housing Loan Program; repealing ss. 420.801, 420.802, 420.803, 420.804, 420.805, 420.806, 420.808, 420.809, 420.810, 420.811, 420.812, 420.813, F.S., relating to the Pocket of Poverty Programs; repealing ss. 420.901, 420.902, 420.903, 420.904, 420.905, 420.906, F.S., the Maintenance of Housing for the Elderly Act of 1988; providing a severability clause; providing effective dates.

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

CS for CS for SB 94-H passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—3

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote, passed as amended CS for SB 102-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 102-H—A bill to be entitled An act relating to public pension or retirement benefits and subsidies; amending s. 20.13, F.S., relating to the structure of the Department of Insurance, to delete duties of the Division of Benefits that are assigned or eliminated by this act; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy rate; increasing the employer contribution rate to fund the increased subsidy; creating s. 112.666, F.S.; creating the Florida Protection of Public Employee Retirement Benefits Trust Fund; providing for assessment of local retirement systems or plans to pay the costs of administering the Florida Protection of Public Employee Retirement Benefits Act; providing legislative intent with respect to governmental retirement systems; amending s. 121.021, F.S.; conforming the definition of the term "covered group" as used with respect to the Florida Retirement System to a change in terminology made by this act; amending ss. 121.052, 121.055, 121.071, 121.40, F.S.; revising contribution rates applicable to members of the Elected State and County Officers' Class, the Senior Management Service Class, and the Regular, Special Risk, and Special Risk Administrative Support Classes of the Florida Retirement System and the contribution rate applicable to the supplemental retirement plan for the Institute of Food and Agricultural Sciences of the University of Florida; amending s. 121.091, F.S., revising death benefit provisions under the Florida Retirement System; providing for reinstatement of benefit to a surviving spouse whose benefit terminated because of remarriage; providing for retrospective application; amending ss. 122.08, 122.35, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the State and County Officers and Employees' Retirement System; amending ss. 175.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.121, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.341, 175.351, 175.361, 175.401, 185.02, 185.05, 185.09, 185.10, 185.221, 185.23, 185.35, 185.37, 185.50, F.S., relating to municipal firefighters' and police officers' pension or retirement plans and retiree health insurance subsidies; transferring powers, duties, and functions of the Department of Insurance respecting those plans and subsidies to the Department of Administration and assigning these and other duties respecting those plans and subsidies to the Division of Retirement; providing for inclusion of matters assigned to the Division of Retirement in the transfer of the division to the Department of Management Services at a subsequent time; providing for transfer of related records, personnel, property, and funds; providing for continuation of certain existing rules of the Department of Insurance as rules of the division; abolishing the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance; eliminating certain reports to the Department of Banking and Finance; specifying certain duties of the Department of Revenue; providing for disposition of premium tax moneys collected under chs. 175 and 185, F.S.; providing for annual appropriation of such moneys; providing for investment of such moneys by the State Board of Administration; providing for payment of certain administrative expenses of the Division of Retirement and the State Board of Administration; providing for transfer of certain moneys to the General Revenue Fund; providing that it is the legislative intent that firefighters employed by special fire control districts should be entitled to the same retirement benefits as municipal firefighters; providing for pension funds, retirement benefits, and retiree health insurance subsidies for firefighters employed by special fire control districts, which funds, benefits, and subsidies are subject to the same statutory requirements as pension funds and retirement benefits for municipal firefighters; clarifying that undistributed funds are annually transferred to support the firefighters' supplemental compensation program; providing for redistribution of certain funds to certain municipalities and special fire control districts; conforming the provisions of chs. 175 and 185, F.S., to this act; conforming cross-references; deleting obsolete provisions; revising terminology; improving clarity; repealing s. 185.24, F.S., relating to annual appropriations for administrative expenses, which section is superseded by this act; amending ss. 238.07, 238.11, F.S.; advancing the effective date for provisions that provide for retirement after 30 years of service for members of the Teachers' Retirement System of Florida; amending s. 624.520, F.S., relating to preemption by the state of insurer premium taxes, to conform that section to changes by this act; amending s. 633.382, F.S., relating to the Firefighters Supplemental Compensation Trust Fund; providing for curing of deficits; providing for redistribution of certain funds; providing effective dates.

House Amendment 2 (with Title Amendment)—Strike everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (6) of section 20.13, Florida Statutes, is amended to read:

20.13 Department of Insurance.—There is created a Department of Insurance.

(6)(a) The Division of Benefits, in addition to other matters that may be assigned to or located within said division, shall administer the Government Employees Deferred Compensation Plan established under s. 112.215 for state employees ~~and shall assist the Treasurer with respect to the Department of Insurance's responsibilities with respect to firefighters' and police officers' pension trust funds pursuant to chapters 175 and 185~~.

Section 2. Paragraph (d) is added to subsection (3) and paragraph (c) is added to subsection (8) of section 112.363, Florida Statutes, as amended by section 47 of chapter 92-279, Laws of Florida, to read:

112.363 Retiree health insurance subsidy.—

(3) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—

(d) Beginning January 1, 1993, each eligible retiree or a beneficiary who is a spouse or financial dependent shall receive a monthly retiree health insurance subsidy payment equal to the number of years of creditable service, as defined in s. 121.021(17), completed at the time of retirement multiplied by $3.50; however, no retiree may receive a subsidy payment of more than $105 or less than $35.

(8) CONTRIBUTIONS.—For purposes of funding the insurance subsidy provided by this section:

(c) Beginning January 1, 1993, the employer of each member of a state-administered retirement plan shall contribute 0.52 percent of gross compensation each pay period.

Such contributions shall be submitted to the Division of Retirement and deposited in the Retiree Health Insurance Subsidy Trust Fund.

Section 3. Section 112.666, Florida Statutes, is created to read:

112.666 Florida Protection of Public Employee Retirement Benefits Trust Fund.—

(1) There is established a trust fund in the State Treasury to be entitled the "Florida Protection of Public Employee Retirement Benefits Trust Fund," out of which the cost of administering this part is annually appropriated. The Division of Retirement shall assess annually each local retirement system or plan covered by this part an equitable share of the division's cost of administering this part. The division shall establish, by rule, an equitable formula by which each such local retirement system or plan is assessed its share of the division's cost of administering this part.

Each such local retirement system or plan shall pay its assessment upon notice by the division. However, annual appropriations made to the trust fund pursuant to ss. 175.121 and 185.10 shall be credited to firefighters' and police officers' retirement systems or plans in lieu of assessments.

(2) The division shall deposit each assessment collected pursuant to subsection (1) into the trust fund established pursuant to this section.

(3) The State Board of Administration shall invest and reinvest the moneys of the trust fund in accordance with ss. 215.44-215.53. Costs incurred by the State Board of Administration under this section shall be deducted from the interest and investment earnings accruing to the trust fund.

Section 4. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of the state and of its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner, as required by Section 14 of Article X of the State Constitution and part VII of chapter 112 of the Florida Statutes. Therefore, the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 5. Subsection (34) of section 121.021, as amended by section 2 of chapter 92-122, Laws of Florida, and section 52 of chapter 92-279, Laws of Florida, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(34) "Covered group" means the officers and employees of an employer who become members under this chapter. "Covered group" applies also when the employer is a special district or city for which coverage under this chapter is applied for by the employer and approved for social security coverage by the United States Secretary of Health and Human Services and approved by the administrator for membership under this chapter. Members of a ~~municipal~~ firefighters' pension trust fund or a municipal police officers' retirement trust fund, established in accordance with chapter 175 or chapter 185, respectively, shall be considered eligible for membership under this chapter only after holding a referendum and by affirmative majority vote electing coverage under this chapter.

Section 6. Paragraphs (a) and (c) of subsection (7) of section 121.052, Florida Statutes, as amended by section 4 of chapter 92-122, Laws of Florida, are amended to read:

121.052 Membership class of elected state and county officers.—

(7) CONTRIBUTIONS.—

(a) The following table states the required retirement contribution rates for members of the Elected State and County Officers' Class and their employers in terms of *a percentage* ~~percentages~~ of the *member's* ~~members'~~ gross compensation. *A change* ~~Changes~~ in *a* ~~the~~ contribution *rate is* ~~rates are~~ effective with the first salary paid on or after the beginning date of *the* ~~a~~ change. Contributions shall be made or deducted as may be appropriate for each pay period and *are* ~~shall be~~ in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution

Rate Changes	Members	Employers
July 1, 1972, through September 30, 1977		
Legislators	8%	8%
All Other Members	8%	8%
October 1, 1977, through September 30, 1978		
Legislators	8%	8%
All Other Members	4%	12%
October 1, 1978, through September 30, 1979		
Legislators	8%	10.57%
All Other Members	4%	16.78%
October 1, 1979, through September 30, 1981		
Legislators	8%	10.57%
Governor, Lt. Governor, Cabinet Officers	4%	16.78%
All Other Members	0%	20.78%
July 1, 1981, through June 30, 1984		
County Elected Officers	0%	19.30%
July 1, 1984, through September 30, 1984		
County Elected Officers	0%	20.25%
October 1, 1981, through September 30, 1984		
Legislators	0%	19.30%
Governor, Lt. Governor, Cabinet Officers	0%	21.03%
State Attorneys, Public Defenders	0%	20.95%
Justices, Judges	0%	22.55%
October 1, 1984, through September 30, 1986		
Legislators	0%	10.98%
Governor, Lt. Governor, Cabinet Officers	0%	10.98%
State Attorneys, Public Defenders	0%	10.98%
Justices, Judges	0%	21.79%
County Elected Officers	0%	16.97%
October 1, 1986, through December 31, 1988		
Legislators	0%	11.50%
Governor, Lt. Governor, Cabinet Officers	0%	11.50%
State Attorneys, Public Defenders	0%	11.50%
Justices, Judges	0%	20.94%
County Elected Officers	0%	17.19%
January 1, 1989, through December 31, 1989		
Legislators	0%	13.70%
Governor, Lt. Governor, Cabinet Officers	0%	13.70%
State Attorneys, Public Defenders	0%	13.70%
Justices, Judges	0%	22.58%
County Elected Officers	0%	18.44%
January 1, 1990, through December 31, 1990		
Legislators	0%	15.91%
Governor, Lt. Governor, Cabinet Officers	0%	15.91%
State Attorneys, Public Defenders	0%	15.91%
Justices, Judges	0%	24.22%
County Elected Officers	0%	19.71%
January 1, 1991, through December 31, 1991		
Legislators	0%	17.73%
Governor, Lt. Governor, Cabinet Officers	0%	17.73%
State Attorneys, Public Defenders	0%	17.73%
Justices, Judges	0%	26.63%
County Elected Officers	0%	23.32%
January 1, 1992, through December 31, 1992		
Legislators	0%	19.94%
Governor, Lt. Governor, Cabinet Officers	0%	19.94%
State Attorneys, Public Defenders	0%	19.94%
Justices, Judges	0%	28.27%
County Elected Officers	0%	24.59%
Effective January 1, 1993		
Legislators	0%	*22.65%* ~~22.14%~~
Governor, Lt. Governor, Cabinet Officers	0%	*22.65%* ~~22.14%~~
State Attorneys, Public Defenders	0%	*22.65%* ~~22.14%~~
Justices, Judges	0%	*30.52%* ~~29.91%~~
County Elected Officers	0%	*26.07%* ~~25.84%~~

(c) *The following table states the required employer contribution on behalf of each member of the Elected State and County Officers' Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:*

Dates of Contribution Rate Changes	*Contribution Rate*
October 1, 1987, through December 31, 1988	*0.24%*
January 1, 1989, through December 31, 1992	*0.48%*
Effective January 1, 1993	*0.52%*

~~1. Effective October 1, 1987, each employer shall contribute an amount equal to .24 percent of each member's gross salary, which shall~~

~~constitute the entire health insurance subsidy contribution with respect to such member.~~

~~2. Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 7. Paragraphs (a) and (c) of subsection (3) of section 121.055, Florida Statutes, as amended by section 56 of chapter 92-279, Laws of Florida, are amended, and subsection (7) is added to said section to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(3)(a) The following table states the required retirement contribution rates for members of the Senior Management Service Class and their employers in terms of *a percentage* ~~percentages~~ of the *member's* ~~members'~~ gross compensation. *A change* ~~Changes~~ in the contribution *rate is* ~~rates are~~ effective with the first salary paid on or after the beginning date of *the* ~~a~~ change. Contributions shall be made for each pay period and *are* ~~shall be~~ in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution Rate Changes	Members	Employers
February 1, 1987, through December 31, 1988	0%	13.88%
January 1, 1989, through December 31, 1989	0%	14.95%
January 1, 1990, through December 31, 1990	0%	16.04%
January 1, 1991, through December 31, 1991	0%	18.39%
January 1, 1992, through December 31, 1992	0%	19.48%
Effective January 1, 1993	0%	*22.60%* ~~20.55%~~

(c) *The following table states the required employer contribution on behalf of each member of the Senior Management Service Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:*

Dates of Contribution Rate Changes	*Contribution Rate*
October 1, 1987, through December 31, 1988	*0.24%*
January 1, 1989, through December 31, 1992	*0.48%*
Effective January 1, 1993	*0.52%*

~~1. Effective October 1, 1987, each employer shall contribute on behalf of each member in the Senior Management Service Class an amount equal to .24 percent of the member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

~~2. Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

(7) On and after January 1, 1993, if the employment of a member of the Senior Management Service Class is terminated subsequent to the completion by the member of 20 years of creditable service, the monthly benefits payable to the member shall be calculated in accordance with s. 121.091(1), but based on average monthly compensation and creditable service as of the date of termination. The benefit so computed shall be reduced by five-twelfths of 1 percent for each complete month by which termination precedes the normal retirement date or the date on which the member would have attained 30 years of creditable service had his employment not been terminated and he had continued his employment, whichever computation provides a greater benefit.

Section 8. Subsections (1) and (4) of section 121.071, Florida Statutes, as amended by section 57 of chapter 92-279, Laws of Florida, are amended to read:

121.071 Contributions.—Contributions to the system shall be made as follows:

(1) The following tables state the required retirement contribution rates for members of the Regular Class, Special Risk Class, *or* ~~and~~ Special Risk Administrative Support Class and their employers in terms of *a percentage* ~~percentages~~ of the *member's* ~~members'~~ gross compensation. *A change* ~~Changes~~ in *a* ~~the~~ contribution *rate is* ~~rates are~~ effective with the first salary paid on or after the beginning date of *the* ~~a~~ change. Contributions shall be made or deducted as may be appropriate for each pay period and *are* ~~shall be~~ in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

(a) Retirement contributions for regular members are as follows:

Dates of Contribution Rate Changes	Members	Employers
December 1, 1970, through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	4%	4%
December 1, 1970, through September 30, 1975, for all other local government agencies	4%	4%
January 1, 1975, through September 30, 1978, for state agencies, and state universities	0%	9%
January 1, 1975, through July 31, 1978, for community colleges and district school boards	0%	9%
October 1, 1975, through September 30, 1978, for all other local government agencies	0%	9%
August 1, 1978, through September 30, 1981, for community colleges and district school boards	0%	9.1%
October 1, 1978, through September 30, 1981, for all other agencies	0%	9.1%
October 1, 1981, through September 30, 1984	0%	10.93%
October 1, 1984, through September 30, 1986	0%	12.24%
October 1, 1986, through December 31, 1988	0%	13.14%
January 1, 1989, through December 31, 1989	0%	13.90%
January 1, 1990, through December 31, 1990	0%	14.66%
January 1, 1991, through December 31, 1991	0%	15.72%
January 1, 1992, through December 31, 1992	0%	16.51%
Effective January 1, 1993	0%	*17.15%* ~~17.27%~~

(b) Retirement contributions for special risk members are as follows:

Dates of Contribution Rate Changes	Members	Employers
December 1, 1970, through September 30, 1974	6%	6%
October 1, 1974, through December 31, 1974, for state agencies, state universities, community colleges, and district school boards	8%	8%
October 1, 1974, through September 30, 1975, for all other local government agencies	8%	8%
January 1, 1975, through September 30, 1978, for state agencies, state universities, community colleges, and district school boards	0%	13%
October 1, 1975, through September 30, 1978, for other local government agencies	0%	13%
October 1, 1978, through September 30, 1981	0%	13.95%
October 1, 1981, through September 30, 1984	0%	13.91%
October 1, 1984, through September 30, 1986	0%	14.67%
October 1, 1986, through December 31, 1988	0%	15.11%
January 1, 1989, through December 31, 1989	0%	17.50%
January 1, 1990, through December 31, 1990	0%	19.90%

January 1, 1991, through December 31, 1991	0%	25.52%
January 1, 1992, through December 31, 1992	0%	26.35%
Effective January 1, 1993	0%	*27.03%* ~~27.14%~~

(c) Retirement contributions for special risk administrative support members are as follows:

Dates of Contribution Rate Changes	Members	Employers
July 1, 1982, through September 30, 1984	0%	11.14%
October 1, 1984, through September 30, 1986	0%	13.09%
October 1, 1986, through December 31, 1988	0%	15.44%
January 1, 1989, through December 31, 1989	0%	14.76%
January 1, 1990, through December 31, 1990	0%	14.09%
January 1, 1991, through December 31, 1991	0%	20.16%
January 1, 1992, through December 31, 1992	0%	19.51%
Effective January 1, 1993	0%	*18.59%* ~~18.83%~~

(4) *The following table states the required employer contribution on behalf of each member of the Regular Class, Special Risk Class, or Special Risk Administrative Support Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:*

Dates of Contribution Rate Changes	*Contribution Rate*
October 1, 1987, through December 31, 1988	*0.24%*
January 1, 1989, through December 31, 1992	*0.48%*
Effective January 1, 1993	*0.52%*

~~(a) Effective October 1, 1987, each employer shall contribute on behalf of each member an amount equal to .24 percent of the member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

~~(b) Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

Section 9. Effective upon becoming a law and operating retroactively to May 1, 1992, paragraph (c) of subsection (7) of section 121.091, Florida Statutes, as amended by section 7 of chapter 92-122, Laws of Florida, is amended to read:

121.091 Benefits payable under the system.—No benefits shall be paid under this section unless the member has terminated employment as provided in s. 121.021(39).

(7) DEATH BENEFITS.—

(c)1. The surviving spouse of any member killed in the line of duty may receive a monthly pension equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime; or, in lieu of the above, the surviving spouse may elect to receive the benefit provided in paragraph (b).

2. If the surviving spouse of a member killed in the line of duty dies, the monthly payments which would have been payable to such surviving spouse had such surviving spouse lived shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

3. If a member killed in the line of duty leaves no surviving spouse but is survived by a child or children under 18 years of age, the benefits provided by subparagraph 1., normally payable to a surviving spouse, shall be paid for the use and benefit of such member's child or children under 18 years of age and unmarried until the 18th birthday of the member's youngest child.

4. The surviving spouse of a member whose benefit terminated because of remarriage shall have the benefit reinstated beginning May 1, 1992, at an amount which would have been payable had the benefit not been terminated.

Section 10. Subsection (12) of section 121.40, Florida Statutes, as amended by section 11 of chapter 92-122, Laws of Florida, and section 61 of chapter 92-279, Laws of Florida, is amended to read:

121.40 Cooperative extension personnel at the Institute of Food and Agricultural Sciences; supplemental retirement benefits.—

(12) CONTRIBUTIONS.—

(a) For the purposes of funding the supplemental benefits provided by this section, the institute is authorized and required to pay, commencing July 1, 1985, the necessary monthly contributions from its appropriated budget. These amounts shall be paid into the Institute of Food and Agricultural Sciences Supplemental Retirement Trust Fund, which is hereby created.

(b) The monthly contributions required to be paid pursuant to paragraph (a) on the gross monthly salaries, from all sources with respect to such employment, paid to those employees of the institute who hold both state and federal appointments and who participate in the federal Civil Service Retirement System shall be as follows:

Dates of Contribution Rate Changes	Percentage Due
July 1, 1985, through December 31, 1988	6.68%
~~Effective~~ January 1, 1989, *through December 31, 1992*	6.35%
Effective January 1, 1993	*6.69%*

Section 11. Paragraph (b) of subsection (1) of section 122.08, Florida Statutes, as amended by section 1 of chapter 92-139, Laws of Florida, is amended to read:

122.08 Requirements for retirement; classifications.—There shall be two retirement classifications for all state and county officers and employees participating herein as hereafter provided in this section:

(1)

(b) Notwithstanding any provision of this chapter to the contrary, effective *July 1, 1992* ~~January 1, 1993~~, the normal retirement age for a member under this chapter is attained upon the member's completion of 30 years of creditable service in the aggregate.

Section 12. Subsection (1) of section 122.35, Florida Statutes, as amended by section 2 of chapter 92-139, Laws of Florida, is amended to read:

122.35 Funding.—

(1) Commencing July 1, 1967, for all state agencies and commencing October 1, 1967, for all other agencies with employees who are members under this chapter, former ss. 122.17 and 122.30(4) shall be of no further force and effect and each officer or board paying salaries to members and withholding contributions required of members under this chapter for purposes of providing retirement benefits and social security benefits to or on behalf of such members, shall budget, set aside and pay over to account B of the intangible tax trust fund, herein created, matching payments in the following specified amounts:

(a)1. An amount equal to the amount of member contributions paid to the State and County Officers and Employees' Retirement Trust Fund as specified in ss. 122.03 and 122.27 but excluding any additional contributions required of high hazard members under s. 122.34; and

2. Commencing *July 1, 1992* ~~January 1, 1993~~, an additional amount equal to 3.99 percent of each installment of salary to members; and

(b) An amount equal to the amount of member contributions paid to the Social Security Contribution Trust Fund as specified in s. 122.27.

Section 13. (1) All statutory powers, duties, and functions, and the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds related thereto, of the Department of Insurance which pertain to chapter 175 or chapter 185, Florida Statutes, except those pertaining to the receipt, holding, investment, or ministerial disbursement of premium tax moneys collected thereunder, are transferred by a type four transfer, as defined in section 20.06, Florida Statutes, to the Department of Administration and assigned to the Division of Retirement; and the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance is abolished. All rules of the Department of Insurance pertaining to powers, duties, and functions assigned to the Division of Retire-

ment by this act shall continue in effect as rules of that division until changed or repealed by the division.

(2) Effective when the transfer of the Division of Retirement to the Department of Management Services by chapter 92-279, Laws of Florida, occurs, all statutory powers, duties, and functions relating to chapter 175 or chapter 185, Florida Statutes, which are assigned to the Division of Retirement by this or any other section of this act, together with the records, personnel, property, and unexpended balances of appropriations, allocations, or other funds related thereto, shall accompany the transfer of the division to the Department of Management Services by that act and are assigned to the Division of Retirement of that department.

Section 14. Section 175.021, Florida Statutes, is amended to read:

175.021 Legislative declaration.—It is hereby declared by the Legislature that firefighters, as hereinafter defined, perform state and municipal functions; that it is their duty to extinguish fires, to protect life, and to protect property at their own risk and peril; that it is their duty to prevent conflagration and to continuously instruct school personnel, public officials, and private citizens in the prevention of fires and firesafety; that they protect both life and property from local emergencies as defined in s. 252.34(2); and that their activities are vital to the public safety. *It is further declared that firefighters employed by special fire control districts serve under the same circumstances and perform the same duties as firefighters employed by municipalities and should therefore be entitled to the benefits available under this chapter.* Therefore, the Legislature declares that it is a proper and legitimate state purpose to provide a uniform retirement system for the benefit of firefighters as hereinafter defined and intends, in implementing the provisions of s. 14, Art. X of the State Constitution as they relate to municipal *and special district* firefighters' pension trust fund systems and plans, that such retirement systems or plans be managed, administered, operated, and funded in such manner as to maximize the protection of the firefighters' pension trust funds. This chapter hereby establishes minimum standards for the operation and funding of municipal *and special district* firefighters' pension trust fund systems and plans, *hereinafter referred to as firefighters' pension trust funds.*

Section 15. Section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—The following words and phrases used in this *chapter* ~~act~~ shall have the following meanings, unless a different meaning is plainly required by the context:

(1)~~(5)~~(a) "Aggregate number of years of service ~~with the municipality~~" means the total number of years, and fractional parts of years, of service of any firefighter, omitting intervening years and fractional parts of years, when such firefighter may not be employed by the municipality *or special fire control district*. However, no firefighter will receive credit for years or fractional parts of years of service for which he has withdrawn his contributions to the fund for those years or fractional parts of years of service, unless the firefighter repays into the fund the contributions he has withdrawn, with interest, within 90 days after his reemployment. Further, a firefighter may voluntarily leave his contributions in the fund for a period of 5 years after leaving the employ of the fire department, pending the possibility of his being rehired by the same department and remaining employed for a period of not less than 3 years, without losing credit for the time he has participated actively as a firefighter. If he does not remain employed for a period of at least 3 years as a firefighter, with the same department upon reemployment, within 5 years, his contributions shall be returned to him without interest.

(b) In determining the aggregate number of years of service of any firefighter, the time spent in the military service of the Armed Forces of the United States, or the United States Merchant Marine, while on official leave of absence in the event of a national emergency, shall be added to the years of actual service. However, credit for such military service shall not exceed 5 years. Further, to receive credit for such service:

1. The firefighter must return to his employment as a firefighter of the municipality *or special fire control district* within 1 year from the date of his release from such active service; and

2. The firefighter must contribute into the fund the same sum which he would have contributed if he had remained a firefighter. Further, a request for credit for such military service must be made by the firefighter within 90 days after reentering the service of the fire department from such leave of absence granted, or such military service credit shall be forfeited forever.

(2)(a) "Average final compensation for a full-time firefighter" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death or the career average as a full-time firefighter since July 1, 1953, whichever is greater. A year shall be 12 consecutive months.

(b) "Average final compensation for a volunteer firefighter" means the average salary of the 10 best contributing years prior to change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Division" means:

(a) Before the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Administration.

(b) After the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Management Services.

(4)~~(6)~~ "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(5)~~(1)~~(a) "Firefighter" means any person employed solely in a constituted fire department of any municipality~~,~~ or special fire control district ~~established by this state law prior to 1963,~~ who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35 and whose duty it is to extinguish fires, to protect life, and to protect property. However, for purposes of this chapter only, "firefighter" also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Insurance Commissioner and Treasurer as participating in this chapter prior to October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter shall be considered police officers for retirement purposes and shall be eligible to participate in chapter 185.

(b) "Volunteer firefighter" means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipality *or special fire control district* and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a volunteer firefighter shall not disqualify him as a volunteer. A person shall not be disqualified as a volunteer firefighter solely because he has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

(6)~~(4)~~ "Property insurance" means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of any municipality, *or within the boundaries of any special fire control district,* within the state. "Multiple peril" means a combination or package policy which includes both property and casualty coverage for a single premium.

(7)~~(3)~~ "Salary" means the fixed monthly compensation paid a firefighter and where, as in the case of a volunteer firefighter, compensation is derived from actual services rendered, salary shall be the total cash compensation received yearly for such services, prorated on a monthly basis.

(8) "Special fire control district" means a special district, as defined in s. 189.403(1), established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of any county or combination of counties, or within any combination of incorporated and unincorporated portions of any county or combination of counties. The term does not include any dependent or independent special district, as defined in s. 189.403(2) and (3), respectively, the employees of which are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

Section 16. Section 175.041, Florida Statutes, is amended to read:

175.041 ~~Municipal~~ Firefighters' Pension Trust Fund created; applicability of provisions.—

(1) There is hereby created a special fund to be known as the "~~Municipal~~ Firefighters' Pension Trust Fund," exclusively for the purpose of this *chapter* ~~act~~, in each municipality *and each special fire control district* of this state heretofore or hereafter created which now has or which may hereafter have a constituted fire department or an authorized volunteer fire department, or any combination thereof, and which municipality *or special fire control district* does not presently have established by law, special law, or local ordinance a similar fund.

(2) To qualify as a fire department or volunteer fire department or combination thereof under the provisions of this chapter, the department shall own and use apparatus for the fighting of fires that is in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus.

(3) The provisions of this *chapter* ~~act~~ shall apply only to municipalities organized and established pursuant to the laws of the state *and to special fire control districts*, and said provisions shall not apply to the unincorporated areas of any county or counties *except with respect to special fire control districts that include unincorporated areas*, nor shall the provisions hereof apply to any governmental entity whose employees *participate* ~~are eligible for membership~~ in *the Florida* ~~a state or state and county~~ Retirement System. *Special fire control districts that include, or consist exclusively of, unincorporated areas of one or more counties may levy and impose the tax and participate in the retirement programs enabled by this chapter.*

(4) No municipality shall establish more than one retirement plan for public safety officers which is supported in whole or in part by the distribution of premium tax funds as provided by this chapter or chapter 185, nor shall any municipality establish a retirement plan for public safety officers which receives premium tax funds from both this chapter and chapter 185.

Section 17. Subsection (1) of section 175.061, Florida Statutes, is amended to read:

175.061 Board of trustees; members, terms of office.—

(1) In each municipality *and in each special fire control district* there is hereby created a board of trustees of the ~~municipal~~ firefighters' pension trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter, the board of trustees shall consist of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality *or special fire control district*, who shall be appointed by the *governing* ~~legislative~~ body of the municipality *or special fire control district*, and two of whom shall be full-time firefighters as defined in s. 175.032~~(1)~~ who shall be elected by a majority of the firefighters who are members of such plan. The fifth member shall be chosen by a majority of the previous four members as provided for herein, and such person's name shall be submitted to the *governing* ~~legislative~~ body of the municipality *or special fire control district*. Upon receipt of the fifth person's name, the *governing* ~~legislative~~ body of the municipality *or special fire control district* shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the *governing* ~~legislative~~ body at whose pleasure he shall serve, and may succeed himself as a trustee. ~~However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the fire department as members of the board of trustees as provided in chapter 63-249, Laws of Florida, as amended, together with any city manager and member of the legislative body of the municipality as members of the board of trustees shall terminate on September 30, 1986.~~ Each firefighter member shall serve as trustee for a period of 2 years, unless he sooner leaves the employment of the municipality *or special fire control district* as a firefighter, whereupon ~~the legislative body of the municipality shall choose~~ his successor *shall be chosen* in the same manner as an original appointment. Each firefighter may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

Section 18. Paragraphs (a), (b), and (c) of subsection (1) and subsections (4) and (5) of section 175.071, Florida Statutes, are amended to read:

175.071 Powers of board of trustees.—

(1) The board of trustees may:

(a) Invest and reinvest the assets of the ~~municipal~~ firefighters' pension trust fund in annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the ~~municipal~~ firefighters' pension trust fund shall be entitled under the provisions of this *chapter* ~~act~~ and pay the initial and subsequent premiums thereon.

(b) Invest and reinvest the assets of the ~~municipal~~ firefighters' pension trust fund in:

1. Time or savings accounts of a national bank, a state bank insured by the Federal Deposit Insurance Corporation, or a savings, building and loan association insured by the Federal Savings and Loan Insurance Corporation.

2. Obligations of the United States or obligations guaranteed as to principal and interest by the Government of the United States.

3. Bonds issued by the State of Israel.

4. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

a. The corporation is listed on any one or more of the recognized national stock exchanges and holds a rating in one of the three highest classifications by a major rating service; and

b. The board of trustees shall not invest more than 5 percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed 5 percent of the outstanding capital stock of that company or the aggregate of its investments under this subparagraph at cost exceed 30 percent of the assets of the fund.

This paragraph shall apply to all boards of trustees and participants. However, in the event that a municipality *or special fire control district* has a duly enacted pension plan pursuant to, and in compliance with, s. 175.351, and the trustees thereof desire to vary the investment procedures herein, the trustees of such plan shall request a variance of the investment procedures as outlined herein only through a municipal ordinance, ~~or~~ special act of the Legislature, *or resolution by the governing body of the special fire control district*; where a special act, or a municipality by ordinance adopted prior to October 1, 1986, permits a greater than 30-percent equity investment, such municipality shall not be required to comply with the aggregate equity investment provisions of this paragraph. Investments shall not be made in any stocks, bonds, or other securities owned or controlled by a government other than that of the United States or the several states.

(c) Issue drafts upon the ~~municipal~~ firefighters' pension trust fund pursuant to this act and rules and regulations prescribed by the board of trustees. All such drafts shall be consecutively numbered, be signed by the chairman and secretary, and state upon their faces the purpose for which the drafts are drawn. The treasurer or depository of each municipality *or special fire control district* shall retain such drafts when paid, as permanent vouchers for disbursements made, and no money shall be otherwise drawn from the fund.

(4) The sole and exclusive administration of, and the responsibilities for, the proper operation of the ~~municipal~~ firefighters' pension trust fund and for making effective the provisions of this *chapter* ~~act~~ are vested in the board of trustees; however, nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality *or special fire control district*. The board of trustees shall keep in convenient form such data as shall be necessary for an actuarial valuation of the ~~municipal~~ firefighters' pension trust fund and for checking the actual experience of the fund.

(5) At least once every 3 years, the board of trustees shall retain an independent consultant professionally qualified to evaluate the performance of professional money managers. The independent consultant shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommenda-

tions shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality *or special fire control district, as appropriate,* at least 10 days prior to the date of the hearing.

Section 19. Subsections (1), (3), (7), and (8) of section 175.081, Florida Statutes, are amended to read:

175.081 Use of annuity or insurance policies.—When the board of trustees purchases annuity or life insurance contracts to provide all or any part of the benefits as provided for by this act, the following principles shall be observed:

(1) Only those firefighters who have been members of the ~~municipal~~ firefighters' pension trust fund for 1 year or more may participate in the insured plan.

(3) Each application and policy shall designate the ~~municipal~~ firefighters' pension trust fund as owner of the policy.

(7) An insurance plan may provide that the assignment of insurance contract to separating firefighters shall be at least equivalent to the return of the firefighters' contributions used to purchase the contract. An assignment of contract discharges the municipality *or special fire control district, as appropriate,* from all further obligation to the participant under the plan even though the cash value of such contract may be less than the firefighters' contributions.

(8) Provisions shall be made, either by issuance of separate policies or otherwise, that the separating firefighter does not receive cash value and other benefits under the policies assigned to him which exceed the present value of his vested interest under the ~~municipal~~ firefighters' pension trust fund, inclusive of his contribution to the plan; the contributions by the state shall not be exhausted faster merely because the method of funding adopted was through insurance companies.

Section 20. Section 175.091, Florida Statutes, is amended to read:

175.091 Creation and maintenance of fund.—

(1) The ~~municipal~~ firefighters' pension trust fund in each municipality *and in each special fire control district* shall be created and maintained in the following manner:

(a) By payment to the fund of the net proceeds of the *1.85-percent* ~~2-percent~~ excise or other similar tax which may be imposed by the *municipality or special fire control district* ~~respective municipalities~~ upon fire insurance companies, fire insurance associations, or other property insurers on their gross receipts on premiums from holders of policies, which policies cover real or personal property within the corporate limits of such *municipality, in the case of a municipal government, and within the legally defined jurisdiction of the district, in the case of a special fire control district. Whenever a municipality maintains a firefighters' pension trust fund under the provisions of this chapter but is partially contained within the boundaries of a special fire control district, that portion of the 1.85-percent excise, license, or other similar tax which is collected for insurance policies covering property within the jurisdiction of both the municipality and the special fire control district shall be given to the firefighters' pension trust fund of the fire service provider. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property* ~~municipalities, as is hereinafter expressly authorized~~.

(b) By the payment to the fund of 5 percent of the salary of each uniformed firefighter who is a member or duly enrolled in the fire department of any municipality *or special fire control district*, which 5 percent shall be deducted by the municipality *or special fire control district* from the compensation due to the firefighter and paid over to the board of trustees of the ~~municipal~~ firefighters' pension trust fund wherein such firefighter is employed. A firefighter participating in the old age survivors insurance of the federal Social Security Law may limit his contribution to the ~~municipal~~ firefighters' pension trust fund to 3 percent of his annual compensation and receive reduced benefits as set forth in s. 175.211 and s. 175.191(5). No firefighter shall have any right to the money so paid into the fund except as provided in this *chapter* ~~act~~.

(c) By all fines and forfeitures imposed and collected from any firefighter because of the violation of any rule and regulation promulgated by the board of trustees.

(d) By mandatory payment by the municipality *or special fire control district* of a sum equal to the normal cost and the amount required to fund over a period of 40 years or on a 40-year basis, any actuarial deficiency shown by a quinquennial actuarial valuation. The first such actuarial valuation shall be conducted for the calendar year ending December 31, 1967.

(e) By all gifts, bequests, and devises when donated to the fund.

(f) By all accretions to the fund by way of interest or dividends on bank deposits, or otherwise.

(g) By all other sources or income now or hereafter authorized by law for the augmentation of such ~~municipal~~ firefighters' pension trust fund.

(2) Under no circumstances may a municipality *or special fire control district* reduce the member contribution to less than 1 percent of salary.

Section 21. Section 175.101, Florida Statutes, is amended to read:

175.101 State excise tax on property insurance premiums authorized; procedure.—Each municipality *or special fire control district* in this state described and classified in s. 175.041, having a lawfully established ~~municipal~~ firefighters' pension trust fund or municipal fund *or special fire control district fund* providing pension benefits to firefighters by whatever name known, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereinafter engage in or carry on, the business of property insurance as shown by the records of the Department of Insurance an excise tax in addition to any lawful license or excise tax now levied by each of the municipalities *or special fire control districts*, respectively, amounting to 1.85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of such municipalities *or within the legally defined boundaries of special fire control districts*, respectively. *Whenever the boundaries of a special fire control district that has lawfully established a firefighters' pension trust fund encompass a portion of the corporate territory of a municipality that has also lawfully established a firefighters' pension trust fund, that portion of the tax receipts attributable to insurance policies covering property situated both within the municipality and the special fire control district shall be given to the fire service provider. The agent shall identify the fire service provider on the property owner's application for insurance. Remaining revenues collected pursuant to this chapter shall be distributed to the municipality or special fire control district according to the location of the insured property.* In the case of multiple peril policies with a single premium for both the property and casualty coverages in such policies, 70 percent of such premium shall be used as the basis for the 1.85-percent tax. This excise tax shall be payable annually on March 1 of each year after the passage of an ordinance, *in the case of a municipality, or resolution, in the case of a special fire control district,* assessing and imposing the tax ~~herein~~ authorized *by this section.* Installments of taxes shall be paid according to the provision of s. 624.5092(2)(a), (b), and (c).

Section 22. Section 175.111, Florida Statutes, is amended to read:

175.111 Certified copy of ordinance *or resolution* filed; insurance companies' annual report of premiums; duplicate files; book of accounts.—Whenever any municipality *passes* ~~shall pass~~ an ordinance, *or whenever any special fire control district passes a resolution,* assessing and imposing the taxes authorized in s. 175.101, a certified copy of such ordinance *or resolution* shall be deposited with ~~both~~ the *division* ~~Department of Banking and Finance and the Department of Insurance,~~ and thereafter every insurance company, association, corporation, or other insurer carrying on the business of property insurance on real or personal property, on or before the succeeding March 1 after date of the passage of *the* ~~said~~ ordinance *or resolution,* shall report fully in writing and under oath to the *division* ~~Department of Banking and Finance~~ and the Department of *Revenue* ~~Insurance,~~ a just and true account of all premiums by such insurer received for property insurance policies covering or insuring any real or personal property located within the corporate limits of each such municipality *or special fire control district* during the period of time elapsing between the date of the passage of *the* ~~said~~ ordinance *or resolution* and the succeeding March 1. *The* ~~Said~~ report shall include the ~~city~~ code designation as prescribed by the insurance commission for each

piece of insured property, real or personal, located within the corporate limits of each municipality *and within the legally defined boundaries of each special fire control district.* The aforesaid insurer shall annually thereafter, on March 1, file with the *division and the Department of Revenue* ~~same departments,~~ a similar report covering the preceding year's premium receipts, and every such insurer at the same time of making such reports shall pay to the *Department of Revenue* ~~Insurance Commissioner and Treasurer~~ the amount of the tax hereinbefore mentioned. Every insurer engaged in carrying on such insurance business in the state shall keep accurate books of accounts of all such business done by it within the corporate limits of each such municipality *and within the legally defined boundaries of each such special fire control district,* and in such manner as to be able to comply with the provisions of this *chapter* ~~section~~. *Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and* ~~The Department of Insurance~~ shall furnish to any municipality *or special fire control district* requesting the same a copy of *the relevant section of that report* ~~any of the reports filed by insurers under this section~~.

Section 23. Section 175.121, Florida Statutes, is amended to read:

175.121 *Department of Revenue, Department of Insurance, and Division of Retirement* ~~Insurance Commissioner and Treasurer~~ to keep accounts of deposits,~~;~~ disbursements*; investments by Insurance Commissioner and Treasurer.*—

(1) The *Department of Revenue* ~~Insurance Commissioner and Treasurer of the state~~ shall keep a separate account of all moneys collected for each municipality *and each special fire control district* under the provisions of this *chapter* ~~act. Any and~~ All moneys so collected, after deducting the necessary expenses incurred by the Department of Insurance in carrying out the provisions of this act, shall be paid into the ~~State Treasury in the~~ Insurance Commissioner's Regulatory Trust Fund *and shall be separately accounted for by the Department of Insurance. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the firefighters' pension plans under this chapter, are annually appropriated from that trust fund to the division from the interest and investment earnings on the trust fund and shall be paid quarterly into the Florida Protection of Public Employee Retirement Benefits Trust Fund.*

(2) The Comptroller shall, on or before June 1 of each year, and at such other times as *authorized by the division and requested by* the Treasurer ~~may elect~~, draw his *warrants* ~~warrant~~ on ~~the Insurance Commissioner and Treasurer for~~ the full net amount of money then on deposit *pursuant to this chapter* ~~with the Insurance Commissioner and Treasurer~~ in the Insurance Commissioner's Regulatory Trust Fund, specifying the *municipalities and special fire control districts* ~~municipality~~ to which the moneys *must* ~~shall~~ be paid and the net amount collected for and to be paid to each municipality *or special fire control district, respectively, subject to the limitation on disbursement under s. 175.122.* The *sum* ~~sums~~ payable to *each* ~~such~~ municipality *or special fire control district is* ~~are hereby~~ appropriated annually out of the Insurance Commissioner's Regulatory Trust Fund. The warrants of the Comptroller shall be payable to the *respective municipalities and special fire control districts* ~~municipality~~ entitled to receive them and shall be remitted annually by the Department of Insurance to *the respective municipalities and special fire control districts* ~~each municipality~~. In order for *a* ~~the~~ municipality *or special fire control district* and *its* ~~the~~ pension fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually.

(3)(a) All moneys not distributed to municipalities and special fire control districts under this section as a result of the limitation on disbursement contained in s. 175.122, or as a result of any municipality or special fire control district not having qualified in any given year, or portion thereof, shall be transferred to the Firefighters' Supplemental Compensation Trust Fund administered by the Department of Revenue, as provided in s. 633.382.

(b)1. Moneys transferred under paragraph (a) but not needed to support the supplemental compensation program in a given year shall be redistributed pro rata to those participating municipalities and special fire control districts that transfer any portion of their funds to support the supplemental compensation program in that year. Such additional moneys shall be used to cover or offset costs of the retirement plan.

2. To assist the Department of Revenue, the division shall identify those municipalities and special fire control districts that are eligible for redistribution as provided in s. 633.382(4)(c)2., by listing the municipalities and special fire control districts from which funds were transferred under paragraph (a) and specifying the amount transferred by each.

Section 24. Section 175.122, Florida Statutes, is amended to read:

175.122 Limitation of disbursement.—Any municipality *or special fire control district* participating in the ~~municipal~~ firefighters' pension trust fund pursuant to *the* provisions of this chapter shall be limited to receiving any moneys from such fund in excess of that produced by one-half of the excise tax, as provided for in s. 175.101; however, any such municipality *or special fire control district* receiving less than 6 percent of its fire department payroll from such fund shall be entitled to receive from such fund the amount determined under s. 175.121, in excess of one-half of the excise tax, not to exceed 6 percent of its fire department payroll.

Section 25. Section 175.131, Florida Statutes, is amended to read:

175.131 Funds received by municipality *or special fire control district*; deposit in ~~municipal~~ firefighters' pension trust fund.—All state and other funds received by any municipality *or special fire control district* under the provisions of this chapter shall be deposited by such municipality *or special fire control district* immediately, and under no circumstances more than 5 days after receipt, with the board of trustees. Employee contributions, however, which are withheld by the employer on behalf of an employee member shall be deposited with the board of trustees of the ~~municipal~~ firefighters' pension trust fund at least monthly.

Section 26. Section 175.141, Florida Statutes, is amended to read:

175.141 Payment of excise tax credit on similar state excise or license tax.—The tax herein authorized to be imposed by each municipality *and each special fire control district* shall in nowise be in addition to any similar state excise or license tax imposed by part IV of chapter 624, but the payer of the tax hereby authorized shall receive credit therefor on his said state excise or license tax and the balance of said state excise or license tax shall be paid to the Insurance Commissioner and Treasurer as is now provided by law.

Section 27. Section 175.152, Florida Statutes, is amended to read:

175.152 Contributions.—Except as provided in s. 175.091(1)(b), the municipal *or special fire control district* officer or board paying salaries to firefighters entitled to the benefit of this chapter shall deduct 5 percent from each installment of salary of each firefighter so long as such firefighter shall hold office or be employed. The amount so deducted shall be deposited as provided in s. 175 301 Under no circumstances may a municipality *or special fire control district* reduce the member contribution to less than 1 percent of salary.

Section 28. Section 175.162, Florida Statutes, is amended to read:

175.162 Requirements for retirement.—Any firefighter who completes 10 or more years of creditable service as a firefighter and attains age 55, or completes 25 years of creditable service as a firefighter and attains age 52, and who for such minimum period has been a member of the ~~municipal~~ firefighters' pension trust fund is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the municipality *or special fire control district* on or after the normal retirement date. In such event, payment of retirement income will be governed by the following provisions of this section:

(1) The normal retirement date of each firefighter will be the first day of the month coincident with or next following the date on which he has completed 10 or more years of creditable service and attained age 55 or completed 25 years of creditable service and attained age 52.

(2)(a) The amount of monthly retirement income payable to a full-time firefighter who retires on or after his normal retirement date shall be an amount equal to the number of his years of credited service multiplied by 2 percent of his average final compensation as a full-time firefighter. The retirement income shall be reduced for moneys received under the disability provisions of this chapter. However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only *such incremental* ~~increment~~ increases shall be required as state moneys

are adequate to provide. Such increments shall be provided as state moneys become available.

(b) The amount of monthly retirement income payable to a volunteer firefighter who retires on or after his normal retirement date shall be an amount equal to the number of his years of credited service multiplied by 2 percent of his average final compensation as a volunteer firefighter. If the firefighter has been contributing only 3 percent of his salary, his monthly retirement income shall be an amount equal to the number of his years of credited service multiplied by 1.2 percent of his average final compensation.

(3) The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the firefighter's normal retirement date, or on the first day of the month coincident with or next following his actual retirement, if later, and the last payment will be the payment due next preceding the firefighter's death; except that, in the event the firefighter dies after his retirement but before he has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the firefighter for the balance of such 10-year period. If a firefighter continues in the service of the municipality *or special fire control district* beyond his normal retirement date and dies prior to his date of actual retirement, without an option made pursuant to s. 175.171 being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the firefighter as if the firefighter had retired on the date on which his death occurred.

(4) Early retirement under the plan is retirement from the service of the municipality *or special fire control district*, with the consent of the municipality *or special fire control district*, as of the first day of any calendar month which is prior to the firefighter's normal retirement date but subsequent to the date as of which he has both attained the age of 50 years and has been a member of this fund for 10 continuous years. In the event of early retirement, payment of retirement income shall be governed as follows: the monthly amount of retirement income payable to a firefighter who retires prior to his normal retirement date shall be in the amount computed as described in subsection (2), taking into account his credited service to his date of actual retirement and his final monthly compensation as of such date, such amount of retirement income to be actuarially reduced to take into account the firefighter's younger age and the earlier commencement of retirement income benefits. The amount of monthly income payable in the event of early retirement will be paid in the same manner as in subsection (3). In no event shall the early retirement reduction exceed 3 percent for each year by which the member's age at retirement preceded the member's normal retirement age.

Section 29. Subsections (1) and (5) of section 175.191, Florida Statutes, are amended to read:

175.191 Disability retirement.—

(1) A firefighter having 10 or more continuous years of credited service and having contributed to the ~~municipal~~ firefighters' pension trust fund for 10 years or more may retire from the service of the municipality *or special fire control district* under the plan if, prior to his normal retirement date, he becomes totally and permanently disabled as defined in subsection (2) by reason of any cause other than a cause set out in subsection (3) on or after the effective date of the plan. Such retirement shall herein be referred to as "disability retirement." The provisions for disability other than line-of-duty disability shall not apply to a member who has reached early or normal retirement age.

(5) The benefits payable to a firefighter who retires from the service of a municipality *or special fire control district* due to total and permanent disability as a direct result of a disability commencing prior to his normal retirement date is the monthly income payable for 10 years certain and life for which, if the firefighter's disability occurred in the line of duty, his monthly benefit shall be the accrued retirement benefit, but shall not be less than 42 percent of his average monthly salary at the time of disability. If after 10 years of service the disability is other than in the line of duty, the firefighter's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than 25 percent of his average monthly salary at the time of disability.

Section 30. Section 175.201, Florida Statutes, is amended to read:

175.201 Death prior to retirement; refunds of contributions; death benefits.—If a firefighter dies before being eligible to retire under the provisions of this act, the heirs, legatees, beneficiaries, or personal representatives of such deceased firefighter shall be entitled to a refund of 100 percent, without interest, of the contributions made to the ~~municipal~~ firefighters' pension trust fund by such deceased firefighter or, in the event an annuity or life insurance contract has been purchased by the board of trustees on such firefighter, then to the death benefits available under such life insurance or annuity contract subject to the limitations on such death benefits set forth in s. 175.081, whichever amount is greater. If a firefighter dies prior to retirement but has at least 10 years of contributing service, his beneficiary is entitled to the benefits otherwise payable to the firefighter at early or normal retirement age. In the event that the death benefit paid by a life insurance company exceeds the limit set forth in s. 175.081, the excess of the death benefit over the limit shall be paid to the ~~municipal~~ firefighters' pension trust fund. However, the benefits as provided in s. 112.191 shall not be included as death or retirement benefits under the provisions of chapter 86-41, Laws of Florida.

Section 31. Section 175.211, Florida Statutes, is amended to read:

175.211 Separation from service; refunds.—If a firefighter leaves the service of the municipality *or special fire control district* before accumulating aggregate time of 10 years toward retirement and before being eligible to retire under the provisions of this *chapter* ~~act~~, he shall be entitled to a refund of all of his contributions made to the ~~municipal~~ firefighters' pension trust fund after July 1, 1963, without interest, less any disability benefits paid to him after July 1, 1963. If a firefighter who has been in the service of the municipality *or special fire control district* for at least 10 years and has contributed to the ~~municipal~~ firefighters' pension trust fund for at least 10 years elects to leave his accrued contributions in the ~~municipal~~ firefighters' pension trust fund, such firefighter upon attaining the age of 50 years may retire at the actuarial equivalent of the amount of such retirement income otherwise payable to him.

Section 32. Section 175.251, Florida Statutes, is amended to read:

175.251 Employment records required to be kept by secretary of board of trustees.—The secretary of the board of trustees shall keep a record of all persons receiving retirement payments under the provisions of this *chapter* ~~act~~, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all firefighters employed by the municipality *or special fire control district*. The record shall be kept in such manner as to show the name, address, and time of employment of such firefighters and when they cease to be employed by the municipality *or special fire control district*.

Section 33. Section 175.261, Florida Statutes, is amended to read:

175.261 *Annual* report to *Division of Retirement; actuarial reports* ~~Department of Insurance~~.—

(1) Each year, by February 1, the chairman or secretary of the board of trustees of each ~~municipal~~ firefighters' pension trust fund shall file a report with the *division which contains* ~~Department of Insurance, containing the following~~:

(a) *A statement of* whether in fact the municipality *or special fire control district* is within the provisions of s. 175.041.

(b) An independent audit by a certified public accountant if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 or more in assets, for the most recent fiscal year of the municipality *or special fire control district*, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) A statistical exhibit showing the total number of firefighters on the force, the number included in the retirement plan and the number ineligible, classified according to the reason for their being ineligible, and the number of disabled firefighters and retired firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

(d) A statement of the amount the municipality *or special fire control district*, or other income source, has contributed to the retirement fund for the most recent fiscal year and the amount the municipality *or*

special fire control district will contribute to the retirement fund during its current fiscal year.

(e) If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this *chapter* ~~act~~ as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.

(2) By February 1 of each triennial year, beginning with February 1, 1986, and at least every 3 years commencing from the last actuarial report of the plan or system or from February 1, 1987, if no actuarial report has been issued within the 3-year period prior to February 1, 1986, the chairman of each ~~municipal~~ firefighters' pension trust fund shall report to the *division* ~~Department of Insurance~~ such data that it needs to complete an actuarial valuation of each fund. The forms for each municipality *and special fire control district* shall be supplied by the *division* ~~department~~. The expense of this actuarial valuation shall be borne by the ~~municipal~~ firefighters' pension trust fund established by ss. 175.041 and 175.121.

Section 34. Section 175.291, Florida Statutes, is amended to read:

175.291 Attorney for municipality *or special fire control district* to represent board of trustees upon request; option to employ independent counsel and other persons.—The ~~city~~ attorney of each municipality *or special fire control district* shall give advice to the board of trustees in all matters pertaining to its duties in the administration of the ~~municipal~~ firefighters' pension trust fund whenever requested; and he shall represent and defend the board as its attorney in all suits and actions at law or in equity that may be brought against it and bring all suits and actions in its behalf that may be required or determined upon by the board. However, if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary. This section shall specifically apply to all funds receiving state moneys pursuant to this chapter.

Section 35. Section 175.301, Florida Statutes, is amended to read:

175.301 Depository for pension funds.—All funds and securities of the ~~municipal~~ firefighters' pension trust fund may be deposited by the board of trustees with the treasurer of the municipality *or special fire control district*, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the municipality *or special fire control district*. However, any funds and securities so deposited with the treasurer of the municipality *or special fire control district* shall be kept in a separate fund by the ~~municipal~~ treasurer or clearly identified as such funds and securities of the ~~municipal~~ firefighters' pension trust fund. In lieu thereof, the board of trustees shall deposit the funds and securities of the ~~municipal~~ firefighters' pension trust fund in a qualified public depository as defined in s. 280.02, which depository with regard to such funds and securities shall conform to and be bound by all of the provisions of chapter 280.

Section 36. Section 175.311, Florida Statutes, is amended to read:

175.311 Municipalities, *special fire control districts,* and boards independent ~~of other municipalities and boards and~~ of each other.—In the enforcement and in the interpretation of the provisions of this chapter, each municipality *and each special fire control district* shall be independent of any other municipality *or special fire control district*, and the board of trustees of the ~~municipal~~ firefighters' pension trust fund of each municipality *and each special fire control district* shall function for the municipality *or special fire control district* which it *serves* ~~is to serve~~ as trustee. Each board of trustees shall be independent of *the* ~~each~~ municipality *or special fire control district* for which it serves as board of trustees to the extent required to accomplish the intent, requirements, and responsibilities provided for in this chapter.

Section 37. Section 175.321, Florida Statutes, is amended to read:

175.321 Application of ss. 175.101-175.121, 175.131-175.151.—Sections 175.101-175.121 and 175.131-175.151 *are* ~~shall be~~ applicable in relation to *each municipality or special fire control district* ~~all municipalities~~ of the state which now *has* ~~have~~ or hereafter *establishes* ~~establish~~ a ~~municipal~~ firefighters' pension trust fund or a pension fund for firefighters, regardless of whether the municipality *or special fire control district falls* ~~shall fall~~ within the classification of s. 175.041 and *has* ~~have~~ its ~~municipal~~ firefighters' pension trust fund established under the provisions thereof, or whether the pension fund of the municipality *or special fire control district exists* ~~shall exist~~ under other general or special laws of the state, ~~or~~ a local ordinance, *or by rule of the Governor and Cabinet.* The remaining sections of this *chapter* ~~act,~~ which apply specifically to the creation of a board of trustees, define its powers, and establish a ~~municipal~~ firefighters' pension trust fund in each municipality *or special fire control district*, as well as such sections as define the person who shall be entitled to a pension out of such fund and the amount thereof, govern the conditions upon which such pensions shall be allowed, and define the duties of the officers of those municipalities *or special fire control districts* in relation to such fund, shall not apply to any municipality *which had a municipal firefighters' pension trust fund or municipal pension fund for firefighters and police officers on July 1, 1963, or to any special fire control district* which now has a ~~municipal~~ firefighters' pension trust fund ~~or municipal pension fund for firefighters and policemen~~.

Section 38. Section 175.341, Florida Statutes, is amended to read:

175.341 *Duties of Division of Retirement and Department of Insurance; rulemaking authority* ~~Department of Insurance to establish rules and regulations.~~—

(1) The Division of Retirement shall be responsible for the daily oversight and monitoring for actuarial soundness of the firefighters' pension plans established under this chapter; and the Department of Insurance shall be responsible for receiving and holding the premium tax moneys collected under this chapter and for disbursing those moneys to the firefighters' pension plans as authorized and directed by the Division of Retirement.

(2) The *Division of Retirement and the* Department of Insurance shall *each adopt* ~~establish~~ rules ~~and regulations~~ pertaining to *their respective roles in* the operation of this *chapter* ~~fund~~.

(3) The Insurance Commissioner and Treasurer shall invest and reinvest the funds of the trust fund collected under this chapter in accordance with ss. 215.44-215.53.

Section 39. Section 175.351, Florida Statutes, is amended to read:

175.351 Municipalities *and special fire control districts* having their own pension plans for firefighters.—In order for municipalities *and special fire control districts* with their own pension plans for firefighters or for firefighters and other employees to participate in the distribution of the tax fund established in ss. 175.101-175.121 and 175.131-175.151, their pension funds must meet each of the following standards:

(1) The plan must be for the purpose of providing retirement and disability income for firefighters or their beneficiaries.

(2) The normal retirement age, if any, must not be more than age 60.

(3) If the plan provides for a stated period of service as a requirement to receive a retirement income, that period must not be more than 30 years.

(4) The benefit formula to determine the amount of monthly pension must be equal to at least 2 percent for each year of the firefighter's credited service, multiplied by his average final compensation. However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only increment increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.

(5) If a ceiling on the monthly payment is stated in the plan, it should be no lower than $100.

(6) Death or survivor benefits and disability benefits may be incorporated into the plan as the municipalities *or special fire control districts* wish, but in no event should the single-sum value of such benefits as of the date of termination of service because of death or disability exceed:

(a) One hundred times the estimated normal retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date,

(b) Twice the annual rate of compensation as of date of termination of service, or

(c) The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service,

whichever is greatest; however, nothing in this *subsection* ~~paragraph~~ shall require any reduction in death or disability benefits provided by a retirement plan in effect prior to July 1, 1963.

(7) Eligibility for coverage under the plan must be based upon length of service or attained age, or both; and benefits must be determined by a nondiscriminatory formula based upon:

(a) Length of service and compensation, or

(b) Length of service.

(8) The retirement plan shall require participants to contribute toward the cost of the plan an amount which shall not be less than 1 percent of salary, and it must set forth the termination rights, if any, of an employee before retirement.

(9) An actuarial valuation of the retirement plan must be made at least once every 5 years commencing December 31, 1968, and at least every 3 years commencing from the last actuarial report of the plan or system or from October 1, 1986, if no actuarial report has been issued within the 3 years prior to October 1, 1983. Such valuation shall be prepared by an enrolled actuary. Such valuation shall be subject to the following:

(a) The assets shall be valued at cost or market or on such other basis as may be approved by the *division* ~~Department of Insurance~~.

(b) Minimum actuarial assumptions and methods to be used in valuing the liabilities *shall* ~~will~~ be provided by the *division* ~~Department of Insurance~~ and revised from time to time by it. The valuation must be on basis and methods not less conservative than those set forth by the *division* ~~Department of Insurance~~.

(c) *The* cost of the actuarial valuation must be paid by each individual firefighters' retirement fund or by the municipality *or special fire control district*.

(d) A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the *division* ~~Department of Insurance~~ within 3 months after the date of valuation. If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the retirement plan benefits to the insured benefits and, in addition, the name of the insurer, basis of premium rates, mortality table, interest rate, and method used in valuing the retirement benefits.

(e) However, if an actuarial valuation has been made subsequent to December 31, 1963, the 5-year period will commence on the date of that valuation.

(10) The municipality *or special fire control district* shall contribute to the plan annually an amount which, together with the contributions from the firefighters and the amount derived from the premium tax provided in s. 175.101 and other income sources as authorized by law, will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not more than 40 years.

(11) No retirement plan or amendment to a retirement plan shall be proposed *unless* ~~without~~ the proposed plan or amendment *contains* ~~containing~~ an actuarial estimate of the costs involved. No such proposed plan change shall be adopted without the approval of the municipality *or special fire control district*. Copies of the proposed change and the actuarial impact statement of the proposed change shall be furnished to the *division* ~~Department of Insurance~~ prior to the last public hearing thereon. Such statement shall also indicate whether the proposed change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter.

(12) Each year, on or before March 15, the trustees of the retirement plan shall submit the following information to the *division* ~~Department of Insurance~~ in order for the retirement plan of such municipality *or special fire control district* to receive a share of the state funds for the then-current calendar year; when any of these items would be identical with the corresponding item submitted for a previous year, it *is* ~~shall~~ not ~~be~~ necessary *for the trustees* to submit duplicate information *if they*~~, but the trustees may~~ make reference to the item in such previous year's report:

(a) A certified copy of each and every instrument constituting or evidencing the plan. This includes the formal plan, including all amendments, the trust agreement, copies of all insurance contracts, and formal announcement material.

(b) An independent audit by a certified public accountant if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 in assets, for the most recent fiscal year of the municipality *or special fire control district*, showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

(c) A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

(d) A statistical exhibit showing the total number of firefighters, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible.

(e) A certified statement describing the methods, factors, and actuarial assumption used in determining the cost.

(f) A certified statement by an enrolled actuary showing the results of the latest triennial valuation of the plan and a copy of the detailed worksheets showing the computations used in arriving at the results.

(g) A statement of the amount the municipality *or special fire control district*, or other income source, has contributed toward the plan for the most recent fiscal year and will contribute toward the plan for the current fiscal year.

(13) *If* ~~When~~ a municipality *or special fire control district* has a firefighters' retirement fund which, in the opinion of the *division* ~~Department of Insurance~~, meets the standards set forth in subsections (1) through (12), the board of trustees of the pension fund, as approved by a majority of firefighters of the municipality *or special fire control district* affected, or the official pension committee, as approved by a majority of firefighters of the municipality *or special fire control district* affected, may place the income from the premium tax in s. 175.101 in its existing pension fund for the sole and exclusive use of its firefighters (or for firefighters and police officers where included), where it shall become an integral part of that fund, or may use such income to pay extra benefits to the firefighters included in the fund.

(14) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies thereof must be made available to the participants and to the general public.

(15)(a) The membership of boards of trustees for pension plans operated pursuant to this section shall be as follows:

1. *If* ~~When~~ a municipality *or special fire control district* has a pension plan for firefighters only, the provisions of s. 175.061 shall apply.

2. *If* ~~When~~ a municipality has a pension plan for firefighters and police officers, the provisions of s. 175.061 shall apply, except that two members of the board shall be firefighters or police officers who shall be elected by a majority of the firefighters and police officers who are members of the plan.

3. *If* ~~When~~ a municipality *or special fire control district* has a pension plan for firefighters and general employees, at least one member of the board shall be a firefighter who shall be elected by a majority of the firefighters who are members of the plan.

4. *If* ~~When~~ a municipality has a pension plan for firefighters, police officers, and general employees, at least one member of the board shall be a firefighter or police officer who shall be elected by a majority of the firefighters and police officers who are members of the plan.

(b) Nothing in this section shall permit the reduction of the membership percentage of firefighters, or firefighters and police officers where a joint or mixed fund exists, on any board of trustees operating a pension plan pursuant to this section on June 30, 1986.

(16) The provisions of this section and s. 175.061 may not be changed by a participating municipality *or special fire control district* operating a pension plan pursuant to this section.

Section 40. Section 175.361, Florida Statutes, is amended to read:

175.361 Termination of plan and distribution of fund.—Upon termination of the plan *by the municipality or special fire control district* for any reason, or upon written notice *by the municipality or special fire control district* to the board of trustees that contributions *under the plan* ~~thereunder~~ are being permanently discontinued, the fund shall be apportioned and distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.

(2) The board of trustees shall determine the method of distribution of the asset value, that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each firefighter entitled to benefits under the plan as specified in subsection (3).

(3) The board of trustees shall apportion the asset value as of the date of termination in the manner set forth *in this subsection* ~~below~~, on the basis that the amount required to provide any given retirement income shall mean the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.

(a) Apportionment shall first be made in respect of each retired firefighter receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a retired (but since deceased) firefighter, and each firefighter who has, by such date, become eligible for normal retirement but has not yet retired, in the amount required to provide such retirement income, provided that, if such asset value is less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

(b) If there is any asset value remaining after the apportionment under paragraph (a), apportionment shall next be made in respect of each firefighter in the service of the municipality *or special fire control district* on such date who has completed at least 10 years of credited service, who has contributed to the ~~municipal~~ firefighters' pension trust fund for at least 10 years, and who is not entitled to an apportionment under paragraph (a), in the amount required to provide the actuarial equivalent of the accrued normal retirement income, based on the firefighter's credited service and earnings to such date, and each former participant then entitled to a benefit under the provisions of s. 175.211 who has not by such date reached his normal retirement date, in the amount required to provide the actuarial equivalent of the accrued normal retirement income to which he is entitled under s. 175.211; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value

(c) If there is any asset value after the apportionments under paragraphs (a) and (b), apportionment shall lastly be made in respect of each firefighter in the service of the municipality *or special fire control district* on such date who is not entitled to an apportionment under paragraphs (a) and (b) in the amount equal to *the firefighter's* ~~his~~ total contributions to the plan to date of termination; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(d) In the event that there is asset value remaining after the full apportionment specified in paragraphs (a), (b), and (c), such excess shall be returned to the municipality *or special fire control district*, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality *or special fire control district* and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality *or special fire control district* and *the* state.

(4) The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts apportioned under subsection (3).

If, after a period of 24 months after the date on which the plan terminated or the date on which the board received written notice that the contributions thereunder were being permanently discontinued, the municipality *or special fire control district* or the board of trustees of the ~~municipal~~ firefighters' pension trust fund affected has not complied with all the provisions in this section, the *division* ~~Department of Insurance~~ shall effect the termination of the fund in accordance with this section.

Section 41. Section 175.401, Florida Statutes, as created by section 1 of chapter 92-51, Laws of Florida, is amended to read:

175.401 Retiree health insurance subsidy.—Under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. *In addition, special fire control districts may, by resolution, establish and administer locally funded health insurance subsidy programs.* Pursuant thereto:

(1) PURPOSE.—The purpose of this section is to allow municipalities *and special fire control districts* the option to use premium tax moneys, as provided for under this chapter, to establish and administer health insurance subsidy programs which will provide a monthly subsidy payment to retired members of any ~~municipal~~ firefighters' pension trust fund system or plan as provided under this chapter, or to beneficiaries who are spouses or financial dependents entitled to receive benefits under such a plan, in order to assist such retired members or beneficiaries in paying the costs of health insurance.

(2) ~~MUNICIPAL~~ RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality *or special fire control district* having a ~~municipal~~ firefighters' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance *or resolution, as appropriate,* a trust fund to be known as the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund. This fund may be a separate account established for such purpose in the existing ~~municipal~~ firefighters' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, *or of the resolution before the governing body of the special fire control district,* an actuarial valuation must be performed by an enrolled actuary as provided in s. 112.63, and copies of the valuation and the proposed implementing ordinance *or resolution* shall be furnished to the ~~Department of Insurance, Bureau of Municipal Police Officers' and Firefighters' Retirement Trust Funds, and the Department of Administration,~~ division ~~of Retirement~~.

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance, *and at the discretion of the governing body of a special fire control district may be permanently discontinued by resolution,* at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 175.361.

(3) FUNDING.—Trust funds established pursuant to this section shall be funded in the following manner:

(a) By payment to the fund of an amount equivalent to one-half of the net increase over the previous tax year in the premium tax funds provided for in this chapter, said amount to be established in the implementing ordinance *or resolution.*

(b) By no less than 1 percent of the base salary of each firefighter, for so long as the firefighter is employed and covered by a pension plan established pursuant to this chapter. The municipality *or special fire control district,* with approval of the board of trustees, may increase member contributions if needed to fund benefits greater than the minimums established in this section.

(c) By payment by the municipality *or special fire control district,* on at least a quarterly basis, of whatever sum is determined necessary to maintain the actuarial soundness of the fund in accordance with s. 112.64.

Such contributions and payments shall be submitted to the board of trustees of the firefighters' pension trust fund, or the plan trustees in the

case of local plans established under s. 175.351, and deposited in the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund, in the same manner and subject to the same time constraints as provided under s. 175.131.

(4) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.—A person who has contributed to the retiree health insurance subsidy trust fund and retires under a ~~municipal~~ firefighters' pension trust fund system or plan as provided under this chapter, including any local plan as provided under s. 175.351, or a beneficiary who is a spouse or financial dependent entitled to receive benefits under such a plan, is eligible for health insurance subsidy payments provided under this section. However, the fund, with approval of the board of trustees and *approval of* the municipality *or special fire control district*, may provide coverage to retirees and beneficiaries when the retirees have not contributed to the fund as provided in subsection (3). Payment of the retiree health insurance subsidy shall be made only after coverage for health insurance for the retiree or beneficiary has been certified in writing to the board of trustees of the ~~municipal~~ firefighters' pension trust fund.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance *or resolution*, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service ~~with the municipality~~, as defined in s. 175.032~~(5)~~, completed at the time of retirement multiplied by an amount determined in the implementing ordinance *or resolution*, but no less than $3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance *or resolution*, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(6) PAYMENT OF RETIREE HEALTH INSURANCE SUBSIDY.—Beginning on the effective date established in the implementing ordinance *or resolution*, any monthly retiree health insurance subsidy amount due and payable under this section shall be paid to retired members, or their eligible beneficiaries, by the board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, in the same manner as provided by s. 175.071(1)(c) for drafts upon the pension fund.

(7) INVESTMENT OF THE TRUST FUND.—The trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, are hereby authorized to invest and reinvest the funds of the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund in the same manner and subject to the same conditions as apply hereunder to the investment of ~~municipal~~ firefighters' pension funds under s. 175.071.

(8) DEPOSIT OF HEALTH INSURANCE SUBSIDY FUNDS.—All funds and securities of the health insurance subsidy fund may be deposited by the board of trustees with the treasurer of the municipality *or special fire control district*, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the municipality *or special fire control district*. Any funds so deposited shall be segregated by *the* ~~said~~ treasurer in a separate fund, clearly identified as funds and securities of the health insurance subsidy fund. In lieu thereof, the board of trustees shall deposit the funds and securities of the health insurance subsidy fund in a qualified public depository as defined in s. 280.02, which shall conform to and be bound by the provisions of chapter 280 with regard to such funds. In no case shall the funds of the health insurance subsidy fund be deposited in any financial institution, brokerage house trust company, or other entity that is not a public depository as provided by s. 280.02.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any firefighter who terminates employment with a municipality *or special fire control district* having a ~~Municipal~~ retiree health insurance subsidy trust fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he made to *that* ~~said~~ trust fund, without interest, regardless of whether he has vested for purposes of retirement. Any firefighter who has vested for purposes of retirement in the service of the municipality *or special fire control district*, and has contributed to the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund for so long as he was eligible to make such contributions, may, in his discretion, elect to leave his accrued contributions in the fund, whereupon, such firefighter shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his aggregate number of years of service ~~with the municipality~~, as defined in s. 175.032~~(5)~~.

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the firefighters' pension trust fund, or the plan trustees in the case of local plans established under s. 175.351, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the ~~Municipal~~ firefighters' retiree health insurance subsidy trust fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the ~~municipal~~ firefighters' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the ~~Department of Insurance, Bureau of Municipal Police Officers' and Firefighters' Retirement Trust Funds, and the Department of Administration,~~ division ~~of Retirement~~.

(b) By February 1 of each year, the trustees shall file a report with the *division* ~~Department of Insurance~~, containing an independent audit by a certified public accountant if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 in assets, for the most recent fiscal year of the municipality *or special fire control district*, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(c) The trustees may adopt such rules and regulations as are necessary for the effective and efficient administration of this section.

(d) At the discretion of the plan sponsor, the cost of administration may be appropriated from the trust fund or paid directly by the plan sponsor.

(11) BENEFITS.—Subsidy payments shall be payable under the ~~municipal~~ firefighters' retiree health insurance subsidy program only to participants in the program or their beneficiaries. Such subsidy payments shall not be subject to assignment, execution, or attachment or to any legal process whatsoever, and shall be in addition to any other benefits to which eligible recipients are entitled under any workers' compensation law, pension law, collective bargaining agreement, municipal or county ordinance, or any other state or federal statute.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the Insurance Commissioner's Regulatory Trust Fund and remitted annually to municipalities *and special fire control districts* in the same manner as provided under this chapter for firefighters' pension funds. Once a health insurance subsidy plan has been implemented by a municipality *or special fire control district* under this section, in order for the municipality *or special fire control district* to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section shall be complied with, and said premium tax dollars may be withheld for noncompliance.

Section 42. Section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:

(1)(a)~~(5)~~ In determining the "aggregate number of years of service" of any police officer, the time spent in the military service of the United States or United States Merchant Marine by the police officer on leave of absence for such reason shall be added to the years of service, provided, however, that to receive credit for such service the police officer must have reentered the municipality's police service within 1 year of date of release from service.

(b)~~(6)~~ Otherwise, "aggregate number of years of service with the municipality" means the total number of years, and fractional parts of years, of service of any police officer, omitting intervening years and fractional parts of years, when such police officer may not be employed by the municipality. Provided, however, that no police officer will receive credit for years or fractional parts of years of service for which he has withdrawn his contributions to the fund for those years or fractional parts of years of service; and provided further that no credit will be given

for service after the normal retirement date. Further providing that a police officer may voluntarily leave his contributions in the fund for a period of 5 years after leaving the employ of the police department, pending the possibility of his being rehired by the same department, without losing credit for the time he has participated actively as a police officer. Should he not be reemployed as a police officer, with the same department, within 5 years, his contributions shall be returned to him without interest.

(2) "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death.

(3)~~(4)(a)~~ "Casualty insurance" means automobile public liability and property damage insurance to be applied at the place of residence of the owner, or if the subject is a commercial vehicle, to be applied at the place of business of the owner; automobile collision insurance; fidelity bonds; burglary and theft insurance; plate glass insurance.

(4) "Division" means:

(a) Before the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Administration.

(b) After the merger of the Department of Administration and the Department of General Services, the Division of Retirement of the Department of Management Services.

(5)~~(7)~~ "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(6)~~(b)~~ "Multiple peril" means a combination or package policy which includes both property coverage and casualty coverage for a single premium.

(7)~~(1)~~ "Police officer" means any person who is elected, appointed, or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with s. 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in s. 943.10(6) and (8), respectively. For the purposes of this chapter only, "police officer" also shall include a public safety officer who is responsible for performing both police and fire services.

(8)~~(3)~~ "Salary" means the total cash remuneration paid to a police officer for services rendered.

Section 43. Subsection (1) of section 185.05, Florida Statutes, is amended to read:

185.05 Board of trustees; members, terms of office.—

(1) In each municipality described in s. 185.03 there is hereby created a board of trustees of the municipal police officers' retirement trust fund, which shall be solely responsible for administering the trust fund. Effective October 1, 1986, and thereafter, the board of trustees shall consist of five members, two of whom, unless otherwise prohibited by law, shall be legal residents of the municipality, who shall be appointed by the legislative body of the municipality, and two of whom shall be police officers as defined in s. 185.02~~(1)~~ who shall be elected by a majority of the police officers who are members of such plan. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the legislative body of the municipality. Upon receipt of the fifth person's name, the legislative body of the municipality shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of 2 years, unless sooner replaced by the legislative body at whose pleasure he shall serve, and may succeed himself as a trustee. However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the police department as members of the board of trustees as provided in chapter 28230, Laws of Florida, 1953, as amended, together with any city manager and member of the legislative body of the municipality as members of the board of trustees shall terminate on September 30, 1986. Each police officer member shall serve as trustee for a period of 2 years, unless he sooner leaves the employment of the municipality as a police officer, whereupon the legislative body of the municipality shall choose his successor in the same manner as an original appointment. Each police officer may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

Section 44. Section 185.09, Florida Statutes, is amended to read:

185.09 Report of premiums paid; date tax payable.—Whenever any *municipality passes* ~~city or town shall pass~~ an ordinance assessing and imposing the tax authorized in s. 185.08, a certified copy of such ordinance shall be deposited with ~~both~~ the *division;* ~~Department of Banking and Finance and the Department of Insurance~~ and thereafter every insurance company, corporation, or other insurer carrying on the business of casualty insuring, on or before the succeeding March 1 after date of the passage of *the* ~~said~~ ordinance, shall report fully in writing to the *division* ~~Department of Banking and Finance~~ and *the* Department of *Revenue* ~~Insurance,~~ a just and true account of all premiums received by such insurer for casualty insurance policies covering or insuring any property located within the corporate limits of such municipality during the period of time elapsing between the date of the passage of *the* ~~said~~ ordinance and the succeeding March 1. The aforesaid insurer shall annually thereafter, on March 1, file with the *division and the Department of Revenue* ~~same officers,~~ a similar report covering the preceding year's premium receipts. Every such insurer shall, at the time of making such report, pay to the *Department of Revenue* ~~insurance commissioner and treasurer~~ the amount of the tax heretofore mentioned. Every insurer engaged in carrying on a general casualty insurance business in the state~~, as shown by the records of the Department of Insurance,~~ shall keep accurate books of account of all such business done by it within the limits of such incorporated municipality in such a manner as to be able to comply with the provisions of this chapter. *Based on the insurers' reports of premium receipts, the division shall prepare a consolidated premium report and* ~~The Department of Insurance~~ shall furnish to any municipality requesting the same a copy of *the relevant section of that report* ~~any of the reports filed by insurers under this section~~.

Section 45. Section 185.10, Florida Statutes, is amended to read:

185.10 *Department of Revenue, Department of Insurance, and Division of Retirement* ~~Insurance Commissioner and Treasurer~~ to keep accounts of deposits; disbursements*; investment by Insurance Commissioner and Treasurer.*—

(1) The *Department of Revenue* ~~Insurance Commissioner and Treasurer~~ shall keep a separate account of all moneys collected for each municipality under the provisions of this chapter. ~~Any and~~ All moneys so collected, after deducting the necessary expense incurred by the Department of Insurance in carrying out the provisions of this chapter, shall be paid into the ~~State Treasury in the~~ Insurance Commissioner's Regulatory Trust Fund *and shall be separately accounted for by the Department of Insurance. The moneys budgeted as necessary to pay the expenses of the division for the daily oversight and monitoring of the police officers' retirement plans under this chapter are annually appropriated from that trust fund to the division from the interest and investment earnings on the trust fund and shall be paid quarterly into the Florida Protection of Public Employee Retirement Benefits Trust Fund.*

(2) The Comptroller shall, on or before June 1 of each year, and at such other times as *authorized by the division and requested by* the Treasurer ~~may elect~~, draw his *warrants* ~~warrant~~ on ~~the Treasurer for~~ the full net amount of money then *on deposit pursuant to this chapter* ~~within the State Treasury~~ in the Insurance Commissioner's Regulatory Trust Fund, specifying the municipalities to which the moneys *must* ~~shall~~ be paid and the net amount collected for and to be paid to each municipality, respectively. The *sum* ~~sums~~ payable to *each municipality is* ~~such municipalities are hereby~~ appropriated annually out of the Insurance Commissioner's Regulatory Trust Fund. The warrants of the Comptroller shall be payable to the *respective* municipalities~~, respectively,~~ entitled to receive them and shall be remitted annually by the Department of Insurance to *the respective* ~~such~~ municipalities. In order for *a* ~~the~~ municipality

and *its* ~~the~~ retirement fund to participate in the distribution of premium tax moneys under this chapter, all the provisions shall be complied with annually.

Section 46. Section 185.221, Florida Statutes, is amended to read:

185.221 *Annual* report to *Division of Retirement; actuarial reports* ~~Department of Insurance~~.—

(1) Each year by February 1, the chairman or secretary of each municipal police officers' retirement trust fund shall file a report with the *division which contains* ~~the Department of Insurance containing the following~~:

(a) *A statement of* whether in fact the municipality is within the provisions of s. 185.03.

(b) An independent audit by a certified public accountant if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 in assets, for the most recent fiscal year of the municipality, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

(c) A statistical exhibit showing the total number of police officers on the force of the municipality, the number included in the retirement plan and the number ineligible classified according to the reasons for their being ineligible, and the number of disabled and retired police officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

(d) A statement of the amount the municipality has contributed to the retirement plan for the year ending with the preceding December 31 and the amount the municipality will contribute to the retirement plan for the current calendar year.

(e) If any benefits are insured with a commercial insurance company, the report shall include a statement of the relationship of the insured benefits to the benefits provided by this chapter. This report shall also contain information about the insurer, basis of premium rates and mortality table, interest rate and method used in valuing retirement benefits.

(2) By February 1 of each triennial year beginning with February 1, 1986, and at least every 3 years commencing from the last actuarial report of the plan or system or from February 1, 1987, if no actuarial report has been issued within the 3-year period prior to February 1, 1986, the chairman of each municipal police officers' retirement trust fund shall report to the *division* ~~Department of Insurance~~ such data that the *division* ~~department~~ needs to complete an actuarial valuation of each fund. The forms for each municipality shall be supplied by the *division* ~~department~~. The expense of the actuarial valuation shall be borne by the municipal police officers' retirement trust fund established by ss. 185.10 and 185.24.

Section 47. Section 185.23, Florida Statutes, is amended to read:

185.23 *Duties of Division of Retirement and Department of Insurance; rulemaking authority* ~~Rules and regulations~~.—

(1) The Division of Retirement shall be responsible for the daily oversight and monitoring for actuarial soundness of the municipal police officers' retirement plans established under this chapter; and the Department of Insurance shall be responsible for receiving and holding the premium tax moneys collected under this chapter and for disbursing those moneys to the municipal police officers' retirement plans as authorized and directed by the Division of Retirement.

(2) The *division and the* Department of Insurance shall *each adopt* ~~make such~~ rules *pertaining to their respective roles in the operation* ~~and regulations as are necessary for the effective administration~~ of this chapter

(3) The Insurance Commissioner and Treasurer shall invest and reinvest the moneys in the trust fund in accordance with ss. 215.44-215.53.

Section 48. Section 185.24, Florida Statutes, is repealed.

Section 49. Section 185.35, Florida Statutes, is amended to read:

185.35 Municipalities having their own pension plans for police officers.—

(1) In order for municipalities with their own pension plans for police officers or for police officers and other employees to participate in the distribution of the tax fund established in ss. 185.07, 185.08, and 185.09, their retirement funds must meet each of the following standards:

(a) The plan must be for the purpose of providing retirement and disability income for policemen.

(b) The normal retirement age, if any, must not be higher than age 60.

(c) If the plan provides for a stated period of service as a requirement to receive a retirement income, that period must not be higher than 30 years.

(d) The benefit formula to determine the amount of monthly pension must be equal to at least 2 percent for each year of the police officer's credited service, multiplied by his average final compensation. However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only increment increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.

(e) If a ceiling on the monthly payment is stated in the plan, it should be no lower than $100.

(f) Death or survivor benefits and disability benefits may be incorporated into the plan as the municipality wishes but in no event should the single-sum value of such benefits as of the date of termination of service because of death or disability exceed:

1. One hundred times the estimated normal monthly retirement income, based on the assumption that the present rate of compensation continues without change to normal retirement date,

2. Twice the annual rate of compensation as of the date of termination of service, or

3. The single-sum value of the accrued deferred retirement income (beginning at normal retirement date) at date of termination of service,

whichever is greatest; however, nothing in this *paragraph* ~~subparagraph~~ shall require any reduction in death or disability benefits provided by a retirement plan in effect on July 1, 1959.

(g) Eligibility for coverage under the plan must be based upon length of service, or attained age, or both, and benefits must be determined by a nondiscriminatory formula based upon:

1. Length of service and compensation, or

2. Length of service.

The retirement plan shall require participants to contribute toward the cost of the plan an amount which shall not be less than 1 percent of salary, and it must set forth the termination rights, if any, of an employee in the event of the separation or withdrawal of an employee before retirement.

(h) An actuarial valuation of the retirement plan must be made at least once in every 5 years commencing with December 31, 1963, and at least every 3 years commencing from the last actuarial report of the plan or system or from October 1, 1986, if no actuarial report has been issued within the 3 years prior to October 1, 1983. Such valuation shall be prepared by an enrolled actuary.

1. *The* cost of the actuarial valuation must be paid by the individual retirement fund or by the municipality.

2. A report of the valuation, including actuarial assumptions and type and basis of funding, shall be made to the *division* ~~Department of Insurance~~ within 3 months after the date of valuation. If any benefits are insured with a commercial insurance company, the report shall include a statement of the relationship of the retirement plan benefits to the insured benefits and, in addition, the name of the insurer, basis of premium rates, and the mortality table, interest rate, and method used in valuing retirement benefits.

(i) Commencing on July 1, 1964, the municipality shall contribute to the plan annually an amount which together with the contributions from the police officers, the amount derived from the premium tax provided in s. 185.08, and other income sources will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period not longer than 40 years.

(j) No retirement plan or amendment to a retirement plan shall be proposed *unless* ~~without~~ the proposed plan or amendment *contains* ~~containing~~ an actuarial estimate of the costs involved. No such proposed plan change shall be adopted without the approval of the municipality. Copies of the proposed change and the actuarial impact statement of the proposed change shall be furnished to the *division* ~~Department of Insurance~~ prior to the last public hearing thereon. Such statement shall also indicate whether the proposed change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter.

(k) Each year on or before March 15, the trustees of the retirement plan must submit the following information to the *division* ~~Department of Insurance~~ in order for the retirement plan of such *municipality* ~~city~~ to receive a share of state funds for the then-current calendar year; when any of these items would be identical with the corresponding item submitted for a previous year, it *is* ~~will~~ not ~~be~~ necessary *for the trustees* to submit duplicate information *if they* ~~but the trustees may~~ make reference to the item in such previous year's report:

1. A certified copy of each and every instrument constituting or evidencing the plan.

2. An independent audit by a certified public accountant if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 in assets, for the most recent fiscal year of the municipality showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year.

3. A certified statement listing the investments of the plan and a description of the methods used in valuing the investments.

4. A statistical exhibit showing the total number of policemen, the number included in the plan, and the number ineligible classified according to the reasons for their being ineligible.

5. A statement of the amount the *municipality* ~~city~~ and other income sources have contributed toward the plan or will contribute toward the plan for the current calendar year.

(2) *If* ~~When~~ a municipality has a police officers' retirement plan which, *in the opinion of the division,* meets the standards set forth in subsection (1), the board of trustees of the pension plan, as approved by a majority of the police officers of the municipality affected, or the official pension committee, as approved by a majority of the police officers of the municipality affected, may place the income from the premium tax in s. 185.08 in its existing pension fund for the sole and exclusive use of its police officers (or for firefighters and police officers where included), where it shall become an integral part of *that* ~~said~~ fund, or may use *the* ~~said~~ income to pay extra benefits to the police officers included in the fund.

(3) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing and copies made available to the participants and to the general public.

(4)(a) The membership of the board of trustees for pension plans operated pursuant to this section shall be as follows:

1. *If* ~~When~~ a municipality has a pension plan for police officers only, the provisions of s. 185.05 shall apply.

2. *If* ~~When~~ a municipality has a pension plan for police officers and firefighters, the provisions of s. 185.05 shall apply, except that two members of the board shall be police officers or firefighters who shall be elected by a majority of the police officers and firefighters who are members of the plan.

3. *If* ~~When~~ a municipality has a pension plan for police officers and general employees, at least one member of the board shall be a police officer who shall be elected by a majority of the police officers who are members of the plan.

4 *If* ~~When~~ a municipality has a pension plan for police officers, firefighters, and general employees, at least one member of the board shall be a police officer or firefighter who shall be elected by a majority of the police officers and firefighters who are members of the plan.

(b) Nothing in this section shall permit the reduction of the membership percentage of police officers, or police officers and firefighters where a joint or mixed fund exists, on any board of trustees operating a pension plan pursuant to this section on June 30, 1986.

(5) The provisions of this section and s. 185.05 may not be changed by a participating municipality operating a pension plan pursuant to this section.

Section 50. Section 185.37, Florida Statutes, is amended to read:

185.37 Termination of plan and distribution of fund.—Upon termination of the plan *by the municipality* for any reason, or upon written notice to the board of trustees *by the municipality* that contributions *under the plan* ~~thereunder~~ are being permanently discontinued, the fund shall be apportioned and distributed in accordance with the following procedures:

(1) The board of trustees shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.

(2) The board of trustees shall determine the method of distribution of the asset value, that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer entitled to benefits under the plan, as specified in subsection (3).

(3) The board of trustees shall apportion the asset value as of the date of termination in the manner set forth *in this subsection* ~~below~~, on the basis that the amount required to provide any given retirement income shall mean the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.

(a) Apportionment shall first be made in respect of each retired police officer receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a retired (but since deceased) police officer, and each police officer who has, by such date, become eligible for normal retirement but has not yet retired, in the amount required to provide such retirement income, provided that, if such asset value *is* ~~be~~ less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

(b) If there *is* ~~be~~ any asset value remaining after the apportionment under paragraph (a), apportionment shall next be made in respect of each police officer in the service of the *municipality* ~~city~~ on such date who has completed at least 10 years of credited service, who has contributed to the municipal police officers' retirement trust fund for at least 10 years, and who is not entitled to an apportionment under paragraph (a), in the amount required to provide the actuarial equivalent of the accrued normal retirement income, based on the police officer's credited service and earnings to such date, and each former participant then entitled to a benefit under the provisions of s. 185.19 who has not by such date reached his normal retirement date, in the amount required to provide the actuarial equivalent of the accrued normal retirement income to which he is entitled under s. 185.19, provided that, if such remaining asset value *is* ~~be~~ less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(c) If there *is* ~~be~~ an asset value after the apportionments under paragraphs (a) and (b), apportionment shall lastly be made in respect of each police officer in the service of the *municipality* ~~city~~ on such date who is not entitled to an apportionment under paragraphs (a) and (b) in the amount equal to *the police officer's* ~~his~~ total contributions to the plan to date of termination, provided that, if such remaining asset value *is* ~~be~~ less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(d) In the event that there *is* ~~be~~ asset value remaining after the full apportionment specified in paragraphs (a), (b), and (c), such excess shall be returned to the *municipality* ~~city~~, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the *municipality* ~~city~~ and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the *municipality* ~~city~~ and the state.

(4) The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts apportioned under subsection (3).

If, after a period of 24 months after the date on which the plan terminated or the date on which the board received written notice that the contributions thereunder were being permanently discontinued, the municipality or the board of trustees of the municipal police officers' retirement trust fund affected has not complied with all the provisions in this section, the *division* ~~Department of Insurance~~ shall effect the termination of the fund in accordance with this section.

Section 51. Subsections (2), (5), and (9), paragraph (a) and (b) of subsection (10), and subsection (12) of section 185.50, Florida Statutes, as created by section 2 of chapter 92-51, Laws of Florida, is amended to read:

185.50 Retiree health insurance subsidy.—Under the broad grant of home rule powers under the Florida Constitution and chapter 166, municipalities have the authority to establish and administer locally funded health insurance subsidy programs. Pursuant thereto:

(2) MUNICIPAL RETIREE HEALTH INSURANCE SUBSIDY TRUST FUNDS; ESTABLISHMENT AND TERMINATION.—

(a) Any municipality having a municipal police officers' pension trust fund system or plan as provided under this chapter may, in its discretion, establish by ordinance a trust fund to be known as the municipal police officers' retiree health insurance subsidy trust fund. This fund may be a separate account established for such purpose in the existing municipal police officers' pension fund, provided that all funds deposited in such account are segregated from, and not commingled with, pension funds or other public moneys and that the account otherwise conforms to the requirements of subsection (8). The trust fund shall be used to account for all moneys received and disbursed pursuant to this section.

(b) Prior to the second reading of the ordinance before the municipal legislative body, an actuarial valuation must be performed by an enrolled actuary as defined in s. 185.02~~(7)~~, and copies of the valuation and the proposed implementing ordinance shall be furnished to the ~~Department of Insurance, Bureau of Municipal Police Officers' and Firefighters' Retirement Trust Funds, and the Department of Administration,~~ division ~~of Retirement~~.

(c) The subsidy program may, at the discretion of the municipal governing body, be permanently discontinued by municipal ordinance at any time, subject to the requirements of any applicable collective bargaining agreement, in the same manner and subject to the same conditions established for plan termination and fund distribution under s. 185.37.

(5) RETIREE HEALTH INSURANCE SUBSIDY AMOUNT.—Beginning on the effective date established in the implementing ordinance, each eligible retiree, or beneficiary who is a spouse or financial dependent thereof, shall receive a monthly retiree health insurance subsidy payment equal to the aggregate number of years of service with the municipality, as defined in s. 185.02~~(5) and (6)~~, completed at the time of retirement multiplied by an amount determined in the implementing ordinance, but no less than $3 for each year of service. Nothing herein shall be construed to restrict the plan sponsor from establishing, in the implementing ordinance, a cap of no less than 30 years upon the number of years' service for which credit will be given toward a health insurance subsidy or a maximum monthly subsidy amount.

(9) SEPARATION FROM SERVICE; REFUNDS.—Any police officer who terminates employment with a municipality having a municipal retiree health insurance subsidy trust fund system or plan as provided under this section shall be entitled to a refund of all employee contributions he made to *that* ~~said~~ trust fund, without interest, regardless of whether he has vested for purposes of retirement. Any police officer who has vested for purposes of retirement in the service of the municipality, and has contributed to the municipal police officers' retiree health insurance subsidy trust fund for so long as he was eligible to make such contributions, may, in his discretion, elect to leave his accrued contributions in the fund, whereupon, such police officer shall, upon retiring and commencing to draw retirement benefits, receive a health insurance subsidy based upon his aggregate number of years of service with the municipality, as defined in s. 185.02~~(5) and (6)~~.

(10) ADMINISTRATION OF SYSTEM; ACTUARIAL VALUATIONS; AUDITS; RULES; ADMINISTRATIVE COSTS.—The board of trustees of the police officers' pension trust fund, or the plan trustees in the case of local plans established under s. 185.35, shall be solely responsible for administering the health insurance subsidy trust fund. Pursuant thereto:

(a) As part of its administrative duties, no less frequently than every 3 years, the board shall have an actuarial valuation of the municipal police officers' retiree health insurance subsidy trust fund prepared as provided in s. 112.63 by an enrolled actuary, covering the same reporting period or plan year used for the municipal police officers' pension plan, and shall submit a report of the valuation, including actuarial assumptions and type and basis of funding, to the ~~Department of Insurance, Bureau of Municipal Police Officers' and Firefighters' Retirement Trust Funds, and the Department of Administration,~~ division ~~of Retirement~~.

(b) By February 1 of each year, the trustees shall file a report with the *division* ~~Department of Insurance~~, containing an independent audit by a certified public accountant if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 in assets, for the most recent fiscal year of the municipality, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.

(12) DISTRIBUTION OF PREMIUM TAXES; COMPLIANCE REQUIRED.—Premium tax dollars for which spending authority is granted under this section shall be distributed from the Insurance Commissioner's Regulatory Trust Fund and remitted annually to municipalities in the same manner as provided under this chapter for police officers' pension funds. Once a health insurance subsidy plan has been implemented by a municipality under this section, in order for the municipality to participate in the distribution of premium tax dollars authorized under this section, all provisions of this section shall be complied with, and said premium tax dollars may be withheld for noncompliance.

Section 52. Subsection (2) of section 238.07, Florida Statutes, as amended by section 17 of chapter 92-122, Laws of Florida, and section 3 of chapter 92-139, Laws of Florida, is amended to read:

238.07 Regular benefits; survivor benefits.—

(2) The provisions for the retirement of a member are as follows:

(a) To retire at the age of 60 upon the basis of a standard of service of 35 years (this provision shall be known and referred to throughout this chapter as plan A); or

(b) To retire at the age of 55 upon the basis of a standard of service of 35 years (this provision shall be known and referred to throughout this chapter as plan B); or

(c) To retire at the age of 55 upon the basis of a standard of service of 30 years (this provision shall be known and referred to throughout this chapter as plan C); or

(d) To retire after 25 years of service upon the basis of a standard of service of 25 years provided the member has reached age 50; provided, further, however, that a member electing to retire under this provision shall not be eligible to receive the benefits allowed by subsection (8) and paragraph (11)(f) (this provision shall be known and referred to throughout this chapter as plan D); or

(e) To retire:

1. At normal retirement age which shall be age 60 for those persons whose membership date, or last renewal thereof, occurred prior to July 1,

1963, and age 62 for those persons whose membership date, or last renewal thereof, occurred on or after July 1, 1963; or

2. Prior to normal retirement age but at or subsequent to age 55, provided that upon such date the member has completed 10 years of creditable service, which shall be the early retirement age; or

3. Subsequent to normal retirement age, which shall be the delayed retirement age; (this provision shall be known and referred to throughout this chapter as plan E); or

(f) Notwithstanding any provision of this chapter to the contrary, effective *July 1, 1992* ~~January 1, 1993~~, the normal retirement age for a member under this chapter is attained upon the member's completion of 30 years of creditable service in the aggregate.

The manner and time of selecting a plan of retirement are set out elsewhere in this chapter.

Section 53. Paragraph (a) of subsection (1) of section 238.11, Florida Statutes, as amended by section 4 of chapter 92-139, Laws of Florida, is amended to read:

238.11 Collection of contributions.—

(1) The collection of contributions shall be as follows:

(a) Each employer shall cause to be deducted from each and every payment of salary of a member, for each and every payroll period, the contribution payable by such member as provided in this chapter. Commencing July 1, 1967, each employer shall also budget and set aside an amount equal to such deductions, plus, commencing *July 1, 1992* ~~January 1, 1993~~, an additional 3.99 percent of each payment of salary of a member, which shall be the employer contribution, except with respect to any nonprofit professional association or corporation of teachers for which the employer contribution shall be at least that amount specified in s. 238.09(3)(a); provided that such amount shall be set aside only if the state makes available to the employer, except for any nonprofit professional association or corporation, the additional funds necessary for such employer contributions.

Section 54. Section 624.520, Florida Statutes, is amended to read:

624.520 Preemption by state.—

(1) This state hereby preempts the field of imposing excise, privilege, franchise, income, license, permit, registration, and similar taxes and fees, measured by premiums, income, or volume of transactions, upon insurers and their agents and other representatives,; and no county, city, municipality, district, school district, or other political subdivision or agency in this state shall impose, levy, charge, or require the same, subject however to the provisions of subsection (2).

(2) This section shall not be construed to limit or modify the power of any incorporated city or town to levy the taxes authorized by ss. 175.101 and 185.08 *or the power of any special fire control district to levy the taxes authorized by s. 175.101.*

Section 55. Paragraphs (c) and (e) of subsection (4) of section 633.382, Florida Statutes, are amended to read:

633.382 Firefighters; supplemental compensation.—

(4) FUNDING.—

(c) There is appropriated from the Insurance Commissioner's Regulatory Trust Fund to the Firefighters' Supplemental Compensation Trust Fund, which is hereby created under the Department of Revenue, all moneys which have not been distributed to municipalities *and special fire control districts* in accordance with s. 175.121 as a result of the limitation contained in s. 175.122 on the disbursement of revenues collected pursuant to chapter 175 or as a result of any municipality *or special fire control district* not having qualified in any given year, or portion thereof, for participation in the distribution of the revenues collected pursuant to chapter 175. *The total required annual distribution from the Firefighters' Supplemental Compensation Trust Fund shall equal the amount necessary to pay supplemental compensation as provided in this section, provided that:*

1. Any deficit in the total required annual distribution shall be made up from accrued surplus funds existing in the Firefighters' Supplemental Compensation Trust Fund on June 30, 1990, for as long as such funds last. If the accrued surplus is insufficient to cure the deficit in any given year, the proration of the appropriation among the counties, municipalities, and special fire service taxing districts shall equal the ratio of compensation paid in the prior year to county, municipal, and special fire service taxing district firefighters pursuant to this section. This ratio shall be provided annually to the Department of Revenue by the Division of State Fire Marshal. *Surplus funds that have accrued or accrue on or after July 1, 1990, shall be redistributed to municipalities and special fire control districts as provided in subparagraph 2.*

2. By October 1 of each year, any funds that have accrued or accrue on or after July 1, 1990, and remain in the Firefighters' Supplemental Compensation Trust Fund following the required annual distribution shall be redistributed by the Department of Revenue pro rata to those municipalities and special fire control districts identified by the Division of Retirement as being eligible for additional funds pursuant to s. 175.121(3)(b).

(e) ~~The Department of Revenue shall make special provisions to ensure that special fire service taxing districts receive the prorated reimbursement from the Firefighters' Supplemental Compensation Trust Fund, beginning July 1, 1984, based for the first year on the number of firefighters eligible as of July 1, 1983. In subsequent years, reimbursement shall be made pursuant to the provisions of paragraph (c).~~ Special fire service taxing districts are authorized and empowered to expend the funds necessary to ensure correct payment to firefighters.

Section 56. Notwithstanding the provisions of ss. 121.052, 121.055, and 121.071, Florida Statutes, as amended by this act, it is the intent of the Legislature that:

(1) Should any other act or acts providing a contribution rate change for a membership class or subclass within the Florida Retirement System scheduled to take effect on or after July 1, 1992, but before January 2, 1993, be enacted into law, the respective January 1, 1993, contribution rate as published in the 1992 Supplement to the Florida Statutes shall be equal to the contribution rate specified in this act, plus the contribution rate change specified in each such other law.

(2) Should any act or acts providing a contribution rate change for a membership class or subclass within the Florida Retirement System scheduled to take effect subsequent to January 1, 1993, be enacted into law, the respective contribution rate as published in the 1993 Florida Statutes shall equal the respective contribution rate for said class or subclass in effect on the day before the new contribution rate is to take effect, plus the contribution rate change specified in each such law.

(3) If a contribution rate, rather than a contribution rate change, is specified in any such other law, the contribution rate change for that law shall equal the difference between the December 31, 1992, contribution rate for the affected membership class or subclass and the contribution rate specified in such law.

The language in this section shall be construed as directory intent language only, and shall be placed in the Florida Statutes as a footnote.

Section 57. Amendments to sections of the Florida Statutes enacted by this act shall not operate to repeal or otherwise negate amendments to the same sections which may have been enacted at a 1992 session of the Florida Legislature and which are not indicated herein, and full effect shall be given to each, if that is possible. If provisions of this act are in direct conflict with amendments so enacted, the provisions of this act shall control.

Section 58. Except as may otherwise be provided herein, this act shall take effect July 1, 1992, or upon becoming a law, whichever occurs later.

And the title is amended as follows:

Strike the entire title and insert: A bill to be entitled An act relating to public pension or retirement benefits and subsidies; amending s. 20.13, F.S., relating to the structure of the Department of Insurance, to delete duties of the Division of Benefits that are assigned or eliminated by this act; amending s. 112.363, F.S.; increasing the retiree health insurance subsidy rate; increasing the employer contribution rate to fund the increased subsidy; creating s. 112.666, F.S.; creating the Florida Protection of Public Employee Retirement Benefits Trust Fund; providing for assessment of local retirement systems or plans to pay the costs of administering the Florida Protection of Public Employee Retirement Benefits Act; providing legislative intent with respect to governmental retirement systems; amending s. 121.021, F.S.; conforming the definition of the term "covered group" as used with respect to the Florida Retirement System

to a change in terminology made by this act; amending ss. 121.052, 121.055, 121.071, 121.40, F.S.; revising contribution rates applicable to members of the Elected State and County Officers' Class, the Senior Management Service Class, and the Regular, Special Risk, and Special Risk Administrative Support Classes of the Florida Retirement System and the contribution rate applicable to the supplemental retirement plan for the Institute of Food and Agricultural Sciences of the University of Florida; providing for calculation of the monthly benefit of a member of the Senior Management Service Class whose employment was terminated after 20 years of creditable service; amending s. 121.091, F.S., revising death benefit provisions under the Florida Retirement System to provide for reinstatement of benefits to a surviving spouse whose benefit terminated due to remarriage; providing for retroactive application; amending ss. 122.08, 122.35, F.S.; advancing the effective date for enactments that provide for retirement after 30 years of service, regardless of age, for members of the State and County Officers and Employees' Retirement System; amending ss. 175.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.121, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.341, 175.351, 175.361, 175.401, 185.02, 185.05, 185.09, 185.10, 185.221, 185.23, 185.35, 185.37, and 185.50, F.S., relating to municipal firefighters' and police officers' pension or retirement plans and retiree health insurance subsidies; transferring certain powers, duties, and functions of the Department of Insurance respecting those plans and subsidies to the Department of Administration and assigning them to the Division of Retirement; providing for inclusion of matters assigned to the Division of Retirement in the transfer of the division to the Department of Management Services at a subsequent time; providing for transfer of related records, personnel, property, and funds; providing for continuation of certain existing rules; abolishing the Bureau of Municipal Police Officers' and Firefighters' Pension Funds of the Division of Benefits of the Department of Insurance; eliminating certain reports to the Department of Banking and Finance; specifying certain duties of the Department of Revenue; providing for disposition of premium tax moneys collected under chs. 175 and 185, F.S.; providing for annual appropriation of such moneys; providing for investment of such moneys by the Insurance Commissioner and Treasurer; providing for payment of certain administrative expenses of the Division of Retirement and the Department of Insurance; providing legislative intent that firefighters employed by special fire control districts should be entitled to the retirement benefits available to municipal firefighters under ch. 175, F.S.; providing for pension funds, retirement benefits, and retiree health insurance subsidies for firefighters employed by special fire control districts, which funds, benefits, and subsidies are subject to the same statutory requirements as pension funds and retirement benefits for municipal firefighters; clarifying that undistributed funds are annually transferred to support the firefighters' supplemental compensation program; providing for redistribution of certain surplus funds; conforming the provisions of chs. 175 and 185, F.S., to this act; conforming cross-references, deleting obsolete provisions, and revising terminology to improve clarity; repealing s. 185.24, F.S., relating to annual appropriations for administrative expenses, which section is superseded by this act; amending ss. 238.07, 238.11, F.S.; advancing the effective date of enactments that provide for retirement after 30 years of service, regardless of age, for members of the Teachers' Retirement System; amending s. 624.520, F.S., relating to preemption by the state of insurer premium taxes, to conform; amending s. 633.382, F.S., relating to the Firefighters Supplemental Compensation Trust Fund; providing for curing of deficits; providing for redistribution of certain funds; providing legislative intent with respect to other acts affecting contribution rates; providing for coordination of amendments to the same sections enacted in other bills; providing effective dates.

Senators Wexler and Childers offered the following amendment which was moved by Senator Wexler and adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 2—On page 8, line 17 through page 10, line 25, strike all of said lines and insert:

Section 7. Paragraphs (a) and (c) of subsection (3) of section 121.055, Florida Statutes, as amended by section 56 of chapter 92-279, Laws of Florida, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(3)(a) The following table states the required retirement contribution rates for members of the Senior Management Service Class and their employers in terms of *a percentage* ~~percentages~~ of the *member's* ~~members'~~ gross compensation. *A change* ~~Changes~~ in the contribution *rate is* ~~rates are~~ effective with the first salary paid on or after the beginning date of *the* ~~a~~ change. Contributions shall be made for each pay period and *are* ~~shall be~~ in addition to the contributions required for social security and the Retiree Health Insurance Subsidy Trust Fund.

Dates of Contribution Rate Changes	Members	Employers
February 1, 1987, through December 31, 1988	0%	13.88%
January 1, 1989, through December 31, 1989	0%	14.95%
January 1, 1990, through December 31, 1990	0%	16.04%
January 1, 1991, through December 31, 1991	0%	18.39%
January 1, 1992, through December 31, 1992	0%	19.48%
Effective January 1, 1993	0%	*22.60%* ~~20.55%~~

(c) *The following table states the required employer contribution on behalf of each member of the Senior Management Service Class in terms of a percentage of the member's gross compensation. Such contribution constitutes the entire health insurance subsidy contribution with respect to the member. A change in the contribution rate is effective with the first salary paid on or after the beginning date of the change. The retiree health insurance subsidy contribution rate is as follows:*

Dates of Contribution Rate Changes	*Contribution Rate*
October 1, 1987, through December 31, 1988	*0.24%*
January 1, 1989, through December 31, 1992	*0.48%*
Effective January 1, 1993	*0.52%*

~~1. Effective October 1, 1987, each employer shall contribute on behalf of each member in the Senior Management Service Class an amount equal to .24 percent of the member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member.~~

~~2. Effective January 1, 1989, each employer shall contribute an amount equal to .48 percent of each member's gross salary, which shall constitute the entire health insurance subsidy contribution with respect to such member~~.

Such contributions shall be deposited by the administrator in the Retiree Health Insurance Subsidy Trust Fund.

And the title is amended as follows:

In title, on page 95 of House Amendment 1, strike all of lines 13-17 and insert: University of Florida; amending s. 121.091, F.S.;

The vote was:

Yeas—27 Nays—9

On motion by Senator Wexler, the Senate concurred in the House amendment as amended and the House was requested to concur in the Senate amendment to the House amendment.

CS for SB 102-H passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 154-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

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.; 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 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.

House Amendment 1 (with Title Amendment)—On page 5, line 21, through page 6, line 17, strike all of said lines and renumber subsequent section.

And the title is amended as follows:

In title, on page 1, lines 12-20, strike all of said lines and insert: revenue shortfalls; providing an effective date.

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

CS for SB 154-H passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendments SB 170-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 170-H—A bill to be entitled An act relating to insurance; amending ss. 213.05, 337.106, 624.462, 624.5092, F.S.; deleting references to provisions relating to professional liability self-insurance; amending s. 626.022, F.S.; revising application of part I, ch. 626, F.S.; amending s. 626.031, F.S.; redefining the term "agent" for purposes of part I, ch. 626, F.S.; amending s. 626.241, F.S.; providing requirements for licensure examinations for title insurance agents; amending s. 626.2815, F.S.; providing continuing education requirements for title insurance agents; amending s. 626.331, F.S.; providing a limitation on agents and agency licenses; amending s. 626.611, F.S.; providing circumstances under which the department may deny, suspend, revoke, or refuse to renew a title agent's license or appointment; amending s. 626.841, F.S.; providing definitions; creating s. 626.8411, F.S.; providing for application of part II, ch. 626, F.S., to title insurance agents; providing an exemption; creating s. 626.8412, F.S.; providing licensure and appointment requirements for title insurance agents; creating s. 626.8414, F.S.; providing licensure requirements for title insurance agents; providing certain exemptions from the examination requirement; amending s. 626.8417, F.S.; revising qualification requirements for licensure as a title insurance agent; authorizing the designation of an insurer's corporate officer to take certain actions on behalf of the insurer; providing an exemption from licensing and appointment requirements; creating s. 626.8418, F.S.; providing application requirements for licensure as a title insurance agency; providing requirements for a surety deposit or bond; creating s. 626.8419, F.S.; providing for the appointment of title insurance agencies by title insurers; requiring a fidelity bond and errors and omissions insurance of specified amounts; creating s. 627.0613, F.S.; requiring appointment of a consumer advocate; providing powers; amending s. 627.062, F.S.; providing documentation requirements for rating certain individual risks; amending s. 627.0645, F.S.; revising requirements for rating organizations that file rates with the department; amending s. 627.0652, F.S.; requiring motor vehicle insurance discounts for persons who complete a safety course; deleting obsolete provisions; amending s. 627.0653, F.S.; requiring certain insurance discounts for vehicles with specified equipment; amending s. 627.162, F.S.; providing authorization for charging delinquency and collection fees; providing for attorney's fees; amending s. 627.311, F.S.; prescribing requirements for joint underwriting plans for automobile liability insurance and other motor vehicle insurance; removing self-insurer participation in the workers' compensation joint underwriting association; amending s. 627.3515, F.S.; revising requirements for the market assistance plan for procuring property and casualty insurance; amending s. 627.357, F.S.; limiting the formation of medical malpractice self-insurance funds; amending s. 627.402, F.S.; defining the term "premium" for purposes of part II, ch. 627, F.S.; amending s. 627.408, F.S.; providing requirements for the delivery of a life or health insurance policy to the insured or beneficiary; amending s. 627.409, F.S.; providing limitations on policy cancellation; creating s. 627.4091, F.S.; requiring specific reasons for cancellation or nonrenewal; amending s. 627.410, F.S.; allowing Medicare supplement insurers to utilize guarantee loss ratio if authorized by department rule; amending s. 627.4106, F.S.; providing an exemption from the term "carrier" for certain multiple-employer welfare arrangements; creating s. 627.4131, F.S.; requiring telephone numbers; amending s. 627.4133, F.S.; providing limitations on cancellation or nonrenewal; transferring, renumbering, and amending s. 627.726, F.S., relating to casualty insurance contracts; transferring and renumbering ss. 627.7262, 627.7264, F.S., relating to liability insurers; amending s. 627.4143, F.S.; providing requirements for outlines of coverage for motor vehicle insurance and homeowners' insurance; requiring proof of insurance to indicate coverage for rental vehicles; amending s. 627.4234, F.S.; providing requirements for cost-containment provisions in health insurance policies and health care services plans; amending s. 627.4235, F.S.; providing requirements for determining order of benefits; amending s. 627.4615, F.S.; prescribing a method for calculating interest; amending s. 627.481, F.S.; revising requirements authorizing the department to issue permits for making certain annuity agreements for trusts or corporations; creating s. 627.522, F.S.; prohibiting industrial life insurance policies from restricting payment due to certain circumstances of death; providing for the assignment of such policies; amending s. 627.551, F.S.; providing requirements for group life insurance policies; amending s. 627.552, F.S.; providing requirements for life insurance issued to employee groups; amending s. 627.554, F.S.; providing requirements for life insurance issued to labor union groups; amending s. 627.555, F.S.; providing requirements of life insurance issued to trustee groups; excluding dependents in determining persons eligible for coverage under such a policy; amending s. 627.556, F.S.; providing requirements for life insurance issued to credit union groups; deleting a requirement for participation by members; amending s. 627.5565, F.S., relating to life insurance coverage for additional groups; transferring, renumbering, and amending s. 627.572, F.S.; providing requirements for life insurance issued to association groups; authorizing such groups to include dependents and employees of association members; amending s. 627.601, F.S.; providing for application of part VI, ch. 627, F.S.; transferring and renumbering s. 627.6085, F.S., relating to notification requirements for cancellation, nonrenewal, or change in rates; transferring, renumbering, and amending s. 627.6145, F.S.; providing requirements for claims payments; amending s. 627.607, F.S.; revising requirements for incontestability statements on health insurance policies; creating s. 627.6407, F.S.; requiring health insurance policies that provide coverage for massage to also cover the services of persons licensed to practice massage; amending s. 627.6417, F.S.; requiring insurers to make available coverage for certain surgical procedures and devices incident to a mastectomy; creating s. 627.6419, F.S., relating to cancellation, nonrenewal, and nonissuance of policies or excluding benefits based upon diagnosis of fibrocystic condition; amending s. 627.643, F.S.; requiring the department to adopt standards for health insurance policy forms; providing for minimum standards of benefits for specified categories of coverage; amending s. 627.651, F.S.; providing requirements for group health insurance contracts and self-insurance health coverage; creating s. 627.6516, F.S.; providing requirements for insurance issued to trustee groups; providing requirements for eligibility; providing for payment of premiums; amending s. 627.653, F.S.; providing requirements for insurance issued to employee groups; amending s. 627.655, F.S.; providing requirements for insurance issued to debtor groups; amending s. 627.6575, F.S.; providing circumstances under which the insurer may prospectively charge additional premiums for coverage of a newborn child; amending s. 627.6612, F.S.; requiring insurers to make available coverage for certain surgical procedures and devices incident to a mastectomy; creating s. 627.6619, F.S.; requiring group health insurance policies that provide coverage for massage to also cover the services of persons licensed to practice massage; amending s. 627.666, F.S.; providing for liability of succeeding insurers upon replacement of a group, blanket, or franchise health insurance policy; deleting provisions that provide for liability upon discontinuance of such insurance; amending s. 627.667, F.S.; providing for continuation of benefits in the event of disability; requiring an extension of benefits under certain policies that provide coverage for dental procedures or maternity benefits; amending s. 627.668, F.S.; providing requirements for optional coverage for mental and nervous disorders; providing for the confidentiality of certain patient records submitted to an insurer; amending s. 627.6699, F.S.; providing an exemption from the term "carrier" for certain multiple-employer welfare arrangements; revising dates for reporting of information by small employers; revising provisions regarding composition of the board of the Small Employer Health Reinsurance Program; limiting the responsibility of the reinsuring carrier for incurred claims; amending s. 627.677, F.S.; providing definitions; creating s. 627.6841, F.S.; providing requirements for consolidations of credit insurance; providing notice requirements; providing for calculating premiums; creating s. 627.6842, F.S.; providing

requirements for consolidations of group policies; creating s. 627.6843, F.S.; providing disclosure requirements for consolidations; creating s. 627.6844, F.S.; providing certain rule exemptions for group-to-group consolidations; creating s. 627.6845, F.S.; providing requirements for policy forms used in connection with consolidations; creating s. 627.7061, F.S.; providing a limitation on inquiries that constitute claim activity; amending s. 627.727, F.S.; providing coverage limitations for bodily injury under uninsured motorist insurance; expanding definition of "uninsured motor vehicle"; revising provisions with respect to subrogation rights of underinsured motorist insurers; specifying damages recoverable from an uninsured motorist carrier; providing legislative intent; amending s. 627.728, F.S.; providing notice requirements upon cancellation of motor vehicle insurance; exempting certain appeal proceedings from ch. 120, F.S.; amending s. 627.7283, F.S.; authorizing the insurer to retain a portion of unearned premium upon cancellation of a policy of motor vehicle insurance by the insured; amending s. 627.7295, F.S.; providing certain limitations upon cancellation of motor vehicle insurance policies and binders; amending s. 627.736, F.S.; providing that certain reports obtained by the insurer be by a physician licensed under the same chapter as the treating physician; providing authorization for selecting a preferred provider while purchasing insurance; amending s. 627.744, F.S.; providing additional exemptions from preinsurance inspection requirements; providing for inspection fees; requiring the department to conduct a study of the preinsurance inspection program and report to the Legislature; amending s. 627.745, F.S.; revising requirements for mediating insurance claims; revising requirements for qualifying as a mediator; amending s. 627.756, F.S.; providing liability of sureties; amending s. 627.7711, F.S.; providing definitions; amending s. 627.776, F.S.; providing for the application of the Insurance Code to title insurers; amending s. 627.777, F.S.; requiring the approval of title insurance forms by the department; amending s. 627.7773, F.S.; providing for accountings and audits of forms used by title insurance agents; amending s. 627.7776, F.S.; prohibiting the furnishing of supplies; providing a penalty; amending s. 627.778, F.S.; providing certain limitations on assumption of risk by title insurers; amending s. 627.780, F.S.; prohibiting certain illegal dealings in risk premiums; amending s. 627.782, F.S.; requiring the department to adopt minimum rates for title services; providing requirements for the department in adopting premium rates; amending s. 627.783, F.S.; providing for deviations in rates for title insurance upon order of the department; creating s. 627.7831, F.S.; requiring charging and collection of the risk premium; amending s. 627.784, F.S.; prohibiting the issuance of title insurance with disregard to possible title defects; amending s. 627.7841, F.S.; providing requirements for insurance against adverse matters and defects in title; amending s. 627.7842, F.S.; providing for certain exceptions from coverage in title insurance policies; creating s. 627.7843, F.S.; providing requirements for ownership and encumbrance reports; amending s. 627.7845, F.S.; providing requirements for title searches; providing requirements for maintaining records pertaining to title searches, risk premiums, and service charges; amending s. 627.785, F.S.; preempting to the state the regulation of title insurers and title insurance; amending s. 627.786, F.S.; prohibiting the transaction of title insurance and other kinds of insurance; amending s. 627.7865, F.S.; providing for payment of unpaid outstanding claims through insurer assessments; amending s. 627.791, F.S.; providing penalties; amending s. 627.792, F.S.; providing for liability in the event of defalcation, conversion, or misappropriation of funds held in trust by a title insurance agent; providing for a review of the methods by which financial institutions place certain insurance coverage; repealing ss. 627.0627, 627.0635, 627.356, 627.4149, 627.6176, 627.6573, 627.6693, 627.781, 627.827, F.S., relating to the Insurance Code; reviving provisions of part V, ch. 626 and ch. 627, F.S., notwithstanding repeals scheduled under the Regulatory Sunset Act; providing for future repeal and review of ss. 634.045, 634.3073, 634.4085, F.S., relating to warranty associations; amending s. 627.6675, F.S.; requiring certain $500,000 conversion policies; deleting certain retroactivity provisions; providing effective dates.

House Amendment 1 (with Title Amendment)—On page 32, between lines 8 and 9, insert:

Section 20. Section 627.0623, Florida Statutes, is created to read:

627.0623 Restrictions on expenditures and solicitations of insurers and affiliates.—

(1) As used in this section:

(a) "Insurer" means any entity holding a certificate of authority under chapters 624, 628, 629, 632, 634, 635, 637, 638, 639, 641, or 651.

(b) "Affiliate" means any insurance holding company required to be registered under s. 628.801 or any subsidiary of such holding company.

(2) No insurer, affiliate, or officer of an insurer or affiliate, and no political committee or committee of continuous existence representing the interests of such insurer, affiliate, or officer shall make a contribution in excess of $100, for any election, to or on behalf of the Treasurer or to or on behalf of any candidate for the office of Treasurer. The provisions of this subsection shall not prevent any candidate or members of that candidate's family from contributing to that candidate's campaign as otherwise permitted by law.

(3) The Treasurer or a candidate for the office of Treasurer may not accept a campaign contribution in excess of $100 from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer.

(4) No employee of the department may solicit a campaign contribution for the Treasurer or any candidate for the office of Treasurer from any insurer, affiliate, or officer of an insurer or affiliate, or any political committee or committee of continuous existence that represents such insurer, affiliate, or officer. For purposes of this section, "employee of the department" means any person employed in the Department of Insurance or the Treasurer's office holding a position in the Senior Management Services as defined in s. 110.402; any person holding a position in the Select Exempt Service as defined in s. 110.602; any person having authority over insurance policy, regulation, or supervision; or any person hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

(5) The Department of Insurance shall make available by electronic means a list of persons whose names are filed with the department and who are insurers, affiliates, or officers subject to this section. The department may charge a fee for the furnishing of a list under this subsection in an amount to cover the cost of preparing the list.

(6) Any person who commits a knowing and willful violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 17, after "risks;" insert: creating s. 627.0623, F.S.; restricting campaign contributions and acceptance and solicitation thereof; providing penalties;

House Amendment 2 (with Title Amendment)—On page 54, lines 17-26, strike all of said lines and insert:

627.4091 Specific reasons for denial, cancellation, or nonrenewal.—

(1) The denial of an application for an insurance policy must be accompanied by the specific reasons for denial, including the specific underwriting reasons, if applicable.

(2) Each notice of nonrenewal or cancellation must be accompanied by the specific reasons for nonrenewal or cancellation, including the specific underwriting reasons, if applicable.

(3) No cause of action in the nature of defamation, invasion of privacy, or negligence shall arise against any person for disclosing personal or privileged information in accordance with this section, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent, or insurance-support organization; however, this section shall provide no immunity for disclosing or furnishing false information through gross negligence or with malice or willful intent to injure any person.

(4) The provisions of any other statute respecting disclosure of personal information control to the extent of any conflict with this section.

And the title is amended as follows:

In title, on page 3, lines 15-16, strike "cancellation or nonrenewal" and insert: denial, cancellation, or nonrenewal; providing immunity from liability

House Amendment 3—On page 22, lines 8-18, strike all of said lines and insert:

(a) Section 626.734, relating to liability of certain agents.

(b) Section 626.739, relating to temporary licenses.

(c) Section 626.747, relating to branch agencies.

(d) Section 626.749, relating to place of business in residence.

(e) Section 626.753, relating to sharing of commissions.

(f) Section 626.754, relating to rights of agent following termination of appointment.

And on page 23, lines 29-31, strike all of said lines

House Amendment 4 (with Title Amendment)—On page 172, between lines 12 and 13, insert:

Section 107. Subsection (5) is added to section 627.0653, Florida Statutes, to read:

627.0653 Insurance discounts for specified motor vehicle equipment.—

(5) Each insurer writing motor vehicle comprehensive coverage in this state may provide a premium discount for this coverage if the insured vehicle has the complete manufacturer's vehicle identification number permanently etched on the windshield and all windows of the vehicle. The etching must be by a tool or process that does not destroy the integrity of the glass or visibility for the operator of the motor vehicle. The identification numbers and letters must be at least 1/4 inch in height. A sticker may identify the presence of this identification system. The department may, by rule, set forth appropriate guidelines to implement this subsection.

Section 108. Section 627.429, Florida Statutes, is amended to read:

627.429 Medical tests for human immunodeficiency virus infection and acquired immune deficiency syndrome for insurance purposes.—

(1) PURPOSE.—The purpose of this section is to prohibit unfair practices in the underwriting of ~~life and health~~ insurance with respect to exposure to the human immunodeficiency virus infection and related matters, and thereby *to* reduce the possibility that a person may suffer unfair discrimination when purchasing ~~life and health~~ insurance.

(2) SCOPE.—

(a) This section applies to all ~~life and health~~ insurance policies, and the underwriting thereof, which are issued in this state or are issued outside this state pursuant to s. 627.5515 or s. 627.6515 covering residents of this state and to multiple-employer welfare arrangements defined in s. 624.437. For *the* purposes of this section, *"insurer" includes* ~~insurer shall include~~ authorized multiple-employer welfare arrangements.

(b) This section *does* ~~shall~~ not prohibit an insurer from contesting a policy or claim to the extent allowed by law.

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

(a) "AIDS" means acquired immune deficiency syndrome.

(b) "ARC" means AIDS-related complex.

(c) "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

(4) *USE* ~~UTILIZATION~~ OF MEDICAL TESTS FOR UNDERWRITING.—

(a) With respect to the issuance of or the underwriting of a policy regarding exposure to the HIV infection and sickness or medical conditions derived from *HIV* ~~such~~ infection, the insurer *may use only medical tests that* ~~shall only utilize medical tests which~~ are reliable predictors of risk. A test which is recommended by the Centers for Disease Control or by the federal Food and Drug Administration is ~~deemed to be~~ reliable for the purposes of this section. A test which is rejected or not recommended by the Centers for Disease Control or the federal Food and Drug Administration is ~~a test which is deemed to be~~ not reliable for the purposes of this section. If a specific *test recommended by the* Centers for Disease Control or the federal Food and Drug Administration ~~recommended test~~ indicates the existence or potential existence of exposure to the HIV infection or a sickness or medical condition related to the HIV infection, *the insurer shall,* before relying on a single test result to deny or limit coverage or to rate the coverage, ~~the insurer shall~~ follow the applicable Centers for Disease Control or federal Food and Drug Administration recommended test protocol and *shall use any applicable follow-up tests or series of tests recommended by the* ~~shall utilize any applicable~~ Centers for Disease Control or federal Food and Drug Administration ~~recommended followup tests or series of tests~~ to confirm the indication.

(b) Prior to testing, the insurer shall disclose its intent to test the person for the HIV infection or for a specific sickness or medical condition derived therefrom and shall obtain the person's written informed consent to administer the test. *The* written informed consent *required by this paragraph* shall include a fair explanation of the test, including its purpose, potential uses, and limitations, and the meaning of its results and the right to confidential treatment of information. Use of a form approved by the department *raises* ~~shall raise~~ a conclusive presumption of informed consent.

(c) An applicant shall be notified of a positive test result by a physician designated by the applicant or, in the absence of such designation, by the Department of Health and Rehabilitative Services. ~~Such~~ Notification must include *all of the following*:

1. Face-to-face posttest counseling on the meaning of the test results, the possible need for additional testing, and the need to eliminate behavior which might spread the disease to others.~~;~~

2. The availability in the *person's* geographic area of any appropriate health care services, including mental health care, and appropriate social and support services.~~;~~

3. The benefits of locating and counseling any individual by whom the infected individual may have been exposed to human immunodeficiency virus and any individual whom the infected individual may have exposed to the virus.~~; and~~

4. The availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in subparagraph 3.

(d) A medical test for exposure to the HIV infection or for a sickness or medical condition derived from such infection *may* ~~shall only~~ be required of or given to a person *only* if the test is based on the person's current medical condition or medical history or *if the test is* triggered by threshold coverage amounts which apply to all persons within the risk class. Sexual orientation *may* ~~shall~~ not be used in the underwriting process or in the determination of which applicants shall be tested for exposure to the HIV infection. ~~Neither~~ The marital status, ~~the~~ living arrangements, ~~the~~ occupation, ~~the~~ gender, ~~the~~ beneficiary designation, *or* ~~nor the~~ zip code or other territorial classification of an applicant *may not* ~~shall~~ be used to establish the applicant's sexual orientation.

(e) An insurer may inquire whether a person has been tested positive for exposure to the HIV infection or been diagnosed as having ARC or AIDS caused by the HIV infection or other sickness or condition derived from such infection. An insurer *may* ~~shall~~ not inquire whether the person has been tested for or has received a negative result from a specific test for exposure to the HIV infection or for a sickness or a medical condition derived from such infection.

(f) Insurers shall maintain strict confidentiality regarding medical test results with respect to exposure to the HIV infection or a specific sickness or medical condition derived from such exposure. *The insurer may not disclose* information regarding specific test results ~~shall not be disclosed~~ outside *of* the insurance company or its employees, insurance affiliates, agents, or reinsurers, except to the person tested and to persons designated in writing by the person tested. *The insurer may not furnish* specific test results for exposure to the HIV infection ~~shall not be furnished~~ to an insurer industry data bank if a review of the information would identify the individual and the specific test results.

(g) *A* ~~No~~ laboratory may be used by an insurer or insurance support organization for the processing of HIV-related tests *only if* ~~unless~~ it is certified by the United States Department of Health and Human Services under the Clinical Laboratories Improvement Act of 1967, permitting testing of specimens obtained in interstate commerce, and *only if the laboratory* subjects itself to ongoing proficiency testing by the College of American Pathologists, the American Association of Bio Analysts, or an equivalent program approved by the Centers for Disease Control of the United States Department of Health and Human Services.

(5) RESTRICTIONS ON COVERAGE EXCLUSIONS AND LIMITATIONS.—

(a) An insurer of a group policy *may* ~~shall~~ not exclude coverage of an eligible individual because of a positive test result for exposure to the HIV infection or a specific sickness or medical condition derived from such exposure, either as a condition for or subsequent to the issuance of the policy. *This paragraph does,* ~~provided that this prohibition shall~~ not

apply to individuals applying for coverage where individual underwriting is otherwise allowed by law.

(b) Subject to the total benefits limits in a health insurance policy, no health insurance policy shall contain an exclusion or limitation with respect to coverage for exposure to the HIV infection or a specific sickness or medical condition derived from such infection, except as provided in a preexisting condition clause. *This paragraph does not*~~, provided that nothing contained in this paragraph shall be construed to~~ prohibit the issuance of accident-only or specified disease health policies.

(c) Except for preexisting conditions specifically applying to a sickness or medical condition of the insured, benefits under a life insurance policy shall not be denied or limited based on the fact that the insured's death was caused, directly or indirectly, by exposure to the HIV infection or a specific sickness or medical condition derived from such infection. *This paragraph does not*~~, provided that nothing contained in this paragraph shall be construed to~~ prohibit the issuance of accidental death only or specified disease policies.

(d) ~~It shall be permissible for~~ Any major medical or comprehensive accident and health policy for which individual underwriting is authorized by law *may* ~~to~~ contain a provision excluding coverage for expenses related to AIDS or ARC if, in the opinion of a legally qualified physician, the insured, prior to the first anniversary of the insured's coverage under the policy, first exhibited objective manifestations of AIDS or ARC, as defined by the Centers for Disease Control, which *objective manifestations* are attributable to no other cause or was diagnosed as having AIDS or ARC *if all of the following apply*~~, provided that~~:

1. The applicant for the policy is not required to submit to any medical test for HIV infection.;

2. The policy provision ~~must~~:

a. *Is* ~~Be~~ set forth separately from the policy's other exclusion and limitation provisions.;

b. *Has* ~~Have~~ an appropriate caption or heading.;

c. *Is* ~~Be~~ disclosed and referenced in a conspicuous manner on the policy data page.~~; and~~

d. *Contains* ~~Contain~~ a statement that the exclusion will not apply to any person if the insurer does not assert the defense before the person has been insured under the policy for 2 years.;

3. *The insurer must notify the insured in writing of a determination that the insured would be subject to the effect of the exclusion within 90 days after* ~~When~~ the insurer first determines that an insured would be subject to the effect of the exclusion, ~~the insurer must notify the insured in writing of this determination within 90 days,~~ even if there are no claims for AIDS or ARC.~~, and~~ Failure to provide timely written notice *under this subparagraph bars* ~~will bar~~ the insurer from using the exclusion.~~; and~~

4. Objective manifestations of AIDS or ARC first exhibited after the 12-month manifestation period must be covered the same as any other illness.

Section 109. Section 627.6472, Florida Statutes, as created by chapter 92-33, Laws of Florida, is amended to read:

627.6472 Exclusive provider organizations.—

(1) As used in this section, the term:

(a) "Complaint" means any dissatisfaction expressed by a policyholder concerning an insurer or its network providers.

(b) "Emergency care" means medical services provided after the sudden or unexpected onset of a medical condition manifesting itself by acute symptoms, including injury caused by an accident, which are severe enough that the lack of immediate medical attention could reasonably be expected to result in any of the following:

1. The patient's life or health would be placed in serious jeopardy.

2. Vital bodily functions would be seriously impaired.

3. There would be serious and permanent dysfunction of a bodily organ or part.

(c) "Exclusive provider" means a provider of health care, or a group of providers of health care, that has entered into a written agreement with the insurer to provide benefits under a health insurance policy issued under this section, which agreement shall include any health care provider listed in s. 627.419(3) and (4) and shall provide reasonable access to such health care providers.

(d) "Exclusive provider provision" means any provision that conditions the payment of benefits, in whole or in part, on the use of exclusive providers.

(e) *"Agency" means the Agency for Health Care Administration* "~~Department" means the Department of Health and Rehabilitative Services~~.

(f) "Grievance" means dissatisfaction with the administration, claims practices, or provisions of services concerning an insurer or its network providers, expressed in writing by a policyholder under a health insurance policy or certificate.

(g) "Service area" means the geographic area approved by the *agency* ~~department~~ within which an insurer is authorized to offer a health insurance policy.

(2) The *agency* ~~department~~ may authorize a health insurer to offer a health insurance policy or certificate under this section if the *agency* ~~department~~ finds that the insurer has satisfied all of the requirements of this section.

(3) An insurer may not issue a policy or certificate in this state that is subject to an exclusive provider provision until its plan of operation has been approved by the *agency* ~~department~~. If the insurer files a plan of operation which states that the insurer will be utilizing a health maintenance organization provider network, subscriber grievance procedure and internal and external quality assurance program all of which have been approved by the *agency* ~~department~~, the insurers plan of operation shall be deemed to have met the requirements of subsections (4), (5), (12), and (14).

(4) An insurer must file a proposed plan of operation with the *agency* ~~department~~ in a format prescribed by the *agency* ~~department~~. The plan of operation must contain evidence that all covered services that are subject to exclusive provider provisions are available and accessible through exclusive providers, including a demonstration that:

(a) Such services can be provided by exclusive providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care must reflect usual practice in the local area. Geographic availability must reflect the usual travel times within the community.

(b) The number of exclusive providers in the service area is sufficient, with respect to current and expected policyholders, either:

1. To deliver adequately all services that are subject to an exclusive provider provision; or

2. To make appropriate referrals.

(c) There are written agreements with exclusive providers describing specific responsibilities.

(d) Emergency care is available 24 hours a day and 7 days a week.

(e) In the case of covered services that are subject to an exclusive provider provision, there are written agreements with exclusive providers prohibiting such providers from billing or otherwise seeking reimbursement from or recourse against any policyholders. This paragraph does not apply to supplemental charges or coinsurance amounts stated in the policy or certificate.

(5) The proposed plan of operation must include:

(a) A statement or map providing a clear description of the service area.

(b) A description of the grievance procedure to be used.

(c) A description of the quality assurance program, including all of the following:

1. The formal organizational structure.

2. The written criteria for selection, retention, and removal of exclusive providers.

3. The procedures for evaluating quality of care provided by exclusive providers, and the process to initiate corrective action when warranted.

(d) A list and description, by specialty, of the exclusive providers.

(e) The written information proposed to be used by the insurer to comply with subsection (10).

(f) Any other information requested by the *agency* ~~department~~.

(6) An insurer must file any proposed changes to the plan of operation, except for changes to the list of exclusive providers, with the *agency* ~~department~~ prior to implementing the changes. The changes are considered approved by the *agency* ~~department~~ after 30 days unless specifically disapproved.

(7) An updated list of exclusive providers must be filed with the *agency* ~~department~~ at least semi-annually.

(8) A health insurance policy or certificate may not restrict payment for covered services provided by nonexclusive providers if:

(a) The services are for symptoms requiring emergency care or are immediately required for an unforeseen illness, injury, or condition; and

(b) A network provider is not reasonably accessible.

(9) If any service or treatment is not within the scope of services provided by the network or exclusive providers, but is within the scope of services or treatment covered by the policy, the service or treatment shall be reimbursed at a rate not less than 10 percentage points lower than the percentage rate paid to network providers. The reimbursement rate must be applied to the usual and customary charges in the area.

(10) An insurer must make full and fair disclosure in writing of the provisions, restrictions, and limitations of the policy or certificate to each policyholder and certificateholder, including at least the following:

(a) A description (including address and phone number) of the exclusive providers, including primary care physicians, specialty physicians, hospitals, and other providers.

(b) A description of the exclusive provider provisions, including coinsurance and deductible levels if providers other than exclusive providers are used.

(c) A description of coverage for emergency and urgently needed care and other out-of-service area coverage.

(d) A description of limitations on referrals to restricted exclusive providers and to other providers.

(e) A description of the insurer's quality assurance program and grievance procedure.

(11) Prior to or at the time of the sale of a policy or certificate that is subject to an exclusive provider organization, the insurer must obtain from the policyholder or certificateholder a signed and dated form stating that the policyholder or certificateholder has received the information provided pursuant to subsection (10) and that the policyholder or certificateholder understands the restrictions of the policy or certificate.

(12)(a) An insurer issuing policies or certificates that are subject to an exclusive provider organization must have and use procedures for hearing complaints and resolving written grievances from the policyholders. The procedures must be aimed at mutual agreement for settlement and may include arbitration procedures.

(b) The grievance procedure must be described in the policy and certificates.

(c) At the time the policy or certificate is issued, the insurer must provide detailed information to the policyholder describing how a grievance may be registered with the insurer.

(d) Grievances must be considered in a timely manner and must be transmitted to appropriate decisionmakers who have the authority to fully investigate the issue and take corrective action.

(e) If a grievance is found to be valid, corrective action must be taken promptly.

(f) All concerned parties must be notified about the results of a grievance.

(g) The insurer must report no later than each March 31 to the *agency* ~~department~~ regarding its grievance procedure. The report must be in a format prescribed by the *agency* ~~department~~ and must contain the number of grievances filed in the past year and a summary of the subject, nature, and resolution of such grievances.

(13) At the time of initial purchase, an insurer issuing policies or certificates that are subject to an exclusive provider organization must offer to each policyholder the opportunity to purchase a policy otherwise offered by the insurer that is not subject to an exclusive provider network.

(14)(a) There is imposed on every authorized insurer that offers exclusive provider policies under this section an annual assessment payable to the *agency* ~~department~~. The assessment must be determined and collected pursuant to the procedures specified in s. 641.58, and may not exceed 0.1 percent of the gross premium collected by the insurer in the prior year for exclusive provider policies issued in this state under this section. The assessment does not apply to policies issued pursuant to s. 627.6473.

(b) The *agency* ~~department~~ must deposit the assessments in the Health Maintenance Organization Quality Care Trust Fund. Assessments deposited under this subsection must be used to defray the expenses of the *agency* ~~department~~ connected with implementation of this section. Prior to collection of assessments under this subsection, the *agency* ~~department~~ may use moneys in the Health Maintenance Organization Quality Care Trust Fund, as appropriated by the Legislature, to defray the expenses of the *agency* ~~department~~ connected with implementation of this section.

(c) The failure of the insurer to pay the assessment within the time specified in s. 641.58 constitutes grounds for suspension or revocation of the insurer's certificate of authority by the Department of Insurance.

Section 110. Section 627.6647, Florida Statutes, is created to read:

627.6647 Release of claims experience.—

(1) Any insurer issuing or delivering group health insurance policies in this state must provide to a policyholder, within 21 days after a written request, information required for bid, including, but not limited to, the following information for the previous 3 years or for the entire period of coverage, whichever is shorter:

(a) Claims experience.

(b) Premiums paid.

(c) Number of insureds on a monthly basis.

(d) Dependent status.

(2) This section does not require the insurer to disclose any information that is required by law to be confidential.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 10, line 19, after the semicolon (;) insert: amending s. 627.0653, F.S.; authorizing premium discounts for etching of vehicle identification numbers; amending s. 627.429, F.S.; revising provisions relating to medical tests for HIV infection and AIDS; amending s. 627.6472, F.S.; specifying the agency responsible for regulation of exclusive provider organizations; creating s. 627.6647, F.S.; requiring release of certain group health claims experience to a policyholder;

House Amendment 5—On page 102, line 31, through page 103, line 2, strike all of said lines and insert: consultations with a licensed physician, a ~~licensed~~ psychologist *licensed pursuant to chapter 490, a mental health counselor licensed pursuant to chapter 491, a marriage and family therapist licensed pursuant to chapter 491, and a clinical social worker licensed pursuant to chapter 491* ~~, and a licensed mental health professional as defined in the policy or contract~~.

House Amendment 6 (with Title Amendment)—On page 64, between lines 27 and 28, insert:

Section 41. Section 627.4236, Florida Statutes, is created to read:

627.4236 Coverage for bone marrow transplant procedures.—

(1) As used in this section, the term "bone marrow transplant" means human blood precursor cells administered to a patient to restore normal hematological and immunological functions following ablative therapy with curative intent. Human blood precursor cells may be obtained from the patient in an autologous transplant or from a medically acceptable related or unrelated donor, and may be derived from bone marrow, circulating blood, or a combination of bone marrow and circulating blood. If chemotherapy is an integral part of the treatment involving bone marrow transplantation, the term "bone marrow transplant" includes both the transplantation and the chemotherapy.

(2) An insurer may not exclude coverage for bone marrow transplant procedures recommended by the referring physician and the treating physician under a policy exclusion for experimental, clinical investigative, educational, or similar procedures contained in any individual or group health insurance policy issued, amended, delivered, or renewed in this state that covers treatment for cancer, if the particular use of the bone marrow transplant procedure is determined to be accepted within the appropriate oncological specialty and not experimental pursuant to subsection (3).

(3)(a) The Secretary of Health and Rehabilitative Services must adopt rules specifying the bone marrow transplant procedures that are accepted within the appropriate oncological specialty and are not experimental for purposes of this section. The rules must be based upon recommendations of an advisory panel appointed by the secretary, composed of:

1. One adult oncologist, selected from a list of three names recommended by the Florida Medical Association;

2. One pediatric oncologist, selected from a list of three names recommended by the Florida Pediatric Society;

3. One representative of the J. Hillis Miller Health Center at the University of Florida;

4. One representative of the H. Lee Moffitt Cancer Center and Research Institute, Inc.;

5. One consumer representative, selected from a list of three names recommended by the Insurance Commissioner; and

6. Four representatives of health insurers licensed in this state.

(b) The secretary must appoint a member of the advisory panel to serve as chairperson.

(c) The Office of the Deputy Secretary for Health of the Department of Health and Rehabilitative Services must provide, within existing resources, staff support to enable the panel to carry out its responsibilities under this section.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 4, line 8, after the semicolon (;) insert: creating s. 627.4236, F.S.; restricting the use of experimental treatment exclusions with respect to bone marrow transplants; providing for rules;

House Amendment 1 to Amendment 6—On page 2, lines 23-31, strike all of said lines and insert:

6. One representative of the Health Insurance Association of America;

7. Two representatives of health insurers, one of whom represents the insurer with the largest Florida health insurance premium volume and one of whom represents the insurer with the second largest Florida health insurance premium volume; and

8. One representative of the insurer with the largest Florida small group health insurance premium volume.

(b) The secretary must appoint a member of the advisory panel to serve as chairperson.

(c) The Office of the Deputy Secretary for Health of the Department of Health and Rehabilitative Services must provide, within existing resources, staff support to enable the panel to carry out its responsibilities under this section.

(d) In making recommendations and adopting rules under this section, the advisory panel and the secretary shall:

1. Take into account findings, studies, or research of the federal Agency for Health Care Policy, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, and Congressional Office of Technology Assessment, and any other relevant information.

2. Consider whether the federal Food and Drug Administration or National Cancer Institute are conducting or sponsoring assessment procedures to determine the safety and efficacy of the procedure or substantially similar procedures, or of any part of such procedures.

3. Consider practices of providers with respect to requesting or requiring patients to sign a written acknowledgment that a bone marrow transplant procedure is experimental.

(4) Any rule adopted under this section applies only to claims filed under policies issued or renewed after the effective date of the rule.

House Amendment 7—On page 136, lines 26-28, strike all of said lines and insert: than substantive. This section and section 627.727(10), Florida Statutes, shall take effect upon this act becoming a law and, as it serves only to reaffirm the original legislative intent, section 627.727(10), Florida Statutes, shall apply to all causes of action accruing after the

And on page 174, lines 27-29, strike all of said lines and insert:

Section 111. Except as otherwise provided herein, this act shall take effect October 1, 1992.

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

SB 170-H passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment 2 to HB 7-H and requests the Senate to recede.

John B. Phelps, Clerk

HB 7-H—A bill to be entitled An act relating to ad valorem taxation; amending s. 197.162, F.S.; extending the time periods during which a taxpayer may make early payment of taxes and qualify for a discount; amending s. 197.222, F.S.; extending the time periods during which a taxpayer may prepay estimated taxes by installment and qualify for a discount; amending s. 197.254, F.S.; revising requirements relating to the notice to taxpayers of the right to defer taxes; amending s. 197.262, F.S.; deleting the requirement for a separate deferred payment tax certificate sale, and the requirement that unsold certificates be purchased by the State Board of Administration, and providing that such certificates be struck off to the county; amending s. 197.263, F.S.; providing for the sale of tax certificates for delinquencies of deferred taxes; amending s. 197.482, F.S.; excepting deferred payment tax certificates from the limitation upon lien of tax certificates; amending s. 197.502, F.S.; providing that provisions which require counties to make application for tax deeds do not apply to deferred payment tax certificates; repealing s. 215.47(2)(d), F.S., relating to investment by the State Board of Administration in deferred payment tax certificates; providing an effective date.

On motion by Senator Kiser, the Senate receded from **Senate Amendment 2.**

HB 7-H passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 2, concurred in same as amended, passed as amended, HB 157-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

HB 157-H—A bill to be entitled An act relating to unemployment compensation; amending s. 443.111, F.S.; modifying the maximum weekly benefit amount that may be paid to an individual from the Unemployment Compensation Trust Fund; providing an effective date.

House Amendment 1 to Senate Amendment 2—On page 1, line 1, strike "*$240*" and insert: *$250*

On motion by Senator Weinstein, the Senate concurred in the House amendment. The vote was:

Yeas—18 Nays—16

The action of the Senate was certified to the House.

The following report was published in the Journal at the direction of the President:

Report of Rules Chairman on Senator Langley's
Motion to correct the Journal re: HB 157-H

Senator Langley has moved under Senate Rule 4.3(11), to correct our Journal of June 25, 1992 insofar as it says "HB 157-H passed as amended . . . and . . . the vote on passage was yeas 18—nays 16."

Senator Langley pointed out that on June 25th there never was a separate "vote on passage," only a vote to concur with the House amendment to the Senate Amendment 2 to the House Bill.

A brief review of the history of the bill is in order because of the significance of the question.

HB 157-H (1992) first came to the Senate from the House on June 4, 1992. It was amended by the Senate and passed by the Senate on June 16, 1992. The vote on final passage, properly recorded in the journal, was 24 yeas, 13 nays. Upon return of the bill to the House, the House on June 24th amended Senate Amendment 2, by raising the maximum weekly benefit amount payable to an individual from the Unemployment Compensation Trust Fund from $240 to $250. The House then returned House Bill 157-H to the Senate and on June 25, 1992, the Senate took up HB 157-H for the second time, and upon motion by Senator Weinstein, concurred in the said House amendment by electronic roll call vote of 18 yeas—16 nays. The President announced that the Senate thus concurred in the House amendment.

We have reviewed the journal item in question and considered the following authorities and precedents:

Art. 3, § 7, Fla. Const.
Senate Rule 4.12
52 CJS section 44(2) and (4)
State ex rel Lane Drug vs. Simpson 166 So.262 (Fla. 1936)
State ex rel Lamar vs. Dillon 28 So.781 (Fla. 1900)
1 Cooley's Constitutional Limitations, 8th Edition, 290

"Final passage" of a bill is the vote by which the Senate adopts a bill after it has been read the third time, for the purpose of being put upon its passage. There is nothing in the Florida Constitution that mandatorily requires our journal to show the yeas and nays on adoption of amendments to bills, before or after final passage. We do so after final passage when the chair is in doubt, or to make a general record of our concurrence in the House's amendments. The sole question at that stage of the Senate's consideration of HB 157-H was the concurrence or the nonconcurrence by the Senate in the House's Amendment 1 to Senate Amendment 2.

While it might have been tidier for the journal not to have used the phrase "passed as amended" but rather to have said only that the Senate concurred in House Amendment by a vote of 18-16, the reference to "passed as amended" is our Secretary's shorthand method of indicating that the Senate's consideration and acceptance of the House Bill as amended, was complete, and that the bill was being returned to the House for engrossment, enrolling, and subsequent presentation to the Governor.

In any event, we have inspected the record and find that the bill passed both houses in identical form. That conclusion is clearly documented by the Journals of both houses. Correction of our Journal in this instance will not result in any different outcome concerning the Senate's treatment of HB 157-H (1992).

In summary:

Question 1: Did the bill meet all the constitutional reading and voting requirements for passage into law? Yes.

Question 2: Do the Journals sufficiently so reflect? Yes.

Question 3: Should page 463, column 1 of our June 25th Journal be corrected? Yes, the point raised by Senator Langley's motion is well taken. The entry should be corrected to read as follows:

"HB 157-H—A bill to be entitled An act relating to unemployment compensation; amending s. 443.111, F.S.; modifying the maximum weekly benefit amount that may be paid to an individual from the Unemployment Compensation Trust Fund; providing an effective date.

House Amendment 1 to Senate Amendment 2—On page 1, line 1, strike "$240" and insert: $250

On motion by Senator Weinstein, the Senate concurred in the House amendment. *The vote was: Yeas—18 Nays—16*

~~HB 157-H passed as amended and~~ The action of the Senate was certified to the House. ~~The vote on passage was: Yeas—18 Nays—16~~"

Respectfully submitted,
Pat Thomas, Chairman
Committee on Rules and Calendar

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 3-10, amended Senate Amendment 1 and concurred in same as amended, passed as further amended, CS for HB's 197-H, 19-H and 131-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for HB's 197-H, 19-H and 131-H—A bill to be entitled An act relating to corrections; amending s. 944.275, F.S.; prohibiting grants of basic or incentive gain-time to offenders convicted under chapter 794, F.S.; amending s. 775.084, F.S., relating to habitual and habitual violent felony offenders; establishing ineligibility of offenders convicted under chapter 794, F.S., for basic or incentive gain-time; amending s. 20.315, F.S.; transferring legal services in the Department of Corrections from the Office of Management and Budget to the secretary; renaming the Community Services Program Office the Probation and Parole Program Office; transferring program evaluation responsibilities from the Office of Management and Budget to the Assistant Secretary for Programs; transferring staff development from the Office of Programs to the Office of Management and Budget; repealing an obsolete provision; amending s. 944.17, F.S.; requiring agencies to release records relating to inmate custody classification to the Department of Corrections under certain circumstances; amending s. 922.10, F.S.; relating to Department of Corrections records identifying executioners; repealing the department's authority to adopt rules regulating privacy or privilege of information contained in such records; repealing s. 945.25(4), F.S., relating to departmental rulemaking authority with respect to privacy of information; amending s. 944.702, F.S.; revising intent relating to the Transition Assistance Program Act; amending s. 944.703, F.S.; revising the time period within which the department must confirm certain information; amending s. 944.704, F.S.; deleting the title of transition assistance coordinator and specifying the duties of staff who provide such assistance; amending s. 944.705, F.S.; deleting requirements relating to the release orientation program; amending s. 944.706, F.S.; eliminating certain provisions relating to basic release assistance; amending s. 944.707, F.S.; eliminating certain postrelease services; amending s. 944.277, F.S.; expanding exceptions to eligibility for grants of provisional credits and authorizing use of certain information in determining eligibility for provisional credits; requiring the Department of Corrections to deliver a report to the Legislature; specifying what is to be considered in the report; authorizing the department to use sole-source contracted services; amending s. 947.1405, F.S.; requiring maximum level and length of supervision of offenders convicted of certain offenses; amending s. 947.146, F.S.; limiting control release to in-state inmates; requiring certain recommenda-

tions for advancement or extension; requiring a review process for certain inmates; creating s. 947.149, F.S.; requiring a conditional medical release program for inmates determined to be permanently incapacitated or terminally ill; providing rulemaking authority; requiring a study by the Department of Corrections concerning older inmates and long-term adult inmates with extensive chronic health care needs; creating s. 944.471, F.S.; providing a short title; creating s. 944.472, F.S.; providing legislative findings and purposes; creating s. 944.473, F.S.; providing for the establishment of a program for random drug and alcohol testing for inmates in the correctional system; authorizing the department to adopt rules; providing for substance abuse treatment programs for inmates testing positive, if available; providing reporting requirements; amending s. 242.68, F.S.; authorizing the Board of Correctional Education to contract with state-licensed independent postsecondary schools for educational services; providing contract requirements; requiring the board to adopt rules governing contracts; authorizing the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to investigate violations of rules adopted by the Board of Correctional Education; requiring each independent postsecondary school operating under a contract with the Board of Correctional Education to document its compliance with rules; providing for termination of contracts by the Board of Correctional Education; authorizing school districts and community colleges who provide education services through a federal Pell Grant program to inmate students to charge the full educational cost; authorizing in-kind contributions as partial payment; amending s. 246.203, F.S.; revising the definition of the term "school" for purposes of ss. 246.201-246.231, F.S.; amending s. 246.213, F.S.; requiring the State Board of Education to adopt certain licensing requirements for independent postsecondary schools that operate within state correctional facilities; requiring the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to make certain recommendations to the Board of Correctional Education; amending s. 246.215, F.S.; providing licensing requirements for independent postsecondary schools that operate within state correctional facilities; amending s. 246.228, F.S.; authorizing the Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools to take certain disciplinary actions against schools that violate rules adopted by the Board of Correctional Education, amending s. 246.229, F.S.; authorizing the Department of Legal Affairs and the state attorney to enforce rules adopted by the Board of Correctional Education; amending s. 246.231, F.S.; providing penalties; amending s. 775.16, F.S.; disqualifying persons convicted of a drug offense under the laws of other states or countries, if such offense would be a felony under chapter 893, from applying for state employment, licenses, and other benefits unless specified conditions are met; amending s. 794.011, F.S.; creating the "Junny Rios Martinez, Jr., Act of 1992"; prohibiting eligibility for basic gain-time for persons convicted of sexual battery against victims under 18 years of age; amending s. 921.187, F.S.; authorizing the court to require an offender on community control, probation, or probation following incarceration to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; amending s. 948.03, F.S.; requiring an offender, as a condition of his probation or community control, to make a good faith effort toward completion of basic or functional literacy skills or a high school equivalency diploma; providing a definition; creating ss. 945.71-945.74, F.S.; providing legislative intent and purpose as to inmate training programs; providing eligibility and screening of inmates; providing for program operation; requiring the department to adopt certain rules; requiring the department to report to the Legislature; creating s. 766.317, F.S., relating to applicability of medical malpractice provisions to prisoners; providing that the medical negligence provisions of ch. 766, F.S., do not apply to prisoners in state, county, or municipal detention facilities; providing that ss. 766.303-766.316, F.S., which provide the no-fault remedy for infants who meet the definition under the Florida Birth-Related Neurological Injury Compensation Plan, are applicable; creating s. 946.5026, F.S.; extending sovereign immunity to the corporation established pursuant to s. 946.504(1); providing for a study of prison industries by a committee of the House of Representatives; amending s. 944.026, F.S.; revising requirements for community-based residential drug treatment facilities; authorizing commitment of certain drug offenders to such facilities; amending s. 948.001, F.S.; revising certain caseload restrictions for supervision of drug offenders; amending s. 948.51, F.S.; requiring community corrections programs and plans to include provisions for public safety; revising county eligibility provisions and departmental responsibility; expanding purposes of community corrections funds; amending s. 950.002, F.S.; authorizing nonsentenced and pretrial detainees to be housed in county work camps; authorizing two or more counties to provide for the operation of work camps; amending s. 951.26, F.S.; redesignating the county correctional planning committees as county public safety coordinating councils; creating the Community Corrections Operating Trust Fund for purposes of funding the operating expenses of county work camps; requiring meetings and records of the councils to be open to the public; amending s. 921.187, F.S.; conforming terminology; providing effective dates.

House Amendment 1 (with Title Amendment) to Senate Amendment 1—On page 1, line 4, through page 20, line 28, strike all of said language and insert: page 42, line 15, strike all of those lines

And the Senate title amendment is amended to read:

On page 21, line 3, after "page 3," through page 22, strike all of said language, and insert: line 17, after the first semicolon, through page 4, line 30, strike all of said language.

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

CS for HB's 197-H, 19-H and 131-H passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—35 Nays—None

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 2 and passed as amended HB 21-H; has concurred in Senate Amendment 1 and passed as amended HB 107-H.

John B. Phelps, Clerk

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendment 1 to House Amendment 2 and passed as amended CS for SB 102-H.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered engrossed and then enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has admitted for introduction by the required Constitutional two-thirds vote and passed SB 198-H.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered enrolled.

ROLL CALLS ON SENATE BILLS

SJR 2-H

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Yancey

CS for CS for SB 68-H

Yeas—32

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

Nays—None

SB 74-H

Yeas—34

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

Nays—None

SB 80-H

Yeas—37

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

Nays—1

Weinstock

CS for CS for SB 94-H

Yeas—34

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

Nays—3

Bankhead	Bruner	Dudley

VOTE RECORDED

Senator Meek requested that she be recorded as voting yea on **CS for CS for SB 94-H**.

CS for SB 102-H
Senate Amendment 1 to House Amendment 2

Yeas—27

Bankhead	Dantzler	Jenne	McKay
Beard	Davis	Jennings	Plummer
Bruner	Diaz-Balart	Kirkpatrick	Souto
Burt	Forman	Kiser	Walker
Casas	Girardeau	Kurth	Weinstock
Childers	Gordon	Langley	Wexler
Crenshaw	Grizzle	Malchon	

Nays—9

Madam President	Grant	Scott
Dudley	Johnson	Weinstein
Gardner	Myers	Yancey

CS for SB 102-H

Yeas—38

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

Nays—None

CS for SB 154-H

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Gordon, Meek

SB 170-H

Yeas—37

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

Nays—None

CS for SB 178-H

Yeas—21

Madam President	Girardeau	Meek	Weinstein
Casas	Grant	Myers	Weinstock
Dantzler	Jenne	Plummer	Yancey
Diaz-Balart	Kirkpatrick	Souto	
Forman	Langley	Thomas	
Gardner	Malchon	Walker	

Nays—9

Burt	Jennings	McKay
Crotty	Johnson	Scott
Dudley	Kurth	Wexler

Vote after roll call:

Yea—Bankhead

Nay—Beard, Childers

SB 186-H

Yeas—33

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

Nays—None

SB 212-H

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Plummer

SB 246-H

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Jenne, Meek

SB 276-H

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick

ROLL CALLS ON HOUSE BILLS

HB 7-H

Yeas—35

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

Nays—None

HB 107-H

Yeas—34

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

Nays—1

Forman

Vote after roll call:

Yea—Meek

HB 157-H
Motion to Concur

Yeas—18

Madam President	Girardeau	Malchon	Weinstock
Casas	Gordon	Meek	Wexler
Childers	Grant	Souto	Yancey
Davis	Jenne	Thomas	
Forman	Kurth	Weinstein	

Nays—16

Bankhead	Dantzler	Johnson	Myers
Beard	Dudley	Kiser	Plummer
Bruner	Grizzle	Langley	Scott
Crotty	Jennings	McKay	Walker

Vote after roll call:

Yea—Diaz-Balart

CS for CS for HB 193-H

Yeas—28

Madam President	Diaz-Balart	Grizzle	Myers
Beard	Dudley	Jenne	Souto
Casas	Forman	Jennings	Thomas
Childers	Gardner	Kirkpatrick	Weinstein
Crenshaw	Girardeau	Kiser	Weinstock
Dantzler	Gordon	Kurth	Wexler
Davis	Grant	Malchon	Yancey

Nays—6

Bankhead	Johnson	Plummer
Bruner	Langley	Walker

CS for HB's 197-H, 19-H and 131-H

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Gordon, Meek

CS for HB 295-H—Amendment 3

Yeas—15

Madam President	Dudley	Jenne	Souto
Beard	Gardner	Kiser	Weinstock
Casas	Girardeau	Kurth	Yancey
Diaz-Balart	Gordon	Malchon	

Nays—21

Bankhead	Davis	Langley	Walker
Bruner	Forman	McKay	Weinstein
Burt	Grant	Myers	Wexler
Crenshaw	Grizzle	Plummer	
Crotty	Jennings	Scott	
Dantzler	Johnson	Thomas	

Vote after roll call:

Nay to Yea—Jennings

CS for HB 295-H—Amendment 5

Yeas—6

Davis	Gardner	Malchon
Forman	Girardeau	Yancey

Nays—23

Bankhead	Dantzler	Johnson	Souto
Beard	Diaz-Balart	Kurth	Thomas
Bruner	Dudley	Langley	Walker
Casas	Grant	McKay	Weinstock
Crenshaw	Jenne	Myers	Wexler
Crotty	Jennings	Scott	

Vote after roll call:

Nay—Childers

CS for HB 295-H—Amendment 8

Yeas—15

Madam President	Dudley	Kiser	Thomas
Beard	Forman	Kurth	Weinstock
Dantzler	Girardeau	Malchon	Yancey
Davis	Johnson	Myers	

Nays—19

Bankhead	Crotty	Jenne	Souto
Bruner	Diaz-Balart	Jennings	Walker
Burt	Gardner	Langley	Weinstein
Casas	Grant	McKay	Wexler
Childers	Grizzle	Plummer	

CS for HB 295-H

Yeas—14

Dantzler	Girardeau	Kiser	Weinstein
Davis	Gordon	Kurth	Yancey
Dudley	Grant	Malchon	
Forman	Jenne	Scott	

Nays—20

Bankhead	Childers	Johnson	Souto
Beard	Crotty	Langley	Thomas
Bruner	Diaz-Balart	McKay	Walker
Burt	Grizzle	Myers	Weinstock
Casas	Jennings	Plummer	Wexler

CS for HB 295-H—Amendment 23

Yeas—17

Madam President	Dudley	Jenne	Thomas
Bankhead	Gardner	Kiser	Walker
Beard	Girardeau	Kurth	
Crenshaw	Grant	Langley	
Davis	Grizzle	McKay	

Nays—19

Bruner	Diaz-Balart	Malchon	Weinstein
Burt	Forman	Myers	Weinstock
Casas	Gordon	Plummer	Wexler
Childers	Johnson	Scott	Yancey
Dantzler	Kirkpatrick	Souto	

CS for HB 295-H—Amendment 23
Motion to Reconsider

Yeas—22

Bankhead	Davis	Jennings	Scott
Beard	Dudley	Kiser	Souto
Bruner	Gardner	Langley	Walker
Burt	Grant	Malchon	Yancey
Casas	Grizzle	McKay	
Crenshaw	Jenne	Plummer	

Nays—12

Dantzler	Girardeau	Kirkpatrick	Weinstein
Diaz-Balart	Gordon	Kurth	Weinstock
Forman	Johnson	Myers	Wexler

CS for HB 295-H—Amendment 25

Yeas—18

Madam President	Dudley	Jenne	Weinstock
Beard	Forman	Kiser	Wexler
Dantzler	Gardner	Plummer	Yancey
Davis	Gordon	Scott	
Diaz-Balart	Grant	Weinstein	

Nays—13

Bankhead	Girardeau	Langley	Walker
Bruner	Grizzle	Malchon	
Burt	Johnson	McKay	
Crenshaw	Kurth	Souto	

CS for HB 295-H
After Reconsideration

Yeas—28

Madam President	Davis	Jenne	Plummer
Bankhead	Diaz-Balart	Jennings	Scott
Beard	Dudley	Kirkpatrick	Thomas
Casas	Forman	Kiser	Walker
Childers	Gardner	Kurth	Weinstein
Crenshaw	Girardeau	Langley	Wexler
Dantzler	Grant	Malchon	Yancey

Nays—7

Bruner	Grizzle	Myers	Weinstock
Burt	Johnson	Souto	

Vote after roll call:

Yea—Gordon

HB 315-H

Yeas—36

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

Nays—None

HB 371-H

Yeas—33

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

Nays—1

Bruner

Vote after roll call:

Yea—Jennings

HB 413-H

Yeas—32

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

Nays—1

Gardner

HB 423-H

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Meek

HB 459-H—Amendment 1

Yeas—16

Bankhead	Casas	Jennings	Myers
Beard	Crenshaw	Kirkpatrick	Plummer
Bruner	Dudley	Kiser	Souto
Burt	Grizzle	McKay	Walker

Nays—16

Childers	Gardner	Johnson	Thomas
Dantzler	Girardeau	Kurth	Weinstein
Davis	Gordon	Malchon	Weinstock
Forman	Grant	Scott	Yancey

HB 459-H

Yeas—32

Madam President	Davis	Grizzle	McKay
Bankhead	Diaz-Balart	Jenne	Myers
Beard	Dudley	Jennings	Scott
Bruner	Forman	Kirkpatrick	Thomas
Burt	Gardner	Kiser	Walker
Childers	Girardeau	Kurth	Weinstock
Crenshaw	Gordon	Langley	Wexler
Dantzler	Grant	Malchon	Yancey

Nays—2

Plummer	Souto

Vote after roll call:

Yea—Weinstein

HB 473-H

Yeas—33

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

Nays—None

ENROLLING REPORTS

SB 78-H, SB 112-H, SB 114-H, SB 134-H, SB 166-H, SB 180-H, SB 188-H, CS for SB 196-H, SB 200-H, SB 210-H, SB 214-H and SB 226-H have been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 25, 1992.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 24 was corrected and approved.

RECESS

On motion by Senator Thomas, the Senate recessed at 11:12 p.m. to reconvene at 10:00 a.m., Friday, June 26.