



Journal of the Senate

Number 15—Special Session H

Tuesday, June 30, 1992

CALL TO ORDER

The Senate was called to order by the President at 9:32 a.m. A quorum present—38:

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

Excused: Senator Thurman

PRAYER

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

"They that trust in the Lord shall be as Mount Zion, which cannot be removed, but abideth forever. As the mountains are round about Jerusalem, so the Lord is round About his people from henceforth even forever."

O God of patience and consolation, give the members of this body the courage of faith. May your strength guide them this day, and may your power preserve them. May your wisdom instruct them; may your eye watch over them; may your ear hear them; may your word give sweetness to their speech; may your hand defend them; and may they follow in your way.

Then, Lord, hide each of them in the pavilion of your magnanimous love. Shalom.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Jenne, by two-thirds vote **SR 194-H** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Jenne—

SR 194-H—A resolution honoring Father Gabriel O'Reilly and recognizing June 4, 1992, as Father Gabriel O'Reilly Day.

WHEREAS, Father Gabriel O'Reilly was ordained in Wexford, Ireland, on June 4, 1967, and

WHEREAS, Father O'Reilly arrived in Davie, Florida, on June 4, 1974, and founded Saint David Catholic Church and, in 1984, Saint David Catholic School, and

WHEREAS, Saint David Catholic Church is the spiritual home of 12,200 parishioners of Saint David's Parish and Saint David Catholic School has an enrollment of 600 children, and

WHEREAS, Father O'Reilly has been a powerful inspiration and leader and a gentle spiritual guide for these parishioners and has provided a school environment which is both loving, formative, and instructive, and

WHEREAS, the community of Saint David's Parish, under the leadership of Father O'Reilly, has been a powerful force for good within the Town of Davie, Florida, and has offered a true family-oriented and spiri-

tually based welcome to new citizens of the Town of Davie as the Town of Davie grew dramatically during the past 17 years, NOW, THEREFORE,

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

That the Florida Senate honors Father Gabriel O'Reilly as the spiritual shepherd of Saint David Parish and recognizes June 4, 1992, as Father Gabriel O'Reilly Day in the Town of Davie, Florida.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Father Gabriel O'Reilly as a tangible token of the sentiments of the Florida Senate.

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

On motion by Senator Davis, by two-thirds vote **SR 250-H** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Davis—

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

WHEREAS, Race Unity Day has been celebrated by the Baha'i Faith on the second Sunday each June for more than 20 years in an attempt to promote racial harmony in this country, and

WHEREAS, Race Unity Day provides us an opportunity to enhance race relations at a particularly difficult time in our country by focusing on and celebrating the many seldom-reported positive efforts that are continually underway in our communities to improve conditions and foster human fellowship, and

WHEREAS, Race Unity Day is a celebration first and foremost of our cultural diversity, but one that stresses the unity in that diversity by displaying the essential solidarity and unity of all peoples, and

WHEREAS, race relations in this country can only improve through a change in attitude, one that requires active collaborative participation and a collective reaffirmation not only of our cherished belief in "E pluribus unum" but also of our enduring desire to make this a fairer, better country, and

WHEREAS, Race Unity Day gives us this opportunity to promote goodwill and harmony among ourselves and to display our sincere desire to work together for positive community goals so that we may truly be that example to the world that we profess and expect to be, NOW, THEREFORE,

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

That the Florida Senate recognizes June 14, 1992, as Race Unity Day and encourages all persons in this state to join together in celebrating this important event.

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

On motion by Senator Davis, by two-thirds vote **SR 258-H** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Davis—

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

WHEREAS, the University of Tampa baseball team entered the 1992 season with high hopes, but little expectation, of capturing the illustrious national championship, and

WHEREAS, the "Spartans," under the leadership of Coach Lelo Prado and a group of returning experienced players, battled their way through a regular season schedule that included 15 games against Division I opponents, including such powerhouse squads as Clemson University, the University of Florida, and top-ranked University of Miami, and

WHEREAS, to the surprise of many, the "Spartans" emerged as the sixth-ranked team in their division and advanced to the Division II College World Series held in Montgomery, Alabama, and

WHEREAS, the University of Tampa "Spartans" swept through the field in Montgomery, winning all four games, including a thrilling 11-8 encounter with Mansfield University in the championship game, completing the season with a 42-19 record, and

WHEREAS, the "Spartans" triumph was further enhanced by the naming of second baseman Joe Urso as the Most Valuable Player in the series, and

WHEREAS, it is altogether fitting and proper that this body pause in its deliberations to recognize and commend these remarkable accomplishments, NOW, THEREFORE,

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

That the Florida Senate applauds the 1992 University of Tampa "Spartans" baseball team upon the completion of its most successful season ever, the highlight of which was winning the NCAA Division II College World Series championship.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Coach Lelo Prado as a tangible token of the sentiments of the Florida Senate.

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

RECESS

On motion by Senator Thomas, the Senate recessed at 9:55 a.m. to reconvene upon call of the President.

CALL TO ORDER

The Senate was called to order by the President at 5:02 p.m. A quorum present—36:

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

INTRODUCTION OF BILL

Senator Weinstock moved that the following bill be admitted for introduction. The motion was adopted by the required constitutional two-thirds vote of the Senate. The vote was:

Yeas—36 Nays—1

By Senator Weinstock—

SB 292-H—A bill to be entitled An act relating to medical practice; amending s. 7, ch. 92-178, Laws of Florida; providing definitions; providing for disciplinary proceedings and penalties against certain hospitals; amending s. 8, ch. 92-178, Laws of Florida; prohibiting kickbacks; providing for administrative penalties and disciplinary actions; amending s. 9, ch. 92-178, Laws of Florida; prohibiting markups; providing for administrative penalties and disciplinary actions; amending s. 10, ch. 92-178, Laws of Florida; providing for licensure of facilities providing specified health care services; exempting certain licensed facilities and certain licensed professionals; amending s. 455.25, F.S., as amended by s. 13, ch. 92-178, Laws of Florida; prohibiting health care providers from referring patients to certain entities under certain conditions; amending s. 15, ch. 92-178, Laws of Florida; providing for applicability of ss. 7-16, ch. 92-178, Laws of Florida, to certain referrals for designated health services; direct-

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

On motions by Senator Weinstock, by unanimous consent **SB 292-H** was taken up out of order and by two-thirds vote read the second time by title.

Senators Burt, McKay and Dudley offered the following amendments which were moved by Senator Burt and adopted:

Amendment 1 (with Title Amendment)—On page 24, between lines 2 and 3, insert:

Section 14. (1) Effective July 1, 1992, an entity providing clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services whose investors include any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 463, or chapter 466, Florida Statutes, and which receives any referrals from any investor licensed under any of these chapters during the period for which the fee schedule applies, is subject to the following fee schedule that is based on the Medicare fee schedule in effect on the dates provided:

(a) One hundred sixty percent of the Medicare limiting charge for nonparticipating physicians effective July 1, 1992.

(b) One hundred forty-five percent of the Medicare limiting charge for nonparticipating physicians effective January 1, 1993.

(c) One hundred thirty percent of the Medicare limiting charge for nonparticipating physicians effective July 1, 1993.

(d) One hundred fifteen percent of the Medicare limiting charge for nonparticipating physicians effective January 1, 1994.

Any entity covered under this section shall make its patient referral records available for inspection by the Agency for Health Care Administration at any reasonable time and in a reasonable form when requested by the agency.

(2) The fee schedule contained in subsection (1) shall apply to any person who is not a recipient of benefits under title XVIII or XIX of the Social Security Act. Nothing in this section is intended to limit the ability of any purchaser of clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services to negotiate a rate which is below the fee schedules set forth in this section.

(3) An entity that provides clinical laboratory services, diagnostic imaging services, physical therapy services, or radiation therapy services may apply to the Agency for Health Care Administration for authority to charge a fee above the fee schedule which is higher than the fee in the

schedule established in subsection (1) upon a showing by an entity that the entity is an efficient provider of the service and that an increase in fees is needed in order for the entity to achieve the following, listed in order of priority, from the highest to lowest:

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

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

The Agency for Health Care Administration may also set a fee schedule below the fee schedule established in subsection (1) if an entity cannot justify to the satisfaction of the agency that the fee schedule established in subsection (1) is needed in order to meet the review criteria of this subsection.

(4) Any Agency for Health Care Administration modification to an entity's fee schedule pursuant to subsection (3) may be reviewed by the agency upon its own initiative and revised effective 12 months after the effective date of the fee schedule approval.

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

And the title is amended as follows:

In title, on page 2, line 30, after the semicolon (;) insert: imposing a fee cap for certain health services of health care providers that refer patients to entities in which they are investors;

Amendment 2 (with Title Amendment)—On page 24, between lines 2 and 3, insert:

Section 14. Effective July 1, 1994, there is imposed a fee schedule on all providers of clinical laboratory services licensed under chapter 483, Florida Statutes, and providers of diagnostic imaging services, physical therapy services, radiation therapy services licensed under this act, including professional and technical components, except a hospital licensed under chapter 395, Florida Statutes, or its affiliated health services which excludes physician ownership or investment, a nursing home licensed under chapter 400, Florida Statutes, and the not-for-profit research institute established by section 240.512, Florida Statutes.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 30, after the semicolon (;) insert: imposing a fee cap on all providers of certain health services;

Amendment 3—On page 22, line 8, strike "January" and insert: July

Senator Burt moved the following amendment which was adopted:

Amendment 4—On page 5, line 3, strike "that each which the" and insert: which the

Senator Scott moved the following amendment which failed:

Amendment 5 (with Title Amendment)—On page 3, line 16, insert:

Section 1. Whenever this act requires physicians to divest of an investment interest in a hospital or equipment which is jointly owned by the physicians and the hospital, the hospital and physicians shall, at the request of either of these, use an independent mediation service to establish both the procedure by which, and the fair market value at which, the physicians' investment interest in the hospital or equipment shall be purchased by the hospital or other purchaser.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 2, after the semicolon (;) insert: requiring the use of an independent mediation service for divestitures involving a hospital and physicians;

Senator Thomas moved the following amendment which was adopted:

Amendment 6—On page 18, strike line 1 and insert: *and other health care items or services occurring before December 1, 1994* ~~October 1, 1995~~; and provided further, that beginning July 1, 1994, and ending July 1, 1996, the provisions of section 7(4)(a) do not apply to referrals to an entity providing diagnostic imaging services by a health care provider whose investment in that entity is in a class of registered securities offered on a national exchange or over-the-counter market that does not exceed 0.5 percent of the entity's total equity if the entity or its predecessor entity or entities were providing diagnostic imaging services in Florida before October 1, 1991, not more than 20 percent of the entity's total equity is owned by health care providers who make referrals to facilities owned by the entity that provide diagnostic imaging services, the net assets of the entity exceed \$25 million and the entity's public offering was first issued on or before October 1, 1992, and by July 1, 1994, the entity accepts all classes of payors at all facilities; and provided,

Senator Weinstock moved the following amendment which was adopted:

Amendment 7—On page 6, line 20, after "interest" insert: *obtained before May 1, 1992,*

On motion by Senator Weinstock, by two-thirds vote **SB 292-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—3

RECESS

The President declared the Senate in recess at 5:43 p.m. to reconvene at 7:00 p.m.

CALL TO ORDER

The Senate was called to order by the President at 9:54 p.m. A quorum present—39:

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

MOTIONS

Senator Thomas moved that Rule 6.4 be waived to permit a motion to allow the reconsideration of the vote by which the Governor's veto of **SB 272-H** was sustained. The motion was adopted. The vote was:

Yeas—38 Nays—None

Senator Thomas moved that the Senate reconsider the vote by which the Governor's veto of **SB 272-H** was sustained. The motion was adopted. The vote was:

Yeas—39 Nays—None

On motion by Senator Thomas, by two-thirds vote 11:30 p.m. was set as the time for consideration of **SB 272-H** this day.

On motion by Senator Thomas, by two-thirds vote **CS for SB 88-H** was placed on the Special Order Calendar.

SPECIAL ORDER

On motion by Senator Thomas, the rules were waived to allow consideration of **CS for SB 88-H**.

CS for SB 88-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.; 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; 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; 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 s. 561.342, F.S.; providing for deduction of a service charge from county and municipal beverage license tax revenues; 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; 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. 624.5092, F.S.; providing for minimum estimated insurance premium tax payments; providing for retroactive effect; amending s. 212.02, F.S.; providing definitions applicable to the tax on services; specifying conditions under which the sale of a service is a sale for resale; specifying those activities included within the meaning of the terms "services" and "personal services"; amending s. 212.03, F.S.; conforming a cross-reference to changes made by the act; amending s. 212.04, F.S.; providing for exemptions for government-owned zoos; exempting pay telephone service from 911 assessment fees; amending s. 212.05, F.S.; revising the rate of the tax imposed on the charges for the use of coin-operated amusement machines; revising requirements for the notice affixed to 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; imposing a tax on the sale, use, consumption, or storage of certain coins and currency; imposing a tax on the sale of personal services within the state; amending ss. 381.0071, 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 s. 212.054, F.S.; specifying circumstances under which certain taxable transactions occur in a county; 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.; creating s. 212.056, F.S.; providing requirements for collecting and remitting the sales and use tax on services; requiring multistate purchasers that self-accrue the tax to file an annual supplementary tax return; providing for apportionment of the tax on transportation and courier services; requiring applicants for certain licenses or permits to attest that applicable use taxes have been paid; creating s. 212.0561, F.S.; providing rules of construction with respect to the sales and use tax on services; creating s. 212.0562, F.S.; providing exemptions from the tax; creating s. 212.0563, F.S.; providing for administration of the exemption for services sold in this state for use outside this state; providing for exempt purchase permits and affidavits; requiring dealers to maintain monthly logs; providing a penalty; providing for refunds; amending ss. 212.0598, 212.06, 212.07, 212.12, 212.21, F.S., relating to discretionary sales surtaxes, special provisions relating to air carriers, dealers and collection of tax, penalties for violation, enforcement, and intent regarding exemptions, to include the tax on services; requiring taxpayers to report sales made through coin-operated amusement machines and other information; amending s. 212.08, F.S.; revising the tax exemption provided for certain uses of water; including the sale of services in the exemption for churches; 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. 212.183, F.S.; authorizing the Department of Revenue to provide by rule for self-accrual of tax for purchasers of services; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; amending ss. 212.61, 203.01, 790.0655, F.S.; conforming cross-references to changes made by the act; providing for emergency rules; specifying administrative provisions applicable to other implementing rules; exempting the department from provisions regulating the procurement of property and services for a specified period; providing an appropriation; amending s. 220.02, F.S.; revising legislative intent with respect to corporate income tax; providing transitional provisions regarding estimated tax payments; revising the definition of "taxable income" as applied to certain corporations; providing a limitation on acquisitions that may be deemed property by Chapter S corporations after a specified date; providing for taxation of all income realized by Chapter S corporations after a specified date; providing transitional provisions regarding estimated tax payments; amending s. 199.032, F.S.; increasing the rate of the annual intangible personal property tax; amending s. 199.185, F.S.; revising the amount of exemptions from the annual intangible personal property tax and providing an exemption for banks and savings associations; amending s. 199.292, F.S.; revising the disposition of intangible personal property taxes; repealing s. 199.104, F.S., which provides a credit against the annual tax for banks and savings associations; repealing s. 220.68, F.S., relating to the credit against the franchise tax; providing effective dates.

—was read the second time by title.

Senator Jenne moved the following amendment:

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

Section 1. Effective December 31, 1992, section 199.032, Florida Statutes, is amended to read:

199.032 Levy of annual tax.—An annual tax of 2 1/4 mills is hereby imposed on each dollar of the just valuation of all intangible personal property which has a taxable situs in this state, except for notes and other obligations for the payment of money, other than bonds, which are secured by mortgage, deed of trust, or other lien upon real property situated in the state. This tax shall be assessed and collected as provided in this chapter.

Section 2. Effective December 31, 1992, subsections (2) and (4) of section 199.185, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(2)(a) With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first \$20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$40,000.

(b) With respect to the last .5 mill of the annual tax, every natural person is entitled each year to an exemption of the first \$100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$200,000.

Agents and fiduciaries, other than guardians and custodians under a gifts-to-minors act, filing as such may not claim this exemption on behalf of their principals or beneficiaries; however, if the principal or beneficiary returns the property held by the agent or fiduciary and is a natural person, the principal or beneficiary may claim the exemption. No taxpayer shall be entitled to more than one exemption under paragraph (a) and one exemption under paragraph (b). This exemption shall not apply to that intangible personal property described in s. 199.023(1)(d).

(4) Charitable trusts, 95 percent of the income of which is paid to organizations exempt from federal income tax pursuant to s. 501(c)3 of the Internal Revenue Code, shall be exempt from 1 .5 mill of the tax imposed in s. 199.032.

(5) *Every bank and savings association, as defined in s. 220.62, is exempt from .5 mill of the tax imposed by s. 199.032.*

Section 3. Effective December 31, 1992, subsection (3) of section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter shall be placed in a special fund designated as the "Intangible Tax Trust Fund." The fund shall be disbursed as follows:

(3) An amount equal to 33.5 ~~41.3~~ percent of the remaining intangible personal property taxes collected shall be transferred to the Revenue Sharing Trust Fund for Counties. An amount equal to 66.5 ~~58.7~~ percent of the remaining taxes collected shall be transferred to the General Revenue Fund of the state.

Section 4. (1) Effective August 1, 1992, paragraph (e) 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:

(e)1. At the rate of 6 percent on charges for:

a. All telegraph messages and long distance telephone calls beginning and terminating in this state, ~~on charges for~~ telecommunication service as defined in s. 203.012, and ~~for~~ those services described in s. 203.012(2)(a), *except that the tax rate for charges for telecommunication service is 7 percent.;*

b. ~~on all charges for~~ Any television system program service.;

c. ~~on all charges for~~ The installation of telecommunication and telegraphic equipment.;

d. ~~and on all charges for~~ Electrical power or energy, *except that the tax rate for charges for electrical power or energy is 7 percent.*

2. For purposes of this part, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, reconnecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently

found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

3.2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

4.3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(2) With respect to charges for nonresidential telecommunication service and for nonresidential electric power and energy which are regularly billed on a monthly cycle, the changes in the sales tax rate provided for in this section apply to any bill dated on or after August 1, 1992.

Section 5. Effective August 1, 1992, subsections (1) and (11) of section 212.12, Florida Statutes, are 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 0.15 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.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

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

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

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. 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.

(c) The collection allowance and other credits or deductions provided in this part shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

(11) The department is authorized to provide by rule the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department is authorized to promulgate by rule the tax amounts and brackets applicable to transactions taxable at 3 percent pursuant to s. 212.08(3), transactions taxable at 7 percent pursuant to s. 212.05(1)(e), and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.

Section 6. Effective September 1, 1992, paragraphs (k) and (l) are 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 all:

1. Detective, burglar protection, and other protection services (SIC Industry Numbers 7381 and 7382).

2. Nonresidential cleaning and nonresidential pest control services (SIC Industry Group Number 734).

As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

(l)1. Notwithstanding any other provision of this part, there is hereby levied a tax on the sale, use, consumption, or storage for use in this state of any coin or currency, whether in circulation or not, when such coin or currency:

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States and which is sold, exchanged, or traded at a rate in excess of its face value, the tax shall be at a rate of 6 percent of the difference between the price at which it is sold, exchanged, or traded and its face value.

3. There is exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

Section 7. Effective September 1, 1992, paragraph (v) of subsection (7) of section 212.08, Florida Statutes, 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.—

(v) Professional services.—

1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.

2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term "information services" includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

3. This exemption does not apply to any service warranty transaction taxable under s. 212.0506.

4. This exemption does not apply to any service transaction taxable under s. 212.05(1)(k).

Section 8. Effective October 1, 1992, paragraph (g) 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:

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this part shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.673 ~~9.888~~ percent for the remaining months of fiscal year 1992-1993, and 9.665 percent thereafter, of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. Beginning July 1, 1992, of the remaining proceeds, \$166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" pursuant to s. 288.1162 and \$41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years.

5. All other proceeds shall remain with the General Revenue Fund.

Section 9. When a service that is taxable beginning September 1, 1992, is provided prior to that date, it shall not be taxed, notwithstanding that compensation for the service is paid or payable on or after that date. When a service that is taxable beginning September 1, 1992, is provided on or after that date, the service shall be taxed unless it was prepaid in full before July 1, 1992. When a service that is taxable beginning on September 1, 1992, is provided over a period of time beginning prior to that date and ending after that date, the service shall be taxed only upon that portion of the service provided on or after September 1, 1992.

Section 10. Section 607.193, Florida Statutes, is created to read:

607.193 Supplemental corporate fee.—

(1) In addition to any other taxes imposed by law, an annual supplemental corporate fee of \$138.75 is imposed on each business entity that is authorized to transact business in this state and is required to file an annual report with the Department of State under s. 607.1622, s. 608.452, s. 617.1622, or s. 620.177.

(2) This section does not apply to a nonprofit corporation that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(3)(a) The business entity shall remit the supplemental corporate fee to the Department of State at the time it files the annual report required by s. 607.1622, s. 608.452, s. 617.1622, or s. 620.177.

(b) In addition to the fees levied under ss. 607.0122, 608.452, and 620.182 and the supplemental corporate fee, a late charge of \$25 shall be imposed if the supplemental corporate fee is remitted after May 1.

(4) The Department of State shall adopt rules and prescribe forms necessary to carry out the purposes of this section. Notwithstanding s. 607.1901, proceeds from the supplemental corporate fee, including any late charges, shall be deposited into the General Revenue Fund.

Section 11. Subsection (25) of section 607.0122, Florida Statutes, is renumbered as subsection (26), and a new subsection (25) is added to said section to read:

607.0122 Fees for filing documents and issuing certificates.—The Department of State shall collect the following fees when the documents described in this section are delivered to the department for filing:

(25) Supplemental corporate fee: \$138.75.

Section 12. Subsections (2) and (5) of section 607.1622, Florida Statutes, are amended to read:

607.1622 Annual report for Department of State.—

(2) Proof to the satisfaction of the Department of State that on or before May 1 ~~July 1~~ such report was deposited in the United States mail in a sealed envelope, properly addressed with postage prepaid, shall be deemed compliance with this requirement.

(5) The first annual report must be delivered to the Department of State between January 1 and May 1 ~~July 1~~ of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports must be delivered to the Department of State between January 1 and May 1 ~~July 1~~ of the subsequent calendar years.

Section 13. Subsection (6) of section 608.452, Florida Statutes, is amended, and subsection (7) is added to said section, to read:

608.452 Fees for filing documents and issuing certificates.—The Department of State shall charge and collect:

(6) For an annual report, a fee of \$87.50, due and payable January 2 of each year. This fee is delinquent if not paid by May 1 ~~July 1~~, and an addition to the fee of \$87.50 shall then be due.

(7) A supplemental corporate fee imposed pursuant to s. 607.193.

Section 14. Subsections (2) and (5) of section 617.1622, Florida Statutes, are amended to read:

617.1622 Annual report for Department of State.—

(2) The deposit of such report, on or before May 1 ~~July 1~~, in the United States mail in a sealed envelope, properly addressed with postage prepaid, constitutes compliance with subsection (1).

(5) The first annual report must be delivered to the Department of State between January 1 and May 1 ~~July 1~~ of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to conduct affairs. Subsequent annual reports must be delivered to the Department of State between January 1 and May 1 ~~July 1~~ of the subsequent calendar years.

Section 15. Subsection (11) is added to section 620.182, Florida Statutes, to read:

620.182 Fees of the Department of State.—The fees of the Department of State under this act are as follows:

(11) A supplemental corporate fee imposed pursuant to s. 607.193.

Section 16. Paragraphs (a), (b), and (d) of subsection (2) of section 717.117, Florida Statutes, as amended by chapter 92-169, Laws of Florida, are amended to read:

717.117 Report of abandoned property.—

(2) The report shall be verified. Verification of a private corporation or unincorporated association shall be made by an officer; of a partnership, by a partner; and of a public corporation, by its chief fiscal officer. The report must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of a value of \$500 ~~\$50~~ or more presumed abandoned under this chapter.

(b) In the case of unclaimed funds of \$500 ~~\$50~~ or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds.

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under \$500 ~~\$50~~ each may be reported in the aggregate.

Section 17. Subsection (3) of section 717.118, Florida Statutes, is amended to read:

717.118 Notice and publication of lists of abandoned property.—

(3) The department ~~shall~~ is not required to publish in the notice any items of less than \$500 ~~\$50~~ unless the department deems their publication to be in the public interest.

Section 18. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to s. 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of this act shall not be subject to a rule challenge pursuant to s. 120.54(4), Florida Statutes, or a drawout proceeding pursuant to s. 120.54(17), Florida Statutes, but, once adopted, shall be subject to an invalidity challenge pursuant to s. 120.56, Florida Statutes. Such

rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(13), Florida Statutes. This section shall take effect upon this act becoming a law.

Section 19. To expedite the acquisition of goods and services for implementing the provisions of this act, the Department of Revenue is exempt from the provisions of chapter 287, Florida Statutes, when contracting for the purchase or lease of goods or services for such purposes. This section shall take effect upon this act becoming a law and shall expire June 1, 1993.

Section 20. Effective August 1, 1992, subsection (5) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe. The department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 2.5 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, the 2.5-percent discount shall be reduced to 0.15 percent for all amounts in excess of \$1,200.

Section 21. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1992, or upon this act becoming a law, whichever occurs later.

And the title is amended as follows:

Strike everything before the enacting clause and insert: A bill to be entitled An act relating to taxation; amending s. 199.032, F.S.; increasing the rate of the annual intangible personal property tax; amending s. 199.185, F.S.; revising the amount of exemptions from the annual tax and providing an exemption for banks and savings associations; amending s. 199.292, F.S.; revising the disposition of such taxes; amending s. 212.05, F.S.; increasing the rate of sales tax imposed on charges for telecommunication service and electric power; providing for application of the rate increases; amending s. 212.12, F.S.; revising the collection allowance for taxes on sales, use, and other transactions; authorizing the Department of Revenue to adopt additional tax brackets; amending s. 212.05, F.S.; providing for application of the sales tax to certain services; providing for application of the sales tax to the sale, use, consumption, or storage of certain coins and currency; amending s. 212.08, F.S.; providing that specified services are not exempt from the tax; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; providing transitional provisions; creating s. 607.193, F.S.; imposing a supplemental corporate fee on business entities required to file an annual report with the Department of State; providing an exemption; providing requirements for remitting the fees; providing a late charge; providing rulemaking authority; providing for deposit of fee proceeds into the General Revenue Fund; amending ss. 607.0122, 607.1622, 608.452, 617.1622, 620.182, F.S., relating to corporate filing fees, to conform; revising the due date for annual reports and fees; amending ss. 717.117, 717.118, F.S.; revising report requirements for, and contents of, reports of abandoned property; providing for emergency rules; specifying administrative provisions applicable to other implementing rules; exempting the department from provisions regulating the procurement of property and services for a specified period; amending s. 212.04, F.S.; revising the collection allowance for taxes on sales, use, and other transactions; providing effective dates.

Senator Grant moved the following amendments to **Amendment 1** which failed:

Amendment 1A—On page 6, between lines 19 and 20, insert:

Section 5. (1) Effective July 1, 1993, paragraph (e) of subsection (1) of section 212.05, Florida Statutes, as amended by the preceding section of this act, 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:

(e)1. At the rate of 6 percent on charges for:

a. All telegraph messages and long distance telephone calls beginning and terminating in this state; *on charges for*, telecommunication service as defined in s. 203.012; and *for* those services described in s. 203.012(2)(a); ~~except that the tax rate for charges for telecommunication service is 7 percent.~~

b. *On all charges for* any television system program service;

c. *On all charges for* the installation of telecommunication and telegraphic equipment;

d. *And on all charges for* electrical power or energy; ~~except that the tax rate for charges for electrical power or energy is 7 percent.~~

2. For purposes of this part, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, reconnecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

2.3. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

3.4. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating

outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(2) With respect to charges for nonresidential telecommunication service and for nonresidential electric power and energy which are regularly billed on a monthly cycle, the changes in the sales tax rate provided for in this section apply to any bill dated on or after July 1, 1993.

(Renumber subsequent sections.)

The vote was:

Yeas—14 Nays—22

Amendment 1B (with Title Amendment)—On page 19, between lines 2 and 3, insert:

Section 21. 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 section.)

And the title is amended as follows:

In title, on page 21, line 4, after the semicolon (;) insert: amending s. 4, chapter 92-168, Laws of Florida; providing retroactive application of the exemption from sales and use taxes granted to certain promotional materials;

Senator Gordon moved the following amendment to **Amendment 1** which failed:

Amendment 1C—On page 10, line 3, insert:

3. *Laundry, cleaning, and garment services, except for coin-operated laundries and coin-operated dry cleaners services (SIC Industry Group Number 721, excluding Industry Number 7215).*

4. *Beauty shop and barber shop services (SIC Industry Group Numbers 723 and 724).*

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

Amendment 1D (with Title Amendment)—On page 19, after 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 chapter and not actually collected before the effective date of this subsection 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 21, line 4, 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;

MOTION TO RECONSIDER AMENDMENT

Senator Walker moved that the Senate reconsider the vote by which **Amendment 1A** failed. The motion failed.

Amendment 1 as amended was adopted.

On motion by Senator Jenne, by two-thirds vote **CS for SB 88-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—23 Nays—16

INTRODUCTION OF BILLS

On motion by Senator Gardner, by unanimous consent the following bill was introduced:

By Senator Gardner—

SB 288-H—A bill to be entitled An act making supplemental appropriations; amending appropriations in Fiscal Year 1992-93; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay buildings, and other improvements, and for other specified purposes of the various agencies of state government; providing an effective date.

On motions by Senator Gardner, by unanimous consent, **SB 288-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.

Senator Grant moved the following amendment which failed:

Amendment 1—

SECTION 01
PAGE 4
ITEM 516

516 AID TO LOCAL GOVERNMENTS
GRANTS AND AIDS - FLORIDA
EDUCATIONAL FINANCE PROGRAM
FROM GENERAL REVENUE FUND
FROM PRINCIPAL STATE SCHOOL
TRUST FUND

Add the following new paragraph of proviso following Specific Appropriation 4:

From the funds provided in Specific Appropriation 4 and Specific Appropriation 516 of the General Appropriations Act, the Department shall take the total dollars per weighted FTE for 1992-93 from the calculation of the FEFP and rank this column with the highest district in funds per weighted FTE being 1. All districts below the 50th district shall be allocated 25 percent of the amount they are below the 50th district per weighted FTE times the number of weighted FTE in the district.

On motion by Senator Gardner, **SB 288-H** was read by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—1

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

By Senators Myers, McKay and Kiser—

SB 294-H—A bill to be entitled An act relating to mangroves; providing legislative intent; directing the Department of Environmental Regulation to adopt a rule governing the selective trimming of mangroves; providing that the administration and enforcement of that rule be delegated to local governments under certain circumstances; providing an effective date.

On motions by Senator Myers, by unanimous consent, **SB 294-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—38 Nays—None

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

By Senator Jenne—

SB 296-H—A bill to be entitled An act relating to financial matters; amending s. 213.21, F.S.; requiring compromise or settlement of penalties under certain circumstances; amending s. 24.121, F.S.; revising provisions relating to the allocation of revenues and expenditure of funds in the Educational Enhancement Trust Fund; amending s. 212.20, F.S.; providing for transfer of a portion of sales tax revenues to the Educational Enhancement Trust Fund for a specified period; providing an effective date.

On motions by Senator Jenne, by unanimous consent, **SB 296-H** was taken up out of order and by two-thirds vote read the second time by title.

Senator Jenne moved that the rules be waived and **SB 296-H** be read the third time by title. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—20 Nays—18

VETOED BILL

The hour of 11:30 p.m. having arrived, the Senate proceeded to consideration of—

SB 272-H—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

Senator Thomas moved that **SB 272-H** pass, the veto of the Governor to the contrary notwithstanding. The bill passed by the required constitutional two-thirds vote of the members present and was certified to the House. The vote was:

Yeas—37 Nays—2

INTRODUCTION OF BILLS

On motions by Senator Gardner, by unanimous consent the following bills were introduced out of order:

By Senator Gardner—

SB 290-H—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

On motions by Senator Gardner, by unanimous consent, **SB 290-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—36 Nays—None

By Senator Gardner—

SB 280-H—A bill to be entitled An act relating to implementing the fiscal year 1992-1993 General and Supplemental Appropriations Acts; providing legislative intent; providing that the Emergency Medical Services Trust Fund may be used to fund Medicaid reimbursement for patient transportation; eliminating funding for Medicaid coverage for pregnant women and children under age 1 with incomes above 150 percent up to and including 185 percent of the most current federal poverty level; providing an exception; eliminating funding for increases in obstetrical fees for Medicaid providers and requiring the Department of Health and Rehabilitative Services to reimburse such providers for obstetrical services based on the rates in effect on a specified date; providing an exception; reducing funding for Medicaid physician fees; providing for calculation of the Agency for Health Care Administration assessment for certain teaching hospitals having 100,000 or more Medicaid covered days; providing for deposit into the Planning and Evaluation Trust Fund of fees assessed against selected health care facilities and used to fund the Statewide Health Council and local health councils; directing the Correctional Education School Authority to use federal Pell Grant funding to the fullest extent possible and requiring the Department of Corrections to give priority consideration for employment to employees displaced by the reduction of the authority; authorizing the Department of Transportation to enter into loan agreements with certain airports for the development of international passenger facilities, which shall be repaid within 10 years; authorizing the Department of Transportation to transfer certain funds to the Department of Commerce to develop a trade data resource and research center; authorizing the Department of Transportation to enter into a loan agreement up to a specified amount to implement the Spaceport Florida Authority Act and providing for repayment thereof; providing that a specified appropriation relating to the Addition - Kirkman Complex for the Department of Highway Safety and Motor Vehicles will not revert until a specified date; extending the authority of the

Department of State to transfer funds from the Corporations Trust Fund to the Division of Licensing Trust Fund and providing for uses of such funds; providing for use by the Department of State of moneys deposited into the Public Access Data Systems Trust Fund; revising requirements of the Department of Revenue relating to notice and collection agency contract provisions for the recovery of delinquent taxes; providing that the department need not use certified mail for certain notices; requiring the Department of the Lottery to retain certain funds in order to provide a specified supplemental transfer to the Educational Enhancement Trust Fund; continuing the Resolution Trust Corporation Advisory Commission established pursuant to s. 72, ch. 91-157, Laws of Florida; requiring the Division of Retirement of the Department of Management Services to conduct a study on withdrawal of certain dependent and independent public hospitals from the Florida Retirement System and to submit a report thereon to specified legislative leaders; providing for calculation of the statewide adjusted aggregate required local effort for all school districts from ad valorem taxes, under authority of the Commissioner of Education; providing for adjustment of the required local effort millage rate of certain districts; providing for calculation of school districts' maximum total weighted full-time equivalent student enrollment; providing for the implementation of ch. 90-49, Laws of Florida, relating to laboratory schools; requiring the State University System to develop a personnel system to meet certain payroll needs and informational requirements; providing for no increase adjustment for the financial assistance payments for private tuition assistance; providing that specified appropriations relating to the Florida International University Library Addition and Joint Center for Conflict Resolution, certain Capital Improvement Fee projects, the University of Central Florida Solar Energy Center, and the University of Florida Library Center East Renovation/Restoration project will not revert until a specified date; transferring all funds from the University of West Florida's Student Activity Lodge Design project and certain funds from the university's Outdoor Recreation Facility Expansion and Other Campus Enhancement Structures project to the university's Commons Building Renovation and Expansion project; revising appropriations to projects at Florida International University relating to the University House Renovation - University Park, the Swimming Pool/Access - University Park, and the Student Center Addition - North Miami, to provide funds for the University House/Graham Center Addition - University Park and the Multi-Purpose Stadium Complex - University Park projects; providing that the unexpended balances of the Rem/Ren Bldg #8 Classroom/Lab - Melbourne project of Brevard Community College will not revert until a specified date and authorizing use of such funds for the remodeling/renovation of Building #1 on the Melbourne Campus; providing that specified appropriations relating to the Florida Community College at Jacksonville Building E - Kent, Performing Arts - South, Child Care Facility - Kent, Energy Conservation - Collewide, and asbestos abatement projects and the Gulf Coast Community College Site Acquisition project will not revert until a specified date; providing that funds appropriated for the Land Acquisition/Brandon Campus (s) project for Hillsborough Community College will not revert until a specified date and providing for other uses of the unexpended balances of such funds; providing that funds for the Land Acquisition projects for Lake-Sumter Community College will not revert until a specified date and providing for other uses of the unexpended balances of such funds; providing that funds appropriated for the Sumter School District - Comprehensive High School project will not revert until a specified date; authorizing the Division of Bond Finance of the State Board of Administration to refinance certain bonds; providing for transfer of certain funds to ensure a specified balance in the Working Capital Fund; eliminating a salary raise for legislators and authorizing legislators, the Governor, the Lieutenant Governor, and members of the Cabinet to voluntarily reduce salary by a specified percentage; providing that funds relating to planning for a residential magnet school in Brevard County shall not revert until a specified date; authorizing community colleges to grant student fee exemptions for a specified number of full-time equivalent students; providing that certain State University System land acquisition funds shall not revert until a specified date and authorizing use of a portion of these funds for unimproved parking under certain circumstances; authorizing the Board of Regents to enter into a lease agreement for a facility with the Florida State University Foundation or any other direct-support organization organized to support the London International Program at Florida State University and providing funding sources therefor; exempting sponsored research overhead trust funds within the State University System from transfer to the Working Capital Fund in the General Appropriations Act; authorizing the Executive Office of the Governor and the Chief Justice of the Supreme Court to approve certain budget changes under certain circumstances and requiring the Executive

Office of the Governor and the Chief Justice to maintain an accounting of these changes and to provide this accounting to the legislative appropriations committees upon request; transferring the unobligated balance of the Port Trust Fund to the General Revenue Fund; authorizing the Executive Office of the Governor to establish new divisions in the Agency for Health Care Administration and to approve other changes to the agency's organizational structure; transferring the local and statewide health councils to the Agency for Health Care Administration by a type four transfer; amending s. 339, ch. 92-279, Laws of Florida; providing an earlier effective date for the reorganization of the Departments of Administration and General Services; authorizing the Chief Justice of the Supreme Court to transfer certain funds for the purpose of addressing anticipated deficits; prescribing limitations on the filling of vacant positions within executive branch agencies and the legislative branch; requiring reports with respect to filling vacant positions; authorizing the Department of State to implement certain procedures in lieu of statutory procedures in areas of personnel and budgeting for a specified period; providing for emergency rules; providing certain circumstances under which a state agency may seek budget amendments; authorizing the retention of certain interest earned on funds advanced for grants and aids for local recreational development projects; providing for the Department of Commerce to administer the operations of the Sunshine State Games; providing an authorized use for moneys in the Conservation and Recreation Lands Trust Fund; prescribing duties of the Florida Health Access Corporation with respect to provision of health care to specified persons and entities; requiring the Department of Environmental Regulation to loan moneys to the St. Johns River Water Management District to pay bond indebtedness; providing for annual reports to the Auditor General by school districts with respect to their employees' sick leave; exempting the Department of Revenue from certain provisions of law relative to the implementation of the automated collection and enforcement system; prescribing the distribution of proceeds from the third series of Preservation 2000 bonds; authorizing the expenditure of a specified amount of operating funds at the discretion of the agency head to promote employee productivity and department improvement; prescribing reimbursement and use of funds relative to the acquisition and renovation of the RTC Building located in Orlando; prescribing duties of the Department of Management Services relative to premium schedules and other aspects of the Health Maintenance Organization (HMO) and the State Group Health Self-Insurance Plan; extending the reversion date for certain project funds at Florida Community College at Jacksonville; authorizing the Department of Health and Rehabilitative Services to utilize general revenue funds to extend AFDC and Medicaid benefits to certain asylum applicants; authorizing the Department of Health and Rehabilitative Services to retain funds otherwise reverting for funding certain capital outlay projects; retaining salaries of school board members and superintendents of schools at fiscal year 1991-1992 levels; authorizing the use of unobligated discretionary capital improvement millage to fund one-time expenditures for classroom materials; revising a definition applicable to reporting provisions relating to local government bonds; providing for security at meetings of the Parole Commission; authorizing certain sites to participate in the Florida Petroleum Liability and Restoration Insurance Program under certain circumstances; authorizing the Department of Health and Rehabilitative Services and the Department of Management Services to determine whether to enter into a lease-purchase finance agreement for a state-owned service center in Hillsborough County and providing for funds for studies and appraisals related thereto; establishing a temporary early retirement incentive pilot program and the Early Retirement Incentive Program Trust Fund and providing for investment of funds deposited therein; providing for an appropriation; providing for reversion of remaining funds under certain circumstances; authorizing the Department of Education to purchase annuities to be used as reduction-in-force bonuses for eligible employees; authorizing the use of a specified amount of discretionary capital outlay millage for repair and replacement of vocational equipment; authorizing the Florida Health Access Corporation to utilize unexpended funds to expand health care coverage; prescribing certain limitations; requiring the Department of State and specified councils to consider the priority funding lists not funded in 1992 for funding priority in 1992-1993; authorizing the Secretary of State to enter into a contingency fee agreement for certain legal services relating to specific historical properties in St. Augustine, Florida; providing for advancement of funds to certain providers, notwithstanding the provisions of chapter 92-58, Laws of Florida; requiring a study by the Department of Health and Rehabilitative Services relating to the licensing of mental health facilities specializing in the treatment of law enforcement personnel; requiring a report to specified leaders of the Legislature; providing for extension for a specified period

of certain residential treatment facility probationary licenses; exempting certain health care facilities from certain charge limitations; providing that funds from juvenile justice lump-sum appropriations may be used for certain purposes; providing for calculation of the monthly benefit of a member of the Senior Management Service Class of the Florida Retirement System whose employment was terminated after 20 years of creditable service; revising the employers' contribution rate applicable to members of the Senior Management Service Class of the Florida Retirement System; requiring a specified matching contribution for the Collins Center for Public Policy; prohibiting proration of certain library equalization grants and providing for proration of certain multicounty library grants; providing that the services of an architect are not required for the placement and hookup of relocatable educational facilities that conform with certain standards; providing that the transfer of the Office of Disability Determinations of the Department of Health and Rehabilitative Services to the Department of Labor and Employment Security shall not be contingent on the approval of the Social Security Administration for reasons other than direct conflicts with federal law or federal regulation; providing for transfer of certain funds to the Florida Healthy Kids Trust Fund; providing severability; providing effective dates, including a retroactive effective date, and expiration dates.

On motions by Senator Gardner, by unanimous consent, **SB 280-H** was taken up out of order and by two-thirds vote read the second time by title.

Senator McKay moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 44, line 25, insert:

Section 96. Pursuant to sections 403.93-403.938, Florida Statutes, and to chapter 258, Florida Statutes, it is the intent of the Legislature to ensure that a real property owner has the right to selectively trim individual mangrove plants located on that property in order to better enjoy coastal water vistas. It is the further intent of the Legislature that such trimming not be subject to state regulation or permitting, provided such trimming does not eliminate the biological integrity of the individual plant. It is the further intent of the Legislature that the Department of Environmental Regulation adopt a rule governing such trimming of mangroves on public and private property and that the administration and enforcement of that rule be delegated to local government, including cities, towns, and villages, if appropriate and if local governmental resources are adequate for such administration and enforcement. Such delegation is not limited to the local pollution control programs approved pursuant to section 403.182, Florida Statutes. Notwithstanding the expiration date of this act, this section does not expire on July 1, 1993.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 11, line 20, after the semicolon (;) insert: providing legislative intent; directing the Department of Environmental Regulation to adopt a rule governing the selective trimming of mangroves; providing that the administration and enforcement of that rule be delegated to local governments under certain circumstances;

On motion by Senator Gardner, by two-thirds vote **SB 280-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—39 Nays—None

RECONSIDERATION

On motion by Senator Gardner, the rules were waived and the Senate reconsidered the vote by which **SB 280-H** passed as amended.

On motion by Senator Gardner, by two-thirds vote the Senate reconsidered the vote by which **SB 280-H** was read the third time.

On motion by Senator Gardner, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** failed.

On motion by Senator Gardner, by two-thirds vote **SB 280-H** was read the third time by title, passed, and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Langley, the rules were waived by unanimous consent and the following bills were introduced out of order:

By Senator Langley—

SJR 302-H—A joint resolution fixing the effective date for Senate Bill 278-H, which relates to appropriations, which was passed in the special session of the Legislature convened on June 1, 1992, and which was vetoed by the Governor.

On motions by Senator Langley, by unanimous consent **SJR 302-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—39 Nays—None

By Senator Gardner—

SJR 304-H—A joint resolution fixing the effective date for Senate Bill 272-H, which relates to appropriations, which was passed in the special session of the Legislature convened on June 1, 1992, and which was vetoed by the Governor.

On motions by Senator Langley, by unanimous consent **SJR 304-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—38 Nays—None

By Senator Gardner—

SJR 306-H—A joint resolution fixing the effective date for Senate Bill 142-H, which relates to implementing the appropriations act, which was passed in the special session of the Legislature convened on June 1, 1992, and which was vetoed by the Governor.

On motions by Senator Langley, by unanimous consent **SJR 306-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—39 Nays—None

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

By Senator Jenne—

SB 298-H—A bill to be entitled An act relating to taxation; creating the Task Force for Review of Sales and Use Taxes on Goods and Services; providing for appointment of members; providing for compensation; providing powers and duties of the task force; providing for assistance of state agencies; providing for personnel and compensation thereof; providing for a preliminary and final report; providing for consideration of the final report by the Legislature; providing for use of revenues raised by adoption of the report of the task force to reduce required local effort school millage on homestead property in fiscal year 1993-1994; providing an effective date.

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

Senator Jenne moved that **SB 298-H** be withdrawn from the Committee on Finance, Taxation and Claims. The motion failed to receive the required two-thirds vote. The vote was:

Yeas—12 Nays—25

RECESS

On motion by Senator Thomas, the Senate recessed at 11:48 p.m. to reconvene upon call of the President.

CALL TO ORDER

The Senate was called to order by the President at 11:59 p.m. A quorum present.

REMARKS

On motion by Senator Wexler, the following remarks were printed in the Journal:

Senator Gardner: Thank you, Madam President. Ladies and gentlemen, I just want to take a minute to tell you that I've really enjoyed these four years working with you all. I hope that I don't see you again in this same setting between now and November, and to those of you who are running for reelection, I wish you the best of luck. Just keep the faith.

Senator Davis: Madam President and colleagues, I think we can say this for all the people who won't be sitting here next year; for Senator Margolis, for Senator Girardeau, Senator Meek, Senator Thurman who is not here tonight, Senator Diaz-Balart, Senator Souto, Senator Gardner, Senator Walker, Senator Gordon, Senator Bruner; we will be that much less for your absence. We're so sorry that you are not going to be here, but we can look for better things from all of you. Lots of good luck in whatever you do. Thank you.

Madam President: Senator Davis, I have to tell you that I'm not going to be sorry.

Senator Bruner: Thank you, Madam President. I hope I'm not going to be sorry, either. I guess you are going to be moving on to a congressional race and I'm going to be moving on to some duties back home, but I wanted to say, basically, the same thing Senator Gardner did. It's been a great experience and one that I really have enjoyed, and still enjoy. But sometimes other people in your family have to have a little consideration, as everybody here painfully knows. But thanks, I've learned a lot and I've enjoyed it tremendously and thanks to all of you. I haven't listened as much as I probably should have. If you listen a little bit you can learn something from everybody and I have. And thank you again for all of the things that you taught me and all of the guidance and help that you have given me. I'll never forget it. Thanks.

Senator Meek: Madam President and members of the Senate and my beloved colleagues, I don't know what you're going to do when Arnett and I leave. You won't have any color in this Senate so you'll be missing us. But I leave with mixed emotions because if you stay here long enough you really get attached to this place and you miss all of your friends. And I'm going to miss each one of you and I hope to go on to Congress and I'll be back for Oldtimers Day and renew the acquaintances which I have made here.

This has been a great learning experience for me and one in which I have grown in many, many ways and I love each one of you. I love the good fights we've had and I love the good times we've had. The only thing I hate is that they cut out Disney World. I'll never forget that. That was a very dramatic experience, very dramatic to me. I don't know about the rest of you, but I have a lot of memories. Disney World was one in which we all got together and had a good time. Maybe I should move on now because I'm getting a little nostalgic. You know what that is a sign of when you start going back to ten or fifteen years ago, but I want to say that I love each one of you and good luck to all of you.

Senator Girardeau: Thank you, Madam President and Senators. I wrote all of you a letter about a week or two ago, and I had to express my inner feelings, that this system is probably the best system I've ever observed in the entire world and I've been traveling around the world some. But the important thing that I have to say to you is that I have grown from the time I have been here also. Most of us feel that we have not grown that much, that we came here fully knowledgeable about everything that we are doing.

In that letter I told you that basically when I first came to the Legislature in 1976, I thought there was a right way and a wrong way. And each person knew what the right way was and as a result, if you disagreed with me, it was the wrong way because you intentionally did not choose to vote the right way. Well, there is a right way and a wrong way for everybody here and your right way may be my wrong way. And there is a gray area in between and you see it happening here everyday. I've learned to appreciate the system, but most of all I've learned to appreciate the people because I like to watch people and I've learned to appreciate all of you here. And if I have appeared to have the view that there was someone here I did not like, that's now incorrect. I may not agree with you, but I do like you. I appreciate all of you. I've enjoyed serving with you and thank you for giving me the opportunity to serve.

Senator Dudley: Madam President, I don't want this opportunity to go by without saying something about my seatmate back here, Senator Meek. And I say this on behalf of myself and my wife, Linda, because we've come to know and to love Carrie Meek very much. In fact, I have told her that looking at her district and feeling fairly sure that no Republican is going to run, that we'd like to come down and help in her campaign.

There probably aren't two people on this floor that have more differences than Senator Meek and I in a lot of ways, but she is a real human being and I have learned a lot about being a human being from her. I've got a long way to go before any of you pipe in with agreement. But at the beginning of this session Senator Meek and I had a discussion. We knew this was going to be a tough year. We knew it was going to be tough for Floridians. We knew it was going to be tough for republicans and democrats and liberals and moderates and conservatives. And we've been holding hands since the first day of session, everyday that a prayer has been said on this floor. And I'm going to miss her dearly. I want you to know that. I want the world to know that and from my wife, Linda, and I, we love you very much.

Senator Kiser: Madam President and Senators, I think it's well and good that we have some of these parting, and very nice farewell remarks, but really we also ought to thank the people who are going to make an effort to come back. Let's face it, the people who are leaving have the easy job. It's those of us who are going to try and stay that have the hard job.

And I just wanted to say, too, that in the hubbub of trying to get things done here today, I wish we could have spent a little bit more time on Senator Davis' resolution because I think race relations is still a major issue in this country, from one end to the other. It's nice for all of us to get along up here and to have friends in our communities of all the races. But that's not enough. We have to make an effort to let everybody know that we want to work at improving race relations. It's like a marriage. You can't take it for granted. It's something you have to work at everyday and when you see vestiges of discrimination, you should tell people, "I don't agree with that." You should speak out against it and you should do everything you can do as an individual in your home, in front of your children, and your neighbors, to stand up for what you know is right, because we have to all get along in this state and in this nation. And everytime we sit back and think that all of those things are just going to happen by themselves, we have very ugly incidents that take place.

And that's why I wished we had spent more time on the resolution. We are in too much of a hurry when resolutions like that come up. It's not enough that we just spend twenty seconds on this floor and pass it through unanimously. We need to get up and we need to talk about it and we need to demonstrate to everybody out there that we stand for better race relations; that we stand for equality. We may disagree on how we do things and on what role government plays in making those things better. We may have differences of opinion about those ways to get there, but the bottom line is still the same. We want to all get along in here. We all want to respect each other. We want our children to grow up together and respect each other, respect the differences in religions, and we have to constantly work at that. You can't sit back and take that for granted. Each and everyone of us, when we go home, we need to continue to work on that message and we need to do a much better job than that we have been doing or we are not going to get rid of those types of incidents that we have seen and that we are all embarrassed about.

Senator Walker: Senators, when I was about 12 years old I took a field trip up to the Capitol. I will always remember that I was given a brochure which stated how a bill becomes a law. I was very happy to get that. I took it home and I showed it to my mother and I said, "Mama, one day I'm going to be up there and I need to study this and need to know how to make a law. It reads a lot different than it is done in practice. I hung that on my wall and I still have it. It's very yellowed with age now.

Then I had the opportunity back in 1981 to come here and serve as Jack Gordon's intern when I was at Florida State University. That was quite an experience too. All of this led up to the dream of one day being here. I have to say that I am very, very happy with the decision that I made and reached for myself because I have finally gotten to the personal part of myself where I can be happy with myself and not feel embarrassed or ashamed to admit that I am happier when I am someplace else. That's pretty nice to have reached that feeling at my age.

However, it's still pretty overwhelming to think that a girl who grew up in the back of a country grocery store and lived in Waukeena had actually have a dream and have it realized.

I kinda feel like I'm going back to September 5, 1988, the night before the election when I was hoping to goodness I won the next day. But, I was going to sleep not knowing what the result would be the next day. I feel like it was a dream that lasted and now it's time to wake up from it and do something else.

I just want to say to each one of you here, there was never a time that I went to any of you that you could not help me or would not help me. That means a lot to me. Regardless of where my life goes from this point forward, please know that you have all made a friend in me. If your car ever breaks down in Waukeena or if you ever just need to use a phone or just stop off or whatever you need to do, know that I will always be living there. There will always be a slew of Walkers down there and you all are always welcome because I know that I feel welcome where ever ya'll are.

I know that the public has a bad impression of us. But I have to say, after knowing each of you, there's not a person in here that I don't think anybody wouldn't be proud of having served with. We're a lot better than the public gives us credit for.

Senator Wexler: Thank you, Madam President. Although I am not in any way authorized to say this but on behalf of the people who are new here it's been my experience that tonight, and I don't say this casting judgement as to anybody, tonight was the first time when on any major piece of legislation that both sides, democrats and republicans in this body, kept their word to one another. I say that casting no judgement on anybody.

But as to the future for those of us who are fortunate enough to come back, and I suspect especially from those who are new here, that's a lot better way of doing business. I hope in the future, regardless of who is the president or whatever that that's the way we conduct ourselves.

If I may, I would like to move that all the remarks, other than my own, be spread on the record.

Madam President: Without objection, obviously. It's my turn to say a few words. Number one, ... let me thank all of the committee chairmen, and all of the people in the minority party that have been so helpful in this session and in other sessions. Because without bipartisan effort here in the Senate it would have been impossible to reach this day.

I have to tell you that after six months and probably being on the rostrum more than any other president, I am kind of tired. I look forward to a new life.

My eighteen years here have been extraordinary. But even more extraordinary is the fact that I became President of this Florida Senate. I appreciate those who selected me to this job and I appreciate all of you. Thank you.

CONSIDERATION OF BILLS

On motion by Senator Kiser, by two-thirds vote **SB 220-H** was withdrawn from the Committee on Commerce.

On motion by Senator Kiser, by unanimous consent—

SB 220-H—A bill to be entitled An act relating to life and health guaranty associations; amending s. 631.713, F.S.; removing an exception of certain annuities from coverage by the Florida Life and Health Insurance Guaranty Association; amending s. 631.714, F.S.; defining the term "court of competent jurisdiction" for purposes of pt. III of ch. 631, F.S.; 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. 631.718, F.S., relating to assessments; revising the methods of assessing the member insurers; deleting the cap on assessments for a member insurer; amending s. 631.719, F.S., relating to the premium or income tax credits for assessments paid; updating cross-references; providing an effective date.

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

Senators Grant and Kiser offered the following amendment which was moved by Senator Kiser and adopted:

Amendment 1 (with Title Amendment)—On page 1, line 29, strike everything after the enacting clause and 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 (7) is added to section 624.402, Florida Statutes, to read:

624.402 Exceptions, certificate of authority required.—A certificate of authority shall not be required of an insurer with respect to:

(7) *Transactions involving hospital professional, hospital liability, and hospital general liability insurance issued to a resident of this state by a captive insurance company, provided:*

(a) *The captive insurance company is domiciled in a United States jurisdiction, the insurance regulatory body of which has been accredited by the National Association of Insurance Commissioners;*

(b) *The insured owns or controls, or holds with the power to vote, a percentage of the voting securities of such captive insurance company which is equal to or greater than the greatest percentage of voting securities owned or controlled by any other person;*

(c) *The captive insurance company files an insurance premium tax return in this state and pays the tax on such insurance premiums imposed by s. 624.509(1) or s. 624.5091, whichever is greater;*

(d) *The captive insurance company has insured no more than three hospitals in Florida;*

(e) *The captive insurance company has been in existence for at least 3 years as of July 1, 1992; and*

(f) *The captive insurance company maintains a surplus of at least \$1.5 million in accordance with the laws of its state of domicile.*

Section 3. 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 4. 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 5. Guaranteed interest contracts.—

(1) Any insurer with a total policyholders' surplus exceeding \$100 million that is authorized to deliver or issue annuity contracts in this state may deliver or issue guaranteed interest contracts. The issuance or delivery of such guaranteed interest contracts is not doing business specifically authorized by sections 624.602-624.609, Florida Statutes. Notwithstanding the definition of "insurance" in section 624.02, Florida Statutes, the issuance or delivery of guaranteed interest contracts is a permitted business for a life insurer in this state but is not the transaction of a kind of insurance for the purposes of section 624.406, Florida Statutes.

(2) Guaranteed interest contracts may be issued to persons or their subsidiaries authorized by another state or country to engage in an insurance business, to other entities, or to individuals to fund:

(a) Benefits under an employee benefit plan defined in 29 U.S.C. s. 1001 et seq., maintained in this or another country;

(b) Any organization that is exempt from taxation under s. 501(c) of the Internal Revenue Code or any similar organization in another country;

(c) Federal, state, local, or foreign government programs;

(d) Agreements that provide for periodic payments to satisfy claims; or

(e) Programs of corporations, joint stock companies, associations, trusts, partnerships, joint ventures, or similar organizations which have assets in excess of \$25 million.

(3) Amounts may not be guaranteed or credited under any guaranteed interest contract except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of guaranteed interest contracts of a given class. Guaranteed interest contracts may not provide for payments to or by the insurer based on mortality or morbidity contingencies.

(4) Amounts paid to the insurer and proceeds applied under optional modes of settlement under guaranteed interest contracts may be allocated by the insurer to separate accounts pursuant to section 627.802, Florida Statutes.

(5) The Department of Insurance may adopt rules relating to the standards to be followed in approving forms of guaranteed interest contracts, reserves to be maintained by insurers issuing guaranteed interest contracts, accounting and reporting of funds credited under guaranteed interest contracts, disclosure of information to be given to holders and prospective holders of guaranteed interest contracts, and qualifications and compensation of persons selling guaranteed interest contracts on behalf of insurers.

(6) Notwithstanding any other provision of law, the department has sole authority to regulate the issuance and sale of guaranteed interest contracts, including persons selling them on behalf of insurers.

(7) This section expires October 1, 1993.

Section 6. Effective July 1, 1993, section 626.072, Florida Statutes, as amended by section 7 of 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 7. 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 8. 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. 626.051, 626.0511, 626.0521, 626.0541, 626.0551, 626.0561, 626.0571, 626.0581, 626.0591, 626.0601, 626.0611, 626.0621, 626.0631, 626.0641, 626.0701, 626.0702, and 626.073, 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 9. 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 10. 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 qualifications, 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 individ-*

ual 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.*

Section 11. 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.(e) 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 12. 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~~ ~~advise~~ 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 13. Section 631.718, Florida Statutes, is amended to read:

631.718 Assessments.—

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers separately, for each of the accounts referred to in s. 631.715 at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers.

(2) There shall be two classes of assessments, as follows:

(a) Class A assessments shall be made by the board of directors for the purpose of meeting administrative costs and other general expenses and for examinations conducted under the authority of s. 631.723(3) which are not related to a particular impaired or insolvent insurer.

(b) Class B assessments shall be made by the board of directors for the purpose of carrying out the powers and duties of the association under s. 631.717 relating to an impaired or insolvent domestic, foreign, or alien insurer.

(3)(a) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall not be credited against future insolvency assessments and shall not exceed \$250 per member insurer in any one calendar year.

(b) *The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer.*

~~(b) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.~~

(c) Class B assessments against foreign or alien insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(d) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.

~~(d) The amount of any Class B assessment shall be allocated among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to the premiums received by such insurer in such calendar year on all covered policies.~~

(e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this part.

(f) Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed 1 percent of such insurer's premiums written in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this part.

~~(6) Notwithstanding any provision to the contrary, no member insurer may be assessed in any one calendar year an amount greater than the amount which it paid to this state in the previous year as premium tax and corporate income tax on the business to which this part applies or 0.1 percent of written premium on such business in this state, whichever is greater.~~

(6)(7) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to an account, the amount by which the assets of such account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7)(8) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

(8)(9) The association shall issue to each insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department may approve. However, any amount offset pursuant to s. 631.719 shall not be shown as an asset of the insurer on any of its financial statements.

Section 14. 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) ~~or 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 15. 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.*

Section 16. This act shall take effect on October 1, 1992.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike all of lines 2-25 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. 624.402, F.S.; providing an exception from certificate of authority requirements; 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; providing for guaranteed interest contracts; 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 assessable mutual insurer; amending s. 628.6013, F.S.; amending provisions relating to the conversion of assessable mutual insurers; providing that the board of directors of the assessable mutual insurer may contract with an authorized management company, as defined and restricted, to manage and administer the insurer; providing qualifications of the directors; 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. 631.718, F.S., relating to assessments; revising the methods of assessing the member insurers; deleting the cap on assessments for a member insurer; 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;

On motion by Senator Kiser, **SB 220-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

RECESS

The President declared the Senate in recess at 12:46 a.m., July 1.

CALL TO ORDER

The Senate was called to order by the President at 2:26 a.m. A quorum

present—38:

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

MOTIONS

On motions by Senator Johnson, by two-thirds vote **SB 280-H** and **SB 288-H** were recalled from Senate Enrolling.

On motion by Senator Childers, by two-thirds vote **CS for CS for SB 208-H**, in returning messages from the House, was referred to the Committee on Commerce.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State **SB 156-H** and **SB 266-H**, which he approved on June 29, 1992; **CS for SB 48-H** and **SB 226-H** which he approved on June 30, 1992.

The Governor advised that he had filed with the Secretary of State **SB 28-H**, which became law without his signature on June 30, 1992.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed **CS for CS for HB 141-H**, **HB 479-H**; has passed as amended **HB 389-H** and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committees on Finance and Taxation; and Insurance; and Representative Ascherl—

CS for CS for HB 141-H—A bill to be entitled An act relating to the Department of Insurance; 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 motions by Senator Childers, by the required constitutional two-thirds vote of the Senate **CS for CS for HB 141-H** was admitted for introduction and referred to the Committees on Commerce; and Finance, Taxation and Claims.

On motions by Senator Childers, by two-thirds vote **CS for CS for HB 141-H** was withdrawn from the Committees on Commerce; and Finance, Taxation and Claims and by unanimous consent taken up out of order.

On motion by Senator Childers, by two-thirds vote **CS for CS for HB 141-H** was read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, line 2, 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 (7) is added to section 624.402, Florida Statutes, to read:

624.402 Exceptions, certificate of authority required.—A certificate of authority shall not be required of an insurer with respect to:

(7) Transactions involving hospital professional, liability, and general liability insurance issued to a resident of this state by a captive insurance company, provided:

(a) The captive insurance company is domiciled in a United States jurisdiction, the insurance regulatory body of which has been accredited by the National Association of Insurance Commissioners;

(b) The insured owns or controls, or holds with the power to vote, a percentage of the voting securities of such captive insurance company which is equal to or greater than the greatest percentage of voting securities owned or controlled by any other person;

(c) The captive insurance company files an insurance premium tax return in this state and pays the tax on such insurance premiums imposed by s. 624.509(1) or s. 624.5091, whichever is greater;

(d) The captive insurance company has no more than five hospitals in Florida insured;

(e) The captive insurance company has been in existence for at least 3 years as of July 1, 1992; and

(f) The captive insurance company maintains a surplus of at least \$1.5 million in accordance with the laws of its state of domicile.

Section 3. 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 4. 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 5. Guaranteed interest contracts.—

(1) Any insurer with a total policyholders' surplus exceeding \$100 million that is authorized to deliver or issue annuity contracts in this state may deliver or issue guaranteed interest contracts. The issuance or delivery of such guaranteed interest contracts is not doing business specifically authorized by sections 624.602-624.609, Florida Statutes. Notwithstanding the definition of "insurance" in section 624.02, Florida Statutes, the issuance or delivery of guaranteed interest contracts is a permitted business for a life insurer in this state but is not the transaction of a kind of insurance for the purposes of section 624.406, Florida Statutes.

(2) Guaranteed interest contracts may be issued to persons or their subsidiaries authorized by another state or country to engage in an insurance business, to other entities, or to individuals to fund:

(a) Benefits under an employee benefit plan defined in 29 U.S.C. s. 1001 et seq., maintained in this or another country;

(b) Any organization that is exempt from taxation under s. 501(c) of the Internal Revenue Code or any similar organization in another country;

(c) Federal, state, local, or foreign government programs;

(d) Agreements that provide for periodic payments to satisfy claims; or

(e) Programs of corporations, joint stock companies, associations, trusts, partnerships, joint ventures, or similar organizations which have assets in excess of \$25 million.

(3) Amounts may not be guaranteed or credited under any guaranteed interest contract except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of guaranteed interest contracts of a given class. Guaranteed interest contracts may not provide for payments to or by the insurer based on mortality or morbidity contingencies.

(4) Amounts paid to the insurer and proceeds applied under optional modes of settlement under guaranteed interest contracts may be allocated by the insurer to separate accounts pursuant to section 627.802, Florida Statutes.

(5) The Department of Insurance may adopt rules relating to the standards to be followed in approving forms of guaranteed interest contracts, reserves to be maintained by insurers issuing guaranteed interest contracts, accounting and reporting of funds credited under guaranteed interest contracts, disclosure of information to be given to holders and prospective holders of guaranteed interest contracts, and qualifications and compensation of persons selling guaranteed interest contracts on behalf of insurers.

(6) Notwithstanding any other provision of law, the department has sole authority to regulate the issuance and sale of guaranteed interest contracts, including persons selling them on behalf of insurers.

(7) This section expires October 1, 1993.

Section 6. Effective July 1, 1993, section 626.072, Florida Statutes, as amended by section 7 of 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 7. 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 8. 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 varia-~~

tion 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 9. 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 10. 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 to 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 qualifications, 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.

Section 11. 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.(e) 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 12. 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 ~~advise~~ 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 13. Section 631.718, Florida Statutes, is amended to read:

631.718 Assessments.—

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers separately, for each of the accounts referred to in s. 631.715 at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers.

(2) There shall be two classes of assessments, as follows:

(a) Class A assessments shall be made by the board of directors for the purpose of meeting administrative costs and other general expenses and for examinations conducted under the authority of s. 631.723(3) which are not related to a particular impaired or insolvent insurer.

(b) Class B assessments shall be made by the board of directors for the purpose of carrying out the powers and duties of the association under s. 631.717 relating to an impaired or insolvent domestic, foreign, or alien insurer.

(3)(a) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall not be credited against future insolvency assessments and shall not exceed \$250 per member insurer in any one calendar year.

(b) *The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer.*

~~(b) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.~~

(c) Class B assessments against foreign or alien insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such

premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(d) *Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.*

~~(d) The amount of any Class B assessment shall be allocated among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to the premiums received by such insurer in such calendar year on all covered policies.~~

(e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this part.

(f) Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed 1 percent of such insurer's premiums written in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this part.

~~(6) Notwithstanding any provision to the contrary, no member insurer may be assessed in any one calendar year an amount greater than the amount which it paid to this state in the previous year as premium tax and corporate income tax on the business to which this part applies or 0.1 percent of written premium on such business in this state, whichever is greater.~~

(6)(7) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to an account, the amount by which the assets of such account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7)(8) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

(8)(9) The association shall issue to each insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department may approve. However, any amount offset pursuant to s. 631.719 shall not be shown as an asset of the insurer on any of its financial statements.

Section 14. 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 15. 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, strike line 2 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. 624.402, F.S.; providing an exception from certificate of authority requirements; 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; providing for guaranteed interest contracts; 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 assessable mutual insurer; amending s. 628.6013, F.S.; amending provisions relating to the conversion of assessable mutual insurers; providing that the board of directors of the assessable mutual insurer may contract with an authorized management company, as defined and restricted, to manage and administer the insurer; providing qualifications of the directors; 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. 631.718, F.S., relating to assessments; revising the methods of assessing the member insurers; deleting the cap on assessments for a member insurer; 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;

Senator Bankhead moved the following amendment which was adopted:

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

Section 1. Effective October 1, 1992, section 324.031, Florida Statutes, as amended by section 1 of chapter 92-29, Laws of Florida, is amended to read:

324.031 Manner of proving financial responsibility.—~~The owner or operator of a taxicab, limousine, jitney, or any other for hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) or s. 324.151, which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association.~~

The operator or owner of a ~~any other~~ vehicle may prove his financial responsibility by:

- (1) Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) and s. 324.151;
- (2) Posting with the department a satisfactory bond of a surety company authorized to do business in this state, conditioned for payment of the amount specified in s. 324.021(7);
- (3) Furnishing a certificate of the department showing a deposit of cash or securities in accordance with s. 324.161; or
- (4) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

Notwithstanding the amounts specified in s. 324.021(7) or s. 324.161, any person, including any firm, partnership, association, corporation, or other person, other than a natural person, electing to use the method of proof specified in subsection (2) or subsection (3) shall post a bond or deposit equal to the number of vehicles owned times \$25,000, to a maximum of \$100,000; in addition, any such person, other than a natural person, shall maintain insurance providing coverage in excess of limits of \$10,000/20,000/5,000 or \$25,000 combined single limits, and such excess insurance shall provide minimum limits of \$50,000/100,000/25,000 or \$100,000 combined single limits.

Section 2. Effective October 1, 1992, section 624.4075, Florida Statutes, as amended by section 2 of chapter 92-29, Laws of Florida, is amended to read:

624.4075 Captive conversion; *application pending on October 1, 1989 or expansion.*—

(1) With respect to any attempt by a captive insurer to convert its license to a certificate of authority as a domestic insurer authorized to transact property and casualty insurance whose permit to form a domestic insurer was pending before the department on October 1, 1989, the applicable surplus as to policyholders requirement shall be the greater of \$1,500,000 or the amount set forth in s. 624.407(1)(d), rather than the greater of \$2,500,000 or the amount set forth in s. 624.407(1)(d).

(2) ~~With respect to the shareholders of any captive insurer in existence on October 1, 1989, desiring to obtain a certificate of authority as a domestic insurer authorized to transact property and casualty insurance, they shall be permitted to form a domestic insurer with a surplus as to policyholders requirement that is the greater of \$1,500,000 or the amount set forth in s. 624.407(1)(d), rather than the greater of \$2,500,000 or the amount set forth in s. 624.407(1)(d).~~

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to insurance; amending s. 324.031, F.S.; repealing provisions that specify a separate method of proving financial responsibility for owners or operators of taxicabs, limousines, and other for-hire passenger transportation; amending s. 624.4075, F.S.; repealing provisions authorizing certain captive insurers to form a domestic insurer with specific surplus requirements;

Senator Kiser moved the following amendment:

Amendment 3 (with Title Amendment)—On page 21, between lines 18 and 19, insert:

Section 14. With respect to food service in the Larson Building cafeteria, the provisions of s. 413.051 or similar law to the contrary notwithstanding, the Department of Insurance may contract with an entity to provide the food service, provided that the contracting entity furnishes the services of a person licensed in this state in dietetics and nutrition practice pursuant to ss. 468.501-468.518 to provide professional services regarding the food served with the goal of enhancing the health of employees dining in the cafeteria with consequent health care cost savings to the state. The contract or a separate contract with a state university, as may be appropriate, may utilize the services of the university's students as interns majoring in food service or the dietetics and nutrition practice.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 29, after "effect;" insert: providing for certain contracts for food services;

On motion by Senator Childers, further consideration of **CS for CS for HB 141-H** with pending **Amendment 3** was deferred.

On motion by Senator Kiser, by unanimous consent, the Senate resumed consideration of—

CS for CS for HB 141-H—A bill to be entitled An act relating to the Department of Insurance; 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.

—which had been previously considered this day. Pending **Amendment 3** by Senator Kiser was withdrawn.

RECONSIDERATION OF AMENDMENTS

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

VOTE RECORDED

Senator Dantzler requested that he be recorded as voting nay on the motion to reconsider **Amendment 2**.

Amendment 2 failed.

On motion by Senator Grant, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** failed.

Senator Grant moved the following amendment:

Amendment 4 (with Title Amendment)—On page 2, line 2, 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 (7) is added to section 624.402, Florida Statutes, to read:

624.402 Exceptions, certificate of authority required.—A certificate of authority shall not be required of an insurer with respect to:

(7) *Transactions involving hospital professional, hospital liability, and hospital general liability insurance issued to a resident of this state by a captive insurance company, provided:*

(a) *The captive insurance company is domiciled in a United States jurisdiction, the insurance regulatory body of which has been accredited by the National Association of Insurance Commissioners;*

(b) *The insured owns or controls, or holds with the power to vote, a percentage of the voting securities of such captive insurance company which is equal to or greater than the greatest percentage of voting securities owned or controlled by any other person;*

(c) *The captive insurance company files an insurance premium tax return in this state and pays the tax on such insurance premiums imposed by s. 624.509(1) or s. 624.5091, whichever is greater;*

(d) *The captive insurance company has insured no more than three hospitals in Florida;*

(e) *The captive insurance company has been in existence for at least 3 years as of July 1, 1992; and*

(f) *The captive insurance company maintains a surplus of at least \$1.5 million in accordance with the laws of its state of domicile.*

Section 3. 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 4. 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. In the event 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 5. Guaranteed interest contracts.—

(1) Any insurer with a total policyholders' surplus exceeding \$100 million that is authorized to deliver or issue annuity contracts in this state may deliver or issue guaranteed interest contracts. The issuance or delivery of such guaranteed interest contracts is not doing business specifically authorized by sections 624.602-624.609, Florida Statutes. Notwithstanding the definition of "insurance" in section 624.02, Florida Statutes, the issuance or delivery of guaranteed interest contracts is a permitted business for a life insurer in this state but is not the transaction of a kind of insurance for the purposes of section 624.406, Florida Statutes.

(2) Guaranteed interest contracts may be issued to persons or their subsidiaries authorized by another state or country to engage in an insurance business, to other entities, or to individuals to fund:

(a) Benefits under an employee benefit plan defined in 29 U.S.C. s. 1001 et seq., maintained in this or another country;

(b) Any organization that is exempt from taxation under s. 501(c) of the Internal Revenue Code or any similar organization in another country;

(c) Federal, state, local, or foreign government programs;

(d) Agreements that provide for periodic payments to satisfy claims; or

(e) Programs of corporations, joint stock companies, associations, trusts, partnerships, joint ventures, or similar organizations which have assets in excess of \$25 million.

(3) Amounts may not be guaranteed or credited under any guaranteed interest contract except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of guaranteed interest contracts of a given class. Guaranteed interest contracts may not provide for payments to or by the insurer based on mortality or morbidity contingencies.

(4) Amounts paid to the insurer and proceeds applied under optional modes of settlement under guaranteed interest contracts may be allocated by the insurer to separate accounts pursuant to section 627.802, Florida Statutes.

(5) The Department of Insurance may adopt rules relating to the standards to be followed in approving forms of guaranteed interest contracts, reserves to be maintained by insurers issuing guaranteed interest contracts, accounting and reporting of funds credited under guaranteed interest contracts, disclosure of information to be given to holders and prospective holders of guaranteed interest contracts, and qualifications and compensation of persons selling guaranteed interest contracts on behalf of insurers.

(6) Notwithstanding any other provision of law, the department has sole authority to regulate the issuance and sale of guaranteed interest contracts, including persons selling them on behalf of insurers.

(7) This section expires October 1, 1993.

Section 6. Effective July 1, 1993, section 626.072, Florida Statutes, is amended by section 7 of chapter 92-146, Laws of Florida, 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 7. 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 8. 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 9. 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 10. 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 qualifications, 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.*

Section 11. 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)(b) 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 12. 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 and advise~~ *assist and advise* 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 13. Section 631.718, Florida Statutes, is amended to read:

631.718 Assessments.—

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers separately, for each of the accounts referred to in s. 631.715 at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers.

(2) There shall be two classes of assessments, as follows:

(a) Class A assessments shall be made by the board of directors for the purpose of meeting administrative costs and other general expenses and for examinations conducted under the authority of s. 631.723(3) which are not related to a particular impaired or insolvent insurer.

(b) Class B assessments shall be made by the board of directors for the purpose of carrying out the powers and duties of the association under s. 631.717 relating to an impaired or insolvent domestic, foreign, or alien insurer.

(3)(a) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall not be credited against future insolvency assessments and shall not exceed \$250 per member insurer in any one calendar year.

(b) *The amount of any Class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer.*

~~(b) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers.~~

(c) Class B assessments against foreign or alien insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bear to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers.

(d) *Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in this state for such calendar years by all assessed member insurers.*

~~(d) The amount of any Class B assessment shall be allocated among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bear to the premiums received by such insurer in such calendar year on all covered policies.~~

(e) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this part.

(f) Classification of assessments under subsection (2) and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed 1 percent of such insurer's premiums written in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum

assessment, together with the other assets of the association in either account, does not provide in any one year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this part.

~~(6) Notwithstanding any provision to the contrary, no member insurer may be assessed in any one calendar year an amount greater than the amount which it paid to this state in the previous year as premium tax and corporate income tax on the business to which this part applies or 0.1 percent of written premium on such business in this state, whichever is greater.~~

(6)(7) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to an account, the amount by which the assets of such account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7)(8) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this part, to consider the amount reasonably necessary to meet its assessment obligations under this part.

(8)(9) The association shall issue to each insurer paying an assessment under this part, other than a Class A assessment, a certificate of contribution, in a form prescribed by the department, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the department may approve. However, any amount offset pursuant to s. 631.719 shall not be shown as an asset of the insurer on any of its financial statements.

Section 14. 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 15. 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.*

Section 16. With respect to the food service in the Larson Building cafeteria, the provisions of section 413.051, Florida Statutes, or similar law to the contrary notwithstanding, the Department of Insurance may contract with an entity to provide the food service, provided the contracting entity furnishes the services of a person licensed in this state in dietetics and nutrition practice pursuant to sections 468.501-468.518, Florida Statutes, to provide professional services regarding the food served. The contract or a separate contract with a state university may

use the services of university students who have a major in food service or in dietetics and nutrition.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 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. 624.402, F.S.; providing an exception from certificate of authority requirements; 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; providing for guaranteed interest contracts; 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 assessable mutual insurer; amending s. 628.6013, F.S.; amending provisions relating to the conversion of assessable mutual insurers; providing that the board of directors of the assessable mutual insurer may contract with an authorized management company, as defined and restricted, to manage and administer the insurer; providing qualifications of the directors; 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. 631.718, F.S., relating to assessments; revising the methods of assessing the member insurers; deleting the cap on assessments for a member insurer; 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; providing for certain contracts for food services;

Senator Johnson moved the following amendment to **Amendment 4** which was adopted:

Amendment 4A (with Title Amendment)—On page 20, line 5, strike Section 16.

And the title is amended as follows:

In title, on page 22, lines 19 and 20, strike "providing for certain contracts for food services;"

Amendment 4 as amended was adopted.

On motion by Senator Kiser, by two-thirds vote **CS for CS for HB 141-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

By Representative Wallace—

HB 389-H—A bill to be entitled An act relating to political party offices; prescribing the period for qualifying for political party office; providing for a candidate for such office to authorize the supervisor of elections to change precinct or district numbers on qualifying documents; providing for a supervisor to notify a candidate when such numbers are changed; providing an expiration date; providing an effective date.

On motions by Senator Grant, by unanimous consent **HB 389-H** was taken up out of order and by two-thirds vote 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—37 Nays—None

By the Committee on Appropriations and Representative Saunders—

HB 479-H—A bill to be entitled an Act making supplemental appropriations; amending appropriations in Fiscal Year 1992-93; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay buildings, and

other improvements, and for other specified purposes of the various agencies of state government; providing an effective date.

On motions by Senator Gardner, by unanimous consent, **HB 479-H** was taken up out of order and by two-thirds vote read the second time by title.

Senator Gardner moved the following amendment which was adopted:

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

SECTION 1. The moneys contained herein include supplements to 1992-93 appropriations, and appropriates moneys from the named funds for the 1992-93 fiscal year to the state agency indicated.

COMMUNITY AFFAIRS, DEPARTMENT OF

RESOURCE PLANNING AND MANAGEMENT, DIVISION OF

271 SPECIAL CATEGORIES
GRANTS AND AIDS - LOCAL PLAN REVIEW
FROM GENERAL REVENUE FUND 250,000

CORRECTIONS, DEPARTMENT OF

ASSISTANT SECRETARY FOR HEALTH SERVICES

330A LUMP SUM
COSTELLO ISSUES
POSITIONS 95
FROM GENERAL REVENUE FUND 1,000,000

From the funds provided in Specific Appropriation 330A, 95 FTE and \$800,000 are for the implementation of the mental health plan and \$200,000 is provided for mental health training for Department of Corrections staff.

CORRECTIONAL EDUCATION SCHOOL AUTHORITY

338A LUMP SUM
CORRECTIONS EDUCATION SCHOOL AUTHORITY
(CESA)
POSITIONS 30
FROM GENERAL REVENUE FUND 1,500,000

OFFICE OF THE ASSISTANT SECRETARY FOR OPERATIONS

MAJOR INSTITUTIONS

350A LUMP SUM
OPEN PRISONS
FROM GENERAL REVENUE FUND 7,753,056

Funds in Specific Appropriation 350A are provided to accelerate phase-in of newly constructed correctional facilities.

PROBATION AND PAROLE SERVICES

364A LUMP SUM
PROBATION AND PAROLE
FROM GENERAL REVENUE FUND 700,800

From the funds in Specific Appropriation 364A, the Department of Corrections is to fund 60 contract drug treatment beds at a rate not to exceed an average of \$32 per bed per day.

EDUCATION, DEPARTMENT OF, AND COMMISSIONER OF EDUCATION

OFFICE OF STUDENT FINANCIAL ASSISTANCE

468A SPECIAL CATEGORIES
VOCATIONAL GOLD SEAL SCHOLARSHIP
FROM GENERAL REVENUE FUND 675,880

Funds provided in Specific Appropriation 468A shall be transferred to the Vocational Scholarship Program Trust Fund. The Department of Education is authorized to expend \$675,880 from the trust fund pursuant to provisions in s. 240.4021, Florida Statutes. If funds in Specific Appropriation 468A are insufficient to provide a full scholarship to each eligible recipient, the Department may prorate the scholarship balances among all eligible recipients.

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468B SPECIAL CATEGORIES
TRANSFER FLORIDA ACADEMIC SCHOLARS FUND
FROM FINANCIAL ASSISTANCE PAYMENTS
FROM GENERAL REVENUE FUND 1,941,253

Funds provided in Specific Appropriation 468B shall be transferred to the Florida Undergraduate Scholars' Trust Fund. The Department of Education is authorized to expend \$1,941,253 from the trust fund pursuant to the provisions in s. 240.402, Florida Statutes. If funds in Specific Appropriation 468B are insufficient to provide a full scholarship to each eligible recipient, the Department may prorate scholarship balances among all eligible recipients.

468C SPECIAL CATEGORIES
TRANSFER PUBLIC STUDENT ASSISTANCE GRANT
FINANCIAL ASSISTANCE PAYMENT
FROM GENERAL REVENUE FUND 1,346,066

Funds provided in Specific Appropriation 468C shall be transferred to the Florida Public Student Assistance Grant Trust Fund. The Department of Education is authorized to expend \$1,346,066 from the trust fund pursuant to the provisions of s. 240.409, Florida Statutes. The maximum grant to any student from the trust fund shall be \$1,300. If funds in Specific Appropriation 468C are insufficient to provide a full scholarship to each eligible recipient, the Department may prorate scholarship balances among all eligible recipients.

468D SPECIAL CATEGORIES
TRANSFER PRIVATE STUDENT ASSISTANCE GRANT
FINANCIAL ASSISTANCE PAYMENT
FROM GENERAL REVENUE FUND 452,447

Funds provided in Specific Appropriation 468D shall be transferred to the Florida Private Student Assistance Grant Trust Fund. The Department of Education is authorized to expend \$452,447 from the trust fund pursuant to the provisions of s. 240.4095, Florida Statutes. The maximum grant to any student from the trust fund shall be \$1,300. If funds in Specific Appropriation 468D are insufficient to provide a full scholarship to each eligible recipient, the Department may prorate scholarship balances among all eligible recipients.

468E SPECIAL CATEGORIES
TRANSFER POSTSECONDARY STUDENT ASSISTANCE
GRANT FINANCIAL ASSISTANCE PAYMENT
FROM GENERAL REVENUE FUND 92,678

Funds provided in Specific Appropriation 468E shall be transferred to the Florida Postsecondary Student Assistance Grant Trust Fund. The Department of Education is authorized to expend \$92,678 from the Florida Postsecondary Student Assistance Grant Trust Fund pursuant to the provisions of s. 240.4097, Florida Statutes. The maximum grant to any student from the trust fund shall be \$1,300. If funds in Specific Appropriation 468E are insufficient to provide a full scholarship to each eligible recipient, the Department may prorate scholarship balances among all eligible recipients.

487 FINANCIAL ASSISTANCE PAYMENTS
MOST PROMISING TEACHER SCHOLARSHIP
FROM GENERAL REVENUE FUND 391,676

General Revenue funds provided in Specific Appropriation 487 shall be transferred to the Critical Teacher Shortage Trust Fund. The Department of Education is authorized to expend \$391,676 from the Critical Teacher Shortage Trust Fund pursuant to the provisions of s. 240.4068, Florida Statutes. If the funds in Specific Appropriation 487 are insufficient to provide a full award to each eligible recipient, the Department may prorate the amount to the eligible recipient.

PUBLIC SCHOOLS, DIVISION OF

SECTION 01
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516	AID TO LOCAL GOVERNMENTS		
	GRANTS AND AIDS - FLORIDA EDUCATIONAL		
	FINANCE PROGRAM		
	FROM GENERAL REVENUE FUND	150,000,000	
	FROM PRINCIPAL STATE SCHOOL TRUST FUND . .		5,000,000

Should there be general revenue funds available from Specific Appropriation line item 516 remaining after the fourth calculation, \$400,000 shall be added to and be made a part of the appropriations in Specific Appropriation 516 for Developmental Research Schools.

Unless specifically authorized in law, the provision of section 26, Chapter 91-109, Laws of Florida, shall not apply to general revenue contracts within the state system of public education.

Funds provided in Specific Appropriation 516 provide for a Base Student Allocation of \$2,412.40.

The resident fee amount for adult job preparatory course enrollment for 1992-93 shall average \$0.37 per contact hour; the non-resident fee amount shall average \$2.01 per contact hour. The resident fee amount for adult vocational supplemental course enrollment for 1992-93 shall average \$0.56 per contact hour; the non-resident fee amount shall average \$1.83 per contact hour. The resident fee amount for adult lifelong learning course enrollment for 1992-93 shall average \$0.77 per contact hour; the non-resident fee amount shall average \$1.54 per contact hour. Districts shall use the amount of the difference between fees generated during 1992-93 and fees generated during 1991-92 solely to maintain course offerings and to maintain and lower class sizes.

The priority for expending funds provided in Specific Appropriation 516 shall be to maintain class size and educational programs to the maximum extent possible.

If a district chooses to use all or a part of the authority in the implementing act to replace up to 25% of Specific Appropriation 520 from discretionary capital outlay, an equal amount of Specific Appropriation 520 may be used for other purposes in the operating budget.

VOCATIONAL, ADULT, AND COMMUNITY EDUCATION,
DIVISION OF

As authorized in Section 230.645(5), Florida Statutes, fees for postsecondary adult vocational and supplemental vocational instruction shall be no less than \$0.36 per hour and no more than \$0.89 per hour for Florida residents. Each community college board of trustees and district school board shall adopt policies relating to the determination of fees for individual courses.

COMMUNITY COLLEGES, DIVISION OF

537	SALARIES AND BENEFITS	POSITIONS	2
	FROM FACILITIES CONSTRUCTION		
	ADMINISTRATION TRUST FUND		103,000
539	EXPENSES		
	FROM FACILITIES CONSTRUCTION		
	ADMINISTRATION TRUST FUND		15,000
541	AID TO LOCAL GOVERNMENTS		
	GRANTS AND AIDS - COMMUNITY COLLEGES		
	PROGRAM FUND		
	FROM GENERAL REVENUE FUND	29,900,000	

The average matriculation fees specified in Subsection 240.35(5), Florida Statutes, are hereby established for 1992-93 as follows:

Program	Amount Per Credit Hour
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Advanced and Professional	\$ 26.74
Postsecondary Vocational	26.74
Adult Vocational	12.00
Supplemental Vocational	23.86
College Preparatory	26.74

The additional tuition fee paid by out-of-state residents shall be increased by 15 percent.

Funds in Specific Appropriation 541 are provided for instruction, libraries, and student services. No positions may be established for administrative purposes.

Funds provided in Specific Appropriation 541 shall be allocated as follows:

Brevard	1,435,926
Broward	1,873,920
Central Florida	527,594
Chipola	316,331
Daytona Beach	1,470,774
Edison	584,159
FICC at Jax	2,720,246
Florida Keys	235,406
Gulf Coast	546,879
Hillsborough	1,407,936
Indian River	1,024,623
Lake City	474,921
Lake Sumter	256,524
Manatee	668,476
Miami-Dade	5,205,034
North Florida	211,213
Okaloosa-Walton	524,137
Palm Beach	1,228,522
Pasco-Hernando	414,410
Pensacola	1,604,132
Polk	517,769
St. Johns River	318,722
St. Pete	1,615,559
Santa Fe	1,164,764
Seminole	999,475
South Florida	395,243
Tallahassee	732,984
Valencia	1,424,322

Funds provided in Specific Appropriation 541 includes \$560,000 for the operation of public broadcasting television or radio stations at Daytona Beach Community College (WCEU-TV-\$225,000), Gulf Coast Community College (WKGC-AM/FM-\$55,000), Indian River Community College (WQCS-FM-\$55,000), and Pensacola Junior College (WSRE-TV-\$225,000).

Funds provided in Specific Appropriation 541 shall be used to maintain to the extent possible the "open door" policy in order to provide access for all Florida residents. In addition, continuation or restoration of sufficient classes or sections to meet the needs of degree seeking or certificate seeking students shall be the highest priority for use of these funds. The remainder of the funds including the increase in student fees shall be used solely to restore direct student contact positions or activities eliminated because of budget reductions imposed by the state.

542A	OPERATING CAPITAL OUTLAY	
	FROM FACILITIES CONSTRUCTION	
	ADMINISTRATION TRUST FUND	4,217

UNIVERSITIES, DIVISION OF

The Board of Regents is authorized to increase matriculation and tuition fees to produce the level of student fee revenues established in Specific Appropriations 570-583.

In Specific Appropriations 570-574, funds provided for the Restoration of the 1992-93 Reductions may be allocated, at the discretion of the Board of Regents, among all Specific Appropriation categories provided in the Educational and General budget

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entity in SB 278-H.

EDUCATIONAL AND GENERAL ACTIVITIES

570	LUMP SUM INSTITUTE OF FOOD AND AGRICULTURAL SCIENCES OPERATIONS	POSITIONS 90	
	FROM GENERAL REVENUE FUND	3,960,923	
	FROM INSTITUTE OF FOOD AND AGRICULTURAL SCIENCES STUDENT FEE TRUST FUND		564,606
571	LUMP SUM UNIVERSITY OF SOUTH FLORIDA MEDICAL CENTER OPERATIONS	POSITIONS 26	
	FROM GENERAL REVENUE FUND	1,547,379	
	FROM UNIVERSITY OF SOUTH FLORIDA MEDICAL CENTER STUDENT FEE TRUST FUND		580,722
572	LUMP SUM UNIVERSITY OF FLORIDA HEALTH CENTER OPERATIONS	POSITIONS 67	
	FROM GENERAL REVENUE FUND	3,464,537	
	FROM UNIVERSITY OF FLORIDA HEALTH SCIENCES CENTER STUDENT FEE TRUST FUND		769,693
573	LUMP SUM UNIVERSITY SUPPORT/EDUCATIONAL AND GENERAL OPERATIONS	POSITIONS 391	
	FROM GENERAL REVENUE FUND	19,123,927	
574	LUMP SUM INSTRUCTION AND RESEARCH/EDUCATIONAL AND GENERAL	POSITIONS 746	
	FROM GENERAL REVENUE FUND	13,578,223	
	FROM INCIDENTAL TRUST FUND		39,346,403

The allocation of the funds provided in Specific Appropriation 574 shall be based on the following planned FTE enrollment. These enrollments supersede the enrollments designated in SB 278-H:

Lower Level	29,394
Upper Level	62,057
Graduate Classroom	16,334
Thesis/Dissertation	1,431
Total	109,216

576	SPECIAL CATEGORIES GRANTS AND AIDS - CANCER CENTER OPERATION		
	FROM GENERAL REVENUE FUND	16,145	
580	SPECIAL CATEGORIES OUT-OF-STATE FEE WAIVERS		
	FROM GENERAL REVENUE FUND	3,905,555	
582	SPECIAL CATEGORIES STUDENT FINANCIAL AID		
	FROM GENERAL REVENUE FUND	4,469,031	
583	SPECIAL CATEGORIES GRADUATE ASSISTANT MATRICULATION FEE WAIVERS		
	FROM GENERAL REVENUE FUND	2,223,733	

BOARD OF REGENTS GENERAL OFFICE

588	SPECIAL CATEGORIES CHALLENGE GRANTS		
	FROM GENERAL REVENUE FUND	100,000	

From the funds provided in Specific Appropriation 588, \$100,000 from the General Revenue fund shall be transferred to the Major Gifts Trust Fund to establish the Bill Sadowski Fellowship Program at the Collins Center for Public Policy. The release of these funds from the Major Gifts Trust Fund shall be contingent upon the collection of \$100,000 of matching funds contributed by private sources. These funds shall be used to create no less than 10 fellows which will be associated with the Collins Center for a one year period of study and work in

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Florida state government.

This program shall be developed by the Collins Center for Public Policy to instruct and inspire a cadre of young Floridians who demonstrate high levels of academic achievement and a clear commitment to the improvement of public policy. The program shall be designed to give the Sadowski Fellows an opportunity to study Florida government and to obtain a first-hand experience of public policy-making within the democratic process.

GOVERNOR, EXECUTIVE OFFICE OF THE

GENERAL OFFICE

742	LUMP SUM EXECUTIVE OFFICE OF THE GOVERNOR - EXECUTIVE/ADMINISTRATION	POSITIONS 2	
	FROM GENERAL REVENUE FUND		100,000

HEALTH AND REHABILITATIVE SERVICES, DEPARTMENT OF

No funds provided in Specific Appropriations 786A through 1016 are for meeting the fifth year mandate requirements of P.L. 99-457, Part M.

OFFICE OF THE DEPUTY SECRETARY FOR HUMAN SERVICES

786A	LUMP SUM FLORIDA HEALTH PLAN	POSITIONS 20	
	FROM GENERAL REVENUE FUND		800,000

DEPUTY SECRETARY FOR OPERATIONS

ECONOMIC SERVICES

825A	LUMP SUM PUBLIC ASSISTANCE ELIGIBILITY WORKERS	POSITIONS 444	
	FROM GENERAL REVENUE FUND		6,053,887

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES

855A	LUMP SUM THERAPEUTIC SERVICES FOR CHILDREN		
	FROM GENERAL REVENUE FUND		5,325,000

Funds in Specific Appropriation 855A shall be used for therapeutic services for children to address issues related to the M.E. v. Chiles lawsuit.

From the funds in Specific Appropriation 855A, \$2,000,000 from the General Revenue Fund is provided for the outsourcing of a client information management system for HRS which will reduce the length of stay and overall cost of care by providing children with the most appropriate services as determined by clinical assessments, alternative placement analysis, monitoring and ensuring program outcome accountability.

The system should have the ability to maximize federal child welfare and medicaid dollars.

MENTAL HEALTH - INSTITUTIONS

870A	LUMP SUM INSTITUTIONAL SERVICES	POSITIONS 75	
	FROM GENERAL REVENUE FUND		4,300,000

Funds provided in Specific Appropriation 870A shall be allocated as follows: \$2,767,370 and 75 FTE for staffing for mental health institutions; and, \$1,532,630 for Johnson v. Bradley Lawsuit - G. Pierce Wood Memorial Hospital.

CHILDREN, YOUTH AND FAMILY SERVICES

878A	LUMP SUM CHILD WELFARE SERVICES	POSITIONS 450	
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SECTION 01
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	FROM GENERAL REVENUE FUND	16,700,000
878B	LUMP SUM JUVENILE JUSTICE	
	POSITIONS 104	
	FROM GENERAL REVENUE FUND	10,700,000
878C	LUMP SUM CHILD WELFARE LEGAL SERVICES	
	POSITIONS 34	
	FROM GENERAL REVENUE FUND	900,000
880	SPECIAL CATEGORIES GRANTS AND AIDS - CHILD DAY CARE	
	FROM GENERAL REVENUE FUND	1,000,000
DEVELOPMENTAL SERVICES		
907A	LUMP SUM THERAPEUTIC SERVICES FOR CHILDREN	
	FROM GENERAL REVENUE FUND	1,775,000
Funds in Specific Appropriation 907A shall be used for therapeutic services for children to address issues related to the M.E. v. Chiles lawsuit.		
HEALTH SERVICES		
949A	SPECIAL CATEGORIES HEALTHY START COALITIONS	
	FROM GENERAL REVENUE FUND	1,000,000
951	SPECIAL CATEGORIES DRUGS, VACCINES AND OTHER BIOLOGICALS	
	FROM GENERAL REVENUE FUND	3,300,000
MEDICAID SERVICES		
993A	LUMP SUM PREGNANT WOMEN AND INFANTS	
	FROM MEDICAL CARE TRUST FUND	26,599,803
	FROM PUBLIC MEDICAL ASSISTANCE TRUST FUND	21,599,810
Funds in Specific Appropriation 993A are provided to increase eligibility from 150% to 185% of the federal poverty level through March 1993.		
993B	LUMP SUM ELDERLY AND DISABLED	
	FROM MEDICAL CARE TRUST FUND	7,467,850
	FROM PUBLIC MEDICAL ASSISTANCE TRUST FUND	6,117,515
Funds in Specific Appropriation 993B are provided to increase eligibility to 90% of the federal poverty level through March 1993.		
993C	LUMP SUM MEDICALLY NEEDED PROGRAM	
	FROM MEDICAL CARE TRUST FUND	14,840,038
	FROM PUBLIC MEDICAL ASSISTANCE TRUST FUND	12,141,849
Funds in Specific Appropriation 993C are provided to extend the Medically Needed Program through March 1993.		
1016	SPECIAL CATEGORIES PHYSICIAN SERVICES	
	FROM MEDICAL CARE TRUST FUND	10,034,378
	FROM PUBLIC MEDICAL ASSISTANCE TRUST FUND	8,200,000
Funds in Specific Appropriation 1016 are provided to increase obstetrical fees as provided for in s. 409.908(12)(b), Florida Statutes, through February 1993.		
INSURANCE, DEPARTMENT OF, AND TREASURER		
OFFICE OF THE TREASURER AND DIVISION OF ADMINISTRATION		
1074A	SPECIAL CATEGORIES	

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	FLORIDA HEALTHY KIDS CORPORATION	
	FROM FLORIDA HEALTHY KIDS TRUST FUND	650,000
JUDICIAL BRANCH		
JUSTICE ADMINISTRATIVE COMMISSION		
1146	LUMP SUM PUBLIC DEFENDERS	
	FROM GENERAL REVENUE FUND	1,199,346
1147	LUMP SUM STATE ATTORNEYS	
	FROM GENERAL REVENUE FUND	2,185,155
LABOR AND EMPLOYMENT SECURITY, DEPARTMENT OF		
VOCATIONAL REHABILITATION, DIVISION OF		
1206	SPECIAL CATEGORIES PURCHASED CLIENT SERVICES	
	FROM GENERAL REVENUE FUND	2,400,000
	FROM FEDERAL REHABILITATION TRUST FUND	3,300,000
1206A	SPECIAL CATEGORIES TRANSFER TO FLORIDA HEALTHY KIDS TRUST FUND	
	FROM IMPAIRED DRIVERS AND SPEEDERS TRUST FUND	650,000
REVENUE, DEPARTMENT OF		
COLLECTION AND ENFORCEMENT, DIVISION OF		
1446A	LUMP SUM ADDITIONAL REVENUE PRODUCERS - SALES TAX DELINQUENCY/AUDITORS	
	POSITIONS 59	
	FROM GENERAL REVENUE FUND	1,573,780
	FROM ADMINISTRATIVE TRUST FUND	847,420
STATE, DEPARTMENT OF, AND SECRETARY OF STATE		
LIBRARY AND INFORMATION SERVICES, DIVISION OF		
1490	AID TO LOCAL GOVERNMENTS GRANTS AND AIDS - LIBRARY GRANTS	
	FROM GENERAL REVENUE FUND	2,600,000
Funds in Specific Appropriation 1490 are provided for the phased in implementation of CS/SB 154-H, and shall be spent in accordance with provisions stipulated in SB 142-H.		
	TOTAL OF SECTION 01	POSITIONS 2,635
	FROM GENERAL REVENUE FUND	310,305,477
	FROM TRUST FUNDS	158,832,304
	TOTAL ALL FUNDS	469,137,781
SECTION 1C - NON-OPERATING TRANSFERS TO OTHER STATE AGENCIES		
ENVIRONMENTAL REGULATION, DEPARTMENT OF		
1627A	SPECIAL CATEGORIES TRANSFER TO SEWAGE TREATMENT AND STORMWATER MANAGEMENT REVOLVING TRUST FUND	
	FROM GENERAL REVENUE FUND	7,000,000
HEALTH AND REHABILITATIVE SERVICES, DEPARTMENT OF		
DEPUTY SECRETARY FOR OPERATIONS		
MEDICAID SERVICES		
1627B	LUMP SUM TRANSFER TO PUBLIC MEDICAL ASSISTANCE TRUST FUND	
	FROM GENERAL REVENUE FUND	48,059,174
	TOTAL OF SECTION 1C	
	FROM GENERAL REVENUE FUND	55,059,174
	TOTAL ALL FUNDS	55,059,174

SECTION 2B
SPECIFIC
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SECTION 2G
SPECIFIC
APPROPRIATION

SECTION 2B - AGENCY MANAGED CONSTRUCTION

TOTAL ALL FUNDS 43,000,000

HEALTH AND REHABILITATIVE SERVICES, DEPARTMENT OF

SECTION 3. Funds appropriated in this act are contingent upon passage of CS/HB 325H, CS/HB 295H, and HB 421H, or similar bills having substantially the same specific intent and purpose.

DEPUTY SECRETARY FOR OPERATIONS

HEALTH SERVICES

1675A FIXED CAPITAL OUTLAY
COUNTY HEALTH AND REHABILITATIVE SERVICES'
PUBLIC HEALTH UNITS
FROM GENERAL REVENUE FUND 1,300,000

Funds provided in Specific Appropriation 1675A shall be distributed according to the priority ranking for County Public Health Units as developed by the department in its Legislative Budget Request.

SECTION 4. The Departments of Highway Safety and Motor Vehicles and Transportation, in conjunction with any county or municipality or any other interested local governments, through installation and operation, shall be authorized to conduct pilot projects to evaluate the effectiveness of using an electronic system consisting of photographic cameras and vehicle sensors installed to work in conjunction with an official traffic control signal and to automatically produce two or more photographs of each vehicle proceeding beyond the legal stop line at an intersection while facing a red indication. Each traffic citation issued thereunder shall be sent to the most current address of the owner of the vehicle which was photographed. The Department of Highway Safety and Motor Vehicles is authorized to establish rules under which said pilot projects shall operate. The departments shall jointly submit a report on the pilot projects detailing their findings to the Chairmen of the House and Senate Appropriations Committees on or before March 1, 1993.

NATURAL RESOURCES, DEPARTMENT OF

BEACHES AND SHORES, DIVISION OF

1679A FIXED CAPITAL OUTLAY
INLET SAND TRANSFER PROJECTS - STATEWIDE
FROM GENERAL REVENUE FUND 400,000

Funds in Specific Appropriation 1679A shall be used to match funds from the U. S. Department of the Navy to transfer available sand from the dredging of the St. Mary's Inlet to renourish eroded beaches on the southern end of Amelia Island. Any funds remaining from this appropriation upon the completion of this project may be used to fund other inlet sand transfer projects and inlet management studies which have been approved by the Governor and Cabinet in accordance with the provisions of Chapter 161, Florida Statutes.

SECTION 5. Any Section of this act, or any Specific Appropriation herein contained, if found to be invalid or vetoed by the Governor without overriding action of the Legislature shall in no way affect other Sections or Specific Appropriations contained in this act.

SECTION 6. This act shall take effect July 1, 1992, or upon becoming law, whichever occurs later; however, if this act becomes law after July 1, 1992, then it shall operate retroactively to July 1, 1992.

TOTAL OF SECTION 2B

TOTAL THIS GENERAL APPROPRIATION ACT POSITIONS 2,635
FROM GENERAL REVENUE FUND 368,064,651
FROM TRUST FUNDS 200,832,304
TOTAL ALL FUNDS 568,896,955

FROM GENERAL REVENUE FUND 1,700,000

TOTAL ALL FUNDS 1,700,000

And the title is amended as follows:

SECTION 2G - GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NON-PROFIT ORGANIZATIONS

In title, strike everything before the enacting clause and insert:

COMMERCE, DEPARTMENT OF

A bill to be entitled
An act making supplemental appropriations; amending appropriations in Fiscal Year 1992-93; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay buildings, and other improvements, and for other specified purposes of the various agencies of state government; providing an effective date.

ECONOMIC DEVELOPMENT, DIVISION OF

1815A GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONPROFIT ORGANIZATIONS
ECONOMIC DEVELOPMENT URBAN INITIATIVE GRANTS
FROM GENERAL REVENUE FUND 500,000

On motion by Senator Gardner, by two-thirds vote **HB 479-H** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—1

ENVIRONMENTAL REGULATION, DEPARTMENT OF

1816A FIXED CAPITAL OUTLAY
WASTEWATER TREATMENT FACILITY CONSTRUCTION
FROM WASTEWATER TREATMENT AND STORMWATER MANAGEMENT REVOLVING LOAN TRUST FUND 42,000,000

RETURNING MESSAGES ON SENATE BILLS

The Honorable Gwen Margolis, President

HEALTH AND REHABILITATIVE SERVICES, DEPARTMENT OF

DEPUTY SECRETARY FOR OPERATIONS

HEALTH SERVICES

1816B GRANTS AND AIDS TO LOCAL GOVERNMENTS AND NONPROFIT ORGANIZATIONS
GRANTS AND AIDS - HEALTH FACILITIES
FROM GENERAL REVENUE FUND 500,000

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 with amendment SB 26-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

Funds provided in Specific Appropriation 1816B shall be distributed according to the ranking in the department's Legislative Budget Request for public health facilities in the Grants and Aids to Local Governments and Nonprofit Organizations category.

SB 26-H—A bill to be entitled An act relating to taxation; 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; providing an effective date.

TOTAL OF SECTION 2G

FROM GENERAL REVENUE FUND 1,000,000
FROM TRUST FUNDS 42,000,000

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

Section 1. Effective December 31, 1992, section 199.032, Florida Statutes, is amended to read:

199.032 Levy of annual tax.—An annual tax of 2 1-5 mills is hereby imposed on each dollar of the just valuation of all intangible personal property which has a taxable situs in this state, except for notes and other obligations for the payment of money, other than bonds, which are secured by mortgage, deed of trust, or other lien upon real property situated in the state. This tax shall be assessed and collected as provided in this chapter.

Section 2. Effective December 31, 1992, subsections (2) and (4) of section 199.185, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

199.185 Property exempted from annual and nonrecurring taxes.—

(2)(a) With respect to the first mill of the annual tax, every natural person is entitled each year to an exemption of the first \$20,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$40,000.

(b) With respect to the last .5 mill of the annual tax, every natural person is entitled each year to an exemption of the first \$100,000 of the value of property otherwise subject to said tax. A husband and wife filing jointly shall have an exemption of \$200,000.

Agents and fiduciaries, other than guardians and custodians under a gifts-to-minors act, filing as such may not claim this exemption on behalf of their principals or beneficiaries; however, if the principal or beneficiary returns the property held by the agent or fiduciary and is a natural person, the principal or beneficiary may claim the exemption. No taxpayer shall be entitled to more than one exemption under paragraph (a) and one exemption under paragraph (b). This exemption shall not apply to that intangible personal property described in s. 199.023(1)(d).

(4) Charitable trusts, 95 percent of the income of which is paid to organizations exempt from federal income tax pursuant to s. 501(c)3 of the Internal Revenue Code, shall be exempt from 1 .5 mill of the tax imposed in s. 199.032.

(5) *Every bank and savings association, as defined in s. 220.62, is exempt from .5 mill of the tax imposed by s. 199.032.*

Section 3. Effective December 31, 1992, subsection (3) of section 199.292, Florida Statutes, is amended to read:

199.292 Disposition of intangible personal property taxes.—All intangible personal property taxes collected pursuant to this chapter shall be placed in a special fund designated as the "Intangible Tax Trust Fund." The fund shall be disbursed as follows:

(3) An amount equal to 33.5 41.3 percent of the remaining intangible personal property taxes collected shall be transferred to the Revenue Sharing Trust Fund for Counties. An amount equal to 66 5 58.7 percent of the remaining taxes collected shall be transferred to the General Revenue Fund of the state.

Section 4. 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, "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 5. 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 6. Effective August 1, 1992, subsection (3) of section 201.022, Florida Statutes, is renumbered as subsection (4), and a new subsection (3) is added to said section to read:

201.022 Consideration for realty; filing of return condition precedent to recordation; penalty; *compensation of clerks*; 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 is required to execute and file the return with the department. The clerk shall be compensated 1.0 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 by the department. However, no deduction or allowance shall be granted when there is a manifest failure to maintain proper records or make proper reports. The compensation provided herein shall be in addition to that provided in s. 201.11(2).*

Section 7. 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:

(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 ~~an the operator who fails for failing~~ to properly obtain and display the required notice on any machine. A penalty of \$250 is imposed on ~~an 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 8. Effective October 1, 1992, subsection (2) of section 213.053, Florida Statutes, as amended by chapter 92-138, Laws of Florida, is amended, and subsections (16) and (17) are added to said 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 9. 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 10. 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 publica-

tion 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.e. *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 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 11. Effective September 1, 1992, paragraph (t) of subsection (7) of section 212.08, Florida Statutes, 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 dock-

age 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~~ *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 war-

ranty work.

Section 12. Effective September 1, 1992, subsection (12) is added to section 212.06, Florida Statutes, as amended by chapter 92-168, 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 13. (1) Effective August 1, 1992, paragraph (e) 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:

(e)1. At the rate of 6 percent on charges for:

a. All telegraph messages and long distance telephone calls beginning and terminating in this state, ~~on charges for~~ telecommunication service as defined in s. 203.012, and ~~for~~ those services described in s. 203.012(2)(a), *except that the tax rate for charges for telecommunication service is 7 percent.*

b. ~~on all charges for~~ Any television system program service.;

c. ~~on all charges for~~ The installation of telecommunication and telegraphic equipment.;

d. ~~and on all charges for~~ Electrical power or energy, *except that the tax rate for charges for electrical power or energy is 7 percent.*

2. For purposes of this part, "television system program service" means the transmitting, by any means, of any audio or video signal to a subscriber for other than retransmission, or the installing, connecting, reconnecting, disconnecting, moving, or changing of any equipment related to such service. For purposes of this part, the term "telecommunication service" does not include local service provided through a pay telephone. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, shall be equally applicable to any tax paid under the provisions of this section on charges for telecommunication or telegraph services or electric power subsequently found to be uncollectible. The word "charges" in this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of the state, or any municipality upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

3.2. Telegraph messages and telecommunication services which originate or terminate in this state, other than interstate private communication services, and are billed to a customer, telephone number, or device located within this state are taxable under this paragraph. Interstate private communication services are taxable under this paragraph as follows:

a. One hundred percent of the charge imposed at each channel termination point within this state;

b. One hundred percent of the charge imposed for the total channel mileage between each channel termination point within this state; and

c. The portion of the interstate interoffice channel mileage charge as determined by multiplying said charge times a fraction, the numerator of which is the air miles between the last channel termination point in this state and the vertical and horizontal coordinates, 7856 and 1756, respectively, and the denominator of which is the air miles between the last channel termination point in this state and the first channel termination point outside this state. The denominator of this fraction shall be

adjusted, if necessary, by adding the numerator of said fraction to similarly determined air miles in the state in which the other channel termination point is located, so that the summation of the apportionment factor for this state and the apportionment factor for the other state is not greater than one, to ensure that no more than 100 percent of the interstate interoffice channel mileage charge can be taxed by this state and another state.

4.3. The tax imposed pursuant to this paragraph shall not exceed \$50,000 per calendar year on charges to any person for interstate telecommunications services defined in s. 203.012(4) and (7)(b), if the majority of such services used by such person are for communications originating outside of this state and terminating in this state. This exemption shall only be granted to holders of a direct pay permit issued pursuant to this subparagraph. No refunds shall be given for taxes paid prior to receiving a direct pay permit. Upon application, the department may issue a direct pay permit to the purchaser of telecommunications services authorizing such purchaser to pay tax on such services directly to the department. Any vendor furnishing telecommunications services to the holder of a valid direct pay permit shall be relieved of the obligation to collect and remit the tax on such service. Tax payments and returns pursuant to a direct pay permit shall be monthly. For purposes of this subparagraph, the term "person" shall be limited to a single legal entity and shall not be construed as meaning a group or combination of affiliated entities or entities controlled by one person or group of persons. For purposes of this subparagraph, for calendar year 1986, the term "calendar year" means the last 6 months of 1986.

(2) With respect to charges for telecommunication service and for electric power and energy which are regularly billed on a monthly cycle, the changes in the sales tax rate provided for in this section apply to any bill dated on or after August 1, 1992.

Section 14. Effective August 1, 1992, subsections (1) and (11) of section 212.12, Florida Statutes, are 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, ~~no the 2.5 percent allowance shall be allowed 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.

(a) The collection allowance may not be granted, nor may any deduction be permitted, if the tax is delinquent at the time of payment.

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

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

2. The department shall adopt rules requiring such information as it may deem necessary to ensure that the tax levied hereunder is properly collected, reviewed, compiled, and enforced, including, but not limited to: the amount of gross sales; the amount of taxable sales; the amount of tax collected or due; the amount of lawful refunds, deductions, or credits claimed; the amount claimed as the dealer's collection allowance; the amount of penalty and interest; the amount due with the return; and such other information as the Department of Revenue may specify. The department shall require that transient rentals and agricultural equipment transactions be separately shown. 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.

(c) The collection allowance and other credits or deductions provided in this part shall be applied proportionally to any taxes or fees reported on the same documents used for the sales and use tax.

(11) The department is authorized to provide by rule the tax amounts and brackets applicable to all taxable transactions that occur in counties that have a surtax at a rate other than 1 percent which transactions would otherwise have been transactions taxable at the rate of 6 percent. Likewise, the department is authorized to promulgate by rule the tax amounts and brackets applicable to transactions taxable at 3 percent pursuant to s. 212.08(3), transactions taxable at 7 percent pursuant to s. 212.05(1)(e), and on transactions which would otherwise have been so taxable in counties which have adopted a discretionary sales surtax.

Section 15. Effective August 1, 1992, subsection (5) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(5) All of the provisions of this chapter relating to collection, investigation, discovery, and aids to collection of taxes upon sales of tangible personal property shall likewise apply to all privileges described or referred to in this section, and the obligations imposed in this chapter upon retailers are hereby imposed upon the seller of such admissions. When tickets or admissions are sold and not used but returned and credited by the seller, the seller may apply to the department for a credit allowance for such returned tickets or admissions if advance payments have been made by the buyer and have been returned by the seller, upon such form and in such manner as the department may from time to time prescribe. The department may, upon obtaining satisfactory proof of the refunds on the part of the seller, credit the seller for taxes paid upon admissions that have been returned unused to the purchaser of those admissions. The seller of admissions, upon the payment of the taxes before they become delinquent and the rendering of the returns in accordance with the requirement of the department and as provided in this law, shall be entitled to a discount of 2.5 percent of the amount of taxes upon the payment thereof before such taxes become delinquent, in the same manner as permitted the sellers of tangible personal property in this chapter. However, if the amount of the tax due and remitted to the department for the reporting period exceeds \$1,200, ~~no the 2.5 percent discount shall be allowed reduced to 0.83 percent~~ for all amounts in excess of \$1,200.

Section 16. Effective September 1, 1992, paragraphs (k) and (l) are 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 all:

1. Detective, burglar protection, and other protection services (SIC Industry Numbers 7381 and 7382).

2. Nonresidential cleaning and nonresidential pest control services (SIC Industry Group Number 734).

As used in this paragraph, "SIC" means those classifications contained in the Standard Industrial Classification Manual, 1987, as published by the Office of Management and Budget, Executive Office of the President.

(l)1. Notwithstanding any other provision of this part, there is hereby levied a tax on the sale, use, consumption, or storage for use in this state of any coin or currency, whether in circulation or not, when such coin or currency:

a. Is not legal tender;

b. If legal tender, is sold, exchanged, or traded at a rate in excess of its face value; or

c. Is sold, exchanged, or traded at a rate based on its precious metal content.

2. Such tax shall be at a rate of 6 percent of the price at which the coin or currency is sold, exchanged, or traded, except that, with respect to a coin or currency which is legal tender of the United States and which is sold, exchanged, or traded at a rate in excess of its face value, the tax shall be at a rate of 6 percent of the difference between the price at which it is sold, exchanged, or traded and its face value.

3. There is exempt from this tax exchanges of coins or currency which are in general circulation in, and legal tender of, one nation for coins or currency which are in general circulation in, and legal tender of, another nation when exchanged solely for use as legal tender and at an exchange rate based on the relative value of each as a medium of exchange.

Section 17. Effective September 1, 1992, paragraph (v) of subsection (7) of section 212.08, Florida Statutes, 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.—

(v) Professional services.—

1. Also exempted are professional, insurance, or personal service transactions that involve sales as inconsequential elements for which no separate charges are made.

2. The personal service transactions exempted pursuant to subparagraph 1. do not exempt the sale of information services involving the furnishing of printed, mimeographed, or multigraphed matter, or matter duplicating written or printed matter in any other manner, other than professional services and services of employees, agents, or other persons acting in a representative or fiduciary capacity or information services furnished to newspapers and radio and television stations. As used in this subparagraph, the term "information services" includes the services of collecting, compiling, or analyzing information of any kind or nature and furnishing reports thereof to other persons.

3. This exemption does not apply to any service warranty transaction taxable under s. 212.0506.

4. This exemption does not apply to any service transaction taxable under s. 212.05(1)(k).

Section 18. Effective October 1, 1992, paragraph (g) 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:

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this part shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., ~~9.664~~ ~~9.888~~ percent for the remaining months of fiscal year 1992-1993, and 9.653 percent thereafter, of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. Beginning July 1, 1992, of the remaining proceeds, \$166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" pursuant to s. 288.1162 and \$41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years.

5. All other proceeds shall remain with the General Revenue Fund.

Section 19. When a service that is taxable beginning September 1, 1992, is provided prior to that date, it shall not be taxed, notwithstanding that compensation for the service is paid or payable on or after that date. When a service that is taxable beginning September 1, 1992, is provided on or after that date, the service shall be taxed, unless it was prepaid in full prior to July 1, 1992. When a service that is taxable beginning on September 1, 1992, is provided over a period of time beginning prior to that date and ending after that date, the service shall be taxed only upon that portion of the service provided on or after September 1, 1992.

Section 20. (1) Notwithstanding the provisions of section 212.08(5)(i)1. and (15)(e), Florida Statutes, relating to the requirements for eligibility for sales tax exemptions, business property purchased for use by a business located in an enterprise zone and charges for electrical energy used by a qualified business at a fixed location in an enterprise zone in a county the government of which is consolidated with that of one or more municipalities shall be exempt from the tax imposed by chapter 212, Florida Statutes, if no less than 20 percent of the permanent employees of the business are currently, or were at the time of hiring, residents of an enterprise zone. All other requirements of section 212.08(5)(i)1. and (15)(e), Florida Statutes, shall apply to such businesses.

(2) Notwithstanding the provisions of section 220.182(10), Florida Statutes, for a business located in an enterprise zone in a county the government of which is consolidated with that of one or more municipalities, to be eligible for the credit, no less than 20 percent of its permanent employees must currently be residents of the enterprise zone, or must have been at the time of hiring residents of the enterprise zone. For such businesses, the statement required by section 220.182(10), Florida Statutes, must set forth, for each permanent employee who is not currently a resident of the enterprise zone, but who was a resident of the zone at the time of hiring, the place of residence of that employee at the time of hiring. All other requirements of section 220.182(10), Florida Statutes, shall apply to such businesses.

(3) This section shall take effect September 1, 1992.

Section 21. Effective upon this act becoming a law, subsection (5) of section 290.0055, Florida Statutes, is amended to read:

290.0055 Local authorization of enterprise zones after January 1, 1986; requirements; application for state approval; change of boundaries.—

(5) The total population of all areas authorized to be enterprise zones in a county defined in s. 125.011(1) may not exceed the greater of 10 percent of the total population of such county or the percentage of the total population of such county which is equal to the percentage, plus 2 percent, of families with incomes below the poverty level in such county. The

population of a county, other than a county defined in s. 125.011(1), shall be the unincorporated area population of such county.

Section 22. 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:

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

(b) "Nursing home facility" 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) There is hereby 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 pursuant to 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 which is subject to an assessment under this section or is liable for payment as a result of the imposition of a fine or penalty pursuant to the provisions of chapter 408, transfers its interest in or terminates its relationship with a facility subject to the agency's jurisdiction, within 15 days of such event it shall make payment in full of all assessments, fines, or penalties which 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 23. Section 400.34, Florida Statutes, is repealed on May 1, 1993, and shall be reviewed by the Legislature prior to that date.

Section 24. Section 607.193, Florida Statutes, is created to read:

607.193 Supplemental corporate fee.—

(1) In addition to any other taxes imposed by law, an annual supplemental corporate fee of \$138.75 is imposed on each business entity that is authorized to transact business in this state and is required to file an annual report with the Department of State under s. 607.1622, s. 608.452, s. 617.1622, or s. 620.177.

(2) This section does not apply to a nonprofit corporation that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

(3)(a) The business entity shall remit the supplemental corporate fee to the Department of State at the time it files the annual report required by s. 607.1622, s. 608.452, s. 617.1622, or s. 620.177.

(b) In addition to the fees levied under ss. 607.0122, 608.452, and 620.182 and the supplemental corporate fee, a late charge of \$25 shall be imposed if the supplemental corporate fee is remitted after May 1.

(4) The Department of State shall adopt rules and prescribe forms necessary to carry out the purposes of this section. Notwithstanding s. 607.1901, proceeds from the supplemental corporate fee, including any late charges, shall be deposited into the General Revenue Fund.

Section 25. Subsection (25) of section 607.0122, Florida Statutes, is renumbered as subsection (26), and a new subsection (25) is added to said section to read:

607.0122 Fees for filing documents and issuing certificates.—The Department of State shall collect the following fees when the documents described in this section are delivered to the department for filing:

(25) *Supplemental corporate fee: \$138.75.*

Section 26. Subsections (2) and (5) of section 607.1622, Florida Statutes, are amended to read:

607.1622 Annual report for Department of State.—

(2) Proof to the satisfaction of the Department of State that on or before *May 1 July-1* such report was deposited in the United States mail in a sealed envelope, properly addressed with postage prepaid, shall be deemed compliance with this requirement.

(5) The first annual report must be delivered to the Department of State between January 1 and *May 1 July-1* of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports must be delivered to the Department of State between January 1 and *May 1 July-1* of the subsequent calendar years.

Section 27. Subsection (6) of section 608.452, Florida Statutes, is amended, and subsection (7) is added to said section, to read:

608.452 Fees for filing documents and issuing certificates.—The Department of State shall charge and collect:

(6) For an annual report, a fee of \$87.50, due and payable January 2 of each year. This fee is delinquent if not paid by *May 1 July-1*, and an addition to the fee of \$87.50 shall then be due.

(7) *A supplemental corporate fee imposed pursuant to s. 607.193.*

Section 28. Subsections (2) and (5) of section 617.1622, Florida Statutes, are amended to read:

617.1622 Annual report for Department of State.—

(2) The deposit of such report, on or before *May 1 July-1*, in the United States mail in a sealed envelope, properly addressed with postage prepaid, constitutes compliance with subsection (1).

(5) The first annual report must be delivered to the Department of State between January 1 and *May 1 July-1* of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to conduct affairs. Subsequent annual reports must be delivered to the Department of State between January 1 and *May 1 July-1* of the subsequent calendar years.

Section 29. Subsection (11) is added to section 620.182, Florida Statutes, to read:

620.182 Fees of the Department of State.—The fees of the Department of State under this act are as follows:

(11) *A supplemental corporate fee imposed pursuant to s. 607.193.*

Section 30. Paragraphs (a), (b), and (d) of subsection (2) of section 717.117, Florida Statutes, as amended by chapter 92-169, Laws of Flor-

ida, are amended to read:

717.117 Report of abandoned property.—

(2) The report shall be verified. Verification of a private corporation or unincorporated association shall be made by an officer; of a partnership, by a partner; and of a public corporation, by its chief fiscal officer. The report must include:

(a) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of a value of \$500 \$50 or more presumed abandoned under this chapter.

(b) In the case of unclaimed funds of \$500 \$50 or more held or owing under any life or endowment insurance policy or annuity contract, the full name and last known address of the insured or annuitant and of the beneficiary according to records of the insurance company holding or owing the funds.

(d) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, but items of value under \$500 \$50 each may be reported in the aggregate.

Section 31. Subsection (3) of section 717.118, Florida Statutes, is amended to read:

717.118 Notice and publication of lists of abandoned property.—

(3) The department *shall* is not ~~required to~~ publish in the notice any items of less than \$500 \$50 ~~unless the department deems their publication to be in the public interest.~~

Section 32. 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 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 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 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 33. 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 34. 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 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 35. Task Force for Review of Sales and Use Tax on Goods and Services.—

(1) There is created within the Executive Office of the Governor the Task Force for Review of Sales and Use Tax on Goods and Services. The task force shall be composed of seven members, three to be appointed by the Governor and two each to be appointed by the President of the Senate and the Speaker of the House of Representatives.

(2) The task force members shall be appointed by July 15, 1992. Each member shall serve at the pleasure of the person who appoints him until the adjournment sine die of the regular legislative session held in 1993. Any vacancy shall be filled for the unexpired term by appointment by the person who made the original appointment.

(3) The task force shall elect one of its members as chairman.

(4) The members of the task force shall serve without compensation, but shall be reimbursed for per diem and travel expenses while engaged in task force duties, as provided in s. 112.061, Florida Statutes.

(5) The task force shall:

(a) Review all sales and use tax exemptions. For purposes of this section, "exemptions" means transactions or uses specifically exempted from the sales and use tax and transactions or uses not specifically taxed.

(b) Recommend to the Legislature which exemptions should be retained and which should be repealed in accordance with the criteria specified in subsection (6).

(c) Submit to the Legislature a preliminary and a final report as provided in this section.

(6)(a) No exemption shall be recommended for retention unless the preponderance of factual evidence indicates the exemption clearly and demonstrably satisfies the following criteria, if applicable:

1. The exemption is required by the United States Constitution, federal law, or the Florida Constitution.
2. The exemption supports other significant statutory goals set forth in Florida law.
3. The exemption provides a documented incentive necessary to sustain quality job formation and high value-added economic activity in the affected industry, group, or activity.
4. The exemption is necessary to ensure that tax parity exists among similarly situated commercial activities.
5. The exemption does not place small firms at a significant competitive disadvantage.
6. The exemption does not impose excessive administrative costs on the public or private sector.
7. The exemption will not contribute materially to the size of the annual uncollected tax liability or "tax gap."
8. The exemption will significantly enhance efficiency in the delivery of public goods and services.

(b) Additionally, the exemptions recommended for retention shall, as a whole, clearly and demonstrably satisfy the following criteria:

1. Recognize the limited options available under the constraints imposed by Article VII of the State Constitution.
2. Ensure that the social benefits accrued through retention of the exemptions are greater than the social benefits which would have been realized through collection of the forgone tax revenues.
3. Ensure that retention of the exemptions does not materially diminish the long-term ability of Florida's revenue structure to reflect economic growth.

(7) The Governor, the President of the Senate, and the Speaker of the House of Representatives may submit to the task force, no later than December 15, 1992, a list of sales and use tax exemptions which should be repealed and related provisions which should be addressed. The task force shall evaluate this list and related provisions and include the results of its evaluation in its preliminary and final reports.

(8) The task force may procure information and assistance from any officer or agency of the state or any subdivision thereof. All such officers and agencies shall give the task force all relevant information and reasonable assistance on any matters of research within their knowledge and control.

(9) The task force may appoint an executive director, who shall serve at the pleasure of the task force. The task force shall appoint such additional personnel, including, but not limited to, faculty members of state

universities which have law schools or business schools, as are necessary for its work, or may delegate its authority to make such appointments to the executive director. The task force shall fix the compensation of the executive director and of all other persons within the amount appropriated for the task force. The provisions of chapter 110, Florida Statutes, shall not apply to personnel of the task force.

(10) The task force may procure temporary and intermittent professional services and render compensation therefor within the amount appropriated for the work of the task force. It may also contract for services with colleges, universities, schools of law, schools of business, or other research institutions or individuals and may cooperate generally with any association, institution, foundation, or corporation.

(11) The task force shall submit a preliminary report to the Speaker of the House of Representatives and the President of the Senate no later than January 15, 1993. The final report of the task force shall be in the form of proposed legislation which embodies the recommendations of the task force, and may also include any other information or recommendations which the task force deems appropriate. The proposed legislation shall be prepared by the Joint Legislative Management Committee for the task force no later than February 1, 1993. The final report shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than February 15, 1993.

(12) The proposed legislation which constitutes the final report of the task force shall be filed by the chairman of the Joint Legislative Management Committee and shall first be considered by the House of Representatives in accordance with its rules as if it were the report of a conference committee. If passed by the House of Representatives, it shall be considered by the Senate in accordance with its rules, as if it were the report of a conference committee. Nothing in this section shall be construed as a waiver of the constitutional requirement that each bill be read on three separate days.

Section 36. (1) In fiscal year 1993-1994, 50 percent of all revenues estimated to be raised for the state by the adoption of the report of the Task Force for Review of Sales and Use Tax on Goods and Services shall be used to reduce the millage rate imposed on property qualified for the homestead exemption pursuant to s. 6, Art. VII of the State Constitution which is required by s. 236.081(4)(a)1., Florida Statutes, to be levied for school purposes by school districts. However, the maximum reduction in such millage pursuant to this section shall not exceed 60 percent of the millage so required to be levied on the 1992 assessment roll.

(2) This section shall take effect on the effective date of an amendment to the State Constitution which allows homestead property to be taxed at a lower rate than other property.

Section 37. The Legislature hereby finds that the failure to promptly implement the provisions of this act would present an immediate threat to the welfare of the state because revenues needed for operation of the state would not be collected. Therefore, the executive director of the Department of Revenue is hereby authorized to adopt emergency rules pursuant to section 120.54(9), Florida Statutes, for purposes of implementing this act. Notwithstanding any other provision of law, such emergency rules shall remain effective for 6 months from the date of adoption. Other rules of the Department of Revenue related to and in furtherance of the orderly implementation of this act shall not be subject to a rule challenge pursuant to section 120.54(4), Florida Statutes, or a drawout proceeding pursuant to section 120.54(17), Florida Statutes, but, once adopted, shall be subject to an invalidity challenge pursuant to section 120.56, Florida Statutes. Such rules shall be adopted by the Governor and Cabinet and shall become effective upon filing with the Department of State, notwithstanding the provisions of section 120.54(13), Florida Statutes. This section shall take effect upon this act becoming a law.

Section 38. To expedite the acquisition of goods and services for implementing the provisions of this act, the Department of Revenue is exempt from the provisions of chapter 287, Florida Statutes, when contracting for the purchase or lease of goods or services for such purposes. This section shall take effect upon this act becoming a law and shall expire June 1, 1993.

Section 39. 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 40. Except as otherwise provided herein, this act shall take effect July 1, 1992, or upon this act 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 financial matters; amending s. 199.032, F.S.; increasing the rate of the annual intangible personal property tax; amending s. 199.185, F.S.; revising the amount of exemptions from the annual tax and providing an exemption for banks and savings associations; amending s. 199.292, F.S.; revising the disposition of such taxes; creating s. 199.106, F.S.; providing a credit 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., relating to sales from vending machines; 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. 213.053, F.S.; authorizing the department to disclose certain confidential information to specified persons; amending s. 212.02, F.S.; defining "sea trial"; amending s. 212.05, F.S.; revising requirements and conditions relating to the sales 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 sales 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. 212.05, F.S.; increasing the rate of sales tax imposed on charges for telecommunication service and electric power; providing for application of the rate increases; amending ss. 212.04 and 212.12, F.S.; authorizing the Department of Revenue to adopt additional tax brackets; revising the dealer's credit for collecting the tax on sales, use, and other transactions; amending s. 212.05, F.S.; providing for application of the sales tax to certain services; providing for application of the sales tax to the sale, use, consumption, or storage of certain coins and currency; amending s. 212.08, F.S.; providing that specified services are not exempt from the tax; amending s. 212.20, F.S.; revising distribution of sales tax proceeds; providing transitional provisions; revising qualifications for the sales tax exemptions for business property and electrical energy used in an enterprise zone in certain counties; revising qualifications for the enterprise zone property tax credit against the corporate income tax for certain counties; amending s. 290.0055, F.S.; revising the calculation for the determination of the total population of all areas authorized to be enterprise zones in certain counties; creating s. 400.34, F.S.; imposing an assessment on nursing home facilities; providing definitions, exemptions, and fines; providing for the responsibility when ownership is transferred; providing for review and repeal; creating s. 607.193, F.S.; imposing a supplemental corporate fee on business entities required to file an annual report with the Department of State; providing an exemption; providing requirements for remitting the fees; providing a late charge; providing rulemaking authority; providing for deposit of fee proceeds into the General Revenue Fund; amending ss. 607.0122, 607.1622, 608.452, 617.1622, and 620.182, F.S., relating to corporate filing fees, to conform; revising the due date for annual reports and fees; amending ss. 717.117 and 717.118, F.S.; revising report requirements for, and contents of, reports of abandoned property; 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. 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; 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; creating the Task Force for Review of Sales and Use Tax on Goods and Services;

providing for appointment of members; providing for compensation; providing powers and duties of the task force; providing for assistance of state agencies; providing for personnel and compensation thereof; providing for a preliminary and final report; providing for consideration of the final report by the Legislature; providing for use of revenues raised by adoption of the report of the task force to reduce required local effort school millage on homestead property in fiscal year 1993-1994; providing for emergency rules; specifying administrative provisions applicable to other implementing rules; exempting the department from provisions regulating the procurement of property and services for a specified period; providing effective dates.

Senators Langley, Yancey and Gordon offered the following amendment which was moved by Senator Langley and adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1—On page 40, line 21 through page 45, line 2, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 50, strike all of lines 7-20 and insert: providing for expiration; providing for emergency rules;

Senator Dudley moved the following amendment which was adopted:

Senate Amendment 2 (with Title Amendment) to House Amendment 1—On page 24, strike all of lines 1-3 and insert:

Section 15. Effective August 1, 1992, paragraph (a) of subsection (2) and subsection (5) 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.

And the title is amended as follows:

In title, on page 48, line 10, after the semicolon (;) insert: providing an exemption from certain taxes for museums and historic buildings owned by any political subdivision of the state;

On motion by Senator Jenne, 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 26-H passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—21 Nays—15

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has amended Senate Amendment 1 to House Amendment 1; concurred in same as amended; has passed as amended 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) to Senate Amendment 1 to House Amendment 1—On page 1, line 2, after "Section 35." strike everything through page 3, line 4, and insert:

Subsection (3) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(3) A taxpayer's liability for any tax or interest specified in s. 72.011(1) may be compromised by the department upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) may be settled or compromised if it is determined by the department that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. *In addition, a taxpayer's liability for penalties under any of the chapters specified in s. 72.011(1) in excess of 25 percent of the tax shall be settled or compromised if the department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud.* The department shall maintain records of all compromises, and the records shall state the basis for the compromise. The records of compromise shall not be subject to disclosure pursuant to s. 119.07(1) and shall be considered confidential information governed by the provisions of s. 213.053. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 36. Effective July 1, 1993, subsections (4) and (5) of section 24.121, Florida Statutes, are amended, and subsections (6) and (7) are added to said section, to read:

24.121 Allocation of revenues and expenditure of funds for public education.—

(4) The unencumbered balance which remains in the Administrative Trust Fund at the end of each fiscal year shall be transferred to the Educational Enhancement Trust Fund *to be used for the purposes set forth in subsection (7).*

(5)(a) Public educational programs and purposes funded by the Educational Enhancement Trust Fund may include, but are not limited to, endowment, scholarship, matching funds, direct grants, research and economic development related to education, salary enhancement, contracts with independent institutions to conduct programs consistent with the state master plan for postsecondary education, or any other educational program or purpose deemed desirable by the Legislature.

(b) Except as provided in paragraphs (c) and (d), the Legislature shall equitably apportion moneys in the trust fund among public schools, community colleges, and universities *as follows:*

1. *Seventy percent to public schools.*
2. *Fifteen percent to community colleges.*
3. *Fifteen percent to the State University System.*

(c) A portion of such net revenues, as determined annually by the Legislature, shall be distributed to each school district and shall be made available to each public school in the district for enhancing school performance through development and implementation of a school improvement plan pursuant to s. 230.23(18).

(d) Beginning July 1, 1993, no funds shall be released for any purpose from the Educational Enhancement Trust Fund to any school district in which one or more schools do not have an approved school improvement plan pursuant to s. 230.23(18).

(6) *Beginning with the 1993-1994 fiscal year and each fiscal year thereafter for 3 years, through the 1996-1997 fiscal year, the sum of \$50 million of lottery funds, must be freed up and replaced with state general revenue funds. The general revenue used to buy back lottery funds shall be allocated to the base continuation program appropriation for school districts, community colleges, and the State University System in the same ratio as funds from the Educational Enhancement Trust Fund are allocated: 70 percent (\$35,000,000) for school districts; 15 percent (\$7,500,000) for community colleges; and 15 percent (\$7,500,000) for the State University System.*

(7) *Funds from the Educational Enhancement Trust Fund freed up by the general revenue buy-back to enhance student learning pursuant to subsection (6) and the unencumbered funds transferred from the Administrative Trust Fund pursuant to subsection (4) shall be expended for nonrecurring purposes and shall be allocated as follows:*

(a) *The funds for school districts shall be allocated by the district school board to each school in the district. The teachers and parents of each school may determine the most effective use of these funds to increase student learning and to achieve the goals and objectives of the school's improvement plan as required under the Education Accountability Act. The school board shall consider the recommendations of the school advisory council established by s. 229.58 prior to approving a budget for the school's enhancement lottery funds.*

(b) *The Legislature shall identify annually in the General Appropriations Act the amount of funds to be allocated to each school per FTE student. This calculation shall be based on the statewide FTE enrollment used to calculate the FEFPP appropriation and the total amount of lottery funds freed up by the general revenue buy-back of lottery funds.*

(c) *The funds for community colleges shall be prorated among the community colleges in the same proportion as their FTE enrollment. The enrollment used for this allocation shall be the same as the enrollment used to allocate the community college program fund. Each community college shall use these funds to achieve the goals and objectives of the community college accountability plan. Provisions for input by faculty and students in the use of these funds shall be provided by each community college. The State Board of Community Colleges shall monitor this process and provide assistance and guidance to the institutions.*

(d) *The funds for the State University System shall be prorated among the state universities in the same proportion as their assigned FTE enrollment. The enrollment used for this allocation shall be the same as the assigned enrollment used to provide annual appropriations.*

Each university shall use these funds to achieve the goals and objectives of the state university accountability plan. Provisions for input by faculty and students in the use of these funds shall be provided by each state university. The Board of Regents shall monitor this process and provide assistance and guidance to the institutions. Distribution and use of such funds as recommended by each university shall be reviewed and approved by the Board of Regents.

Section 37. Effective July 1, 1993, paragraph (g) 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:

(g) The proceeds of all other taxes and fees imposed pursuant to this part shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5 percent of all other taxes and fees imposed pursuant to this part shall be deposited in monthly installments into the General Revenue Fund.

2. Two-tenths of one percent shall be transferred to the Solid Waste Management Trust Fund.

3. After the distribution under subparagraphs 1. and 2., 9.888 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund.

4. Beginning July 1, 1992, of the remaining proceeds, \$166,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "facility for a new professional sports franchise" pursuant to s. 288.1162 and \$41,667 shall be distributed monthly by the department to each applicant that has been certified by the Department of Commerce as a "new spring training franchise facility" pursuant to s. 288.1162. Distributions shall begin 60 days following such certification and shall continue for 30 years.

5. In fiscal year 1993-1994, and in each of the 3 fiscal years thereafter, \$50 million annually shall be transferred to the General Revenue Fund for the purpose of buying back lottery funds as provided in s. 24.121(6).

6.5. All other proceeds shall remain with the General Revenue Fund.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 34, line 16, strike all of said line and insert: An act relating to financial matters; amending s. 213.21, F.S.; requiring compromise or settlement of penalties under certain circumstances; amending s. 24.121, F.S.; revising provisions relating to the allocation of revenues and expenditure of funds in the Educational Enhancement Trust Fund; amending s. 212.20, F.S.; providing for transfer of a portion of sales tax revenues to the Educational Enhancement Trust Fund for a specified period; requiring the

On motion by Senator Johnson, the rules were waived and the following amendment was adopted:

Senate Amendment 1 (with Title Amendment) to House Amendment 1 to Senate Amendment 1 to House Amendment 1—On page 2, line 7 through page 6, line 14, strike all of said lines

And the title is amended as follows:

In title, on page 6, line 27 through page 7, line 2, strike all of said lines and insert: certain circumstances; requiring the

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—37 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 4-8 and 10 to House Amendment 1; has refused to concur in Senate Amendment 9 to House Amendment 1 and requests the Senate to recede; has passed as further amended SB 80-H and requests the Senate to concur.

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; revising 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.

On motion by Senator Johnson, by two-thirds vote, the Senate reconsidered the vote by which the Senate concurred in **House Amendment 1** as amended on June 29.

On motion by Senator Johnson, the Senate receded from **Senate Amendment 9** to **House Amendment 1**.

On motion by Senator Johnson, the Senate concurred in **House Amendment 1** as amended.

SB 80-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—33 Nays—1

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 278-H and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 278-H—A bill to be entitled An act making appropriations; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

House Amendment 1—In Section 01, strike:

Specific Appropriation No.	Positions	Amount
350A Lump Sum	280	
Phase-in Additional Facilities		
From General Revenue Fund		6,835,620

Funds in Specific Appropriation 350A are provided for the death row unit at Union Correctional Institution and the mental health unit at Zephyrhills Correctional Institution.

\$4,566,868 of Specific Appropriation 350A is contingent upon Senate Bill 68-H, the Tax Amnesty Bill, or similar legislation on tax amnesty becoming law.

strike:

1146 Lump Sum		
Public Defenders		
From General Revenue Fund		1,199,346

The funds in Specific Appropriation 1146 are contingent upon Senate Bill 68-H, the Tax Amnesty Bill, or similar legislation on tax amnesty becoming law.

1147 Lump Sum		
State Attorneys		
From General Revenue Fund		2,185,155

The funds in Specific Appropriation 1147 are contingent upon Senate Bill 68-H, the Tax Amnesty Bill, or similar legislation becoming law.

and insert:

350A Lump Sum	280	
Open Prisons		
From General Revenue Fund		10,220,121

From the funds provided in Specific Appropriation 350A, all of the 3,308 beds in newly constructed correctional facilities shall open in 1992-93.

\$7,951,369 of Specific Appropriation 350A is contingent upon the passage of Senate Bill 68-H, or similar legislation becoming law.

In Section 01, strike:

517 Aid to Local Governments		
Grants and Aids - District		
Discretionary Lottery Funds		
From Educational Enhancement		
Trust Fund		522,857,645

From the funds appropriated in Specific Appropriation 517, \$17,430,000 are contingent upon House Bill 247-H or similar legislation becoming law.

Funds appropriated in Specific Appropriation 517 are provided as enhancement funds for school districts and shall be allocated by multiplying each district's weighted full-time-equivalent (FTE) student enrollment times \$175.75 and times the district cost differential (DCD) and by prorating district entitlements to the amount of the appropriation.

540 Aid to Local Governments		
Grants and Aids - Community		
College Lottery Funds		
From Educational Enhancement		
Trust Fund		125,385,000

Funds provided in Specific Appropriation 540 shall be allocated as follows:

Brevard	5,956,778
Broward	8,384,347
Central Florida	2,080,872
Chipola	1,021,630
Daytona Beach	5,782,403
Edison	2,908,297
Florida CC at Jacksonville	11,498,475
Florida Keys	616,808
Gulf Coast	2,010,438
Hillsborough	6,462,806

Indian River	4,624,691
Lake City	1,401,836
Lake-Sumter	723,484
Manatee	3,068,312
Miami-Dade	21,840,602
North Florida	650,999
Okaloosa-Walton	2,182,761
Palm Beach	5,754,366
Pasco-Hernando	1,942,739
Pensacola	5,070,543
Polk	2,154,725
St. Johns	1,198,057
St. Petersburg	7,023,541
Santa Fe	4,769,662
Seminole	4,243,118
South Florida	1,811,446
Tallahassee	3,453,988
Valencia	6,747,276

From the funds appropriated in Specific Appropriation 540, \$3,735,000 is contingent upon House Bill 247-H or similar legislation becoming law.

569 Lump Sum	236	
State University System		
Lottery Funds		
From Educational		
Enhancement Trust Fund		117,376,421

From the funds in Specific Appropriation 569, \$3,735,000 is contingent upon House Bill 247-H or similar legislation becoming law.

and insert:

517 Aid to Local Governments		
Grants and Aids - District		
Discretionary Lottery Funds		
From Educational Enhancement		
Trust Fund		505,427,645

Funds appropriated in Specific Appropriation 517 are provided as enhancement funds for school districts and shall be allocated by multiplying each district's weighted full-time-equivalent (FTE) student enrollment times \$169.89 and times the district cost differential (DCD) and by prorating district entitlements to the amount of the appropriation.

540 Aid to Local Governments		
Grants and Aids - Community		
College Lottery Funds		
From Educational Enhancement		
Trust Fund		121,650,000

Funds provided in Specific Appropriation 540 shall be allocated as follows:

Brevard	5,779,336
Broward	8,134,592
Central Florida	2,018,886
Chipola	991,198
Daytona Beach	5,610,155
Edison	2,821,664
Florida CC at Jacksonville	11,155,955
Florida Keys	598,434
Gulf Coast	1,950,551
Hillsborough	6,270,290
Indian River	4,486,930
Lake City	1,360,078
Lake Sumter	701,933
Manatee	2,976,912
Miami-Dade	21,190,010
North Florida	631,606
Okaloosa-Walton	2,117,741
Palm Beach	5,582,954
Pasco-Hernando	1,884,868
Pensacola	4,919,500
Polk	2,090,539
St. Johns	1,162,369
St. Petersburg	6,814,322

Santa Fe	4,627,582
Seminole	4,116,723
South Florida	1,757,486
Tallahassee	3,351,099
Valencia	6,546,287

569 Lump Sum	236
State University System Lottery Funds From Educational Enhancement Trust Fund	113,641,421

strike:

594 Special Categories Taxation and Budget Reform Commission From General Revenue Fund	192,837
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1278 Lump Sum JLMC From General Revenue Fund	20,670,225
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and insert:

594 Special Categories Taxation and Budget Reform Commission From General Revenue Fund	92,837
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1278 Lump Sum JLMC From General Revenue Fund	20,545,225
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and insert:

9 Lump Sum Task Force for Review of Sales Tax on Goods and Services From General Revenue Fund	225,000
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Funds in Specific Appropriation 9 are contingent upon passage of legislation creating a Task Force for Review of Sales Tax on Goods and Services and shall be transferred to the administering entity delineated in the legislation.

strike:

787 Special Categories Grants and Aids - Contracted Services From Grants and Donations Trust Fund	1,550,000
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(strike proviso immediately following the appropriation)

strike:

805 Special Categories Grants and Aids - Ounce of Prevention From General Revenue Fund	275,673
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855A Lump Sum Mental Health and Substance Abuse Services From General Revenue Fund	11,900,000
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(strike the section of proviso following the appropriation which states: Children's Mental Health Services \$1,000,000)

870A Lump Sum Institutional Services From General Revenue Fund	50 4,500,000
--	-----------------

(strike the section of proviso following the appropriation which states: Staffing for Mental Health Institutions - 50 positions \$2,000,000)

strike:

1019

(strike the second paragraph immediately following the appropriation which begins: The prior authorization component shall have some parameters...)

and insert:

787 Special Categories Grants and Aids - Contracted Services From Grants and Donations Trust Fund	1,500,000
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805 Special Categories Grants and Aids - Ounce of Prevention From General Revenue Fund	975,673
---	---------

From the funds in Specific Appropriation 805, \$700,000 is provided to match private contributions, on a dollar for dollar basis, for Ounce of Prevention projects.

and insert:

855A Lump Sum Mental Health and Substance Abuse Services From General Revenue Fund	11,700,000
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(add the following replacement proviso)

Children's Mental Health Services \$800,000

870A Lump Sum Institutional Services From General Revenue Fund	46 4,000,000
--	-----------------

(add the following replacement proviso)

Staffing for Mental Health Institutions - 46 positions \$1,500,000

1019 (add the following sentence:)

The criterion for requests for individual patient prior authorization decisions shall be cost-effectiveness.

In Section 8, strike:

Section 8. There is hereby appropriated \$7 million from the Working Capital Fund to the Florida Department of Commerce for the purpose of locating a United States Defense Department Finance and Accounting Service (DFAS) Center in the state. Of this amount, up to \$2 million may be used for planning activities designed to give Florida a competitive edge, with the remaining amount to be provided to the community selected by the United States Department of Defense (DoD) as a site for such center. This appropriation is for the purpose of assisting the community in meeting the federal requirements for selection and is contingent upon a Florida community being chosen as the location for a new DFAS Center.

In Section 8, insert:

Section 8. There is hereby appropriated \$5 million from the Working Capital Fund to the Florida Department of Commerce for the purpose of locating a United States Defense Department Finance and Accounting Service (DFAS) Center in the state. This amount shall be provided to the community selected by the United States Department of Defense (DoD) as a site for such center. This appropriation is for the purpose of assisting the community in meeting the federal requirements for selection and is contingent upon a Florida community being chosen as the location for a new DFAS Center.

In Section 2G, insert:

1815

From funds in Specific Appropriation 1815, \$2,000,000 may be utilized for planning activities designed to give Florida a competitive advantage

in its attempt to convince the United States Defense Department to locate a regional payroll office in the state.

In Section 2C, strike:

1732 Fixed Capital Outlay
State University System Projects
From Public Education Capital
Outlay and Debt Service Trust Fund 184,586,697

SUS - New Southwest
University (p) 1,000,000

and insert:

1732 Fixed Capital Outlay
State University System Projects
From Public Education Capital Outlay
and Debt Service Trust Fund 186,586,697

SUS - New Southwest
University (p) 3,000,000

In Section 2C, strike:

1735 Fixed Capital Outlay
Public School Health Facilities
From Public Education Capital
Outlay and Debt Service Trust Fund 14,600,000

and insert:

1735 Fixed Capital Outlay
Public School Health Facilities
From Public Education Capital Outlay
and Debt Service Trust Fund 12,600,000

In Section 01, strike:

293A Special Categories
Grants and Aids - Community
Development Corporation Grants
From Community Development Support
and Assistance Trust Fund 500,000

In Section 01, insert:

293A Special Categories
Grants and Aids - Community
Development Corporation Grants
From Community Development Support
and Assistance Trust Fund 800,000

In Section 01, strike:

254 Salaries and Benefits 141
From Economic Opportunity
Trust Fund 818,288

In Section 01, insert:

254 Salaries and Benefits 144
From Economic Opportunity
Trust Fund 893,288

In Section 2B, insert:

1657B Fixed Capital Outlay
Land Acquisition -
3rd Series P2000
From Florida Preservation
2000 Trust Fund 8,700,000

Funds in Specific Appropriation 1657B are contingent upon CS for CS for SB 94-H or similar legislation becoming law.

In Section 2B, insert:

1659 Fixed Capital Outlay
Land Acquisition -
3rd Series P2000
From Florida Preservation
2000 Trust Fund 30,000,000

Funds in Specific Appropriation 1659 are contingent upon CS for CS for SB 94-H or similar legislation becoming law.

In Section 2B, insert:

1672B Fixed Capital Outlay
Land Acquisition -
3rd Series P2000
From Florida Preservation
2000 Trust Fund 8,700,000

Funds in Specific Appropriation 1672B are contingent upon CS for CS for SB 94-H or similar legislation becoming law.

In Section 2B, insert:

1678A Fixed Capital Outlay
Land Acquisition -
3rd Series P2000
From Florida Preservation
2000 Trust Fund 150,000,000

Funds in Specific Appropriation 1678A are contingent upon CS for CS for SB 94-H or similar legislation becoming law.

In Section 2B, insert:

1684A Fixed Capital Outlay
Land Acquisition - 3rd
Series Preservation 2000
From Florida Preservation
2000 Trust Fund 8,700,000

1684B Fixed Capital Outlay
Acquisition Railroad Rights of Way
From Florida Preservation
2000 Trust Fund 3,900,000

Funds in Specific Appropriations 1684A and 1684B are contingent upon CS for CS for SB 94-H or similar legislation becoming law.

In Section 2G, insert:

1816C Aid to Water Management
Districts - Land Acquisition
From Florida Preservation
2000 Trust Fund 90,000,000

Funds in Specific Appropriation 1816C from the Florida Preservation 2000 Trust Fund are contingent upon CS for CS for SB 94-H or similar legislation becoming law.

In Section 01, strike:

1276 Lump Sum - House

(the proviso following Specific Appropriation 1276)

In Section 01, strike:

(Beneath the initial heading HEALTH AND REHABILITATIVE SERVICES, DEPARTMENT OF)

contingent on the Federal Government approving

and insert in its place:

(Beneath the initial heading HEALTH AND REHABILITATIVE SERVICES, DEPARTMENT OF)

provided for

In Section 01, insert:

989 Special Categories

Purchase of Services -
Child Support Enforcement

(insert in the last line of proviso following Specific Appropriation 989 after the word attorney:)

after October 1, 1992

In Section 1C, strike:

(In section 1C after the Heading OFFICE OF THE DEPUTY SECRETARY FOR HUMAN SERVICES)

strike the proviso referencing Specific Appropriation 787

In Section 01, insert:

798 Aid to Local Governments
Grants and Aids - Local Health Councils

The funding reductions of \$1,044,147 in Specific Appropriation 798 shall be implemented by the department implementing a merger on the respective staffs of the following local health councils in a manner consistent with the objectives of the Executive Director of the Agency for Health Care Administration:

Districts 1 and 2
Districts 3 and 4
Districts 5, 6 and 7
Districts 9 and 10
Districts 8 and 11

In Section 01, strike:

(In Section 01 after the Heading TRANSPORTATION, DEPARTMENT OF)

Funds in Specific Appropriations 1542 through 1619 from the State Transportation (Primary) Trust Fund for anticipated federal grant funds shall not be utilized to disburse state funds if the federal grants do not materialize.

From funds in Specific Appropriations 1542 through 1619, 52 positions and \$1,439,743 have been deleted. In order to provide the Secretary flexibility in reducing positions; to accommodate actual workload; and to accomplish this action with minimal program impact, the department may submit a plan to the Executive Office of the Governor requesting approval to redistribute positions and related appropriation authority. The Secretary shall, to the extent feasible, recommend position deletions in administrative functions.

and insert:

(In Section 01 after the Heading TRANSPORTATION, DEPARTMENT OF)

Funds in Specific Appropriations 1542 through 1619 from the State Transportation (Primary) Trust Fund for anticipated federal grant funds shall not be utilized to disburse state funds if the federal grants do not materialize.

From funds in Specific Appropriations 1542 through 1619, 52 positions and \$1,439,743 is deleted effective December 1, 1992. In order to provide the Secretary flexibility in reducing positions; to accommodate actual workload; and to accomplish this action with minimal program impact, the department may submit a plan to the Executive Office of the Governor requesting approval to redistribute positions and related appropriation authority. The Secretary shall, to the extent feasible, recommend position deletions in administrative functions.

and insert:

741F Operating Capital Outlay

From funds in Specific Appropriations 741C and 741E, the Division is authorized to enter into contracts with water management districts and regional planning councils setting an hourly rate for hearing officer services and for reimbursement of hearing officer travel expenses attributable to hearings conducted on behalf of those districts.

In Section 01, strike:

46 Other Personal Services
From General Inspection
Trust Fund

140,000

and the following proviso language:

Funds in Specific Appropriation 46 from the General Inspection Trust Fund are for development of a department-wide information strategy plan. This plan shall include, but not be limited to: an analysis of the current automated and manual systems supporting the Department's business organization and program; an analysis of the Department's data needs associated with each of its functions; an implementation plan that identifies sequential system development projects; and analysis of alternative hardware and software solutions, including the utilization of mainframe computer processing from data centers other than AGMIC for total departmental requirements, with a recommendation as to the most cost effective solutions.

and insert:

55 Data Processing Services
Agriculture Management
Information Center
From General Inspection
Trust Fund

277,072

Funds in Specific Appropriation 55 from the General Inspection Trust Fund are provided to upgrade the mainframe computer of the Agriculture Management Information Center. The Executive Office of the Governor is authorized to make any corresponding adjustments from the Working Capital Trust Fund of the Agriculture Management Information Center that may be required to implement this upgrade.

On motion by Senator Gardner, the Senate concurred in the House amendment.

SB 278-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—39 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 Amendments 4 and 4A to CS for CS for HB 141-H and requests the Senate to recede.

John B. Phelps, Clerk

CS for CS for HB 141-H—A bill to be entitled An act relating to the Department of Insurance; 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 motions by Senator Kiser, the Senate refused to recede from **Senate Amendments 4 and 4A** and again requested that the House concur. The action of the Senate was certified to the House.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has again refused to concur in Senate Amendments 4 and 4A to CS for CS for HB 141-H and again requests the Senate to recede.

John B. Phelps, Clerk

CS for CS for HB 141-H—A bill to be entitled An act relating to the Department of Insurance; 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 motions by Senator Kiser, the Senate receded from the Senate amendments.

CS for CS for HB 141-H passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SB 280-H, SB 288-H; has admitted for introduction by the required Constitutional two-thirds vote and passed SB 248-H and SB 294-H.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1 and 2 to House Amendment 1 and passed as amended SB 26-H; has concurred in Senate Amendment 1 to House Amendment 1 to Senate Amendment 1 to House Amendment 1 and passed as amended CS for CS for SB 68-H.

John B. Phelps, Clerk

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

ROLL CALLS ON SENATE BILLS

SB 26-H

Yeas—21

Madam President	Girardeau	Malchon	Weinstock
Burt	Grizzle	Meek	Wexler
Childers	Jenne	Myers	Yancey
Dantzler	Johnson	Thomas	
Davis	Kirkpatrick	Walker	
Forman	Kiser	Weinstein	

Nays—15

Bankhead	Crenshaw	Grant	Plummer
Beard	Crotty	Jennings	Scott
Bruner	Diaz-Balart	Langley	Souto
Casas	Dudley	McKay	

Vote after roll call:

Yea—Gardner, Gordon, Kurth

Yea to Nay—Burt

CS for CS for SB 68-H

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Plummer

SB 80-H

Yeas—33

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

Nays—1

Weinstock

Vote after roll call:

Yea—Weinstein

CS for SB 88-H—Amendment 1A

Yeas—14

Bankhead	Crenshaw	Jennings	Plummer
Beard	Crotty	Kiser	Wexler
Burt	Dudley	Kurth	
Casas	Grant	Langley	

Nays—22

Madam President	Gardner	Malchon	Walker
Bruner	Girardeau	McKay	Weinstein
Dantzler	Gordon	Meek	Weinstock
Davis	Jenne	Myers	Yancey
Diaz-Balart	Johnson	Scott	
Forman	Kirkpatrick	Thomas	

Vote after roll call:

Yea—Childers

Nay to Yea—Bruner

CS for SB 88-H

Yeas—23

Madam President	Girardeau	Kiser	Walker
Childers	Gordon	Kurth	Weinstein
Dantzler	Grizzle	Malchon	Weinstock
Davis	Jenne	Meek	Wexler
Forman	Johnson	Myers	Yancey
Gardner	Kirkpatrick	Thomas	

Nays—16

Bankhead	Casas	Dudley	McKay
Beard	Crenshaw	Grant	Plummer
Bruner	Crotty	Jennings	Scott
Burt	Diaz-Balart	Langley	Souto

Explanation of Vote

I voted against the tax package because I do not believe that government should impose taxes on a weak economy.

I voted for the "enhanced" appropriations bill because it followed the tax bill so the taxes were already in place. Usually the appropriations bill is passed before the tax bill; had this been the case I would not have voted for either bill. Since the tax funds were there, I feel a responsibility to take part in the expenditure of those funds.

Dick Langley, 11th District

SB 220-H

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Jenne, Yancey

**SB 272-H
Motion to Waive Rule 6.4**

Yeas—38

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

Nays—None

**SB 272-H
Motion to Reconsider Vote by Which Veto Sustained**

Yeas—39

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

Nays—None

**SB 272-H
Motion to Override Governor's Veto**

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	Wexler
Childers	Grant	McKay	Yancey
Crenshaw	Grizzle	Meek	
Crotty	Jenne	Myers	
Dantzler	Jennings	Plummer	

Nays—2

Davis Weinstock

SB 278-H

Yeas—39

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

Nays—None

SB 280-H

Yeas—39

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

Nays—None

**SB 280-H
After Reconsideration**

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Weinstein

SB 288-H

Yeas—38

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

Nays—1

Bruner

SB 290-H

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Bankhead, Jenne, Weinstock

SB 292-H—Motion

Yeas—36

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

Nays—1

Crotty

SB 292-H

Yeas—32

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

Nays—3

Casas Myers Scott

Vote after roll call:

Yea—Gordon

SB 294-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	Meek	
Dantzler	Jenne	Myers	

Nays—None

SB 296-H—Motion

Yeas—20

Madam President	Diaz-Balart	Jenne	Thomas
Casas	Forman	Kirkpatrick	Walker
Childers	Gardner	Kurth	Weinstein
Dantzler	Girardeau	Malchon	Weinstock
Davis	Gordon	Meek	Wexler

Nays—18

Bankhead	Crotty	Johnson	Scott
Beard	Dudley	Langley	Souto
Bruner	Grant	McKay	Yancey
Burt	Grizzle	Myers	
Crenshaw	Jennings	Plummer	

Vote after roll call:

Nay to Yea—Plummer

SB 298-H

Motion to Withdraw From Committee

Yeas—12

Madam President	Forman	Jenne	Walker
Beard	Gardner	Kirkpatrick	Weinstock
Davis	Girardeau	Kurth	Wexler

Nays—25

Bankhead	Dantzler	Johnson	Souto
Bruner	Diaz-Balart	Langley	Thomas
Burt	Dudley	McKay	Weinstein
Casas	Gordon	Meek	Yancey
Childers	Grant	Myers	
Crenshaw	Grizzle	Plummer	
Crotty	Jennings	Scott	

SJR 302-H

Yeas—39

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

Nays—None

SJR 304-H

Yeas—38

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

Nays—None

SJR 306-H

Yeas—39

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

Nays—None

ROLL CALLS ON HOUSE BILLS

CS for CS for HB 141-H

Yeas—37

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

Nays—None

CS for CS for HB 141-H
Final Passage

Yeas—34

Madam President	Dantzler	Jennings	Myers
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	Jenne	Meek	

Nays—None

Vote after roll call:

Yea—Davis, Plummer

HB 389-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	Meek	Yancey
Crotty	Grizzle	Myers	
Dantzler	Jenne	Plummer	
Davis	Jennings	Scott	

Nays—None

HB 479-H

Yeas—38

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

Nays—1

Bruner

ENROLLING REPORTS

CS for CS for SB 94-H, CS for SB 102-H and SB 170-H have been enrolled, signed by the required Constitutional Officers and presented to the Governor on June 30, 1992.

Joe Brown, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 29 was corrected and approved.

CO-SPONSORS

Senator Crenshaw—SB 224-H

Senator Dudley withdrew as sponsor of SB 26-H; Senator Jenne was recorded as sponsor of SB 26-H

RECESS

On motion by Senator Thomas, the Senate recessed at 2:54 a.m., Wednesday, July 1, to reconvene at 10:00 a.m., Wednesday, July 1.