



# Journal of the Senate

Number 17

Tuesday, March 10, 1992

## CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—34:

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

## PRAYER

The following prayer was offered by Father Richard S. Castillo, Pastor, St. Thomas The Apostle Catholic Church, Quincy:

Que tu bondad, Señor, nos acompañe,  
como lo esperamos de ti.

A los que esperan poco les das poco.

A los que esperan mucho les das mucho.

A nosotros que nos atrevemos a esperarlo todo, danos,  
Señor, todo tu amor!

Heavenly Father, bless this chamber of lawmakers. Give them the strength and courage to fight for justice, to protect the innocent and defenseless and to advocate the good of all citizens of this great State of Florida, especially our families, youth and children. We ask this in your most holy name. Amen.

## CONSIDERATION OF RESOLUTIONS

On motion by Senator Bankhead, by two-thirds vote **SR 738** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Bankhead—

**SR 738**—A resolution recognizing March as Theatre In Our Schools Month.

WHEREAS, theatre is a vital part of the cultural life of any community, and

WHEREAS, theatre and drama invite young people to view an expanded world of ideas, and

WHEREAS, theatre has the ability to demonstrate valuable lessons about universal concepts such as prejudice, loneliness, honor, and love, and

WHEREAS, teachers can offer classroom variety through creative drama and role playing, and

WHEREAS, children can gain confidence and improve their self-esteem when confronted with dramatized stories and experiences, and

WHEREAS, theatre performance and study have a positive impact on the growth and development of children, and

WHEREAS, the American Alliance for Theatre and Education, Artists and Educators Serving Young People has established and proclaimed "Theatre In Our Schools Month" to be celebrated in schools and communities across this nation each year during the month of March, and

WHEREAS, we believe that all children should have the opportunity to study and experience theatre, NOW, THEREFORE,

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

That the Florida Senate recognizes the month of March as Theatre In Our Schools Month.

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

## SPECIAL GUESTS

Senator Bankhead introduced the following guests who were seated in the gallery: Carole Joranlien, Chair, "Theatre In Our Schools Month," Florida Association for Theatre Education; and Esta Waddell, Drama Teacher, Terry Parker High School, Jacksonville.

On motion by Senator Grizzle, by two-thirds vote **SR 2456** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Grizzle—

**SR 2456**—A resolution commending the Florida Aviation Historical Society for its efforts to preserve Florida's aviation heritage.

WHEREAS, the Florida Aviation Historical Society was founded in 1977 as a nonprofit corporation and presently has over 800 members, and

WHEREAS, the society's membership is drawn from throughout the state and embraces all phases of aviation careers and retirement activity, and

WHEREAS, the society encourages the study of Florida's aviation heritage through major projects, the sale to members of books on Florida aviation history, meeting programs featuring authoritative aviation historians, and the building of an extensive computer data bank, and

WHEREAS, the Florida Aviation Historical Society has staged reenactments of the 1914 inaugural flight by Tony Jannus across Tampa Bay flying the flag of the "St. Petersburg-Tampa Airboat Line", the acknowledged world's first scheduled air line, and

WHEREAS, the Florida Aviation Historical Society has been responsible for arranging the production and mounting throughout the state of several historical markers of aviation events, and

WHEREAS, the society was instrumental in the building of a museum by the City of St. Petersburg to display its replica of the world's first scheduled air liner, NOW, THEREFORE,

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

That the Florida Aviation Historical Society is commended for its outstanding efforts to preserve the aviation history of the state.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the Florida Aviation Historical Society 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 Plummer, the rules were waived by unanimous consent and the following resolution was introduced out of order:

By Senator Plummer—

**SR 2522**—A resolution commending the University of Miami Hurricanes for their achievements during the 1991 collegiate football season.

WHEREAS, the University of Miami Hurricanes completed its undefeated football season with a resounding 22-0 victory over the 11th ranked Nebraska Cornhuskers, the nation's leading rushing team, in the 58th Orange Bowl Classic on January 2, 1992, and

WHEREAS, the Associated Press writers' poll and The New York Times' computerized poll of major college football teams recognized and named the University of Miami Hurricanes as the number one team in the nation in a shared national championship with the undefeated University of Washington Huskies, the fourth time in 9 years that the University of Miami football team has been so honored, and

WHEREAS, Coach Dennis Erickson, unanimously elected Big East Coach of the Year, the Hurricane staff, and the Hurricane athletes, while on the field and off the field, admirably and respectfully represented the University of Miami of Coral Gables, Florida, one of the largest and most comprehensive private research universities in the southeastern United States, and

WHEREAS, the University of Miami is a nationally recognized undergraduate and graduate private university and is among the National Science Foundation's top 50 research-funded universities and colleges in the nation, NOW, THEREFORE,

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

That the Florida Senate commends the University of Miami Hurricanes, pays tribute to Coach Dennis Erickson and Athletic Director Dave Maggard, and does hereby proudly applaud and commend them, and the other coaches and staff, team members, fans, and administration of the University of Miami for their remarkable achievements during an impressive 1991 collegiate football season.

On motion by Senator Plummer, **SR 2522** was read by title and was read the second time in full and adopted. The vote on adoption was:

Yeas—39      Nays—None

#### SPECIAL GUESTS

Senator Plummer introduced the following guests who were seated in the chamber: Edward T. Foote, President, University of Miami; Dean Bernie Fogel, School of Medicine; Dennis Erickson, Head Football Coach; Dave Maggard, Athletic Director; Chuck Cobb, Chairman, Board of Trustees; Ron Stone, Chairman; Florence Hecht; Dick McEwan; Ed Williamson; and former Senator Ken Myers; University Public Policy Committee, Board of Trustees.

Upon request of the President, Senator Plummer escorted the guests to the rostrum where they were presented a copy of the resolution. Coach Erickson addressed the Senate briefly.

### MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Thurman, by two-thirds vote **SB 2090** was withdrawn from the committees of reference and further consideration.

On motions by Senator Thomas, by two-thirds vote **HJR 2491** was withdrawn from the Committees on Reapportionment; and Rules and Calendar.

On motions by Senator Gardner, by two-thirds vote **Senate Bills 504, 524, 974, 1156 and 2216**, and **CS for SB 34, CS for SB 490, CS for SB's 1908 and 170, CS for SB 2218, CS for SB 2306, CS for SB 748, CS for SB 264, CS for SB 2254 and CS for SB 442** were withdrawn from the Committee on Appropriations.

On motion by Senator Grizzle, by two-thirds vote **HB 245** was withdrawn from the Committee on Community Affairs.

On motions by Senator Gardner, by two-thirds vote **SB 1838, CS for HB 91, CS for SB 2100, CS for SB 696 and CS for SB 1136** were withdrawn from the Committee on Appropriations.

On motions by Senator Thomas, by two-thirds vote **HB 859** was withdrawn from the Committees on Commerce; Community Affairs; and Finance, Taxation and Claims; **HB 565** was withdrawn from the Committee on Transportation; **CS for SB 270** was withdrawn from the Committee on Judiciary; **CS for SB 264** was withdrawn from the Committee on Health and Rehabilitative Services; **SB 2270** was withdrawn from the Committee on Rules and Calendar; and **HB 1397** was withdrawn from the Committee on Transportation.

On motions by Senator Kirkpatrick, by two-thirds vote **Senate Bills 290 and 1510** were withdrawn from the committees of reference and further consideration.

### MOTIONS

On motions by Senator Thomas, the rules were waived and by two-thirds vote **CS for SJR 2498** and **HJR 2491** were placed on the Special Order Calendar for Wednesday, March 11.

On motions by Senator Thomas, by two-thirds vote **CS for SJR 2498** and **HJR 2491** were added to the Special Order Calendar for Thursday, March 12 in lieu of Wednesday, March 11 as originally set.

On motions by Senator Jenne, the rules were waived and the Committee on Finance, Taxation and Claims was granted permission to consider **SB 1840** and **HB 245** on Wednesday, March 11.

On motions by Senator Thomas, by two-thirds vote all bills remaining on the Special Order Calendar this day were added to the Special Order Calendar for Wednesday, March 11.

### SPECIAL ORDER

Consideration of **SB 2160** and **SB 100** was deferred.

**SB 1374**—A bill to be entitled An act relating to learning disabilities; amending s. 228.501, F.S.; authorizing the Learning Development and Evaluation Center at Florida Agricultural and Mechanical University to research learning disabilities and to serve as a research and information resource center in learning disabilities for postsecondary institutions; requiring that postsecondary students meet certain criteria for program eligibility; defining terms; revising a function of the outreach component relating to model programs for learning disabled students; providing an effective date.

—was read the second time by title. On motion by Senator Meek, by two-thirds vote **SB 1374** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32      Nays—None

Consideration of **CS for SB 1900, CS for SB 1974 and CS for SB 1578** was deferred.

**CS for CS for SB 1134**—A bill to be entitled An act relating to the Florida Mutual Aid Act; amending s. 23.12, F.S.; clarifying the short title; amending s. 23.121, F.S.; specifying that the purpose of the act is to prepare law enforcement agencies to deal with natural or manmade disasters or emergencies; authorizing a law enforcement agency to enter a mutual aid agreement; amending s. 23.1225, F.S.; specifying terms and conditions to be included in a mutual aid agreement; deleting obsolete provisions; requiring filing of a copy of the agreement with the Department of Law Enforcement within a specified time period; authorizing certain persons to enter such an agreement; amending s. 23.127, F.S.; granting to an employee of a law enforcement agency the same powers, duties, rights, privileges, and immunities when performing extraterritorially; clarifying financial responsibility for equipment and employees; granting to employees of an agency their usual rights, privileges, and immunities when performing extraterritorially; providing for real parties in interest, recoupment of damages, and liability actions; amending s. 23.1231, F.S.; deleting a reference to administration of the Florida Mutual Aid Plan by the Division of Local Law Enforcement Assistance; deleting the authority of the executive director of the Department of Law Enforcement to maintain certain lists and otherwise revising the powers and duties of the executive director; deleting the reference to the deadline for filing a mutual aid agreement; clarifying the duties of the department; providing an effective date.

—was read the second time by title. On motion by Senator Yancey, by two-thirds vote **CS for CS for SB 1134** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

**CS for SB 1000**—A bill to be entitled An act relating to the records of the Department of Highway Safety and Motor Vehicles; amending s. 319.25, F.S., relating to certificates of title of certain motor vehicles and mobile homes; providing for the confidentiality of the address of a titleholder; providing exceptions; prohibiting a person from selling, giving away, or allowing the copying of an address unless authorized; providing

a criminal penalty; amending s. 320.03, F.S., relating to duties of tax collectors; providing for the confidentiality of the address of a person licensed under ch. 322, F.S., or a registered owner or titleholder under chs. 319 or 320, F.S.; providing exemptions; prohibiting a person from selling, giving away, or allowing the copying of an address unless authorized; providing a criminal penalty; amending s. 320.05, F.S., relating to registration certificates of certain motor vehicles and mobile homes; providing for the confidentiality of the address of a registered owner; providing exceptions; prohibiting a person from selling, giving away, or allowing the copying of an address unless authorized; providing a criminal penalty; reorganizing provisions of section; amending s. 322.20, F.S., relating to drivers' licenses; providing for the confidentiality of the address of a licensed driver; providing exceptions; prohibiting a person from selling, giving away, or allowing the copying of an address unless authorized; providing a criminal penalty; deleting the authority for a licensee under ch. 493, F.S., to obtain certain records; updating a cross-reference; providing an effective date.

—was read the second time by title.

Senator Kiser moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—On page 5, between lines 29 and 30, insert:

Section 4. Paragraph (c) of subsection (1) of section 320.10, Florida Statutes, is amended to read:

320.10 Exemptions.—

(1) The provisions of s. 320.08 do not apply to:

(c) Any motor vehicle owned and operated exclusively for the benefit of the Boys' Clubs of America, *Missing Childrens Awareness Foundation, Inc.*, the National Audubon Society, the National Children's Cardiac Hospital, any humane society, any nationally chartered veterans' organization that maintains a state headquarters in this state, the Children's Bible Mission, the Boy Scouts of America, the Girl Scouts of America, the Salvation Army, the American National Red Cross, the United Service Organization, any local member unit of the National Urban League which provides free services to municipal and county residents who are in need of such services, the Young Men's Christian Association, the Young Men's Hebrew Association, the Camp Fire Girls' Council, the Young Women's Christian Association, the Young Women's Hebrew Association, any local member unit of the Association for Retarded Citizens, the Children's Home Society of Florida, or the Goodwill Industries. A not-for-profit organization named in this paragraph and its local affiliate organizations shall be eligible for the exemption so long as each maintains current articles of incorporation on file with the Department of State and qualifies as a not-for-profit organization under s. 212.08;

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 28, after the semicolon (;) insert: amending s. 320.10, F.S.; providing an exemption;

On motion by Senator Forman, by two-thirds vote **CS for SB 1000** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—34 Nays—None

**CS for SJR's 18 and 20**—A joint resolution proposing amendments to Sections 10 and 11 of Article V of the State Constitution relating to the selection of judges.

—was read the second time by title.

Senator Weinstein moved the following amendment which was adopted:

**Amendment 1**—On page 2, line 11, through page 3, line 22, strike all of said lines and insert:

(a) The governor shall fill each vacancy on the supreme court or on a district court of appeal by appointing, *subject to senate confirmation*, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of three persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court by appointing, *subject to senate confirmation*, for a term ending on the first Tuesday after the first Monday in January of the year following the next ~~primary and~~ general election, one of not fewer than three persons nominated by the appropriate judicial nominating commission. ~~An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.~~

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to him.

(d) *If the governor makes an appointment to fill a judicial office during a regular session of the legislature, the senate must confirm the appointment on or before the last day of the legislative session in order for the person appointed by the governor to assume office. If the appointment is made during the interim between regular sessions of the legislature, the person appointed by the governor may assume office upon appointment and remain in that office for the remainder of the term unless a majority of the senate votes against his confirmation on or before the last day of the next regular session of the legislature held during the term of appointment. If an appointed judge is retained in office by vote of the electors prior to the next regular session of the legislature after his appointment that judge is not subject to confirmation by the senate. If the senate does not confirm the appointment of a person to a judicial office which appointment is made during a regular session of the legislature, that office remains vacant after the last day of the legislative session. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office. If the senate votes against the confirmation of the appointment of a justice or judge which appointment was made during the interim between regular sessions of the legislature, that office becomes vacant upon adjournment sine die of the legislature at the end of the legislative session in which that vote was held. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office.*

(e)(d) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendments proposed herein shall appear on the ballot as follows:

**APPOINTMENT, RETENTION, AND CONFIRMATION OF JUDGES AND JUSTICES.**—Proposing amendments to the State Constitution requiring circuit and county judges to submit themselves to the electorate for retention or rejection, rather than running for office; requiring vacancies in circuit and county judgeships to be filled by appointment subject to confirmation by majority vote of the senate; and providing that appointments of justices and judges of the district courts of appeal are subject to senate confirmation.

The vote was:

Yeas—21 Nays—18

Senator Langley moved the following amendment which failed:

**Amendment 2**—On page 2, strike all of lines 5-25 and insert:

(b) *Notwithstanding the election to retain in office all justices and judges as provided in subsection (a), local option on the election of circuit judges or county judges by a majority of those voting shall be preserved to each circuit and county. A circuit or county in which this amendment failed shall have exercised the option to preserve the election of judges in that jurisdiction by a majority of those voting. Thereafter, the status of any circuit or county with respect to election to retain judges or election of judges by a majority of those voting shall be changed only by vote of the electors in a special election called upon the petition of twenty-five percent of the electors of the circuit with respect*

to circuit judges or twenty-five percent of the electors of the county with respect to county judges, and not sooner than two years after an earlier election on the question. ~~Circuit judges and judges of county courts shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts.~~ The terms of elected circuit judges shall be for six years. The terms of judges of elected county courts shall be for four years.

SECTION 11. Vacancies, filling; term.—

(a) ~~Whenever a vacancy occurs in a judicial office to which election for retention applies, the governor shall fill the each vacancy on the supreme court or on a district court of appeal by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of not fewer than three persons nominated and certified as being qualified by the appropriate judicial nominating commission. The justice or judge so appointed shall serve an initial term ending on the first Tuesday after the first Monday following the next general election occurring at least twelve months after the date of appointment.~~

(b) The governor shall fill each vacancy on a circuit court or on a county court in a circuit or county in which the judges are elected by a majority vote of the electors by appointing for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election, one of not fewer than three persons nominated and certified as being qualified by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

The vote was:

Yeas—15 Nays—25

Senator Bruner moved the following amendment which failed:

**Amendment 3**—On page 1, strike all of lines 14 and 15 and insert:

(a) Any justice of the supreme court or any judge of a district court of appeal, or any judge in a judicial circuit with a population of more than 750,000 people, may qualify for retention

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

**Amendment 4**—On page 3 of Amendment 1, line 11, insert:

(f) The judicial nominating commission shall establish uniform guidelines approved by the supreme court to ensure that each level of the court system shall be broadly reflective of the general public which it serves and shall include minorities and women. "Minorities" under this subsection means members of ethnic or racial groups that have been historically, socially, or economically disadvantaged groups, such as blacks, Hispanics and American Indians.

(g) The supreme court shall report on or before October 1 of each year to the speaker of the house of representatives and to the president of the senate regarding the number of minority nominees and appointees to the trial and appellate benches.

The vote was:

Yeas—23 Nays—13

On motion by Senator Davis, by two-thirds vote **CS for SJR's 18 and 20** as amended was read the third time in full as follows:

**CS for SJR's 18 and 20**—A joint resolution proposing amendments to Sections 10 and 11 of Article V of the State Constitution relating to the selection of judges.

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

That the amendments to Sections 10 and 11 of Article V of the State Constitution set forth below are agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1992:

SECTION 10. Retention; election and terms.—

(a) Any justice or judge of the supreme court or any judge of a district court of appeal may qualify for retention by a vote of the electors in the

general election next preceding the expiration of his term in the manner prescribed by law. If a justice or judge is ineligible or fails to qualify for retention, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge. When a justice of the supreme court or a judge of a district court of appeal so qualifies, the ballot shall read substantially as follows: "Shall Justice (or Judge) . . . (name of justice or judge) . . . of the . . . (name of the court) . . . be retained in office?" If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to retain, the justice or judge shall be retained for a term of six years, except that in the case of a county court judge, the judge shall serve a term of four years. The term of the justice or judge retained shall commence commencing on the first Tuesday after the first Monday in January following the general election. If a majority of the qualified electors voting within the territorial jurisdiction of the court vote to not retain, a vacancy shall exist in that office upon the expiration of the term being served by the justice or judge.

(b) ~~Circuit judges and judges of county courts shall be elected by vote of the qualified electors within the territorial jurisdiction of their respective courts. The terms of circuit judges shall be for six years. The terms of judges of county courts shall be for four years.~~

SECTION 11. Vacancies.—

(a) The governor shall fill each vacancy on the supreme court or on a district court of appeal by appointing, subject to senate confirmation, for a term ending on the first Tuesday after the first Monday in January of the year following the next general election occurring at least one year after the date of appointment, one of three persons nominated by the appropriate judicial nominating commission.

(b) The governor shall fill each vacancy on a circuit court or on a county court by appointing, subject to senate confirmation, for a term ending on the first Tuesday after the first Monday in January of the year following the next primary and general election, one of not fewer than three persons nominated by the appropriate judicial nominating commission. An election shall be held to fill that judicial office for the term of the office beginning at the end of the appointed term.

(c) The nominations shall be made within thirty days from the occurrence of a vacancy unless the period is extended by the governor for a time not to exceed thirty days. The governor shall make the appointment within sixty days after the nominations have been certified to him.

(d) If the governor makes an appointment to fill a judicial office during a regular session of the legislature, the senate must confirm the appointment on or before the last day of the legislative session in order for the person appointed by the governor to assume office. If the appointment is made during the interim between regular sessions of the legislature, the person appointed by the governor may assume office upon appointment and remain in that office for the remainder of the term unless a majority of the senate votes against his confirmation on or before the last day of the next regular session of the legislature held during the term of appointment. If an appointed judge is retained in office by vote of the electors prior to the next regular session of the legislature after his appointment that judge is not subject to confirmation by the senate. If the senate does not confirm the appointment of a person to a judicial office which appointment is made during a regular session of the legislature, that office remains vacant after the last day of the legislative session. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office. If the senate votes against the confirmation of the appointment of a justice or judge which appointment was made during the interim between regular sessions of the legislature, that office becomes vacant upon adjournment sine die of the legislature at the end of the legislative session in which that vote was held. The office must be filled in accordance with this section. However, the governor may not appoint the same person to that office.

(e)(4) There shall be a separate judicial nominating commission as provided by general law for the supreme court, each district court of appeal, and each judicial circuit for all trial courts within the circuit. Uniform rules of procedure shall be established by the judicial nominating commissions at each level of the court system. Such rules, or any part thereof, may be repealed by general law enacted by a majority vote of the membership of each house of the legislature, or by the supreme court, five justices concurring. Except for deliberations of the judicial nominating commissions, the proceedings of the commissions and their records shall be open to the public.

(f) *The judicial nominating commission shall establish uniform guidelines approved by the supreme court to ensure that each level of the court system shall be broadly reflective of the general public which it serves and shall include minorities and women. "Minorities" under this subsection means members of ethnic or racial groups that have been historically, socially, or economically disadvantaged groups, such as blacks, Hispanics and American Indians.*

(g) *The supreme court shall report on or before October 1 of each year to the speaker of the house of representatives and to the president of the senate regarding the number of minority nominees and appointees to the trial and appellate benches.*

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the substance of the amendments proposed herein shall appear on the ballot as follows:

**APPOINTMENT, RETENTION, AND CONFIRMATION OF JUDGES AND JUSTICES.**—Proposing amendments to the State Constitution requiring circuit and county judges to submit themselves to the electorate for retention or rejection, rather than running for office; requiring vacancies in circuit and county judgeships to be filled by appointment subject to confirmation by majority vote of the senate; and providing that appointments of justices and judges of the district courts of appeal are subject to senate confirmation.

—and as amended passed by the required constitutional three-fifths vote of the membership, and was certified to the House. The vote on passage was:

Yeas—27      Nays—11

The Senate resumed consideration of—

**SB 2160**—A bill to be entitled An act relating to the local option sales taxes; amending s. 125.0104, F.S.; authorizing certain counties that impose a tourist development tax on leases and rentals to impose an additional tax on the sale of food, beverages, or alcoholic beverages in hotels and motels only or in hotels, motels, and certain establishments; providing exemptions; requiring a certified copy of the ordinance that authorizes the additional tax to be furnished to the Department of Revenue within a certain period of time; deleting certain exemptions; reallocating the proceeds of the additional tax; exempting the additional tax from certain procedures; providing an effective date.

—which had been considered March 5. Pending **Amendment 2** by Senator Plummer was adopted. The vote was:

Yeas—24      Nays—12

The Committee on Finance, Taxation and Claims recommended the following amendment which was moved by Senator Meek and adopted:

**Amendment 3**—On page 8, strike all of lines 15-23 and insert:

*Fifteen (1) For the first 2 years after the tax is imposed, 35 percent shall be used by the county, to assist persons who have become, or are about to become, homeless. The funding shall be made available for emergency homeless shelters, food, clothing, medical care, counseling, alcohol, drug abuse and mental health treatment, employment and training, education and housing. Five percent shall be used to support economic development activities for developing new or expanded businesses or establishing other projects that stimulate new employment opportunities. Ten percent shall be used to support economic development activities for promoting redevelopment activity in slum or blighted areas, as defined in chapter 163. Twenty-five*

On motion by Senator Meek, by two-thirds vote **SB 2160** as amended was read the third time by title and failed to pass. The vote was:

Yeas—16      Nays—23

#### MOTION TO RECONSIDER

Senator Scott moved that the Senate reconsider the vote by which **SB 2160** failed to pass. The motion failed.

**CS for SB 1900**—A bill to be entitled An act relating to coastal resources; amending ss. 380.21, 380.22, F.S.; transferring lead agency authority under the Coastal Zone Management Act from the Department of Environmental Regulation to the Department of Community Affairs; amending s. 380.23, F.S.; providing for the transfer of authority; provid-

ing procedures for agency review of federal activities; amending s. 380.31, F.S.; including the Secretary of Labor and Employment Security on the Coastal Resources Interagency Management Committee; amending s. 380.33, F.S.; designating the Secretary of Community Affairs as the chairperson of the Coastal Resources Interagency Management Committee and the Secretary of Environmental Regulation as the vice chairperson; providing for the Department of Community Affairs to provide staff to the committee; continuing ss. 380.31, 380.32, 380.33, F.S., relating to the Coastal Resources Interagency Management Committee, notwithstanding their scheduled repeal; repealing ss. 380.31, 380.32, 380.33, F.S., effective October 1, 1994; providing for review by the Legislature prior thereto; transferring the state coastal management program functions to the Department of Community Affairs; providing for a position; repealing ss. 380.19, 380.28, F.S., relating to the Florida Coastal Coordinating Council and relating to the South Atlantic and Gulf States Coastal Protection Compact; providing an effective date.

—was read the second time by title.

Senators Thurman, Thomas, Grizzle and Dantzer offered the following amendment which was moved by Senator Thurman:

**Amendment 1**—On page 6, between lines 27 and 28, add a new section 11 to read as follows:

Section 11. Subsection (11) is added to section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(11)(a) *The Legislature recognizes the need for innovative planning and development strategies which will address the anticipated demands of continued urbanization of Florida's coastal and other environmentally sensitive areas, and which will accommodate the development of less populated regions of the state which seek economic development and which have suitable land and water resources to accommodate growth in an environmentally acceptable manner. The Legislature further recognizes the substantial advantages of innovative approaches to development which may better serve to protect environmentally sensitive areas, maintain the economic viability of agricultural and other predominantly rural land uses, and provide for the cost-efficient delivery of public facilities and services.*

(b) *It is the intent of the Legislature that the local government comprehensive plans and plan amendments adopted pursuant to the provisions of this part provide for a planning process which allows for land use efficiencies within existing urban areas and which also allows for the conversion of rural lands to other uses, where appropriate and consistent with the other provisions of this part and the affected local comprehensive plans, through the application of innovative and flexible planning and development strategies and creative land use planning techniques, which may include, but not be limited to, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development, and sector planning.*

(c) *It is the further intent of the Legislature that local government comprehensive plans and implementing land development regulations shall provide strategies which maximize the use of existing facilities and services through redevelopment, urban infill development, and other strategies for urban revitalization.*

(d) *The implementation of this subsection shall be subject to the provisions of this chapter, chapters 186 and 187, and applicable agency rules.*

(e) *The department shall implement the provisions of this subsection by rule.*

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

**Amendment 1A**—On page 2, line 18, after the period (.) insert: *The department shall draft and formally propose the rule within 90 days after the effective date of this act.*

**Amendment 1** as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 1900** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—None

**SB 100**—A bill to be entitled An act relating to executive agencies; requiring certain agency officials to work in field positions periodically; requiring a report; providing an effective date.

—was read the second time by title.

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

**Amendment 1**—On page 1, strike all of lines 13-16 and insert: respective agency.

**Amendment 2**—In title, on page 1, lines 4 and 5, strike “requiring a report.”

On motion by Senator McKay, by two-thirds vote **SB 100** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33 Nays—None

**SB 344**—A bill to be entitled An act relating to controlled substance violations; amending s. 893.13, F.S.; adding licensed child care facilities to the prohibition against specified controlled substance violations committed within 1,000 feet of the real property comprising a school, for which criminal penalties, including a mandatory minimum term of imprisonment, are provided by law, and reenacting ss. 893.135(1), 893.1351(1), 903.133, and 921.187(1)(b), F.S., relating to trafficking, lease or rent for the purpose of trafficking, bail on appeal, and disposition and sentencing, to incorporate said amendment in references thereto; reenacting and amending s. 953.003(1), F.S., relating to definition of “drug offender” or “offender,” to correct cross references; providing an effective date.

—was read the second time by title.

The Committee on Criminal Justice recommended the following amendment which was moved by Senator Weinstock and adopted:

**Amendment 1 (with Title Amendment)**—On page 2, line 1, after “private” insert: *kindergarten*,

And the title is amended as follows:

In title, on page 1, line 4, after “facilities” insert: and kindergartens

**POINT OF ORDER**

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

**RULING ON POINT OF ORDER**

On recommendation of Senator Gardner, Chairman of the Committee on Appropriations, the President ruled the point not well taken.

On motion by Senator Gardner, further consideration of **SB 344** as amended was deferred.

**SB 94**—A bill to be entitled An act relating to waste management; repealing s. 3, ch. 86-186, Laws of Florida; providing that s. 20.261(2)(d), F.S., relating to the Division of Waste Management of the Department of Environmental Regulation, is not repealed; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **SB 94** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

**SB 1370**—A bill to be entitled An act relating to health maintenance organizations and prepaid health clinics; amending s. 641.495, F.S.; specifying the name of an accreditation organization; amending s. 641.51, F.S.; providing that a second opinion means a second medical opinion; amending s. 641.511, F.S.; changing the frequency of grievance reports to be submitted to the Department of Health and Rehabilitative Services; amending s. 641.512, F.S.; providing dates by which such organizations must become accredited; placing restrictions on contracts or consultations between accreditation organizations or review organizations and the health maintenance organizations or prepaid health clinics that the accreditation or review organizations evaluate; requiring the department to review its list of approved accreditation and review organizations to determine if an organization’s authorization should continue in effect;

amending s. 641.515, F.S.; requiring the department to examine an organization as often as it reasonably believes necessary to protect the public; directing organizations to notify their subscribers that the department may request release of their medical records and that the subscriber’s prior consent is required for the release of his records; amending s. 641.52, F.S.; providing for the department to conduct an investigation and levy an administrative fine on a health maintenance organization that fails to comply with quality of health services standards; amending s. 641.55, F.S.; changing the length of time within which an organization must submit an incident report to the department; repealing s. 641.311(3), F.S., relating to allowing the Department of Health and Rehabilitative Services to investigate and levy an administrative fine on a health maintenance organization that fails to comply with quality of health services standards; providing an effective date.

—was read the second time by title.

Senator Malchon moved the following amendments which were adopted:

**Amendment 1**—On page 5, lines 20 and 25, strike “IF” and insert: I

**Amendment 2 (with Title Amendment)**—On page 17, between lines 14 and 15, insert:

Section 8. Subsection (2) of section 641.30, Florida Statutes, is amended to read:

641.30 Construction and relationship to other laws.—

(2) Except as provided in this part, the Florida Insurance Code does not apply to health maintenance organizations certificated under this part, and health maintenance organizations certificated under this part are not subject to ~~part I or~~ part II of this chapter. Any person, entity, or health maintenance organization operating without a subsisting certificate of authority in violation of this part or rules promulgated thereunder or renewing, issuing, or delivering health maintenance contracts without a subsisting certificate of authority in violation of this part or rules promulgated thereunder, in addition to being subject to the provisions of this part, is subject to the provisions of the Florida Insurance Code as defined in s. 624.01.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 6, after the semicolon (;) insert: amending s. 641.30, F.S.; deleting an obsolete cross-reference;

On motion by Senator Malchon, by two-thirds vote **SB 1370** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38 Nays—None

**RECESS**

On motion by Senator Thomas, the Senate recessed at 11:58 a.m. to reconvene at 2:00 p.m.

**AFTERNOON SESSION**

The Senate was called to order by the President at 2:17 p.m. A quorum present—29:

Madam President	Dudley	Kiser	Thurman
Bankhead	Forman	Kurth	Weinstein
Beard	Girardeau	Langley	Weinstock
Bruner	Gordon	Malchon	Wexler
Burt	Grant	Meek	Yancey
Casas	Grizzle	Myers	
Crotty	Jenne	Scott	
Dantzler	Johnson	Souto	

**SPECIAL ORDER, continued**

Consideration of **SB 1458** was deferred.

**CS for SB 1392**—A bill to be entitled An act relating to a pretrial intervention program; amending s. 948.08, F.S.; expanding the program for limited purposes under certain circumstances; providing procedure; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for SB 1392** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

**SB 1902**—A bill to be entitled An act relating to weapons and firearms; creating s. 810.095, F.S.; prohibiting trespass upon school property with a weapon or firearm; amending s. 230.23, F.S.; providing for school boards to add specified notice of possible criminal penalties to codes of student conduct; amending s. 39.037, F.S.; requiring notification of the district school superintendent or his designee of the taking into custody of a student under certain circumstances; providing an exemption from public records requirements; providing for future review and repeal; providing for removal of information from school records; creating s. 790.115, F.S.; providing for increased penalties for carrying concealed weapons or firearms upon grounds or facilities of public and nonpublic schools; adding destructive devices to weapons which may not be improperly exhibited; providing for unlawful possession and discharge of weapons and firearms on school property and at school functions; providing a definition; providing exceptions; providing penalties; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **SB 1902** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

**CS for SB 1976**—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.02, F.S.; narrowing the definition of "admission" to exclude those relating to cruises to nowhere; providing an effective date.

—was read the second time by title. On motion by Senator Scott, by two-thirds vote **CS for SB 1976** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—2

**CS for SB 1648**—A bill to be entitled An act relating to energy efficiency contracting; creating s. 235.215, F.S.; providing definitions; authorizing public school districts to enter into guaranteed energy savings contracts and providing requirements therefor; providing for contract provisions, school district action, installation contracts, and contract continuance; providing an effective date.

—was read the second time by title. On motion by Senator Scott, by two-thirds vote **CS for SB 1648** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

**CS for SB 434**—A bill to be entitled An act relating to firefighters; amending s. 112.191, F.S.; redefining the term "firefighter" to include volunteer firefighters; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for SB 434** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

**CS for SB 1484**—A bill to be entitled An act relating to the disposition of unclaimed property; amending s. 717.117, F.S.; revising language with respect to reports of abandoned property; increasing the threshold level of value for property which must be reported or acted upon in certain ways; amending s. 717.1035, F.S.; revising language with respect to property originated or issued by the state, any political subdivision of the state, or any entity incorporated, organized, created, or otherwise located in the state; providing an effective date.

—was read the second time by title. On motion by Senator Wexler, by two-thirds vote **CS for SB 1484** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

**SB 2042**—A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.401, F.S.; providing legislative findings regarding the significance of a license under part II, ch. 400, F.S.; amending s. 400.402, F.S.; adding and amending definitions of terms used in that part; amending s. 400.407, F.S.; revising a violation relating to failure

to obtain a license after receiving notification; creating a violation and penalties relating to failure to obtain a license and the maintenance of a threatening condition; revising the provisions relating to the issuance of licenses; amending s. 400.412, F.S., relating to sale or transfer of ownership of a facility; revising the penalties and responsibilities of the transferor and the transferee of certain facilities; requiring a plan of correction or the correction of the condition before issuance of a license or lifting of a moratorium on admissions; amending s. 400.414, F.S.; listing the categories of licenses that the department may deny, revoke, or suspend; revising the actions that may result in license denial, revocation, or suspension or the imposition of a fine; prohibiting certain actions; providing for applicability to a part owner of a facility; providing for denial of licenses to certain applicants who had licenses denied or suspended, facilities closed under certain circumstances, or unpaid fines; providing a time period for a hearing under ch. 120, F.S., by the Division of Administrative Hearings; amending s. 400.415, F.S.; providing for immediate imposition of a moratorium on admissions under certain circumstances; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Forman and adopted:

**Amendment 1 (with Title Amendment)**—On page 16, between lines 18 and 19, insert:

Section 7. Subsection (6) of section 400.419, Florida Statutes, is amended to read:

400.419 Violations; penalties.—

(6) The department shall *develop and disseminate an annual listing of all facilities sanctioned for violations of state standards, the number and class of violations involved, the penalties imposed, and the current status of cases. This list shall be disseminated to the Department of Elderly Affairs, area agencies on aging, and, upon request, to any other interested party.* ~~maintain a current list containing the names and addresses of all facilities with one or more violations for which a corrective action plan, in accordance with the period approved or set by the department, has not been carried out. The list shall specify the number and class of each violation. Upon request, a copy of the list of violators shall be made available to facilities, residents, and potential residents, and to persons and agencies which make referrals to such facilities. A facility shall be removed from the list when a corrective action plan for all violations is approved by the department or when all corrections are made.~~

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 25, line 25, after the semicolon (;) insert: amending s. 400.419, F.S.; revising provisions requiring the department to list facilities cited for violations of part II, ch. 400, F.S.;

Senator Forman moved the following amendment:

**Amendment 2 (with Title Amendment)**—Strike everything after the enacting clause and insert:

Section 1. Section 400.401, Florida Statutes, is amended to read:

400.401 Short title; purpose.—

(1) This *part act* may be cited as the "Adult Congregate Living Facilities Act."

(2) The purpose of this *part act* is to promote the availability of appropriate services for elderly and disabled persons in the least restrictive and most homelike environment, to encourage the development of facilities *that which* promote the dignity, individuality, privacy, and decisionmaking ability of such persons, to provide for the health, safety, and welfare of residents of adult congregate living facilities in the state, to promote continued improvement of such facilities, to encourage the development of innovative and affordable facilities particularly for persons with low to moderate incomes, to ensure that all agencies of the state cooperate in the protection of such residents, and to ensure that needed economic, social, mental health, health, and leisure services are made available to residents of such facilities through the efforts of the Department of Health and Rehabilitative Services, adult congregate living facilities.

ties, and other community agencies. To the maximum extent possible, appropriate community-based programs shall be available to state-supported residents to augment the services provided in adult congregate living facilities. The Legislature recognizes that adult congregate living facilities are an important part of the continuum of long-term care in the state.

(3) In support of the goal of aging in place, the Legislature further recognizes the need to establish a licensing category to provide extended congregate care services to provide an option to bridge the gap between adult congregate living facilities and skilled nursing facilities. ~~that~~ Adult congregate living facilities licensed to provide extended congregate care should be operated and regulated as residential environments with added supportive services and a greater variety and scope of services and not as medical or nursing facilities. The services available in these facilities, either directly or through contract or agreement, are intended to help residents remain as independent as possible in order that premature nursing home or institutional placement may be avoided. Regulations governing these facilities shall be sufficiently flexible to allow facilities to adopt policies which enable residents to age in place when resources are available to meet their needs and accommodate their preferences.

(4) The Legislature further finds that a license issued under this part is a public trust and a privilege and is not proprietary in nature or an entitlement. This principle shall guide the finder of fact or trier of law at any chapter 120 proceeding or in a circuit court action initiated by the department to enforce the provisions of this part.

Section 2. Section 400.402, Florida Statutes, is amended to read:

400.402 Definitions.—When used in this part, unless the context otherwise requires, the term:

(1) "Administrator" means an individual who has general administrative charge of an adult congregate living facility.

(2) "Adult congregate living facility," hereinafter referred to as "facility," means any building or buildings, section of a building, or distinct part of a building, residence, private home, boarding home, home for the aged, or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding 24 hours, housing, food service, and one or more personal services for four or more adults, not related to the owner or administrator by blood or marriage, who require such services; or to provide extended congregate care, limited nursing services, or limited mental health services, when specifically licensed to do so pursuant to s. 400.407. A facility offering personal services, extended congregate care, limited nursing services, or limited mental health services for fewer than four adults is within the meaning of this definition if it formally or informally advertises to or solicits the public for residents or referrals and holds itself out to the public to be an establishment which regularly provides such services.

(3) "Aging in place" or "age in place" means the process by which a person chooses to remain in a familiar living environment despite the physical declines or mental declines, or both, including Alzheimer's disease and related dementias, decline that may occur with the aging process. For aging in place to occur, needed services are added, increased, or adjusted to compensate for the physical or mental decline of the individual, while maximizing the person's dignity and independence to the extent practicable. Such services may be provided by facility staff, volunteers, family, or friends, or through contractual arrangements with a third party.

(4) "Applicant" means any facility owner, or if a business entity, a person appointed by such entity to make application for a license.

(5) "Assistance with activities of daily living" means direct physical assistance with eating, bathing, grooming, dressing, toileting, ambulation, and other similar tasks.

(6) "Department" means the Department of Health and Rehabilitative Services.

(7) "Emergency" means a situation, physical condition, or method of operation which presents imminent danger of death or serious physical or mental harm to facility residents.

(8) "Extended congregate care" means acts beyond those authorized in subsection (16) ~~(15)~~ that may be performed by trained staff, acts that may be performed pursuant to chapter 464 by persons licensed thereun-

der while carrying out their professional duties, and other supportive services which may be specified by rule. The purpose of such services is to enable residents to age in place despite mental or physical limitations that might otherwise disqualify them from continued residency in a facility licensed under this part.

(9) "Guardian" means a person to whom the law has entrusted the custody and control of the person or property, or both, of a person who has been legally adjudged incompetent.

(10) "Limited nursing services" means acts that may be performed pursuant to chapter 464 by persons licensed thereunder while carrying out their professional duties but limited to those acts which the department specifies by rule. Acts which may be specified by rule as allowable limited nursing services shall be for persons who meet the admission criteria established by the department for adult congregate living facilities and shall not be complex enough to require 24-hour nursing supervision and may include such services as the application and care of routine dressings, and care of casts, braces, and splints.

(11) "Managed risk" means the process by which the facility staff discuss the service plan and the needs of the resident with the resident, his guardian, the person appointed as the resident's attorney in fact in a durable power of attorney, executed pursuant to s. 709.08, or other person legally designated to make decisions on behalf of the resident ~~and his representative or designee~~ in such a way that the consequences of a decision, including any inherent risk, are understood by all parties and reviewed periodically in conjunction with the service plan, taking into account changes in the resident's status and the ability of the facility to respond accordingly.

(12) "Mechanical restraint" means a device which physically limits, restricts, or deprives an individual of movement or mobility, including, but not limited to, a half-bed rail, a full-bed rail, a geriatric chair, and a posey restraint. The term "mechanical restraint" shall also include any device which was not specifically manufactured as a restraint but which has been altered, arranged, or otherwise used for this purpose. The term shall not include bandage material used for the purpose of binding a wound or injury.

(13) "Mental health resident" means an individual who receives or is eligible to receive optional state supplementation and:

(a) Has been discharged from a state mental health treatment facility within the past 2 years;

(b) Has been admitted to a crisis stabilization unit within the past 2 years; or

(c) Is receiving active treatment from a physician, psychologist, clinical social worker, marriage and family therapist, mental health counselor, registered nurse, or psychiatric advanced registered nurse practitioner for a major mental illness.

(14) "Multiple and repeated violations" means five or more repeated or recurring violations, not necessarily the same violations, but of the same category, that occur during the licensee's history and that have an effect on the health, safety, or welfare of the residents of the facility.

(15)~~(14)~~ "Neglect" means to omit, forbear, or fail to exercise a degree of care and caution that a prudent person would deem essential to ensure the well-being of a resident, and by such omission, forbearance, or failure, to significantly impair or jeopardize the physical or emotional health of a resident.

(16)~~(15)~~ "Personal services" include, but are not limited to, such services as: individual assistance with or supervision of essential activities of daily living, such as eating, bathing, grooming, dressing, toileting, and ambulating; supervision of self-administered medication; and other similar services which the department may define. "Personal services" shall not be construed to mean the provision of medical, nursing, dental, or mental health services by the staff of a facility, except as provided in this part. In addition, an emergency response device installed in the apartment or living area of a resident shall not be classified as a personal service.

(17)~~(16)~~ "Resident" means a person 18 years of age or older, residing in and receiving care from a facility.

(18)~~(17)~~ "Resident's representative or designee" means a person other than the owner, or an agent or employee of the facility, designated in

writing by the resident, if legally competent, to receive notice of changes in the contract executed pursuant to s. 400.424; to receive notice of and to participate in meetings between the resident and the facility owner, administrator, or staff concerning the rights of the resident; to assist the resident in contacting the ombudsman committee if the resident has a complaint against the facility; or to bring legal action on behalf of the resident pursuant to s. 400.429.

(19)(18) "Service plan" means a written plan, developed and agreed upon by the resident, his guardian, the person appointed as the resident's attorney in fact in a durable power of attorney, executed pursuant to s. 709.08, or other person legally designated to make decisions on behalf of the resident ~~the resident's representative or designee, if any,~~ and the administrator or designee representing the facility, which addresses the unique physical and psychosocial needs, abilities, and personal preferences of each resident receiving extended congregate care services in order to facilitate aging in place. The plan shall include a brief written description, in easily understood language, of what services shall be provided, who shall provide the services, when the services shall be rendered, and the purposes and benefits of the services.

(20)(19) "Share responsibility" or "shared responsibility" means exploring the options available to a resident within a facility and the risks involved with each option when making decisions pertaining to the resident's abilities, preferences, and service needs, thereby enabling the resident, his guardian, the person appointed as the resident's attorney in fact in a durable power of attorney, executed pursuant to s. 709.08, or other person legally designated to make decisions on behalf of the resident ~~the resident's representative or designee~~ and the facility, to develop a service plan which best meets the resident's needs and improves the resident's quality of life.

(21)(20) "Supervision of activities of daily living" means reminding residents to engage in personal hygiene and other self-care activities and, when necessary, observing or assisting residents while they attend to activities such as bathing or shaving to assure their health, safety, or welfare.

(22)(21) "Supervision of self-administered medication" means reminding residents to take medication, opening bottle caps for residents, opening prepackaged medication for residents, reading the medication label to residents, observing residents while they take medication, checking the self-administered dosage against the label of the container, reassuring residents that they have obtained and are taking the dosage as prescribed, keeping daily records of when residents receive supervision pursuant to this subsection, and immediately reporting noticeable changes in the condition of a resident to the resident's physician. Residents who are capable of administering their own medication shall be allowed to do so.

(23)(22) "Supplemental security income," Title XVI of the Social Security Act, means a program through which the Federal Government guarantees a minimum monthly income to every person who is age 65 or older, or disabled, or blind and meets the income and asset requirements.

(24)(23) "Supportive services" means services designed to encourage and assist aged or disabled adults to remain in the least restrictive living environment and to maintain their independence as long as possible.

(25) "Twenty-four hour nursing supervision" means services that are ordered by a physician for a resident whose condition requires the supervision of a physician and continued monitoring of vital signs and physical status. Such supervision includes assessment, planning, and intervention by a nurse, is performed by or under the direct supervision of a licensed nurse or other professional, is required daily, and is consistent with the nature and severity of the resident's condition or the disease.

Section 3. Subsection (1) and paragraphs (a), (b), and (d) of subsection (3) of section 400.407, Florida Statutes, are amended to read:

400.407 License required; fee, display.—

(1)(a) It is unlawful to operate or maintain a facility without first obtaining from the department a license authorizing such operation.

(b)1. Any person found guilty of violating paragraph (a) who, upon notification by the department, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Any person found to be in violation of paragraph (a) due to a ~~change in s. 400.402(2), (15), (20), or (21) or a modification in department policy pertaining to personal services as provided for in s. 400.402(15)~~ and who, upon notification by the department, fails, within 10 working days after receiving such notification, to apply for a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Except as provided for in subparagraph 2., any person who violates paragraph (a) who previously operated a licensed facility or concurrently operates a licensed facility and an unlicensed facility commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. Any person who fails to obtain a license after department notification may be fined for each day of noncompliance pursuant to s. 400.419(1)(b).

5. ~~If~~ When an owner has an interest in more than one facility, and fails to license any one of these facilities, the department may revoke the license or impose a moratorium on any or all of the licensed facilities until such time as the delinquent facility is licensed.

6. *If the department determines that an owner is operating or maintaining a facility without obtaining a license authorizing such operation and determines that a condition exists in that facility that poses a threat to the health, safety, or welfare of a resident of the facility, the owner is subject to the same actions and penalties specified in ss. 400.414 and 400.419 as for a negligent act seriously affecting the health, safety, or welfare of a resident of the facility.*

(3) Any license granted by the department shall state the maximum resident capacity of the facility, the type of care for which the license is granted, the date the license is issued, the expiration date of the license, and any other information deemed necessary by the department. Licenses shall be issued for one or more of the following categories of care: standard, extended congregate care, limited nursing services, or limited mental health services.

(a) A standard license shall be issued to a ~~facility~~ facilities providing one or more ~~personal~~ of the services identified in s. 400.402(15). Such facilities may also employ or contract with a person licensed under chapter 464 to administer medications and perform other tasks as specified in s. 400.4255.

(b) An extended congregate care license shall be issued to facilities providing, directly or through contract, services beyond those authorized in paragraph (a), ~~services including acts~~ performed pursuant to chapter 464 by persons licensed thereunder, and supportive services which may be defined by rule to persons who otherwise would be disqualified from continued residence in a facility licensed under this part, ~~including persons who are dependent on others for performance of activities of daily living and persons with cognitive impairments.~~

1. In order for extended congregate care services to be provided in a facility licensed under this part, the department must first determine that all requirements established in law and rule are met and must specifically designate, on the facility's license, that such services may be provided and whether the designation applies to all or part of a facility. Such designation may be made at the time of initial licensure or biennial relicensure, or upon request in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide extended congregate care services shall have maintained a standard license and shall not have been subject to administrative sanctions ~~which affect the health, safety, and welfare of residents~~ for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years.

2. Facilities which are licensed to provide extended congregate care services shall maintain a written progress report on each person who receives such services, which report describes the type, amount, duration, scope, and outcome of services that are rendered and the general status of the resident's health. A registered nurse, or appropriate designee, representing the department shall visit such facilities at least three times a year to monitor residents who are receiving extended congregate care services and to determine if the facility is in compliance with applicable provisions of this part and with related rules. The monitoring visits may be provided through contractual arrangements with appropriate community agencies. A registered nurse shall serve as part of the team that biennially

inspects such facility. The department may waive one of the required yearly monitoring visits for a facility that has been licensed for at least 24 months to provide extended congregate care services, if, during the biennial inspection, the registered nurse determines that extended congregate care services are being provided appropriately, and if the facility has no class I or class II violations and no uncorrected class III violations. Before such decision is made, the department shall consult with the long-term care facility ombudsman council for the area in which the facility is located to determine if any complaints have been made and substantiated about the quality of services or care.

3. Facilities which are licensed to provide extended congregate care services shall:

a. Demonstrate the capability to meet unanticipated resident service needs.

b. Offer a physical environment which promotes a homelike setting, provides for resident privacy, promotes resident independence, and allows sufficient congregate space as defined by rule.

c. Have sufficient staff available, taking into account the physical plant and firesafety features of the building, to provide for the safety of all help more infirm residents evacuate in an emergency.

d. Adopt and follow policies and procedures which maximize resident independence, dignity, choice, and decisionmaking to permit residents to age in place to the extent possible, so that moves due to changes in functional status are minimized or avoided.

e. Demonstrate the capacity to allow residents to make a variety of personal choices, participate in developing service plans, and share responsibility in decisionmaking in a manner consistent with the residents' physical or cognitive impairments.

f. Promote the concepts ~~concept~~ of managed risk and shared responsibility.

g. Provide, either directly or through contract, the services of a person licensed pursuant to chapter 464.

h. In addition to the training mandated in s. 400.452, provide specialized training as defined by rule for facility staff.

i. Adopt and follow policies and procedures to provide for the special needs of persons with Alzheimer's and related dementias in a manner which ensures the dignity of such persons in the least restrictive environment. The department shall adopt by rule guidelines for such policies and procedures.

4. Facilities licensed to provide extended congregate care services shall be exempt from the criteria for continued residency as set forth in rule pursuant to s. 400.441(1)(g). Facilities so licensed shall adopt their own requirements within guidelines for continued residency set forth by the department in rule. However, such facilities shall not serve residents who require 24-hour nursing supervision. Facilities licensed to provide extended congregate care services shall provide each resident with a written copy of facility policies governing admission and retention.

5. When a facility can no longer provide or arrange for services in accordance with the resident's service plan and needs and the facility's policy, the facility shall make arrangements for relocating the person in accordance with s. 400.426(8).

6. Failure to provide extended congregate care services may result in denial of extended congregate care license renewal.

7. No later than January 1 of 1993 and 1994, the department shall prepare and submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairmen of appropriate legislative committees, a report on the status of, and recommendations related to, extended congregate care services. The report shall include, but not be limited to, the following information:

a. A description of the facilities licensed to provide such services, including total number of beds licensed under this part.

b. The number and characteristics of residents receiving such services.

c. The types of services rendered that could not be provided through a standard license.

d. An analysis of deficiencies cited during biennial inspections.

e. The impact of extended congregate care services, if any, on nursing home admissions and costs.

f. Recommendations for statutory or regulatory changes.

g. The impact of an extended congregate care license, if any, on the cost of workers' compensation insurance, liability insurance, and health care insurance.

h. The availability of extended congregate care to state clients residing in facilities licensed under this part and in need of additional services, and recommendations for appropriations to subsidize extended congregate care services for such persons.

i. Other information as deemed appropriate by the department.

(d) A limited mental health license shall be issued to a facility that provides facilities which provide mental health services as specified in this paragraph to mental health residents who meet the criteria of s. 400.402(13).

1. In order for limited mental health services to be provided in a facility licensed under this part, the department shall first determine that all requirements established in law and rule are met and shall specifically designate, on the facility's license, that such services may be provided and designate the number of residents who may receive limited mental health services. Such designation may be made at the time of initial licensure or biennial relicensure, or if requested in writing by a licensee under this part. Notification of approval or denial of such request shall be made within 90 days after receipt of such request and all necessary documentation. Existing facilities qualifying to provide limited mental health services must shall have maintained a standard license and must shall not have been subject to administrative sanctions which affect the health, safety, or welfare of residents for the previous 2 years or since initial licensure if the facility has been licensed for less than 2 years. Specific designation as a facility licensed to provide limited mental health services is not required in order for a facility to accept mental health residents, but it is required in order for a facility to receive additional payment from the state for those residents.

2. Facilities which are licensed to provide limited mental health services shall provide at least the following additional services:

a. A written plan of cooperation with the community mental health center.

b. Increased staff as defined by rule to meet the special needs of mental health residents.

c. Increased activities as defined by rule to meet the needs of mental health residents.

d. Participation in the continuity of care management system.

3. In addition to the training as provided in s. 400.452, staff in facilities which are authorized to provide limited mental health services shall receive additional training, as defined by rule, on the special needs of mental health residents. Facilities which are designated to provide limited mental health services may not have more than 50 percent mental health residents if their licensed capacity exceeds 16. If their licensed capacity is 16 or less, all of their residents may be mental health residents. For facilities which are designated to provide limited mental health services, the department shall, within funds appropriated, provide additional payment for the limited mental health services.

4. A person who receives limited mental health services under this part must shall meet the admission criteria established by the department for adult congregate living facilities. When a resident no longer meets the admission criteria for a facility licensed under this part, arrangements for relocating the person shall be made in accordance with s. 400.426.

Section 4. Section 400.412, Florida Statutes, is amended to read:

400.412 Sale or transfer of ownership of a facility.—It is the intent of the Legislature to protect the rights of the residents of an adult congregate living facility when the facility is sold or the ownership thereof is transferred. Therefore, whenever a facility is sold or the ownership thereof is transferred, including leasing:

(1) The transferee shall make application to the department for a new license at least 60 days before the date of transfer of ownership.

(2)(a) The transferor shall notify the department in writing at least 60 days before the date of transfer of ownership.

(b) The new owner shall notify the residents, in writing, of the transfer of ownership within 7 days after the new owner's receipt of the license.

(3) The transferor is shall be responsible and liable for:

(a) The lawful operation of the facility and the welfare of the residents domiciled in the facility until the date the transferee is licensed by the department.

(b) Any and All penalties imposed against the facility for violations occurring before the date of transfer of ownership; provided that, if the penalty imposed is a moratorium on admissions or a denial of licensure, and there is a threat to the health, safety, or welfare of the residents which continues unabated, the moratorium or the denial remains shall remain in full force and effect after the transfer of ownership, unless the department has approved the transferee's plan of correction or the condition that resulted in the moratorium or denial has been corrected, and or it may be a ground grounds for denial of license to the transferee in accordance with chapter 120.

(c) Any outstanding liability to the state, unless the transferee has agreed, as a condition of sale or transfer, to accept the outstanding liabilities and to guarantee payment therefor; except that, if the transferee fails to meet these obligations, the transferor shall remain liable for the outstanding liability.

(4) The transferor of a facility the license of which is denied pending a chapter 120 hearing shall, as a part of the written transfer-of-ownership contract, advise the transferee that a plan of correction must be submitted by the transferee and approved by the department at least 7 days before the transfer of ownership and that failure to correct the condition that resulted in the moratorium on admissions or denial of licensure is a ground for denial of the transferee's license.

(5)(4) The transferor shall, before transferring ownership, pay or make arrangements to pay to the department any amounts owed to the department before the transfer of ownership; and the issuance of a license to the transferee shall be delayed until such payment or arrangements for payment have been made.

(6)(5) The transferee must provide the department with a copy of the recorded warranty deed or lease agreement before a license may be issued.

Section 5. Section 400.414, Florida Statutes, is amended to read:

400.414 Denial, revocation, or suspension of license; imposition of administrative fine; grounds; hearings.—

(1) The department may deny, revoke, or suspend a *standard, extended congregate care, limited nursing services, or limited mental health services* license or impose an administrative fine in the manner provided in chapter 120. At the chapter 120 hearing, the department must shall prove by a preponderance of the evidence that its actions are warranted.

(2) Any of the following actions involving by a facility or by its employee is a ground shall be grounds for action by the department against a licensee:

(a) An intentional or negligent act seriously affecting the health, safety, or welfare of a resident of the facility.

(b) The determination by the department that the facility owner or administrator is not of suitable character and competency, or that the owner lacks the financial ability, to provide continuing adequate care to residents, pursuant to the information obtained through s. 400.411, s. 400.417, or s. 400.434.

(c) Conviction of a felony or any crime involving moral turpitude under the laws of any state or of the United States within the previous 10 years. The record of conviction or a certified copy of the record is conclusive evidence of such conviction.

(d)(e) Misappropriation or conversion of the property of a resident of the facility.

(e)(d) Multiple and repeated violations of this part or of minimum standards or rules adopted pursuant to this part.

(f)(e) A confirmed report of abuse, neglect, or exploitation, as defined in s. 415.102, which has been upheld following a chapter 120 hearing or a waiver of such proceedings if where the perpetrator is an employee, volunteer, administrator, or owner, or otherwise has access to the residents of a facility, and the administrator has not taken action to remove the perpetrator. A perpetrator may seek an exemption from disqualification through the procedures provided in s. 415.107(6)(b). No Administrative action may not be taken against the facility if the perpetrator is granted an exemption.

(g)(f) Violation of a moratorium.

(h) The failure to meet minimum license standards or rules adopted under this part.

(i) The making of a fraudulent statement on an application for a license or on any other signed and notarized document required by the department.

(3) In addition to the reasons in subsection (2), The department may deny a license to an applicant who owns 10 percent or more of, or operates, a facility which, during the 12 months prior to the application for a license, has had a license denied, suspended, or revoked pursuant to subsection (2), had a moratorium imposed on admissions, had an *injunctive proceeding injunction proceedings* initiated against it, or had a receiver appointed, was closed due to financial inability to operate, or has not paid a fine assessed under this part.

(4) Any action taken by the department to suspend, deny, or revoke a facility's license under this part in which the department claims that the facility owner or an employee thereof has threatened the health, safety, or welfare of a resident of the facility shall, upon receipt of the facility's request for a hearing, be heard by the Division of Administrative Hearings within 120 days after the request for a hearing, unless that time period is waived by both parties.

Section 6. Section 400.415, Florida Statutes, is amended to read:

400.415 Moratorium on admissions.—The department may impose an immediate moratorium on admissions to any facility when the department determines that any condition in the facility presents a potential threat to the health, safety, or welfare of the residents in the facility. A facility the license of which is denied, revoked, or suspended as a result of a violation of s. 400.414 is subject to immediate imposition of a moratorium on admissions.

Section 7. Subsection (2) of section 400.4255, Florida Statutes, is amended to read:

400.4255 Use of licensed personnel.—

(2) In facilities licensed to provide extended congregate care, persons under contract to the facility, facility staff, or volunteers, who are licensed according to chapter 464, or those persons exempt under s. 464.022(1), may also perform all duties within the scope of their license in accordance with a service plan, as defined in s. 400.402(19).

Section 8. Subsections (9), (10), and (11) of section 400.426, Florida Statutes, are amended to read:

400.426 Appropriateness of placements; examinations of residents.—

(9) A terminally ill resident who no longer meets the criteria for continued residency may remain in the facility if the arrangement is mutually agreeable to the resident and the facility, additional care is rendered through a licensed hospice or home health agency, and the resident is under the care of a physician who agrees that the physical needs of the resident are being met. A facility that retains a terminally ill resident pursuant to this subsection shall ensure that the agency providing care assesses the resident's social, emotional and family support needs, as well as physical and medical needs, and implements an interdisciplinary approach to meet such needs when appropriate.

(10) Facilities licensed to provide extended congregate care services shall promote aging in place by determining appropriateness of continued residency based on a comprehensive review of the resident's physical, mental, and functional status; the ability of the facility, family members, friends, or any other pertinent individuals or agencies to provide the care and services required; and documentation that a written service plan consistent with facility policy has been developed and implemented to ensure that the resident's needs and preferences are addressed. Whether or not a resident has a cognitive impairment, the facility shall encour-

age the resident's participation in the service plan development in a manner consistent with the resident's needs, preferences, and abilities.

(11) A ~~No~~ resident who requires 24-hour nursing supervision ~~skilled nursing care~~, except for a terminally ill resident who is under the care of a ~~an~~ enrolled hospice or home health agency patient pursuant to subsection (9) ~~part V of this chapter~~, may not ~~shall~~ be retained in a facility licensed under this part.

Section 9. This act shall take effect July 1, 1992.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.401, F.S.; revising the purpose of the Adult Congregate Living Facilities Act; providing legislative findings regarding the significance of a license under part II, ch. 400, F.S.; amending s. 400.402, F.S.; adding and amending definitions of terms used in that part; amending s. 400.407, F.S.; revising a violation relating to failure to obtain a license after receiving notification; creating a violation and penalties relating to failure to obtain a license and the maintenance of a threatening condition; revising the provisions relating to the issuance of licenses; amending s. 400.412, F.S., relating to sale or transfer of ownership of a facility; revising the penalties and responsibilities of the transferor and the transferee of certain facilities; requiring a plan of correction or the correction of the condition before issuance of a license or lifting of a moratorium on admissions; amending s. 400.414, F.S.; listing the categories of licenses that the department may deny, revoke, or suspend; and the actions that may result in license denial, revocation, or suspension or the imposition of a fine; prohibiting certain actions; providing for applicability to a part owner of a facility; providing for denial of licenses to certain applicants who had licenses denied or suspended, facilities closed under certain circumstances, or unpaid fines; providing a time period for a hearing under ch. 120, F.S., by the Division of Administrative Hearings; amending s. 400.415, F.S.; providing for immediate imposition of a moratorium on admissions under certain circumstances; amending s. 400.4255, F.S.; requiring extended congregate care to be provided in accordance with a service plan; amending s. 400.426, F.S.; providing additional requirements for service plans; providing that certain residents may not be retained in an adult congregate living facility; providing an effective date.

Senator Forman moved the following amendment to **Amendment 2** which was adopted:

**Amendment 2A (with Title Amendment)**—On page 23, strike line 21 and insert:

Section 9. Section 410.033, Florida Statutes, is amended to read:

410.033 Home care for disabled adults and the elderly; rules.—The department shall by rule establish minimum standards and procedures for the provision of home care for disabled adults and the elderly, and for the approval of persons wishing to provide such care. Priority shall be given to disabled adults and the elderly who are not eligible for comparable services in programs of and funded by the department. Any person who is approved by the department to provide such care, goods, or services for a disabled adult or an elderly person shall be eligible for the subsidy payments described in s. 410.035. However, the home care for disabled adults and the elderly program shall operate within the funds appropriated by the Legislature.

Section 10. Section 410.035, Florida Statutes, is amended to read:

410.035 Subsidy payments.—

(1) The department shall develop by October 1, 1992 ~~1993~~, a schedule of subsidy payments to be made to persons providing home care, and providers of goods and services, for certain eligible disabled adults or elderly persons. Payments shall be based on the financial status of the person receiving care. Payments shall include, but not be limited to:

(a) A support and maintenance element, to include costs of housing, food, clothing, and incidentals, and costs of:

(b) ~~Payments for~~ medical, pharmaceutical, and dental services essential to maintain the health of the disabled adult or elderly person and not covered by Medicare, Medicaid, or any form of insurance.

(b)(e) When necessary, special supplements to provide for any goods and services ~~service~~ and specialized care required to maintain the health and well-being of the disabled adult or elderly person. *Extraordinary medical, dental, or pharmaceutical expenses may be paid as a special supplement.*

(2) The department shall develop a schedule of subsidy payments to persons providing home care, and providers of goods and services, for disabled adults or the elderly. This schedule shall be based on the financial status of the eligible disabled adult or elderly person.

Section 11. This act shall take effect July 1, 1992.

And the title is amended as follows:

In title, on page 24, strike all of lines 13 and 14 and insert: An act relating to aging and adult services; amending ss. 410.033 and 410.035, F.S.; providing for subsidy payments to providers of goods and services under the home care program for disabled adults and elderly persons; authorizing payment for goods and for extraordinary medical, dental, or pharmaceutical expenses, as a special supplement; amending s. 400.401, F.S.; revising

**Amendment 2** as amended was adopted.

On motion by Senator Forman, by two-thirds vote **SB 2042** 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

**CS for CS for CS for SB 12, SB 508 and SB 1310**—A bill to be entitled An act relating to affordable housing; amending s. 201.02, F.S.; increasing the excise tax on deeds and other instruments relating to real property; amending s. 201.15, F.S.; revising the distribution of excise taxes on documents; allocating a portion of the excise tax on documents to the State Housing Trust Fund and to the Local Government Housing Trust Fund; providing for the use of moneys deposited in the State Housing Trust Fund and the Local Government Housing Trust Fund; amending s. 240.5111, F.S.; requiring the Multidisciplinary Center for Affordable Housing to establish a research agenda in cooperation with the Department of Community Affairs; amending s. 420.0001, F.S.; providing a short title; amending s. 420.0002, F.S.; providing legislative findings; amending s. 420.0005, F.S.; providing that funds from the State Housing Trust Fund may be used to administer housing programs; amending s. 420.306, F.S.; revising definitions of the Housing Predevelopment and Elderly Homeowner Rehabilitation Assistance Act; amending s. 420.307, F.S.; revising provisions relating to administration of a trust fund and providing for availability of funds; amending s. 420.308, F.S.; revising provisions relating to authorized loans and grants and activities eligible for support; amending s. 420.309, F.S.; revising application procedures for receipt of funds; requiring notice and establishment of a review committee and scoring system; amending s. 420.31, F.S.; revising provisions relating to rules and annual reports; amending s. 420.32, F.S.; revising provisions relating to default on a loan; providing for deposit of funds; creating s. 420.36, F.S.; creating the Low-income Emergency Home Repair Program; providing eligibility, allowable expenses, fund distribution, and departmental powers; creating s. 420.37, F.S.; providing additional powers of the Florida Housing Finance Agency; amending s. 420.503, F.S.; providing additional definitions under the Florida Housing Finance Agency Act; amending s. 420.507, F.S.; revising powers of the agency with respect to loans under the Florida Homeownership Assistance Program and the State Apartment Incentive Loan Program; amending s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program; amending provisions relating to eligibility for loans; amending provisions relating to allocation of loans; transferring certain duties of the Department of Community Affairs to the Florida Housing Finance Agency; amending s. 420.5088, F.S.; amending provisions relating to the Florida Homeownership Assistance Program; amending requirements with respect to mortgage loans; providing requirements with respect to construction loans; providing for allocation of program funds; providing for transfer of moneys to the Florida Homeownership Assistance Trust Fund; creating s. 420.5089, F.S.; creating the HOME Partnership Program and establishing a trust fund; providing for loans based on competitive selection; providing for pilot programs; providing for eligible activities; providing for a review committee; providing for approval and determination of loans; providing agency powers; providing for the deposit of funds; creating s. 420.5091, F.S.; providing for rules to implement the HOPE Program; providing for the acquisition of property; creating s. 420.5092, F.S.; creating the Florida Affordable Housing Guarantee Program and authorizing agency action; providing purposes; providing definitions; providing for funding; providing for establishing rates and fees for guarantees; providing for the issuance of revenue bonds; providing a specified maximum amount of such bonds; providing for an annual audit; providing for a feasibility study; amending s. 420.601, F.S.; providing a short title; amending

s. 420.6015, F.S.; providing legislative findings; amending s. 420.606, F.S.; requiring the Department of Community Affairs to provide technical support for the implementation of the State Housing Initiatives Partnership Program; amending s. 420.6075, F.S.; requiring the Department of Community Affairs to participate in establishing an annual research agenda for the Multidisciplinary Center for Affordable Housing; amending s. 420.609, F.S.; requiring the Affordable Housing Study Commission to make recommendations regarding an annual research agenda for the Multidisciplinary Center for Affordable Housing; creating part IX of ch. 420, F.S., consisting of ss. 420.907, 420.9071, 420.9072, 420.9075, 420.9076, 420.9078, 420.9079, F.S.; providing a short title; providing definitions relating to affordable housing; establishing the State Housing Initiatives Partnership Program; providing legislative findings and intent; providing for administration of the program and for rules; providing approval procedures and requirements; providing for the distribution and use of funds; providing criteria for the issuance of revenue bonds by local governments; establishing criteria and administrative procedures for local housing assistance programs adopted by local governments; requiring a report; requiring reporting of violations to the Office of the Governor and the Auditor General; requiring adoption of affordable housing incentive plans; providing for affordable housing advisory committees; providing for state administration of remaining local housing distribution funds; providing for notice of the availability of funds; creating the Local Government Housing Trust Fund; providing for the distribution of moneys from the trust fund; providing for transfer of program functions of the Housing Predevelopment Trust Fund to the Florida Housing Finance Agency; providing that this act does not affect chs. 83-220, 84-270, 86-152, 89-252, Laws of Florida; amending s. 1, ch. 83-220, Laws of Florida, as amended; providing an appropriation; providing for the allocation of funds in the State Housing Trust Fund; repealing ss. 420.603, 420.604, 420.605, F.S., relating to the Florida Affordable Housing Trust Fund, the Florida Affordable Housing Demonstration Program, and the Affordable Housing Loan Program; allocating funds from the State Housing Trust Fund to housing programs; repealing ss. 420.801, 420.802, 420.803, 420.804, 420.805, 420.806, 420.808, 420.809, 420.810, 420.811, 420.812, 420.813, F.S., relating to the Pocket of Poverty Programs; repealing ss. 420.901, 420.902, 420.903, 420.904, 420.905, 420.906, F.S., the Maintenance of Housing for the Elderly Act of 1988; providing a severability clause; providing effective dates.

—was read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

**Amendment 1**—On page 79, lines 6, 10 and 31, and on page 80, line 7, after "agency" insert: and the department

**Amendment 2**—On page 80, strike all of lines 6-9 and insert: without posing an undue burden on the local government. Plans shall be reviewed by a committee composed of agency and department staff as established by agency rule, in consultation with the department. Within 30 days after receiving a plan, the review committee must review the plan and either approve it or identify inconsistencies with the requirements of the program. The agency and the department shall assist local governments in revising their plans if they initially prove to be inconsistent with program requirements. Plans revised by the local government to achieve consistency with the program must be reviewed within 30 days after submission. It is the intent of the Legislature that

**Amendment 3**—On page 80, line 12, after the period (.) insert: After being approved for funding, a local government may revise its local housing assistance program without seeking further approval provided that it continues to comply with the requirements for such programs.

**Amendment 4**—On page 92, line 20, strike "s. 420.9071" and insert: s. 420.9072(6)

**Amendment 5 (with Title Amendment)**—On page 95, strike all of lines 22-24 and insert:

Section 30. Each county that has implemented the provisions of chapter 83-220, Laws of Florida, as amended by chapters 84-270, 86-152, and 89-252, Laws of Florida, shall not be subject to the 10-cent increase in the documentary stamp tax levied by section 1 of this act; however, each such county shall only be eligible to participate in programs funded pursuant to section 3 of this act to the extent that the program is funded by the county's pro rata share of tax revenues paid into the State Housing Trust Fund or the Local Government Housing Trust Fund, as adjusted to reflect the minimum distribution to a county pursuant to s. 420.9072(4).

And the title is amended as follows:

In title, on page 5, strike all of lines 6-8 and insert: providing that each county that has implemented ch. 83-220, Laws of Florida, as amended, shall not be subject to section 1 of the act and shall be eligible for certain programs on a limited basis;

**Amendment 6**—On page 97, lines 25-30, and on page 98, lines 1 and 2, strike all of said lines and insert:

(8) The sum of \$400,000 shall be allocated to implement the Affordable Housing Catalyst program to provide technical support for the State Housing Initiatives Partnership Program and federal programs as required pursuant to section 420.606, Florida Statutes.

(9) The sum of \$200,000 shall be allocated to the Center for Affordable Housing to conduct housing research pursuant to s. 240.5111, Florida Statutes, and according to a research agenda developed in cooperation with the Department of Community Affairs.

(Renumber subsequent subsection.)

Senator Bruner moved the following amendment which failed:

**Amendment 7**—On page 9, line 22, insert:

Section . Okaloosa, Walton and Bay Counties shall not be subject to the 10 cent documentary stamp tax levied by section 1.

On motions by Senator Bruner, by two-thirds vote **CS for CS for CS for SB 12, SB 508 and SB 1310** was read the third time by title and further consideration was deferred.

**SB 764**—A bill to be entitled An act relating to public libraries; amending s. 257.171, F.S.; providing for multicounty libraries rather than regional libraries; amending s. 257.172, F.S.; revising provisions relating to state grants to libraries; providing for use of funds and computation and adjustment of grants; amending s. 257.18, F.S.; revising provisions relating to the computation of equalization grants; creating s. 257.195, F.S.; providing procedures in the event of revenue shortfalls; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

**Amendment 1 (with Title Amendment)**—On page 5, between lines 13 and 14, insert:

Section 5. Subsection (2) of section 24.115, Florida Statutes, is amended to read:

24.115 Payment of prizes.—

(2) All Unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions; however, at least \$5.2 million shall annually be deposited into the Library Services Trust Fund to be used exclusively for state aid to libraries.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 12, after the semicolon (;) insert: amending s. 24.115, F.S.; providing for a specified amount of unclaimed prize money from the state lottery to be deposited into the Library Services Trust Fund each year;

## POINT OF ORDER

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

**SENATOR CHILDERS PRESIDING**

## RULING ON POINT OF ORDER

On recommendation of Senator Gardner, Chairman of the Committee on Appropriations, the President ruled the point well taken and the bill was referred to the Committee on Appropriations.

**MOTION**

On motion by Senator Gardner, the rules were waived and the Committee on Appropriations was granted permission to consider **SB 764** on March 11.

**THE PRESIDENT PRESIDING**

**CS for SB 642**—A bill to be entitled An act relating to secondary metals recyclers; amending s. 538.26, F.S.; prohibiting a secondary metals recycler from purchasing regulated metals property unless the seller meets specified criteria; amending s. 538.23, F.S.; providing a penalty for a secondary metals recycler who purchases regulated metals property when the seller does not meet specified criteria; providing an effective date.

—was read the second time by title. On motion by Senator Souto, by two-thirds vote **CS for SB 642** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32      Nays—None

**SB 1314**—A bill to be entitled An act relating to state lands; amending s. 253.033, F.S.; revising language with respect to the former Inter-American Center property in Dade County to provide that a certain portion of “the Graves tract” which is not necessary to be reserved for transportation facility right-of-way be transferred to the City of North Miami; providing that the city may not be required to pay monetary consideration therefor; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **SB 1314** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34      Nays—None

Consideration of **CS for CS for SB 1096 and SB 2414** was deferred.

**CS for SB 376**—A bill to be entitled An act relating to unemployment compensation; amending s. 443.101, F.S.; excluding from unemployment compensation calculations any benefits from programs under the United States Social Security Act; amending s. 443.111, F.S.; connecting the weekly benefit for the partially unemployed individual to federal hourly minimum wage levels; amending s. 443.131, F.S.; revising the definition of “annual payroll” as used in tax rate calculations; amending s. 443.141, F.S.; increasing the interest charged on unpaid contributions; providing an exception; increasing the penalty for delinquent reports; creating s. 443.231, F.S.; establishing a 3-year statewide pilot employment training program; providing expiration date; providing for promulgation of rules; providing an effective date.

—was read the second time by title. On motion by Senator Childers, by two-thirds vote **CS for SB 376** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—None

**RECONSIDERATION**

On motion by Senator Walker, the Senate reconsidered the vote by which **CS for SB 376** passed.

On motions by Senator Walker, by two-thirds vote **CS for HB 133** was withdrawn from the Committees on Commerce and Appropriations.

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

**CS for HB 133**—A bill to be entitled An act relating to unemployment compensation; amending s. 443.101, F.S.; excluding from unemployment compensation calculations any benefits from programs under the United States Social Security Act; amending s. 443.111, F.S.; connecting the weekly benefit for the partially unemployed individual to federal hourly minimum wage levels; amending s. 443.131, F.S.; revising the definition of “annual payroll” as used in tax rate calculations; amending s. 443.141, F.S.; increasing the interest charged on unpaid contributions; providing an exception; increasing the penalty for delinquent reports; creating s. 443.231, F.S.; establishing a 3-year statewide pilot employment training program; providing expiration date; providing for promulgation of rules; providing an effective date.

—a companion measure, was substituted for **CS for SB 376** and by two-thirds vote read the second time by title. On motion by Senator Walker, by two-thirds vote **CS for HB 133** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35      Nays—1

On motions by Senator Forman, by two-thirds vote **HB 1355** was withdrawn from the Committees on Transportation and Appropriations.

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

**HB 1355**—A bill to be entitled An act relating to railroads and other common carriers; amending s. 318.18, F.S.; providing a civil penalty for failure to obey traffic control requirements at railroad-highway grade crossings; amending s. 351.03, F.S.; authorizing municipalities and counties to implement means to secure railroad-highway grade crossings against accidents and, pursuant thereto, to pass ordinances prohibiting the sounding of audible train warning devices between certain hours; providing for funding of the pilot projects; amending s. 351.034, F.S.; providing an exception to provisions requiring railroad-highway grade crossings to be cleared for emergency vehicles; repealing s. 351.003, F.S., relating to powers of the Florida Public Service Commission over intrastate rail rates and practices; repealing s. 351.009, F.S., relating to fees required to be paid by railroad companies to the commission; saving s. 361.025, F.S., and chapters 351 and 354, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

—a companion measure, was substituted for **SB 408** and read the second time by title.

Senator Forman moved the following amendments which were adopted:

**Amendment 1**—On page 2, strike all of lines 13-23 and insert: *or county to implement a whistle ban provided the following conditions are met:*

1. *A traffic operations system is implemented to secure railroad-highway grade crossings for the purpose of preventing vehicles from going around, under, or through lowered railroad gates.*

2. *The municipality or county has in effect an*

**Amendment 2**—In title, on page 1, lines 12 and 13, strike “providing for funding of pilot projects;”

**Amendment 3**—On page 3, lines 18 and 19, strike “local plans meet” and insert: *such traffic operations system meets*

On motion by Senator Forman, by two-thirds vote **HB 1355** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31      Nays—1

**SB 2096**—A bill to be entitled An act relating to perinatal and neonatal care services; amending s. 383.15, F.S.; revising legislative intent relating to perinatal care services; amending s. 383.16, F.S.; revising definitions; amending s. 383.17, F.S.; providing for regional perinatal intensive care centers; deleting reference to grants to health care providers; amending s. 383.18, F.S.; providing for contractual agreements; providing for medical and financial eligibility; amending s. 383.19, F.S.; providing for transportation services; providing for Medicaid reimbursement; modifying priority consideration for the establishment of centers; amending s. 383.21, F.S.; modifying provisions relating to program review; amending s. 383.215, F.S., relating to developmental evaluation and intervention programs at hospitals providing certain neonatal intensive care services; revising legislative intent; revising definitions; revising program requirements; providing for coordination with the Florida Interagency Coordinating Council for Infants and Toddlers; providing for rules; providing for program funding and contracts; providing for program review; repealing s. 383.171, F.S., relating to grants to neonatal intensive care centers; repealing s. 383.212, F.S., relating to program review, evaluations, and projections for neonatal intensive care centers; providing an effective date.

—was read the second time by title.

The Committee on Health and Rehabilitative Services recommended the following amendment which was moved by Senator Malchon and adopted:

**Amendment 1**—On page 12, line 28, strike “October” and insert: *July*

On motion by Senator Malchon, by two-thirds vote **SB 2096** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32      Nays—None

**SB 1896**—A bill to be entitled An act relating to the correctional system; amending s. 947.1405, F.S.; requiring maximum level and length of supervision of offenders convicted of certain offenses, amending s. 947.146, F.S.; limiting control release to in-state inmates; requiring certain recommendations and inmate notification of extension; requiring a review process for certain inmates; creating s. 947.149, F.S.; requiring a conditional medical release program for inmates determined to be permanently incapacitated or terminally ill; providing procedure; providing rulemaking authority; requiring a study and pilot project by the Department of Corrections concerning long-term adult inmates with chronic health care needs; amending s. 947.1747, F.S.; authorizing the Parole Commission to place offenders on community control as a special condition of conditional release, conditional medical release, or following a control release violation; providing effective dates.

—was read the second time by title.

Senator Girardeau moved the following amendments which were adopted:

**Amendment 1 (with Title Amendment)**—On page 5, strike all of lines 1-3

And the title is amended as follows:

In title, on page 1, lines 8 and 9, strike “and inmate notification of extension”

**Amendment 2 (with Title Amendment)**—On page 9, lines 9-31, and on page 10, lines 1 and 2, strike all of said lines and insert:

(d) A feasibility study regarding a proposed pilot project that uses an available state-owned facility as an alternative setting to house adult inmates with extensive chronic health care needs. The study shall address the following areas: facility conversion costs; staffing costs; location; eligibility criteria; program description; cost tracking system; anticipated cost savings; and other related areas.

(e) A summary and comparison of the anticipated short-term and long-term costs of continuing traditional prison maintenance of adult inmates with extensive chronic health care needs versus the alternative presented by the proposed pilot project in paragraph (d).

(f) An analysis of the cost-effectiveness of the use of privatization for incarcerating adult inmates with extensive chronic health care needs.

(3) The Department of Corrections shall provide a report of its findings and recommendations to the President of the Senate and the Speaker of the House of Representatives no later than December 1, 1992.

And the title is amended as follows:

In title, on page 1, strike all of lines 15-16 and insert: requiring a study by the Department of Corrections concerning the treatment of

**Amendment 3 (with Title Amendment)**—On page 10, strike all of lines 3-21 and renumber subsequent section.

And the title is amended as follows:

In title, on page 1, strike all of lines 18-23 and insert: providing effective dates.

On motion by Senator Girardeau, by two-thirds vote **SB 1896** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—31 Nays—None

Consideration of **SB 2164** and **CS for SB 2416** was deferred.

On motions by Senator Jenne, by two-thirds vote **HB 187** was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; Community Affairs; and Appropriations.

On motion by Senator Jenne—

**HB 187**—A bill to be entitled An act relating to health insurance subsidies; creating ss. 175.401 and 185.50, F.S.; providing for retiree health insurance subsidies for firefighters and police officers; providing a declaration of home rule authority; providing purpose; authorizing establishment and termination of health insurance subsidy trust funds by ordinance; providing for funding through premium tax moneys, employee contributions, and municipal contributions; providing eligibility; provid-

ing for establishment of subsidy amount; providing for payment; providing for investment and deposit of trust funds; providing for refund of contributions; providing for administration, actuarial valuations, and annual audits; providing for promulgation of rules and payment of administrative costs; protecting subsidy payments from assignment, execution, or attachment; providing that such subsidies shall be in addition to other benefits; requiring compliance and providing that premium tax funds may be withheld for noncompliance; providing an effective date.

—a companion measure, was substituted for **SB 1394** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **HB 187** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

Consideration of **SB 112** was deferred.

**CS for SB 66**—A bill to be entitled An act relating to witnesses in criminal proceedings; amending s. 905.17, F.S.; providing that a witness under examination by a grand jury may have an attorney present for advisement and consultation; providing that the act is permissive and creates no right to counsel; providing limitations for attorney; prohibiting representation of multiple clients by an attorney before the grand jury; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Plummer and adopted:

**Amendment 1 (with Title Amendment)**—On page 2, between lines 23 and 24, insert:

(5) *This section does not apply to proceedings of the statewide grand jury created in s. 905.33.*

And the title is amended as follows:

In title, on page 1, line 10, after the semicolon “(,)” insert: excluding statewide grand jury;

On motion by Senator Plummer, by two-thirds vote **CS for SB 66** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—24 Nays—12

**SB 2164**—A bill to be entitled An act relating to continuing care services; amending s. 651.013, F.S., relating to applicability of other laws to providers of continuing care facilities; clarifying a cross-reference; amending s. 651.022, F.S.; revising the provisions relating to the market feasibility study required of applicants for provisional certificates of authority; deleting the financial forecast requirement; amending s. 651.023, F.S.; requiring a market feasibility study from an applicant for a certificate of authority; requiring the study to include financial forecasts; deleting the required certification in a feasibility study of no material adverse change; revising current provisions; amending s. 651.026, F.S.; requiring additional information on the annual statements of certain continuing care providers; requiring the Department of Insurance to adopt a rule relating to assessment of financial viability of a provider; deleting a required current-assets-to-current-liabilities ratio; requiring that certain information relating to annual statements be made available; prohibiting photocopying of that information; providing an exception; amending s. 651.095, F.S.; requiring applicants for provisional certificates of authority to submit advertisements to the department; providing for approval of the advertisements; abolishing the requirement that providers submit advertisements to the department; prohibiting certain advertisements; clarifying the information that is required in certain advertisements; clarifying current provisions; amending s. 651.119, F.S., relating to assistance to persons affected by closure due to liquidation or pending liquidation; repealing the expiration provision for this section; clarifying that certain moving expenses of certain residents may be provided from reserves; amending s. 651.121, F.S.; revising membership of the Continuing Care Advisory Council; amending s. 651.125, F.S.; providing that the enforcement provisions of s. 624.310, F.S., apply to certain persons whose names are required to be disclosed under ch. 651, F.S.; providing an effective date.

—was read the second time by title.

The Committee on Commerce recommended the following amendment which was moved by Senator Kiser and adopted:

**Amendment 1 (with Title Amendment)**—On page 9, between lines 7 and 8, insert:

Section 5. Subsection (8) of section 651.055, Florida Statutes, is hereby repealed.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 28, after "exceptions;" insert: amending s. 651.055, F.S.; repealing the exemption of continuing care contracts from fraudulent securities regulation;

Senator Kiser moved the following amendments which were adopted:

**Amendment 2 (with Title Amendment)**—On page 1, between lines 21 and 22, insert:

Section 1. Section 627.6515, Florida Statutes, is amended to read:

627.6515 Out-of-state groups.—

(1) A ~~any~~ group health insurance policy issued or delivered outside this state ~~that provides coverage to under which~~ a resident of this state ~~must be provided coverage shall comply with the provisions of this part in the same manner as group health policies issued in this state.~~

(2) This part does not apply to a group health insurance policy issued or delivered outside this state ~~that provides coverage to under which~~ a resident of this state ~~is provided coverage if all of the following apply:~~

(a) The policy is issued to *any of the following*:

1. An employee group the composition of which is substantially as described in s. 627.653.;

2. A labor union group ~~or association group~~ the composition of which is substantially as described in s. 627.654. ~~an additional group the composition of which is substantially as described in s. 627.656;~~

3. An association group the composition of which is substantially as described in s. 627.654.

4. An additional group the composition of which is substantially as described in s. 627.656.

5. A group insured under a blanket health policy ~~if when~~ the composition of the group ~~is substantially complies in compliance~~ with s. 627.659.;

6. A group insured under a franchise health policy ~~if when~~ the composition of the group ~~is substantially complies in compliance~~ with s. 627.663.;

7. An association group to cover persons associated in any other common group, which common group is formed primarily for purposes other than providing insurance.;

8. A group which is established primarily for the purpose of providing group insurance, ~~if provided the benefits are reasonable in relation to the premiums charged thereunder and the issuance of the group policy has resulted, or will result, in economies of administration.~~;

9. A trustee group the composition of which is substantially in compliance with s. 627.6516.

10. A group of insurance agents of an insurer, which insurer is the policyholder.;

(b) Certificates evidencing coverage under the policy are issued to residents of this state and contain in contrasting color and not less than 10-point type the following statement: "The benefits of the policy providing your coverage are governed primarily by the law of a state other than Florida." ~~and~~

(c) The policy provides the benefits specified in ss. 627.419, 627.6574, 627.6575, 627.6579, 627.6613, 627.667, and 627.6675.

(d) *If the policy is issued to any of the groups listed in subparagraphs (2)(a)4., 8., or 9., ss. 627.410 and 627.411 apply.*

(e) *If the policy is issued to any of the groups listed in subparagraphs (2)(a)3.-9., all individual members must be declared eligible and acceptable to the insurer at the time of issuance of the policy.*

(3) Section 624.428 ~~does not apply if is not applicable when~~ residents of this state are enrolled for coverage under a policy or certificate issued in accordance with subsection (2).

(4) Prior to solicitation in this state, a copy of the master policy and a copy of the form of the certificate evidencing coverage that will be issued to residents of this state shall be filed with the department ~~for informational purposes.~~

(5) Prior to solicitation in this state, an officer of the insurer shall truthfully certify to the department that the policy and certificates evidencing coverage have been reviewed and approved by the state in which the group policy is issued.

(6) Any insurer ~~that who~~ provides coverage under certificates of insurance issued to residents of this state ~~must shall~~ designate one Florida-licensed resident agent as agent of record for the service of ~~each~~ certificates of insurance, unless the policy is issued to a group substantially as described in s. 627.653, s. 627.654, s. 627.656, s. 627.659, or s. 627.663.

(7) *This section does not apply to Medicare supplement policies.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to health care services; amending s. 627.6515, F.S.; providing for application of part VII, ch. 627, F.S., relating to group, blanket, and franchise health insurance policies;

**Amendment 3 (with Title Amendment)**—On page 9, between lines 7 and 8, insert:

Section 5. Subsection (3) of section 651.091, Florida Statutes, is amended to read:

651.091 Availability, distribution, and posting of reports and records; requirement of full disclosure.—

(3) Every continuing care facility shall:

(a) Display the certificate of authority in a conspicuous place inside the facility.

(b) Post in a prominent position in the facility so as to be accessible to all residents and to the general public a concise summary of the last examination report issued by the department, with references to the page numbers of the full report noting any deficiencies found by the department, and the actions taken by the provider to rectify such deficiencies, indicating in such summary where the full report may be inspected in the facility.

(c) Post in a prominent position in the facility so as to be accessible to all residents and to the general public a summary of the latest annual statement, indicating in the summary where the full annual statement may be inspected in the facility. A listing of any proposed changes in policies, programs, and services shall also be posted.

(d) *Post in a prominent position in the facility, so as to be accessible to all residents and to the general public, notice of any sale of or transfer of ownership in the facility within 7 days after the sale or transfer.*

(e)(d) Distribute a copy of the full annual statement to the president or chairman of the residents' council within 30 days after the filing of the annual report with the department, and designate a staff person to provide explanation thereof.

(f)(e) Notify the residents' council of any plans filed with the department to obtain new financing, additional financing, or refinancing for the facility and of any applications to the department for any expansion of the facility.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 28, after the first semicolon (;) insert: amending s. 651.091, F.S.; requiring notice to residents of continuing care facilities of any sale or transfer of ownership of the facility;

On motion by Senator Kiser, by two-thirds vote **SB 2164** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—33      Nays—None

**MOTION TO RECONSIDER**

Senator Walker moved that the Senate reconsider the vote by which **SB 2164** passed as amended this day. The motion failed. The vote was:

Yeas—17      Nays—18

**SB 112**—A bill to be entitled An act relating to radio communications; amending s. 282.1095, F.S.; extending the terms of office of initially appointed members of the Joint Task Force on State Agency Law Enforcement Communications; extending the time period for the pilot project; providing for a status report; providing new timeframes for required reports; extending the time period for the imposition of certain surcharges; providing an effective date.

—was read the second time by title.

The Committee on Finance, Taxation and Claims recommended the following amendments which were moved by Senator Gardner and adopted:

**Amendment 1**—On page 1, line 31, strike "5" and insert: 5 1/2

**Amendment 2 (with Title Amendment)**—On page 3, between lines 18 and 19, insert:

Section 2. The Joint Committee on Information Technology Resources, in consultation with the House and Senate Governmental Operations Committees, shall conduct a study to determine whether the state's competitive bid processes are sufficient to meet the state's needs when purchasing equipment which is affected by the rapidly changing nature of technology. The Joint Committee on Information Technology Resources shall provide a copy of its report, with its recommendations, to the President of the Senate and the Speaker of the House of Representatives by January 15, 1993. The study shall include, but is not limited to, the following:

(a) A review of the average length of contracts for various types of information technology resources and communications resources;

(b) Problems related to obsolescence experience by state agencies in their purchase of information technology resources and communications resources;

(c) The experiences and policies of the Federal Government and other states in addressing the purchase of information technology resources and of communications resources and any problems related to obsolescence due to the rapidly changing nature of technology; and

(d) Strategies to minimize the state's risks in investing in technology which changes rapidly.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 10, after the semicolon (;) insert: requiring the Joint Committee on Information Technology Resources to conduct a study of the state's competitive bid processes used in purchasing equipment affected by rapidly changing technology;

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

Section 2. Section 320.0802, Florida Statutes, is amended to read:

320.0802 Surcharge on license tax.—During the period January 1, 1989, through December 31, 2003, there is hereby levied and imposed on each license tax imposed under s. 320.08, except those set forth in s. 320.08(11), a surcharge in the amount of \$1, which shall be collected in the same manner as the license tax and deposited into the State Agency Law Enforcement Radio System Trust Fund of the Department of General Services. *However, the surcharge shall be terminated on midnight December 31, 1994, unless the pilot project established in s. 282.1095 is deemed successful by the joint task force with the concurrence of the Governor and Cabinet as the head of the Department of General Services.*

Section 3. Subsection (6) of section 327.25, Florida Statutes, is amended to read:

327.25 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(6) SURCHARGE.—In addition, during the period January 1, 1989, through December 31, 2003, there is hereby levied and imposed on each vessel registration fee imposed under subsection (1) a surcharge in the amount of \$1, which shall be collected in the same manner as the fee and deposited into the State Agency Law Enforcement Radio System Trust Fund of the Department of General Services. *However, the surcharge shall be terminated on midnight December 31, 1994, unless the pilot project established in s. 282.1095 is deemed successful by the joint task force with the concurrence of the Governor and Cabinet as the head of the Department of General Services.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 10, after the semicolon (;) insert: amending ss. 320.0804, 327.25, F.S.; providing for early termination of surcharges under certain conditions;

On motion by Senator Gardner, by two-thirds vote **SB 112** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38      Nays—None

**CS for CS for SB 1096 and SB 2414**—A bill to be entitled An act relating to health care; creating s. 765.101, F.S.; providing a short title; creating s. 765.102, F.S.; providing legislative findings and intent; creating s. 765.103, F.S.; providing definitions; creating s. 765.104, F.S.; providing a procedure for making advance directives; providing for designation of a surrogate and alternate surrogate; providing that a declaration may be a separate document; requiring notification of a patient's physician that an advance directive exists; creating s. 765.105, F.S.; providing suggested forms of a health care surrogate directive and a declaration; providing that a declaration prepared as a separate document from a health care surrogate directive may include additional directions; providing for severability; creating s. 765.106, F.S.; providing for revocation of an advance directive; providing for automatic revocation of appointment of a spouse as a surrogate if the marriage is dissolved; exempting from civil and criminal liability a person who has no actual knowledge of revocation; requiring a revocation to be included in the medical record; transferring, renumbering, and amending s. 745.43, F.S.; providing for a presumption of capacity; transferring, renumbering, and amending s. 745.44, F.S.; deleting a restriction on physicians evaluating a patient's capacity; requiring physicians to document their determinations about a patient's capacity in the patient's medical and clinical records; providing for periodic evaluation of an incapacitated patient; transferring, renumbering, and amending s. 745.45, F.S.; providing the responsibilities of a surrogate; providing that a surrogate's consent is not required when the patient, during capacity, consented to a do-not-resuscitate order; providing that the authority of a surrogate takes precedence over a durable power of attorney granted by a court-appointed guardian of the person under certain conditions; transferring, renumbering, and amending s. 745.46, F.S.; providing restrictions on surrogate consent authority; allowing consent related to restrictions if expressly authorized in the health care surrogate directive; transferring, renumbering, and amending s. 745.50, F.S.; providing for responsibilities of health care providers; requiring health care providers who refuse to comply with a patient's declaration or a surrogate's treatment decision to make reasonable efforts to transfer the patient to another health care provider; requiring health care providers to inform patients of their policies relating to advance directives; requiring expedited judicial intervention; requiring compliance with the patient's wishes if efforts to transfer are unsuccessful; providing for payment of the expenses of expedited judicial intervention and transfer; providing that an advance directive of a pregnant terminally ill patient may not be honored after viability; creating s. 765.201, F.S.; providing a procedure in the absence of an advance directive or declaration or appointment of a surrogate; providing that the absence of an advance directive creates no presumption regarding a patient's consent or refusal to consent to certain health care decisions; providing for a proxy to make certain health care decisions and specifying conditions; providing for certain persons to replace a surrogate or to function as a proxy if a surrogate was not appointed in an advance directive; excluding certain persons from serving as a proxy; creating s. 765.202, F.S.; providing procedure for appointing a proxy; creating s. 765.203, F.S.; providing restrictions on proxies; creating s. 765.204, F.S.; providing definitions; providing for refusal of cardiopulmonary resuscitation through a do-not-resuscitate order; providing for honoring do-not-resuscitate orders; providing a presumption of consent to cardiopulmonary resuscitation for a person who is admitted to a

hospital; requiring periodic review of the condition of a patient for whom consent to a do-not-resuscitate order has been given; providing a procedure for a physician to rescind a do-not-resuscitate order; transferring, renumbering, and amending s. 745.47, F.S.; providing for judicial review of a surrogate's decisions; providing for review of a surrogate's refusal to revoke a do-not-resuscitate order when such revocation appears to be in the patient's best interest; providing for a court order that a surrogate's health care decision be honored; transferring, renumbering, and amending s. 745.51, F.S.; providing immunity from liability in connection with the decisions of surrogates; creating s. 765.301, F.S.; providing immunity from liability for carrying out specified health care decisions; providing a presumption that a declaration was made voluntarily; creating s. 765.302, F.S.; prohibiting mercy killing and euthanasia; distinguishing withholding and withdrawing of life-prolonging procedures from suicide; creating s. 765.303, F.S.; providing that making a health care surrogate directive or declaration may not affect life insurance policies held or purchased; creating s. 765.304, F.S.; prohibiting falsification, forgery, or willful concealment, cancellation, or destruction of a health care surrogate directive or declaration or of a revocation of such document; providing penalties; creating s. 765.305, F.S.; providing for recognition of advance directives legally created before a specified date; creating s. 765.306, F.S.; providing that the rights created in this chapter are cumulative to other existing rights; creating s. 765.307, F.S.; recognizing an advance directive or declaration that was validly created in another state; transferring, renumbering, and amending s. 745.52, F.S.; providing for rulemaking; creating s. 744.3115, F.S.; relating to appointment of a guardian; providing for court determination of guardian's relationship to surrogate; amending s. 744.345, F.S.; relating to letters of guardianship; providing for limited guardian's authority to prepare advance directives for ward; repealing ss. 745.41, 745.42, 745.48, 745.49, Florida Statutes, relating to health care surrogates; repealing ss. 765.01-765.15, F.S., the "Life-Prolonging Procedure Act of Florida"; repealing s. 765.17, F.S., relating to the recognition of a declaration executed in another state; providing for severability; providing an effective date.

—was read the second time by title.

One amendment was adopted to CS for CS for SB 1096 and SB 2414 to conform the bill to HB 1851.

Pending further consideration of CS for CS for SB 1096 and SB 2414 as amended, on motions by Senator Malchon, by two-thirds vote HB 1851 was withdrawn from the Committees on Health and Rehabilitative Services; Judiciary; and Appropriations.

On motion by Senator Malchon—

**HB 1851**—A bill to be entitled An act relating to advance directives; redesignating ch. 765, F.S.; creating part I of chapter 765, F.S.; providing definitions; providing legislative findings and intent; providing for effect of existing advance directives; providing for revocations; providing for review of certain decisions; preserving certain existing rights to consent to medical treatment; providing for statutory construction; providing for effects of an advance directive with respect to insurance; providing for immunity from liability; providing for discipline and license revocation of health care providers under certain circumstances; providing for constitutional effect; recognizing advance directives of other states; creating part II of chapter 765, F.S.; providing for a health care surrogate; providing for designating a surrogate; providing duties; providing for capacity of a principal to make certain decisions; providing responsibilities of a surrogate; creating part III of chapter 765, F.S.; providing procedures for declaring the withholding or withdrawing of life-prolonging procedures; providing a form for such declaration; providing for determining a patient's condition; providing procedures for a do-not-resuscitate order; providing for patient transfer; providing intent regarding mercy killing and suicide; providing penalties for falsifying a declaration; creating part IV of chapter 765, F.S.; providing for a proxy for making certain health care decisions; providing procedures; creating s. 744.3115, F.S.; providing court authority regarding health care surrogates; amending s. 744.345, F.S.; providing for designating a health care surrogate in letters of guardianship; amending s. 709.08, F.S.; providing for application of chapter 765; repealing ss. 745.41-745.52, F.S., relating to health care surrogates; repealing ss. 765.01-765.17, F.S., relating to the right to decline life-prolonging procedures; providing an effective date.

—a companion measure, was substituted for CS for CS for SB 1096 and SB 2414 and read the second time by title.

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

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

Section 1. Chapter 765, Florida Statutes, entitled "Right to Decline Life-prolonging Procedures" is retitled as "Health Care Advance Directives."

Section 2. Part I of chapter 765, Florida Statutes, consisting of sections 765.101, 765.102, 765.103, 765.104, 765.105, 765.106, 765.107, 765.108, 765.109, 765.110, 765.111, and 765.112, Florida Statutes, is created to read:

PART I  
GENERAL PROVISIONS

765.101 Definitions.—As used in this chapter:

(1) "Advance directive" means a witnessed written document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care, and includes, but is not limited to, the designation of a health care surrogate, a living will, or a do-not-resuscitate order.

(2) "Attending physician" means the primary physician who has responsibility for the treatment and care of the patient.

(3) "Cardiopulmonary resuscitation" means measures to restore cardiac function or to support ventilation in the event of cardiac arrest or respiratory arrest. The term does not include measures to improve ventilation and cardiac functions in the absence of an arrest.

(4) "Close personal friend" means any person 18 years of age or older who has exhibited special care and concern for the patient, and who presents an affidavit to the health care facility or to the attending or treating physician stating that he or she is a friend of the patient; is willing and able to become involved in the patient's health care; and has maintained such regular contact with the patient so as to be familiar with the patient's activities, health, and religious or moral beliefs.

(5) "Do-not-resuscitate order" means a written medical order prepared by the attending physician that documents instructions by an adult patient, the patient's designated surrogate, or appointed proxy, that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation is to be withheld.

(6) "Health care decision" means:

(a) Informed consent, refusal of consent, or withdrawal of consent to any and all health care, including life-prolonging procedures.

(b) The decision to apply for private, public, government, or veterans' benefits to defray the cost of health care.

(c) The right of access to all records of the principal reasonably necessary for a health care surrogate to make decisions involving health care and to apply for benefits.

(7) "Health care facility" means a hospital, nursing home, hospice, home health agency, or health maintenance organization licensed in this state.

(8) "Health care provider" or "provider" means any person licensed, certified, or otherwise authorized by law to administer health care in the ordinary course of business or practice of a profession.

(9) "Incapacity" or "incompetent" means the patient is physically or mentally unable to communicate a willful and knowing health care decision.

(10) "Informed consent" means consent voluntarily given by a person after a sufficient explanation and disclosure of the subject matter involved to enable that person to have a general understanding of the procedure and the medically acceptable alternative procedures and to make a knowing health care decision without coercion or undue influence.

(11) "Life-prolonging procedure" means any medical procedure, treatment, or intervention which:

(a) Utilizes mechanical or other artificial means to sustain, restore, or supplant a spontaneous vital function; and

(b) When applied to a patient in a terminal condition, serves only to prolong the process of dying.

The term "life-prolonging procedure" does not include the administration of medication or performance of medical procedure, when such medication or procedure is deemed necessary to provide comfort care or to alleviate pain.

(12) "Living will" or "declaration" means:

(a) A witnessed document in writing, voluntarily executed by the principal in accordance with s. 765.302; or

(b) A witnessed oral statement made by the principal expressing the principal's instructions concerning life-prolonging procedures.

(13) "Physician" means a person licensed pursuant to chapter 458 or chapter 459.

(14) "Principal" means a competent adult executing an advance directive and on whose behalf health care decisions are to be made.

(15) "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated individual, but who, nevertheless, is authorized pursuant to s. 765.401 to make health care decisions for such individual.

(16) "Surrogate" means any competent adult expressly designated by a principal to make health care decisions on behalf of the principal upon the principal's incapacity.

(17) "Terminal condition" means:

(a) A condition caused by injury, disease, or illness from which there is no reasonable probability of recovery and which can be expected to cause death; or

(b) A persistent vegetative state characterized by a permanent and irreversible condition of unconsciousness in which there is:

1. The absence of voluntary action or cognitive behavior of any kind; and

2. An inability to communicate or interact purposefully with the environment.

(18) "Treating physician" means the physician who has treated or is treating the patient for any condition directly related to the condition resulting in the patient's incapacity.

765.102 Legislative findings and intent.—

(1) The Legislature finds that every competent adult has the fundamental right of self-determination regarding decisions pertaining to his own health, including the right to choose or refuse medical treatment. This right is subject to certain interests of society, such as the protection of human life and the preservation of ethical standards in the medical profession.

(2) To ensure that such right is not lost or diminished by virtue of later physical or mental incapacity, the Legislature intends that a procedure be established to allow a person to plan for incapacity by designating another person to direct the course of his medical treatment upon his incapacity. Such procedure should be less expensive and less restrictive than guardianship and permit a previously incapacitated person to exercise his full right to make health care decisions as soon as the capacity to make such decisions has been regained.

(3) The Legislature further finds that the artificial prolongation of life for a person with a terminal condition may secure for him only a precarious and burdensome existence, while providing nothing medically necessary or beneficial to the patient. In order that the rights and intentions of a person with such a condition may be respected even after he is no longer able to participate actively in decisions concerning himself, and to encourage communication among such patient, his family, and his physician, the Legislature declares that the laws of this state recognize the right of a competent adult to make an advance directive instructing his physician to provide, withhold, or withdraw life-prolonging procedures, or to designate another to make the treatment decision for him in the event that such person should be found to be incompetent and suffering from a terminal condition.

765.103 Existing advance directives.—Any advance directive made prior to the effective date of this chapter shall be given effect as provided in this chapter provided such directive was legally effective when written.

765.104 Revocation.—

(1) An advance directive or designation of a surrogate may be revoked at any time by the principal:

(a) By means of a signed, dated writing;

(b) By means of the physical cancellation or destruction of the advance directive by the principal or by another in the principal's presence and at the principal's direction;

(c) By means of an oral expression of intent to revoke; or

(d) By means of a subsequently executed advance directive that is materially different from a previously executed advance directive.

(2) Unless otherwise provided in the advance directive or in an order of dissolution or annulment of marriage, the dissolution or annulment of marriage of the principal revokes the designation of the principal's former spouse as a surrogate.

(3) Any such revocation will be effective when it is communicated to the surrogate, health care provider, or health care facility. No civil or criminal liability shall be imposed upon any person for a failure to act upon a revocation unless that person has actual knowledge of such revocation.

765.105 Review of surrogate or proxy's decision.—The patient's family, the health care facility, or the attending physician, or any other interested person who may reasonably be expected to be directly affected by the surrogate or proxy's decision concerning any health care decision may seek expedited judicial intervention pursuant to rule 5.900 of the Florida Probate Rules, if that person believes:

(1) The surrogate or proxy's decision is not in accord with the patient's known desires or the provisions of this chapter;

(2) The advanced directive is ambiguous, or the patient has changed his mind after execution of the advance directive; or

(3) The surrogate or proxy was improperly designated or appointed, or the designation of the surrogate is no longer effective.

765.106 Preservation of existing rights.—The provisions of this chapter are cumulative to the existing law regarding an individual's right to consent, or refuse to consent, to medical treatment and do not impair any existing rights or responsibilities which a health care provider, a patient, including a minor, competent or incompetent person, or a patient's family may have in regard to the withholding or withdrawal of life-prolonging medical procedures or any other health care decisionmaking under the common law or statutes of this state.

765.107 Construction.—This chapter shall not be construed to repeal by implication any provision of s. 766.103, the Florida Medical Consent Law. For all purposes, the Florida Medical Consent Law shall be considered an alternative to provisions of this section.

765.108 Effect with respect to insurance.—The making of an advance directive pursuant to the provisions of this chapter shall not affect the sale, procurement, or issuance of any policy of life insurance, nor shall such making of an advance directive be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance will be legally impaired or invalidated by the withholding or withdrawal of life-prolonging procedures from an insured patient in accordance with the provisions of this chapter, nor by any other treatment decision made according to this chapter, notwithstanding any term of the policy to the contrary. A person shall not be required to make an advance directive as a condition for being insured for, or receiving, health care services.

765.109 Immunity from liability; weight of proof; presumption.—

(1) A health care facility, provider, or other person who acts under the direction of a health care facility or provider is not subject to criminal prosecution or civil liability, and will not be deemed to have engaged in unprofessional conduct, as a result of carrying out a health care decision made in accordance with the provisions of this chapter. The surrogate or proxy who makes a health care decision on a patient's behalf, pursuant to this chapter, is not subject to criminal prosecution or civil liability for such action.

(2) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating a health care decision did not, in good faith, comply with the provisions of this chapter.

765.110 Health care facilities and providers; discipline.—

(1) A health care facility, pursuant to 42 U.S.C. s. 1396a, shall provide to each patient written information concerning the individual's rights concerning advance directives and the health care facility's policies respecting the implementation of such rights, and shall document in the patient's medical records whether or not the individual has executed an advance directive.

(2) A health care provider or health care facility shall be subject to professional discipline and revocation of license or certification, and a fine of not more than \$500 per incident, or both, if the health care provider or health care facility, as a condition of treatment or admission, requires an individual to execute or waive an advance directive.

(3) The Department of Health and Rehabilitative Services and the Department of Professional Regulation shall adopt rules to implement the provisions of the section

765.111 Effect of constitution.—This chapter shall not be construed to render unlawful any form of substitute decisionmaking recognized either by the constitutional right of privacy or any other provision of the State or United States Constitutions. To the extent such other forms of surrogate decisionmaking are recognized under constitutional law, they shall be deemed an alternative to this chapter.

765.112 Recognition of advance directive executed in another state.—An advance directive executed in another state in compliance with the law of that state or of this state is validly executed for the purposes of this chapter.

Section 3. Part II of chapter 765, Florida Statutes, consisting of sections 765.201, 765.202, 765.203, 765.204, and 765.205, Florida Statutes, is created to read:

PART II
HEALTH CARE SURROGATE

765.201 Short title.—Sections 765.202-765.205 may be cited as the "Florida Health Care Surrogate Act."

765.202 Designation of a health care surrogate.—

(1) A written document designating a surrogate to make health care decisions for a principal shall be signed or contain a signature acknowledged by the principal in the presence of two attesting adult witnesses. A principal unable to sign the instrument may, in the presence of witnesses, direct that another person sign the principal's name as required herein. An exact copy of the instrument shall be provided to the surrogate.

(2) The person designated as surrogate shall not act as witness to the execution of the document designating the health care surrogate. At least one person who acts as a witness shall be neither the principal's spouse nor blood relative.

(3) A document designating a health care surrogate may also designate an alternate surrogate provided the designation is explicit. The alternate surrogate may assume his duties as surrogate for the principal if the original surrogate is unwilling or unable to perform his duties. The principal's failure to designate an alternate surrogate shall not invalidate the designation.

(4) If neither the designated surrogate nor the designated alternate surrogate is able or willing to make health care decisions on behalf of the principal, the health care facility may seek the appointment of a proxy pursuant to part IV of this chapter.

(5) Unless the document states a time of termination, the designation shall remain in effect until revoked by the principal.

(6) A written designation of a health care surrogate executed pursuant to this section establishes a rebuttable presumption of clear and convincing evidence of the principal's designation of the surrogate.

765.203 Suggested form of designation.—A written designation of a health care surrogate executed pursuant to this chapter may, but need not be, in the following form:

DESIGNATION OF HEALTH CARE SURROGATE

Name:.....(Last).....(First).....(Middle Initial).....

In the event that I have been determined to be incapacitated to provide informed consent for medical treatment and surgical and diagnostic procedures, I wish to designate as my surrogate for health care decisions:

Name:.....
Address:.....
.....Zip Code:.....
Phone:.....

If my surrogate is unwilling or unable to perform his duties, I wish to designate as my alternate surrogate:

Name:.....
Address:.....
.....Zip Code:.....
Phone:.....

I fully understand that this designation will permit my designee to make health care decisions and to provide, withhold, or withdraw consent on my behalf; to apply for public benefits to defray the cost of health care; and to authorize my admission to or transfer from a health care facility.

Additional instructions (optional):.....

I further affirm that this designation is not being made as a condition of treatment or admission to a health care facility. I will notify and send a copy of this document to the following persons other than my surrogate, so they may know who my surrogate is.

Name:.....
Name:.....

Signed: .....
Date: .....
Witnesses: 1.....
2.....

765.204 Capacity of principal; procedure.—

(1) A principal is presumed to be capable of making health care decisions for himself unless he is determined to be incapacitated. Incapacity may not be inferred from the person's voluntary or involuntary hospitalization for mental illness or from his mental retardation.

(2) If a principal's capacity to make health care decisions for himself or provide informed consent is in question, the attending physician shall evaluate the principal's capacity. If the attending physician concludes that the principal lacks such capacity, another physician shall evaluate the principal's capacity. If the second physician agrees that the principal lacks the capacity to make health care decisions or provide informed consent, the health care facility shall enter both physicians' evaluations in the principal's clinical record and, if the principal has designated a health care surrogate, shall notify such surrogate in writing that his authority under the instrument has commenced.

(3) The surrogate's authority shall commence upon a determination under subsection (2) that the principal lacks capacity and such authority shall remain in effect until a determination that the principal has regained such capacity. Upon commencement of the surrogate's authority, a surrogate who is not the principal's spouse shall notify the principal's spouse or adult children of the principal's designation of the surrogate. In the event the attending physician determines that the principal has regained capacity, the authority of the surrogate shall cease, but shall recommence if the principal subsequently loses capacity as determined pursuant to this section.

(4) A determination made pursuant to this section that a principal lacks capacity to make health care decisions shall not be construed as a finding that a principal lacks capacity for any other purpose.

(5) In the event the surrogate is required to consent to withholding or withdrawing life-prolonging procedures the provisions of part III shall apply.

765.205 Responsibility of the surrogate.—

(1) The surrogate shall:

(a) Have authority to act for the principal and to make all health care decisions for the principal in matters regarding the principal's health care during the principal's incapacity, in accordance with the principal's instructions, unless such authority has been expressly limited by the principal.

(b) Consult expeditiously with appropriate health care providers to provide informed consent in the best interest of the principal, and make only health care decisions for the principal which he or she believes the principal would have made under the circumstances if the principal were capable of making such decisions.

(c) Provide written consent using an appropriate form whenever consent is required.

(d) Be provided access to the appropriate clinical records of the principal.

(e) Apply for public benefits, such as Medicare and Medicaid, for the principal and have access to information regarding the principal's income and assets and banking and financial records to the extent required to make application. A health care provider or facility may not, however, make such application a condition of continued care if the principal, if capable, would have refused to apply.

(2) The surrogate may authorize the release of information and clinical records to appropriate persons to ensure the continuity of the principal's health care and may authorize the transfer and admission of the principal to or from a health care facility.

(3) If, after the appointment of a surrogate, a court appoints a guardian of the principal's estate of the principal's person or any other fiduciary charged with the management of the principal's property, the surrogate shall continue to make health care decisions for the principal. The surrogate may report the principal's health care status to the guardian.

Section 4. Part III of chapter 765, Florida Statutes, consisting of sections 765.301, 765.302, 765.303, 765.304, 765.305, 765.306, 765.307, 765.308, 765.309, and 765.310, Florida Statutes, is created to read:

PART III
LIFE-PROLONGING PROCEDURES

765.301 Short title.—Sections 765.302-765.310 may be cited as the "Life Prolonging Procedure Act of Florida."

765.302 Procedure for making a living will; notice to physician.—

(1) Any competent adult may, at any time, make a living will or written declaration directing the providing, withholding, or withdrawal of life-prolonging procedures in the event such person suffers from a terminal condition. A living will must be signed by the principal in the presence of two subscribing witnesses, one of whom is neither a spouse nor a blood relative of the principal. If the principal is physically unable to sign the living will, one of the witnesses must subscribe the principal's signature in the principal's presence and at the principal's direction.

(2) It is the responsibility of the principal to provide for notification to his attending or treating physician that the living will has been made. In the event the principal is physically or mentally incapacitated at the time the principal is admitted to a health care facility, any other person may notify the physician or health care facility of the existence of the living will. An attending or treating physician or health care facility which is so notified shall promptly make the living will or a copy thereof a part of the principal's medical records.

(3) A living will, executed pursuant to this section, establishes a rebuttable presumption of clear and convincing evidence of the principal's wishes.

765.303 Suggested form of a living will.—

(1) A living will may, but need not, be in the following form:

Living Will

Declaration made this ...day of..., 19... I, ....., willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare:

If at any time I have a terminal condition and if my attending or treating physician and another consulting physician have determined that there is no medical probability of my recovery from such condition, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying, and that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal.

In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate, as my surrogate to carry out the provisions of this declaration:

Name:.....
Address:.....
.....Zip Code.....
Phone:.....

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional Instructions (optional):
.....
.....

.....(Signed).....
.....Witness.....
.....Address.....
.....Phone.....
.....Witness.....
.....Address.....
.....Phone.....

(2) The principal's failure to designate a surrogate shall not invalidate the living will.

765.304 Procedure for living will.—

(1) If a person has made a living will expressing his desires concerning life-prolonging procedures, but has not designated a surrogate to execute his wishes concerning life-prolonging procedures, a surrogate shall be chosen using the following order of priority:

- (a) A health care surrogate designated pursuant to part II.
(b) A proxy appointed pursuant to part IV.

If a surrogate or proxy cannot be found from any of the persons listed in paragraphs (a) or (b), the health care facility may proceed as directed by the principal in the living will.

(2) Before proceeding in accordance with the principal's living will, the surrogate or proxy must be satisfied that:

- (a) The principal's written declaration was executed knowingly, willingly, and without undue influence.
(b) The principal does not have a reasonable probability of recovering competency so that the right could be exercised directly by the principal.
(c) The principal's physical condition is terminal.
(d) Any limitations or conditions expressed orally or in a written declaration have been carefully considered and satisfied.

765.305 Procedure in absence of a living will.—

(1) In the absence of a living will executed pursuant to s. 765.303, the decision to withhold or withdraw life-prolonging procedures from a patient may be made by a health care surrogate designated by the patient pursuant to part II unless the designation limits the surrogate's authority to consent to the withholding or withdrawal of life-prolonging procedures.

(2) Before exercising the incompetent patient's right to forego treatment, the surrogate must be satisfied that:

(a) *The patient does not have a reasonable probability of recovering competency so that the right could be exercised by the patient.*

(b) *The patient's physical condition is terminal.*

765.306 *Determination of patient condition.—*

(1) *In determining whether the patient has a terminal condition or may recover capacity, or whether a medical condition or limitation referred to in an advance directive exists, the patient's attending or treating physician and at least one other consulting physician must separately examine the patient. The findings of each such examination must be documented in the patient's medical record and signed by each examining physician before life-prolonging procedures may be withheld or withdrawn.*

(2) *Evidence of the examining physicians' signed documentation in the patient's medical record establishing the existence of any such medical condition establishes a rebuttable presumption that the condition exists.*

765.307 *Do-not-resuscitate order.—*

(1) *Emergency medical service personnel licensed pursuant to chapter 401 shall honor a do-not-resuscitate order if the order is written on a form adopted by rule of the Department of Health and Rehabilitative Services and is presented to the emergency medical services personnel when responding to a call for assistance.*

(2) *Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless there is consent to the issuance of a do-not-resuscitate order as provided in this section.*

765.308 *Transfer of a patient.—*

(1) *A health care provider who refuses to comply with the declaration of a patient, or the treatment decision of his surrogate, shall make reasonable efforts to transfer the patient to another health care provider who will comply with the declaration or treatment decision. This chapter does not require a health care provider to commit any act which is contrary to his or its moral or ethical beliefs concerning life-prolonging procedures, if the patient:*

(a) *Is not in an emergency condition, and*

(b) *Has received written information upon admission informing the patient of the policies of the health care provider regarding such moral or ethical beliefs.*

(2) *A health care provider that is unwilling to carry out the wishes of the patient because of moral or ethical beliefs must within 7 days either:*

(a) *Transfer the patient to another health care provider. The health care provider shall pay the costs for transporting the patient to another health care provider.*

(b) *Request expedited judicial intervention concerning life-prolonging procedures under the Florida Probate Code Rules. The health care provider shall pay the cost of the expedited judicial intervention.*

(c) *Upon the failure to transfer or to request expedited judicial intervention, the health care provider shall carry out the directions of the surrogate or the declaration.*

765.309 *Mercy killing or euthanasia not authorized; suicide distinguished.—*

(1) *Nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.*

(2) *The withholding or withdrawal of life-prolonging procedures from a patient in accordance with any provision of this chapter does not, for any purpose, constitute a suicide.*

765.310 *Falsification, forgery, or willful concealment, cancellation, or destruction of declaration or revocation; penalties.—*

(1) *Any person who willfully conceals, cancels, defaces, obliterates, or damages a living will without the principal's consent or who falsifies*

*or forges a revocation of a living will of another, and who thereby causes life-prolonging procedures to be utilized in contravention of the previously expressed intent of the principal, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(2) *Any person who falsifies or forges the living will of another or who willfully conceals or withholds personal knowledge of the revocation of a declaration, with the intent to cause a withholding or withdrawal of life-prolonging procedures contrary to the wishes of the principal, and who thereby because of such act directly causes life-prolonging procedures to be withheld or withdrawn and death to be hastened, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 5. Part IV of chapter 765, Florida Statutes, consisting of section 765.401, Florida Statutes, is created to read:

PART IV  
ABSENCE OF ADVANCE DIRECTIVE

765.401 *The proxy.—*

(1) *If the patient has not executed an advance directive, or designated a surrogate to execute an advance directive, or the designated or alternate surrogate is no longer available to make health care decisions, health care decisions may be made for the patient by any of the following individuals, in the following order of priority, if no individual in a prior class is reasonably available, willing, or competent to act:*

(a) *The judicially appointed guardian of the patient, who has been authorized to consent to medical treatment, if such guardian has previously been appointed; however, this paragraph shall not be construed to require such appointment before a treatment decision can be made under this subsection;*

(b) *The patient's spouse;*

(c) *An adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;*

(d) *A parent of the patient;*

(e) *The adult sibling of the patient or, if the patient has more than one sibling, a majority of the adult siblings who are reasonably available for consultation.*

(f) *An adult relative of the patient who has exhibited special care and concern for the patient and who has maintained regular contact with the patient and who is familiar with the patient's activities, health, and religious or moral beliefs; or*

(g) *A close friend of the patient.*

(2) *Any health care decision made under this part must be based on the proxy's informed consent and on the decision the proxy reasonably believes the patient would have made under the circumstances, except that a proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the patient would have chosen had he been competent.*

(3) *Before exercising the incapacitated patient's rights to select or decline health care, the proxy must comply with the pertinent provisions applicable to surrogates under this chapter.*

Section 6. Section 744.3115, Florida Statutes, is created to read:

744.3115 *Advanced directives for health care.—In each proceeding in which a guardian is appointed under this chapter, the court shall determine whether the ward, prior to incapacity, has executed any valid advanced directive pursuant to chapter 765. If any such advanced directive exists, the court in its discretion shall:*

(1) *Specify in its order and letters of guardianship what authority, if any, the guardian shall exercise over the surrogate; or*

(2) *With notice to the surrogate and any other appropriate parties, order revocation of the advanced directive.*

Section 7. Section 744.345, Florida Statutes, is amended to read:

744.345 *Letters of guardianship.—Letters of guardianship shall be issued to the guardian and shall specify whether the guardianship per-*

tains to the person, or the property, or both, of the ward. The letters must state whether the guardianship is plenary or limited, and, if limited, the letters must state the powers and duties of the guardian. *If the guardianship is limited, the letters shall state whether or not and to what extent the guardian is authorized to designate a health care surrogate pursuant to chapter 765 on behalf of the ward, and shall state the extent to which the limited guardian is authorized to act on behalf of the ward with regard to any advance directive previously executed by the ward.*

Section 8. Subsection (1) of section 709.08, Florida Statutes, is amended to read:

709.08 Durable power of attorney.—

(1) A principal may create a durable power of attorney designating a person as his attorney in fact by executing a power of attorney. The power of attorney may include the authority for the attorney in fact to arrange for and consent to medical, therapeutic, and surgical procedures for the principal, including the administration of drugs, *which shall be governed by chapter 765.* Such power of attorney shall be in writing, shall state the relationship of the parties, if any, and shall include the words, "This durable power of attorney shall not be affected by disability of the principal except as provided by statute" or similar words clearly showing the intent of the principal that the power conferred on the attorney in fact shall be exercisable from the date specified in the instrument, notwithstanding a later disability or incapacity of the principal, unless otherwise provided by statute. All acts done by the attorney in fact pursuant to the power conferred during any period of disability or incompetence shall have the same effect, and inure to the benefit of and bind the principal or his heirs, devisees, and personal representatives, as if the principal were competent and not disabled.

Section 9. *Sections 745.41, 745.42, 745.43, 745.44, 745.45, 745.46, 745.47, 745.48, 745.49, 745.50, 745.51, and 745.52, Florida Statutes, as created by chapter 90-232, Laws of Florida, are hereby repealed.*

Section 10. *Sections 765.01, 765.02, 765.04, 765.06, 765.07, 765.08, 765.09, 765.10, 765.11, 765.12, 765.13, 765.14, and 765.15, Florida Statutes, sections 765.03 and 765.05, Florida Statutes, as amended by chapter 90-223, Laws of Florida, and sections 765.075 and 765.17, Florida Statutes, as created by chapter 90-223, Laws of Florida, are hereby repealed.*

Section 11. *If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.*

Section 12. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to advance directives; redesignating ch. 765, F.S.; creating part I of chapter 765, F.S.; providing definitions; providing legislative findings and intent; providing for effect of existing advance directives; providing for revocations; providing for review of certain decisions; preserving certain existing rights to consent to medical treatment; providing for statutory construction; providing for effects of an advance directive with respect to insurance; providing for immunity from liability; providing for discipline and license revocation of health care providers under certain circumstances; providing for constitutional effect; recognizing advance directives of other states; creating part II of chapter 765, F.S.; providing for a health care surrogate; providing for designating a surrogate; providing duties; providing for capacity of a principal to make certain decisions; providing responsibilities of a surrogate; creating part III of chapter 765, F.S.; providing procedures for declaring the withholding or withdrawing of life-prolonging procedures; providing a form for such declaration; providing for determining a patient's condition; providing procedures for a do-not-resuscitate order; providing for patient transfer; providing intent regarding mercy killing and suicide; providing penalties for falsifying a declaration; creating part IV of chapter 765, F.S.; providing for a proxy for making certain health care decisions; providing procedures; creating s. 744.3115, F.S.; providing court authority regarding health care surrogates; amending s. 744.345, F.S.; providing for designating a health care surrogate in letters of guardianship; amending s. 709.08, F.S.; providing for application of chapter 765; repealing ss. 745.41-745.52, F.S., relating to health care surrogates; repealing ss. 765.01-765.17, F.S., relating to the right to decline life-prolonging procedures; providing an effective date.

## SENATOR CHILDERS PRESIDING

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

**Amendment 1A**—On page 4, line 22, after "cause" insert: imminent

The vote was:

Yeas—12 Nays—17

**Amendment 1B**—On page 9, between lines 29 and 30, insert:

765.113 A surrogate or proxy may not provide consent for abortion, sterilization, electroshock therapy, psychosurgery, experimental treatments or therapy, or voluntary admission to a mental health facility, without a court order issued pursuant to the provisions in s. 744.3725.

765.114 Pregnancy.—A health care provider treating or caring for a patient who is diagnosed as pregnant may not honor any consents or instructions related to withholding or withdrawing life-prolonging procedures while the pregnancy continues, unless done before viability, as defined in s. 340.001(5), and unless the patient has expressly authorized such withholding or withdrawal.

The vote was:

Yeas—15 Nays—16

Senators Dudley and Grant offered the following amendments to **Amendment 1** which were moved by Senator Dudley and adopted:

**Amendment 1C (with Title Amendment)**—On page 9, between lines 29 and 30, insert:

765.113 *Restrictions on surrogate providing consent.—Unless the principal expressly delegates such authority to the surrogate in writing, a surrogate or proxy may not provide consent for abortion, sterilization, electroshock therapy, psychosurgery, experimental treatments or therapy, or voluntary admission to a mental health facility.*

765.114 *Pregnancy.—A health care provider treating or caring for a patient who is diagnosed as pregnant may not honor any consents or instructions related to withholding or withdrawing life-prolonging procedures while the pregnancy continues, unless done before viability, as defined in s. 340.001(5), and unless the patient has expressly authorized such withholding or withdrawal.*

And the title is amended as follows:

In title, on page 26, line 14, after the first semicolon (;) insert: providing restrictions on a surrogate providing consent for specified procedures; providing restrictions on honoring instructions of a patient who is pregnant;

**Amendment 1D**—On page 1, strike line 18 and insert: 765.112, 765.113, and 765.114, Florida Statutes, is created to read:

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

**Amendment 1E**—On page 20, strike all of lines 14-22 and insert: *transporting the patient to another health care provider, or*

(b) *If the patient has not been transferred, carry out the wishes of the patient or his surrogate, unless the provisions of s. 765.105 apply.*

**Amendment 1** as amended was adopted.

## MOTIONS

Senator Dudley moved that **HB 1851** be read in full pursuant to Rule 4.12. The motion was adopted by the required one-third of the members present and voting. The vote was:

Yeas—12 Nays—21

Senator Thomas moved that the Senate recess until 2:00 p.m., Wednesday, March 11. The vote was:

Yeas—32 Nays—4

**REPORTS OF COMMITTEES**

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Tuesday, March 10, 1992: CS for CS for SB 12, SB 508 and SB 1310, SB 764, CS for SB 642, SB 1314, CS for CS for SB's 1096 and 2414, CS for SB 376, SB 408, SB 2096, SB 1896, SB 2164, CS for SB 2416, SB 1394, SB 112, CS for SB 66, CS for CS for SB 756, CS for SB 586, SB 680, SB 874, SB 1356, CS for SB's 1368 and 72, CS for SB's 1590 and 1704, CS for SB 1736, CS for SB 1850, SB 50, CS for CS for SB 78, SB 590, CS for SB 1958, CS for CS for SB 684, CS for CS for SB 936, CS for SB 452, SB 2178, CS for SB 2026, CS for SB 2030, CS for HB 89, CS for HB 601, CS for HB 1011, HB 1065, CS for HB 1111, CS for HB 1419, HB 2203, HB 2219

Respectfully submitted,  
*Pat Thomas, Chairman*

The Committee on Appropriations recommends the following pass: SB 266 with 2 amendments, SB 1110 with 2 amendments, CS for SB 2264 with 1 amendment

**The bills were placed on the calendar.**

The Special Master on Claims recommends the following not pass: SB 902, SB 1856

**The bills were referred to the Committee on Finance, Taxation and Claims under the original reference.**

The Committee on Appropriations recommends a committee substitute for the following: CS for SB 272

**The bill with committee substitute attached was placed on the calendar.**

**INTRODUCTION AND REFERENCE OF BILLS**

**FIRST READING**

By Senators Meek, Thomas, Walker and Margolis—

**SR 2516**—A resolution expressing regret at the death of Col. Bernard Hendricks, student-affairs director at Florida Agricultural and Mechanical University in Tallahassee.

—was referred to the Committee on Rules and Calendar.

**SR 2518** was introduced out of order and adopted March 9.

By Senator Kirkpatrick—

**SB 2520**—A bill to be entitled An act relating to the Tri-County Hospital Authority in Dixie, Gilchrist, and Levy counties; repealing ch. 84-423, Laws of Florida, the Tri-County Hospital Authority Act; abolishing the Tri-County Hospital Authority; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committees on Community Affairs; and Rules and Calendar.

**SR 2522** was introduced out of order and adopted this day.

**COMMITTEE SUBSTITUTES**

**FIRST READING**

By the Committees on Appropriations and Professional Regulation and Senators Gardner, Kirkpatrick, Grant, Burt, Casas, Souto and Myers—

**CS for CS for SB 272**—A bill to be entitled An act relating to health care; creating s. 766.1115, F.S., creating the "Access to Health Care Act of 1992"; providing legislative intent; authorizing the Department of Health and Rehabilitative Services to execute contracts with specified health care providers for delivery of health care services as an agent of the state; providing an exception; providing definitions; requiring agency contracts; specifying terms; providing for indemnity; providing for the contractor's right of termination or dismissal; providing for access to patient records by contractor; requiring adverse incident and treatment outcome reporting; exempting from public records law patient records, adverse incident reports, and patient treatment outcome information obtained by the contractor; providing for payment to contractor; provid-

ing for patient referral by contractor; providing for certain uncompensated care; requiring certain notice of agency relationship; requiring a quality assurance program; requiring the Department of Insurance to compile a claims report; providing for reporting; providing responsibility for certain costs of malpractice litigation; providing for rulemaking by the Department of Health and Rehabilitative Services; exempting contracts by the Department of Corrections; providing for review and repeal; amending s. 768.13, F.S., the "Good Samaritan Act"; providing immunity for emergency medical service providers who provide medical care at the scene of an emergency, under certain circumstances; amending s. 768.28, F.S.; providing sovereign immunity to providers of health care services pursuant to agency contracts with governmental contractors; reenacting ss. 766.203(1), 766.207(1), F.S., relating to presuit investigation and voluntary binding arbitration of medical and negligence claims, to incorporate the amendment to s. 768.28, F.S., in references thereto; amending ss. 627.6415, 627.6578, F.S.; requiring that health insurance policies provide benefits for children placed in court-ordered custody of the insured without preexisting condition exclusion; providing appropriations; providing an effective date.

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

**FIRST READING**

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed CS for HB 133, CS for HB 421, HB 971, HB 1103; has passed as amended HB 245, HB 253, CS for HB 695, CS for HB 1209, CS for HB 1607, CS for HB 1753, HB 1953, HB 2073, HB 2127, CS for HB 2471 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

By the Committee on Employee and Management Relations; and Representative Geller and others—

**CS for HB 133**—A bill to be entitled An act relating to unemployment compensation; amending s. 443.101, F.S.; excluding from unemployment compensation calculations any benefits from programs under the United States Social Security Act; amending s. 443.111, F.S.; connecting the weekly benefit for the partially unemployed individual to federal hourly minimum wage levels; amending s. 443.131, F.S.; revising the definition of "annual payroll" as used in tax rate calculations; amending s. 443.141, F.S.; increasing the interest charged on unpaid contributions; providing an exception; increasing the penalty for delinquent reports; creating s. 443.231, F.S.; establishing a 3-year statewide pilot employment training program; providing expiration date; providing for promulgation of rules; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Criminal Justice and Representative Glickman—

**CS for HB 421**—A bill to be entitled An act relating to theft; amending s. 812.014, F.S.; authorizing inclusion of any prior theft conviction in accumulating offenses for second and subsequent petit theft penalties; reenacting ss. 39.044(2)(d), 409.910(17), 538.23(2), 550.63(10), 634.319(2), 634.421(2), 642.038(2), and 705.102(4), F.S., relating to juvenile detention, Medicaid fraud, receipt of stolen regulated metals property, intertrack wagering, reporting and accounting for funds received by sales representatives in certain fiduciary transactions, and unlawful appropriation of lost or abandoned property, to incorporate said amendments in references thereto; amending s. 812.015, F.S.; deleting a requirement of a conviction for theft as a requirement for the offense of resisting recovery and clarifying that the resistance must occur during or after committing the theft, and reenacting ss. 538.09(5)(f) and 538.23(2), F.S., relating to secondhand dealers and secondary metals recyclers, to incorporate said amendment in references thereto; providing technical amendments; amending s. 812.035, F.S.; extending the period of limitations in criminal theft proceedings if the defendant has absconded; providing an effective date.

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

By Representative Mortham and others—

**HB 971**—A bill to be entitled An act relating to the Department of the Lottery; requiring a study of the reinvestment of unclaimed lottery prize money; providing general guidelines for the study; requiring a report to legislative leadership; providing an effective date.

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

By Representative Arnall and others—

**HB 1103**—A bill to be entitled An act relating to Duval County; extending civil service protection to certain officers and employees of the City of Neptune Beach; repealing chapter 27765, Laws of Florida, 1951, relating to the establishment of the Neptune Beach civil service board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Cosgrove—

**HB 245**—A bill to be entitled An act relating to taxation; amending s. 196.101, F.S., which provides an ad valorem tax exemption for totally and permanently disabled persons; authorizing osteopathic physicians, chiropractic physicians, and podiatrists to certify total and permanent disability for such purpose; amending s. 212.02, F.S.; defining "sea trial"; amending s. 212.05, F.S.; revising requirements and conditions relating to the tax exemption provided for boats and airplanes removed from the state after purchase; amending s. 212.08, F.S.; revising requirements and conditions relating to the tax exemption provided for boats temporarily docked in the state; amending s. 212.06, F.S.; providing a presumption with respect to when boats are considered commingled with the general mass of property of the state; providing an effective date.

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

By Representative Crady—

**HB 253**—A bill to be entitled An act relating to preneed funeral merchandise or service contracts; amending s. 497.006, F.S.; directing the Department of Banking and Finance to waive criteria for the determination of the need for a new cemetery under certain circumstances; amending s. 639.108, F.S.; authorizing the Department of Insurance to use funds from the Preened Funeral Contract Consumer Protection Trust Fund to provide restitution to consumers and others; providing conditions for payment of restitution; providing limitations on total expenditures; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Insurance and Representative Geller—

**CS for HB 695**—A bill to be entitled An act relating to insurance; amending s. 627.311, F.S.; requiring joint underwriting plans for motor vehicle insurance to provide a list of insureds under certain circumstances; prohibiting such plans from offering certain credits or inducements; providing a directive to statute editors; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Agriculture and Representative C. Smith and others—

**CS for HB 1209**—A bill to be entitled An act relating to cruelty to animals; creating s. 828.021, F.S.; providing that recognized animal husbandry, ranching, or rodeo techniques are not prohibited under chapter 828, F.S.; providing an effective date.

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

By the Committee on Judiciary and Representative Chestnut and others—

**CS for HB 1607**—A bill to be entitled An act relating to private clubs; prohibiting certain clubs from discriminating against an individual in evaluating his application for club membership because of race, color, religion, gender, national origin, handicap, age above the age of 21, or marital status; providing a procedure for enforcement of the prohibition by the Commission on Human Relations or the Attorney General's Office

of Civil Rights; authorizing a person to seek injunctive relief for alleged discriminatory practices of such a club under certain circumstances; providing an effective date.

—was referred to the Committee on Judiciary.

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

**CS for HB 1753**—A bill to be entitled An act relating to employment; providing that it is unlawful to discriminate through any employment action because an individual is a user of legal agricultural products; providing an exception; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Mitchell—

**HB 1953**—A bill to be entitled An act relating to Walton County Port Authority; repealing ch. 63-2030, Laws of Florida, as amended; repealing ch. 65-2374, Laws of Florida; abolishing the special district known as the Walton County Port Authority, transferring its assets and obligations to Walton County or to a successor district created by ordinance, and providing for assumption of the present district's obligations and liabilities by the county or the successor district; providing effective dates.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Figg and others—

**HB 2073**—A bill to be entitled An act relating to public records; creating the "Fair Information Practices Act"; providing purpose and intent; providing exemptions; providing definitions; providing requirements with respect to collection of personal information by departments; providing for notice when personal information is requested; providing for departmental reports of the existence, type, and disclosures of certain public records containing personal information; requiring that copies of such reports be maintained for public use; requiring the Division of Library and Information Services of the Department of State to recommend rules of procedure; requiring the Administration Commission to adopt rules to implement the act; providing exemptions from public records requirements for employees' home telephone and social security numbers; providing for future review and repeal; providing an appropriation; providing effective dates.

—was referred to the Committees on Governmental Operations and Appropriations.

By Representative Ireland—

**HB 2127**—A bill to be entitled An act relating to Lee County; amending chapter 63-1552, as amended; revising term of office of members of the board of hospital directors; requiring a candidate for election to the board to be a legal resident of a certain hospital district to qualify; authorizing directors to change boundaries; requiring public hearing; directing board to act to amend boundaries prior to August 1, 1992; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Appropriations and Commerce and Representative Simon and others—

**CS for HB 2471**—A bill to be entitled An act relating to financial institutions and matters connected therewith; providing a short title; amending s. 655.001, F.S.; expanding the scope of the section to specify the purposes and application of the financial institutions codes rather than of ch. 655, F.S.; amending s. 655.005, F.S.; altering and adding definitions applicable to ch. 655, F.S.; amending s. 655.012, F.S., relating to general supervisory powers of the Department of Banking and Finance, to conform; creating s. 655.013, F.S.; providing for the act's effect on existing financial institutions; creating s. 655.015, F.S.; providing for construction of the act and standards to be observed by the department; transferring, renumbering, and amending s. 655.021, F.S., relating to administrative enforcement guidelines; transferring, renumbering, and amending s. 655.025, F.S., concerning department investigations, subpoenas, hearings, and witnesses; creating s. 655.0322, F.S.; prescribing prohibited acts and practices; providing criminal penalties; amending s. 655.034, F.S., relating to injunctions; inserting the term "members" to

conform; amending s. 655.037, F.S., relating to removal of officers, directors, and others by the department; revising the list of persons that may be so removed and revising the grounds upon which such persons may be removed; revising the procedure therefor; creating s. 655.0385, F.S.; providing for the disapproval of directors and executive officers of a financial institution by the department; creating s. 655.0386, F.S.; restricting conduct of, and transactions by, financial institution-affiliated parties; creating s. 655.0391, F.S.; providing for retention of supervision of financial institutions by the department; creating s. 655.0392, F.S.; allowing a financial institution to rent space from a governmental entity under certain circumstances; authorizing a governmental entity to rent such space at a certain rate; deleting provisions for disposition of fines; amending s. 655.041, F.S.; expanding the department's authority to impose administrative fines; amending s. 655.044, F.S.; revising recordkeeping requirements; providing for recovery of certain costs; amending s. 655.045, F.S.; revising the examination authority of the department; requiring the department to adopt rules, requiring certain audits under certain circumstances; amending s. 655.047, F.S.; clarifying the application period of assessments; allowing proration of assessments but prohibiting refunds of portions of assessments; deleting provisions for disposition of assessments; amending s. 655.049, F.S.; clarifying the types of fees that are required to be deposited into the Financial Institutions' Regulatory Trust Fund; amending s. 655.053, F.S.; revising the annual report requirements; amending s. 655.029, F.S., which provides exemptions from public meeting and records requirements for hearings and documents relating to cease and desist orders and suspension or removal orders, pursuant to a determination by the Department of Banking and Finance; revising the exemption; amending s. 655.033, F.S., which provides an exemption from public records requirements for emergency cease and desist orders; amending s. 655.057, F.S., which provides exemptions from public records requirements for information relating to investigations by the department, examination reports and papers, confidential information supplied to other agencies by the department, confidential information supplied to the department, lists of members of credit unions and mutual associations, and lists of shareholders of banks, trust companies, and stock associations; revising the exemptions; amending s. 119.07, F.S.; correcting references and deleting duplicative references; repealing s. 665.048(9), F.S., which provides requirements relating to maintenance of stockholder records by capital stock associations; amending s. 655.059, F.S.; providing certain law enforcement agencies access to a financial institution's books and records; amending s. 655.061, F.S., relating to competitive equality with federally organized or chartered financial institutions; providing for the section to take precedence over other state statutes; amending s. 655.41, F.S., relating to cross-industry conversions, mergers, consolidations, and acquisitions; replacing the term "financial institution" with the term "financial entity" with reference thereto; amending s. 655.411, F.S.; revising conversion-of-charter requirements; amending s. 655.412, F.S.; revising merger and consolidation requirements; amending s. 655.414, F.S.; revising the conditions and limitations upon which a financial entity may acquire all or substantially all the assets or liabilities of another financial entity; amending s. 655.416, F.S.; providing for the valuation of assets after an acquisition; amending s. 655.417, F.S.; conforming provisions relating to the effect of merger, consolidation, conversion, or acquisition; amending s. 655.418, F.S.; conforming provisions relating to cessation of nonconforming activities; amending s. 655.419, F.S.; clarifying the applicability of provisions for merger, consolidation, conversion, or acquisition of assets; amending s. 655.50, F.S.; revising the provisions of, and the penalties for violation of, the Florida Control of Money Laundering in Financial Institutions Act; providing for confidentiality of reports and records thereunder; extending the act's penalties to cover violations of ch. 896, F.S., or similar state or federal statutes; amending s. 655.51, F.S.; allowing state and federal regulatory agencies access to certain employment information; amending s. 655.55, F.S., relating to the law applicable to deposits in and contracts related to extensions of credit by financial institutions; replacing the term "financial institution" with the term "deposit or lending institution" and defining that term; creating s. 655.56, F.S.; providing for the collection of fines, interest, or premiums on loans made by financial institutions; creating s. 655.60, F.S.; providing for appraisals of financial institutions, subsidiaries, or service corporations by the department; creating s. 655.762, F.S.; regulating the sale of assets by a financial institution; creating s. 655.769, F.S.; providing definitions related to deposits in deposit or lending institutions; creating s. 655.77, F.S.; providing for deposits by minors; creating s. 655.78, F.S.; providing for deposit accounts in two or more names; creating s. 655.79, F.S.; establishing a presumption as to vesting on death when deposits and accounts are in two or more names; creating s. 655.80, F.S.; defining and establishing requirements for convenience accounts; creating s. 655.81, F.S.; pro-

viding for deposits in trust; creating s. 655.83, F.S.; providing for adverse claims to deposit or fiduciary accounts; creating s. 655.84, F.S.; establishing a presumption as to correctness concerning statements of account; renumbering and amending s. 658.63, F.S.; providing that, prior to the settlement of any check or draft, the financial institution shall obtain written authorization from the account holder in compliance with the Uniform Commercial Code; creating a community bank pilot program; authorizing the investment of specified state funds; providing for the selection of participating financial institutions; requiring matching funds; requiring the establishment of guidelines for the pilot program; requiring an annual report; providing for expiration of the pilot program; creating s. 655.86, F.S.; regulating the issuance of postdated checks; creating s. 655.89, F.S.; defining "legal holidays," "business days," and "transactions"; creating s. 655.90, F.S.; providing for the closing of deposit or lending institutions during emergencies and other special days; creating s. 655.91, F.S.; providing recordkeeping requirements for such institutions; creating s. 655.921, F.S.; providing for transaction of business by out-of-state financial institutions; creating s. 655.922, F.S.; prohibiting banking by unauthorized persons; providing penalties; creating s. 655.93, F.S.; providing definitions related to the leasing of safe-deposit boxes; creating s. 655.931, F.S.; authorizing financial institutions to engage in the safe-deposit business; creating s. 655.932, F.S.; authorizing the leasing of a safe-deposit box to a minor; creating s. 655.933, F.S.; providing for access to safe-deposit boxes by fiduciaries; creating s. 655.934, F.S.; specifying the effect of the death or incapacity of the lessee of a safe-deposit box; creating s. 655.935, F.S.; establishing safe-deposit search procedures on the death of the lessee; creating s. 655.936, F.S.; providing for the delivery of safe-deposit box contents or other property to a personal representative; creating s. 655.937, F.S.; providing for access to a safe-deposit box leased in two or more names; creating s. 655.938, F.S.; providing for adverse claims to the contents of a safe-deposit box; creating s. 655.939, F.S.; limiting the right of access to a safe-deposit box for failure to comply with security procedures; creating s. 655.94, F.S.; providing special remedies for the nonpayment of rent for a safe-deposit box; creating s. 655.941, F.S.; establishing the Joint Select Committee on Financial Institutions; providing powers and duties of the committee; providing for meetings; requiring the annual transfer of a sum of money from the Financial Institutions Regulatory Trust Fund to the committee for certain costs; creating s. 655.942, F.S.; specifying standards of conduct for financial institutions; providing exceptions; creating s. 655.943, F.S.; specifying requirements for certain applications relating to financial institutions; creating s. 655.944, F.S.; providing for calculation of interest on certain accounts; creating s. 655.945, F.S.; providing procedures for recovering certain amounts of fees; providing for interest on certain fee overcharges or undercharges; creating s. 655.946, F.S.; providing for single interest insurance by financial institutions; requiring notice of such insurance; providing criteria for issuing such insurance; creating s. 655.947, F.S.; providing for credit reports; creating s. 655.948, F.S.; requiring notice of certain specified events; creating s. 655.949, F.S.; requiring the department to establish qualifications for certain positions in the Office of the Comptroller and in the department; creating s. 655.951, F.S.; requiring the department to maintain a regulatory decision register; specifying contents of the register; creating s. 655.953, F.S.; providing for consumer protection powers of the Comptroller; requiring the Department of Banking and Finance to adopt certain rules; creating s. 655.018, F.S.; establishing standards and guidelines for department personnel and operations; providing certain limitations on certain lobbying activities; limiting certain employment activities; requiring the Comptroller to establish and implement a conflict-of-interest policy; providing guidelines; limiting certain campaigning activities; amending s. 657.002, F.S.; providing definitions; amending s. 657.005, F.S.; providing credit union organizational procedures and forms; creating s. 657.0061, F.S.; requiring the submission of bylaw amendments to the Department of Banking and Finance; amending s. 657.008, F.S.; authorizing armored car services and deleting the requirement that all records be kept at the principal place of business as described within the bylaws; amending s. 657.021, F.S.; defining the duties and powers of the board of directors; amending s. 657.023, F.S.; clarifying certain language; amending s. 657.026, F.S.; authorizing audit committees and defining the duties and responsibilities of these committees; amending s. 657.0265, F.S.; prescribing the liability of audit committee members; amending s. 657.027, F.S.; clarifying certain language; amending s. 657.028, F.S.; prohibiting certain persons from serving as an officer, director, or committee member; amending s. 657.031, F.S.; clarifying language and deleting language requiring notice to the department concerning certain authorized activities; creating s. 657.0315, F.S.; prohibiting credit unions from entering into certain contracts; limiting the enforceability of these contracts;

amending s. 657.033, F.S.; clarifying the definition of dormant accounts; amending s. 657.038, F.S.; deleting reference to an 18-percent usury cap and defining the term "related interest"; amending s. 657.039, F.S.; prescribing conditions for credit union loans to its directors, officers, and employees; defining the term "related interests"; amending s. 657.042, F.S.; increasing the allowable percentage of certain types of investments and clarifying the authority to invest in mutual funds; amending s. 657.043, F.S.; replacing the term "gross earnings" with the term "all income for the period"; modifying the definition of "risk assets" and increasing the amount of reserve amounts; amending s. 657.053, F.S.; revising the amounts of the semiannual assessments collected from credit unions; amending s. 657.055, F.S.; mandating the type and length of time certain records must be maintained; amending s. 657.062, F.S.; providing procedures for assumption of control of an insolvent credit union; amending s. 657.063, F.S.; authorizing the department to appoint a liquidator; limiting the enforceability of certain contracts; modifying procedures for involuntary liquidation; amending s. 657.064, F.S.; altering the procedures for undertaking a voluntary liquidation; amending s. 657.065, F.S.; prescribing voting requirements and procedures of a credit union merger; amending s. 657.068, F.S.; removing certain limitations on membership in a central credit union; amending s. 658.12, F.S.; providing definitions; amending s. 658.165, F.S.; correcting a cross-reference and inserting the term "financial institutions codes"; amending s. 658.20, F.S.; providing for prior approval of certain directors and executive officers of a failing bank or trust company; providing a filing fee for approval; amending s. 658.21, F.S.; altering the approval criteria of an application; amending s. 658.22, F.S.; requiring orders approving applications to organize a state bank be sent to the "Federal Home Loan Bank of Atlanta"; amending s. 658.23, F.S.; requiring prior Department of Banking and Finance authorization for a change in the articles of incorporation; amending ss. 658.24, 658.25, F.S.; substituting the term "bank" for "banking corporation"; amending s. 658.26, F.S.; altering the locations where banks and trust companies may transact business; amending s. 658.27, F.S.; altering the definition of control over a bank or trust company; amending s. 658.28, F.S.; providing an exception to the requirement that the department be given prior notice of any acquisition of voting securities; amending s. 658.29, F.S.; altering certain prohibitions concerning ownership and control of a bank or trust company; amending s. 658.30, F.S.; incorporating changes concerning the application of the Florida Business Corporation Act; amending s. 658.32, F.S.; allowing the department to approve an annual meeting date which is not within the first 4 months of a given year; amending s. 658.33, F.S.; inserting the term "financial institutions codes"; requiring director's oath of office to be filed within 30 days of election; amending s. 658.34, F.S.; requiring shares of common stock to be issued with a minimum par value and to be paid for in cash; amending s. 658.35, F.S.; requiring certain approval for providing share options to stockholders; amending s. 658.36, F.S.; requiring department approval for banks and trust companies to reduce outstanding common stock; amending s. 658.37, F.S.; clarifying that a stock split does not constitute a dividend; amending s. 658.38, F.S.; clarifying that a state bank must have and maintain Federal Deposit Insurance; amending s. 658.39, F.S.; restricting the right of stockholders to examine certain records; amending s. 658.40, F.S.; deleting the term "conversion"; amending s. 658.42, F.S.; providing a technical clarification; amending s. 658.43, F.S.; modifying the department's authority to issue emergency rules concerning a failing institution; amending s. 658.44, F.S., relating to approval by stockholders; revising cross-references; amending s. 658.45, F.S.; providing a technical clarification; amending s. 658.48, F.S.; altering the loan and credit authority of a state bank; amending s. 658.50, F.S., relating to loans or extensions of credit; removing interest rate limitations on credit cards or overdraft financing arrangements; improving clarity; amending s. 658.53, F.S.; altering limits of indebtedness; amending s. 658.60, F.S.; deleting the term "reserves"; amending s. 658.65, F.S.; altering the provisions related to remote financial service units; amending s. 658.67, F.S.; altering the investment powers of a bank and trust company; amending s. 658.68, F.S.; altering the liquidity requirements of a state bank; amending s. 658.73, F.S.; increasing examination fees and assessments; amending s. 658.79, F.S.; allowing the department to take possession of an imminently insolvent state bank or trust company; deleting the conditions for determining insolvency; amending ss. 658.80, 658.82, 658.83, F.S.; providing a technical clarification; amending s. 658.84, F.S.; providing priorities for unsecured claims for payment against financial institutions; prohibiting the enforcement of certain judicial actions; creating ss. 659.70, 659.71, 659.72, 659.73, and 659.74, F.S.; providing definitions; providing for organization of credit card banks; imposing requirements; authorizing credit card banks to assess certain charges and fees; providing for regulation of credit card banks; providing for enforcement; authorizing the department to adopt

rules; providing for applicability of certain banking laws; amending s. 660.25, F.S.; redefining the term "commercial department"; providing for the use of terms defined in other chapters of the Florida Statutes; creating s. 660.265, F.S.; requiring certain financial institutions to pay the costs of examination by the Department of Banking and Finance; amending s. 660.27, F.S.; deleting references to state mutual associations with respect to deposits of securities with the Treasurer; clarifying the term "bank" to include state banks and national banks; amending s. 660.33, F.S.; prescribing when an association is "affiliated" or a "successor"; correcting a cross reference; amending s. 660.37, F.S.; deleting references to the Federal Savings and Loan Insurance Corporation; permitting the deposit of fiduciary funds in amounts exceeding insurance in specified circumstances; amending s. 660.41, F.S.; revising powers of corporations other than banks, associations, and trust companies with respect to fiduciary functions; creating s. 660.417, F.S.; authorizing certain banks or trust companies to invest or reinvest securities of certain investment companies or investment trusts under certain circumstances; providing guidelines; amending s. 660.44, F.S.; authorizing a bank, association, or trust company to charge reasonable management expenses for managing common trust funds; amending s. 663.01, F.S.; providing definitions; amending s. 663.02, F.S.; expanding the applicability of domestic bank powers to international banking corporations; deleting reference to a clarification concerning branching authority of bank holding companies located outside the state; amending s. 663.03, F.S.; providing that ch. 607, F.S., regulating corporations applies to international banking corporations unless it conflicts with the banking code; amending s. 663.04, F.S.; prescribing conditions under which a license may be issued to an international banking corporation to operate an international bank agency or an international branch; deleting application fee; amending s. 663.05, F.S.; modifying the application requirements for an international banking corporation to maintain an office in this state; creating s. 663.055, F.S.; prescribing certain capital requirements as a condition of licensing; providing alternative requirements for licensing; amending s. 663.06, F.S.; expanding the permissible activities of an international banking corporation and allowing the department to prescribe by rule the procedures for surrendering a license; creating s. 663.061, F.S.; defining the permissible activities of international bank agencies; creating s. 663.062, F.S.; defining the permissible activities of an international representative office; amending s. 663.063, F.S.; altering the purposes and powers of an international administrative office; creating s. 663.064, F.S.; defining the permissible activities of an international branch; creating s. 663.065, F.S.; defining the permissible activities of a state investment company; creating s. 663.066, F.S.; authorizing, under certain conditions, the acquisition of state banks by international banking corporations; amending s. 663.07, F.S.; modifying the asset maintenance requirements of an international bank agency and international branch; amending s. 663.08, F.S.; providing for certification of capital accounts of an international banking corporation; amending s. 663.083, F.S.; adding the term "international branch" and deleting language allowing capital debentures and notes to be treated as capital in computing capital limitations; amending s. 663.09, F.S.; providing for the consolidation of reports under certain circumstances; requiring loan documentation to be in the English language; amending s. 663.10, F.S.; modifying the provisions related to license conversion; amending s. 663.11, F.S.; replacing the term "international bank agency" with the term "office"; amending s. 663.12, F.S.; providing for filing fees, semiannual assessments, and examination fees; amending s. 663.13, F.S., relating to rulemaking respecting international banking corporations; conforming a cross reference; amending s. 663.14, F.S.; including domestic travel in provisions providing for travel expenses; amending s. 663.302, F.S., relating to the applicability of state banking laws to international development banks, to conform cross references in that section to renumbering by this act; amending s. 663.309, F.S., relating to prohibited activities; deleting an obsolete cross reference; amending s. 663.319, F.S., relating to rulemaking respecting regional development banks; conforming a cross reference; amending s. 665.012, F.S.; altering and deleting certain definitions; creating s. 665.0125, F.S.; providing a moratorium on charters; creating s. 665.013, F.S.; outlining the applicability of ch. 658, F.S., to ch. 665, F.S.; amending s. 665.0211, F.S.; deleting exclusiveness-of-name provisions; amending s. 665.0315, F.S.; correcting a cross reference and incorporating a nonrefundable filing fee; amending s. 665.033, F.S.; inserting reference to the financial institutions codes and permitting denial of an application due to the existence of a state-imposed order; increasing the fee for converting from a federal mutual to a state capital stock association and authorizing examination fees for conversions; revising a cross reference; amending s. 665.0335, F.S.; deleting a reference to the Federal Savings and Loan Insurance Corporation; amending s. 665.034, F.S.; changing certain requirements concerning acquisition of

assets of, or control over, an association; amending s. 665.0501, F.S.; altering the general powers of an association organized under ch. 665, F.S.; amending s. 665.0711, F.S.; limiting the association's power to invest in loans; amending s. 665.074, F.S.; deleting the requirement that a settlement statement be furnished to each borrower; amending s. 665.1001, F.S.; clarifying the definition of a "foreign association"; deleting reference to the term "savings"; deleting a requirement relating to references to insurance or guaranty of accounts in advertising, solicitations, or representations; amending s. 665.1011, F.S.; deleting the term "savings and loan"; amending s. 697.04, F.S.; providing for interests in leaseholds on real property as security for future advances; repealing s. 655.081, F.S., relating to disclosure of practices with respect to availability of funds; repealing s. 655.413, F.S., relating to acquisition of stock by a financial institution in another financial institution; reviving and readopting ss. 655.001, 655.005, 655.012, 655.016, 655.021, 655.025, 655.029, 655.033, 655.034, 655.037, 655.041, 655.043, 655.044, 655.045, 655.049, 655.053, 655.057, 655.059, 655.061, 655.071, 655.41, 655.411, 655.412, 655.414, 655.416, 655.417, 655.418, 655.419, 655.50, 655.51, and 655.55, F.S., as renumbered and amended by this act, notwithstanding their scheduled termination July 1, 1992, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 655.001-655.953, F.S., effective October 1, 2002, and providing for legislative review of such sections before that date; repealing ch. 88-113, Laws of Florida, relating to a contingent amendment to s. 655.061, F.S.; repealing ss. 657.004, 657.029, 657.032, 657.034, 657.035, 657.036, and 657.037, F.S., relating to regulation of credit unions; reviving and readopting ss. 657.001, 657.002, 657.003, 657.005, 657.008, 657.021, 657.022, 657.023, 657.024, 657.026, 657.027, 657.028, 657.031, 657.033, 657.0335, 657.038, 657.039, 657.041, 657.042, 657.043, 657.051, 657.053, 657.055, 657.062, 657.063, 657.064, 657.065, 657.066, 657.068, F.S., as amended by this act, notwithstanding their scheduled termination July 1, 1992, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 657.001-657.068, F.S., effective October 1, 2002, and providing for legislative review of such sections before that date; repealing ss. 658.1101, 658.13, 658.14, 658.15, 658.46, 658.47, 658.54, 658.55, 658.56, 658.57, 658.58, 658.59, 658.61, 658.62, 658.63, 658.64, 658.66, 658.69, 658.70, 658.71, 658.72, 658.74, 658.75, 658.76, 658.77, 658.78, 658.85, 658.86, 658.87, 658.88, 658.89, 658.91, 658.92, 658.93, 658.97, 658.98, 658.99, F.S., relating to the regulation of banks and trust companies; reviving and readopting ss. 658.12, 658.16, 658.19, 658.20, 658.21, 658.22, 658.23, 658.235, 658.24, 658.25, 658.26, 658.27, 658.28, 658.29, 658.295, 658.30, 658.32, 658.33, 658.34, 658.35, 658.36, 658.37, 658.38, 658.39, 658.40, 658.41, 658.42, 658.43, 658.44, 658.45, 658.48, 658.49, 658.491, 658.50, 658.51, 658.53, 658.60, 658.65, 658.67, 658.68, 658.73, 658.79, 658.80, 658.81, 658.82, 658.83, 658.84, 658.90, 658.94, 658.95, and 658.96, F.S., notwithstanding their scheduled termination July 1, 1992, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 658.12-658.96, F.S., effective October 1, 2002, and providing for legislative review of such sections before that date; repealing s. 660.32, F.S., relating to the place of transacting trust business and trust company branches; reviving and readopting ss. 660.25, 660.26, 660.27, 660.28, 660.29, 660.30, 660.31, 660.33, 660.34, 660.35, 660.36, 660.37, 660.38, 660.39, 660.40, 660.41, 660.415, 660.42, 660.43, 660.44, 660.45, 660.46, 660.47, and 660.48, F.S., as amended by this act, notwithstanding their scheduled termination July 1, 1992, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 660.25-660.48, F.S., effective October 1, 2002, and providing for legislative review of such sections before that date; repealing ss. 661.45-661.55, F.S., relating to regulating the safe-deposit business, in accordance with the Regulatory Sunset Act; repealing ss. 662.01-662.08, F.S., relating to bank service corporations, in accordance with the Regulatory Sunset Act; reviving and readopting ss. 663.01, 663.02, 663.03, 663.04, 663.05, 663.06, 663.07, 663.08, 663.09, 663.10, 663.11, 663.12, 663.13, 663.14, 663.301, 663.302, 663.303, 663.304, 663.305, 663.306, 663.307, 663.308, 663.309, 663.310, 663.311, 663.312, 663.313, 663.314, 663.315, 663.316, 663.317, 663.318, and 663.319, F.S., as amended by this act, notwithstanding their scheduled termination July 1, 1992, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 663.01-663.319, F.S., effective October 1, 2002, and providing for legislative review of such sections before that date; repealing ss. 664.01-664.12, F.S., relating to industrial savings banks, in accordance with the Regulatory Sunset Act; repealing ss. 665.011, 665.0201, 665.022, 665.023, 665.024, 665.025, 665.027, 665.028, 665.0301, 665.0311, 665.038, 665.0401, 665.044, 665.045, 665.047, 665.048, 665.0601, 665.0611, 665.062, 665.063, 665.064, 665.065, 665.066, 665.067, 665.068, 665.069, 665.0701, 665.0731, 665.076, 665.077, 665.0801, 665.082, 665.083, 665.093, 665.096, 665.097, 665.099, 665.102, 665.1021, 665.103, and 665.104, F.S., relating to the regulation of savings associations; reviving and readopting ss. 665.012, 665.0211, 665.0315, 665.033, 665.0335,

665.034, 665.0345, 665.0501, 665.0711, 665.074, 665.075, 665.1001, and 665.1011, F.S., as amended by this act, notwithstanding their scheduled termination July 1, 1992, pursuant to the Regulatory Sunset Act and other laws; terminating ss. 665.012-665.1011, F.S., effective October 1, 2002, and providing for legislative review of such sections before that date; amending s. 154.238, F.S., relating to the authority of a health facilities authority to deal with a bank that employs a member of the authority, to conform terminology to that used in this act; amending s. 159.414, F.S., relating to the authority of a board of a local agency, under the Florida Industrial Development Financing Act, to deal with a bank that employs a board member, to conform terminology to that used in this act; amending s. 159.494, F.S., relating to the authority of an industrial development authority to deal with a bank that employs a member of the authority; amending s. 240.488, F.S., relating to the investment of funds of a county education loan authority, to conform terminology to that used in this act; amending s. 288.753, F.S., relating to examination of the Florida Export Finance Corporation by the Department of Banking and Finance, to conform terminology to that used in this act; amending s. 289.121, F.S., relating to examination of the Florida Industrial Development Corporation, to conform terminology to that used in this act; amending s. 420.141, F.S., relating to examination of the Housing Development Corporation of Florida, to conform terminology to that used in this act; amending s. 538.03, F.S., relating to definitions applicable to secondhand dealers, to conform a cross reference made obsolete by this act; amending s. 607.0501, F.S., relating to registered offices and agents of corporations, to conform terminology to that used in this act; amending s. 627.826, F.S., relating to insurance premium finance companies, to delete a cross reference to a law repealed by this act; amending s. 671.304, F.S., relating to laws not repealed by the enactment of the Uniform Commercial Code, to delete cross references to laws repealed by this act; amending s. 687.12, F.S., relating to interest rates of licensed lenders and creditors, to revise a cross reference to a law repealed by this act; amending s. 896.101, F.S., relating to the conduct of financial transactions involving the proceeds of unlawful activity, to revise cross references to conform with this act; providing an appropriation; providing an effective date.

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

**RETURNING MESSAGES ON SENATE BILLS**

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1060 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**SB 1060**—A bill to be entitled An act relating to crime victims' rights; amending s. 39.045, F.S., relating to records and confidential information in proceedings involving juvenile offenders, to protect the right of the victim and certain representatives of the victim to be informed of the proceedings and to be present and to be heard at the proceedings under certain circumstances; amending s. 960.001, F.S.; expanding certain victim rights to include prompt and timely disposition; providing an effective date.

**House Amendment 1 (with Title Amendment)**—On page 1, line 15, strike everything after the enacting clause and insert:

Section 1. Section 39.0515, Florida Statutes, is created to read:

39.0515 Rights of victims; juvenile proceedings.—Nothing in this part prohibits:

- (1) The victim of the offense;
- (2) The victim's parent or guardian if the victim is a minor;
- (3) The lawful representative of the victim or of the victim's parent or guardian if the victim is a minor; or
- (4) The next of kin if the victim is a homicide victim,

from the right to be informed of, to be present during, and to be heard when relevant at, all crucial stages of the proceedings involving the juvenile offender, to the extent that such rights do not interfere with the constitutional rights of the juvenile offender. A person enumerated in this section may not reveal to any outside party any confidential information obtained pursuant to this paragraph regarding a case involving a juvenile offense, except as is reasonably necessary to pursue legal remedies.

Section 2. Paragraph (a) of subsection (1) of section 960.001, Florida Statutes, is amended to read:

960.001 Guidelines for fair treatment of victims and witnesses in the criminal justice system.—

(1) The Department of Legal Affairs, the state attorneys, the Department of Corrections, the Parole Commission, the State Courts Administrator and circuit court administrators, the Department of Law Enforcement, and every sheriff's department, police department, or other law enforcement agency as defined in s. 943.10(4) shall develop and implement guidelines for the use of their respective agencies, which guidelines are consistent with the purposes of this act and s. 16(b), Art. I of the State Constitution and are designed to implement the provisions of s. 16(b), Art. I of the State Constitution and to achieve the following objectives:

(a) Information concerning services available to victims of crime.— Witness coordination offices as provided in s. 43.35 shall gather information regarding the following services in the geographic boundaries of their respective circuits and shall provide such information to each law enforcement agency with jurisdiction within such geographic boundaries. Law enforcement personnel shall ensure, through distribution of a victim's rights information card or brochure at the crime scene, during the criminal investigation, and in any other appropriate manner, that victims are given, as a matter of course at the earliest possible time, information about:

1. The availability of crime victim compensation, when applicable;
2. Crisis intervention services, supportive or bereavement counseling, social service support referrals, and community-based victim treatment programs;
3. The role of the victim in the criminal justice process, including what the victim may expect from the system as well as what the system expects from the victim;
4. The stages in the criminal justice process which are of significance to a crime victim and the manner in which information about such stages can be obtained;
5. The right of a victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, to be present, and to be heard when relevant, at all crucial stages of a criminal proceeding, to the extent that this right does not interfere with constitutional rights of the accused, as provided by s. 16(b), Art. I of the State Constitution; and
6. In the case of incarcerated victims, the right to be informed and to submit written statements at all crucial stages of the criminal proceedings and parole proceedings; and
7. The right of a victim to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved to the extent that this right does not interfere with the constitutional rights of the accused.

Section 3. This act shall take effect October 1, 1992.

And the title is amended as follows:

On page 1, strike the entire title and insert: A bill to be entitled An act relating to crime victims' rights; creating s. 39.0515, F.S.; relating to the rights of victims with respect to juvenile proceedings; to protect the right of the victim and certain representatives of the victim to be informed of the proceedings and to be present and to be heard at the proceedings under certain circumstances; amending s. 960.001, F.S.; expanding certain victim rights to include prompt and timely disposition; providing an effective date.

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

SB 1060 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—29      Nays—None

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for CS for SB 1280 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for CS for SB 1280**—A bill to be entitled An act relating to the Department of Commerce; amending s. 20.17, F.S.; authorizing the Department of Commerce to contract with a direct-support organization to assist the department in promoting and developing the motion picture, television, video, recording, and related entertainment industries in this state; specifying criteria for eligibility; requiring the organization to provide for an annual audit; providing confidentiality for donors of the organization; authorizing the department to contract with a direct-support organization to assist in promoting and developing the sports industry and related industries in this state and deleting authority of the Sports Advisory Council to do so; deleting obsolete provisions; amending s. 288.011, F.S.; authorizing the department to solicit, accept, and use complementary travel, accommodations, meeting space, meals, equipment, transportation, and goods and services; requiring the department to adopt rules to govern such complementary goods and services; amending s. 288.08, F.S.; authorizing the department to charge for researching or compiling information, handling charges, publications, materials, and services at cost; providing methods of payment; requiring moneys collected from the sale of publications, information, and services to be deposited into a specified trust fund; amending s. 288.09, F.S.; providing for deposit of moneys derived from certain grants, payments, and gifts into the Economic Development Trust Fund; creating s. 288.095, F.S.; creating the Economic Development Trust Fund; providing for use of moneys in the fund; amending s. 288.121, F.S.; requiring the Division of Tourism to charge conference, seminar, or meeting registration fees at cost; requiring such fees to be deposited into the Tourism Promotional Trust Fund; repealing s. 159.445, F.S., relating to the Florida Seed Capital Fund; abolishing the fund and the Florida Seed Capital Board; transferring the assets and obligations of the fund and board to the department; providing for review by the department of investments made by the Florida Seed Capital Board; authorizing the Secretary of Commerce to declare certain board investments worthless and to deposit revenues from certain other investments in trust for use to support the state's economic development program; clarifying that existing contracts with the Florida Seed Capital Board will not be nullified or impaired; providing an effective date.

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

*(4) The Department of Commerce and its employees and representatives when authorized, may request, accept, and use complimentary travel, accommodations, meeting space, meals, equipment, transportation, and any other goods necessary for or beneficial to the performance of the department's duties and purposes, so long as such solicitation, acceptance or use is not in conflict with Part III of chapter 112. The department shall, by rule, develop internal controls to ensure that such goods or services requested, accepted, or used pursuant to this subsection are limited to those which will assist in the furtherance of the department's goals and are in compliance with Part III of chapter 112.*

And the title is amended as follows:

On page 1, lines 20 and 24, strike "complementary" and insert: complimentary

**House Amendment 2**—On page 5, lines 5-16, strike all of said lines and insert: *review.*

*(e) When so requested in writing by a donor or prospective donor, information which, if released, would identify the donor or prospective donor is confidential and exempt from the provisions of s. 119.07(1). Information identifying such donor or prospective donor shall not be included in audit reports. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. All other records of the direct-support organization constitute public records for the purposes of chapter 119.*

**House Amendment 3**—On page 7, line 22, through page 8, line 2, strike all of said lines and insert: the Auditor General for review. ~~The audit report may not reveal the identity of any person who has anonymously made a donation to the direct support organization.~~

*(e) Upon written request of the donor or prospective donor, information which, if released, would identify the donor or prospective donor is the identity of donors or prospective donors to the organization who desire to remain anonymous and all information of the department, council, organization, or Auditor General identifying such donors or prospective donors are confidential and exempt from the provisions of s. 119.07(1). Information identifying such donor or prospective donor shall*

not be included in audit reports. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. All other records of the direct-support organization constitute public records for the purposes of chapter 119.

**House Amendment 4**—On page 8, line 23, through page 9, line 9, strike all of said lines and insert:

288.08 Publications; dissemination ~~sale at cost.~~—The Department is authorized to publish information and data and to charge for such publications an amount equal to, but no greater than, the cost of preparation, printing, and delivery. Information or data contained in such publications, however, shall also be available to the public in accordance with the provisions of s. 119.07(1). Payment may be made by cash, check, credit card, or any other available technology or means of collection or billing. ~~Division of Economic Development shall have authority to sell at approximate cost to the state such of its publications as, in its judgment, should not be furnished gratis to those who wish to use publications of the division in the conduct of their business; and any amounts of money received by the department division from said sources source shall be added to amounts duly appropriated for its use in the prosecution of its purposes, powers and duties hereunder. Any funds collected pursuant to this section which remain unexpended at the end of the fiscal year must be transferred to the trust fund of the division which incurred the cost of the particular item charged.~~

**House Amendment 5 (with Title Amendment)**—On page 11, between lines 14 and 15, insert:

Section 8. Subsection (2) of section 229.8053, Florida Statutes, is amended to read:

229.8053 Florida High Technology and Industry Council.—

(2) The Florida High Technology and Industry Council, which may organize as a not-for-profit corporation, is created for the purpose of planning, coordinating, assisting in and making recommendations for policy decisions, and directing activities for carrying out the intent of this act. The council is located within the Department of Commerce for administrative purposes; however, the actions of the council shall be independent of the department for all other purposes. ~~Executive Office of the Governor for purposes of budget and staff support; however, the actions of the council shall be independent of the Governor for all other purposes.~~ The council shall be composed of 23 members consisting of:

- (a) The Governor or his designee;
- (b) The Commissioner of Education or his designee;
- (c) The secretary of the Department of Commerce or his designee;
- (d) The chairman of the Florida Council of 100;
- (e) One member appointed by the President of the Senate;
- (f) One member appointed by the Speaker of the House of Representatives; and

(g) Seventeen other persons who shall be appointed by the Governor, 11 of whom shall be Florida leaders in high technology or related business and industry; 2 of whom shall be prestigious academicians from public or private colleges or universities, in areas including, but not limited to, the sciences and business; and 4 of whom shall be prominent persons in the area of investment, venture capital investments, or banking. The Governor shall solicit nominations from leading business and industry organizations or other organizations interested in the economic growth of the state and the transfer of government-sponsored research. Upon expiration of the terms of members appointed by the Governor and serving on June 28, 1988, the Governor shall appoint six members for terms of 2 years each; six members for terms of 3 years each; and five members for 4 years each; appointments shall thereafter be for 4-year terms.

The term of each appointed member shall be for 4 years. Any appointed member who fails to attend three consecutive meetings will be automatically removed. A vacancy shall be filled for the remainder of the unexpired term by an appointment by the Governor or by the person who had appointment jurisdiction of the vacated member. All vacancies shall be filled within 30 days after the vacancy occurs. Members shall serve until their successors are duly appointed. The council shall annually elect from among its number a chairman by a majority vote of the council members and a vice chairman. The Governor may remove the chairman from his position as chairman for cause. Upon recommendation of the chairman

the Governor may remove an appointed member. There shall be no limitation on successive appointments to the council or on the number of terms that may be served as chairman or vice chairman. The council shall adopt internal organizational procedures or bylaws necessary for efficient operation of the council. The council may appoint such advisory committees as it deems necessary and shall clearly assign duties to each committee which are consistent with the statutory duties of the council. Any committee created by the council shall serve the council in a strictly advisory capacity. The council and council staff shall be entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061; however, the members of a committee created by the council may not be reimbursed for such expenses.

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 25, after the semicolon (;) insert: amending s. 229.8053, F.S.; relocating the Florida High Technology and Industry Council to the Department of Commerce, providing for removal of members;

**House Amendment 6 (with Title Amendment)**—On page 11, between lines 14 and 15, insert:

Section 8. Subsection (12) is added to section 11.45, Florida Statutes, to read:

11.45 Definitions; duties; audits; reports.—

(12) In addition to any other provision of law granting access to records and accounts, the Auditor General may, pursuant to his own authority hereby granted in this subsection or at the direction of the Legislative Auditing Committee, conduct audits of any direct-support organization or citizen support organization authorized by law. Independent audits of direct-support organizations and citizen support organizations conducted by certified public accountants shall be performed in accordance with rules promulgated by the Auditor General.

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 25, after the semicolon (;) insert: amending s. 11.45, F.S.; providing for audits of support organizations;

**House Amendment 7 (with Title Amendment)**—On page 11, between lines 14 and 15, insert:

Section 8. Paragraph (c) of subsection (3) of section 11.147, Florida Statutes, is amended to read:

11.147 Joint Legislative Management Committee.—

(3)

(c) The executive director shall coordinate the activities of all of the divisions of the joint committee. He shall have authority to hire and remove personnel of the joint committee and its divisions, ~~except that division directors may be hired and removed by the executive director only with the concurrence of the joint committee.~~

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 25, after the semicolon (;) insert: amending s. 11.147, F.S., relating to the authority of the executive director of the Joint Legislative Management Committee to hire or remove personnel;

**House Amendment 8 (with Title Amendment)**—On page 11, between lines 14 and 15, insert:

Section 8. The Executive Office of the Governor shall provide for the orderly type four transfer of all powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Florida High Technology and Industry Council from the Executive Office of the Governor to the Department of Commerce, pursuant to section 20.06(4), Florida Statutes.

(Renumber subsequent section.)

And the title is amended as follows:

On page 2, line 25, after the semicolon (;) insert: providing for the transfer of programs, personnel, and funds from the Executive Office of the Governor to the Department of Commerce;

On motions by Senator Kurth, the Senate concurred in **House Amendments 1, 2, 3, 4, 5 and 8**; and refused to concur in **House Amendments 6 and 7** and the House was requested to recede.

**CS for CS for SB 1280** passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—31 Nays—None

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for CS for SB 1614 and requests the concurrence of the Senate.

*John B. Phelps, Clerk*

**CS for CS for SB 1614**—A bill to be entitled An act relating to state-administered retirement systems; amending s. 121.011, F.S.; clarifying language relating to local retirement systems and transfer of functions, consolidation, or merger of governments; amending s. 121.021, F.S.; modifying definitions of "compensation," "average final compensation," and "beneficiary"; defining "plan year"; amending s. 121.031, F.S.; clarifying use of the term "valuations"; providing an exemption from confidentiality of names and addresses of retirees; amending s. 121.052, F.S.; providing retirement membership options to elected state and county officers upon dual employment; deleting obsolete language on deposit of contributions; amending s. 121.053, F.S.; allowing certain retirees returning to employment to combine employment in different classes toward a second retirement benefit; exempting retired judges assigned to temporary duty; providing for additional credit toward the maximum health insurance subsidy; amending s. 121.081, F.S.; conforming language relating to transfer of functions, consolidation, or merger of governments; amending ss. 121.091, 122.09, 238.07, F.S.; clarifying effective date of retirement versus when benefits are paid; revising disability provisions to comply with federal law; revising death benefit provisions to remove limitation on remarriage; clarifying reemployment provisions; amending s. 121.122, F.S., clarifying provisions relating to renewed membership in the Florida Retirement System; providing for modified contributions; modifying service credit requirements; providing for additional credit toward the maximum health insurance subsidy; amending ss. 121.125, 122.03, 238.06, F.S.; limiting retirement credit for workers' compensation payment periods; amending s. 121.35, F.S.; modifying membership options for the State University System Optional Retirement Program; eliminating full-time status as a condition of the Optional Retirement Program; clarifying vesting provisions; amending ss. 121.40, 122.16, 321.203, F.S.; providing for payment of full retirement contributions for certain retired persons returning to employment, effective July 1, 1991; amending s. 122.07, F.S.; clarifying provisions relating to credit for seasonal state employment; amending s. 238.181, F.S.; modifying reemployment-after-retirement provisions under the Teachers' Retirement System to conform to similar provisions under the Florida Retirement System; providing an effective date.

**House Amendment 1**—On page 13, line 24, strike "subsection (3) is" and insert: subsections (3) and (4) are

On page 26, lines 17 and 24, after "teacher" insert: , teacher aide, transportation assistant, bus driver, or food service worker

On page 26, line 22, after "teachers" insert: , teacher aides, transportation assistants, bus drivers, or food service workers

On page 58, line 14, strike "an" and insert: An

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

**CS for CS for SB 1614** 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—29 Nays—None

#### RETURNING MESSAGES—FINAL ACTION

*The Honorable Gwen Margolis, President*

I am directed to inform the Senate that the House of Representatives has passed CS for SB 104, SB 616 and CS for SB 720.

*John B. Phelps, Clerk*

The bills contained in the foregoing message were ordered enrolled.

## ROLL CALLS ON SENATE BILLS

### CS for SJR's 18 and 20—Amendment 1

Yeas—21

Bankhead	Diaz-Balart	Langley	Thomas
Beard	Dudley	McKay	Walker
Bruner	Forman	Meek	Weinstein
Burt	Girardeau	Myers	
Childers	Gordon	Plummer	
Crotty	Kirkpatrick	Souto	

Nays—18

Madam President	Grant	Kiser	Weinstock
Casas	Grizzle	Kurth	Wexler
Crenshaw	Jenne	Malchon	Yancey
Dantzler	Jennings	Scott	
Davis	Johnson	Thurman	

Vote after roll call:

Nay—Gardner

### CS for SJR's 18 and 20—Amendment 2

Yeas—15

Bankhead	Diaz-Balart	Kiser	Thomas
Bruner	Girardeau	Langley	Walker
Childers	Jennings	Myers	Weinstein
Crotty	Kirkpatrick	Plummer	

Nays—25

Madam President	Dudley	Johnson	Thurman
Beard	Forman	Kurth	Weinstock
Burt	Gardner	Malchon	Wexler
Casas	Gordon	McKay	Yancey
Crenshaw	Grant	Meek	
Dantzler	Grizzle	Scott	
Davis	Jenne	Souto	

### CS for SJR's 18 and 20—Amendment 4

Yeas—23

Madam President	Diaz-Balart	Kirkpatrick	Souto
Bruner	Dudley	Kiser	Thomas
Casas	Forman	Langley	Walker
Childers	Girardeau	Meek	Weinstein
Crenshaw	Jenne	Myers	Wexler
Dantzler	Johnson	Plummer	

Nays—13

Bankhead	Gordon	Malchon	Yancey
Beard	Grant	Scott	
Davis	Grizzle	Thurman	
Gardner	Kurth	Weinstock	

Vote after roll call:

Nay to Yea—Gordon, Thurman

### CS for SJR's 18 and 20

Yeas—27

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kiser	Thomas
Beard	Dudley	Kurth	Thurman
Burt	Gordon	Malchon	Weinstock
Casas	Grant	McKay	Wexler
Childers	Grizzle	Myers	Yancey
Crenshaw	Jenne	Scott	

Nays—11

Bruner	Forman	Langley	Walker
Crotty	Girardeau	Meek	Weinstein
Dantzler	Jennings	Plummer	

Vote after roll call:

Yea—Gardner

Nay—Kirkpatrick

CS for SB 66

Yeas—24

Bankhead	Dudley	Jennings
Bruner	Gardner	Kiser
Casas	Girardeau	Kurth
Crotty	Gordon	Langley
Davis	Grant	Malchon
Diaz-Balart	Grizzle	Meek

Nays—12

Beard	Dantzler	Johnson
Burt	Forman	McKay
Childers	Jenne	Myers

Vote after roll call:

Yea—Kirkpatrick

SB 94

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Jenne

SB 100

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Grant, Jenne

SB 112

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Jenne

CS for SB 376

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman

CS for SB 434

Yeas—34

Madam President	Dudley	Kirkpatrick	Souto
Bankhead	Forman	Kiser	Thurman
Beard	Gardner	Kurth	Walker
Bruner	Girardeau	Langley	Weinstein
Burt	Gordon	Malchon	Weinstock
Casas	Grant	McKay	Wexler
Crenshaw	Grizzle	Meek	Yancey
Crotty	Jenne	Plummer	
Dantzler	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Childers, Davis

CS for SB 642

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick, Thurman

CS for SB 1000

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Weinstock

## SB 1060

Yeas—29

Madam President	Girardeau	Langley	Walker
Bankhead	Gordon	Malchon	Weinstein
Beard	Grizzle	Meek	Weinstock
Bruner	Jenne	Myers	Wexler
Burt	Jennings	Plummer	Yancey
Casas	Johnson	Scott	
Dudley	Kiser	Souto	
Forman	Kurth	Thurman	

Nays—None

Vote after roll call:

Yea—Childers, Davis, Grant, Kirkpatrick

## CS for CS for SB 1134

Yeas—34

Madam President	Davis	Johnson	Souto
Bankhead	Dudley	Kiser	Thurman
Bruner	Forman	Kurth	Walker
Burt	Girardeau	Langley	Weinstein
Casas	Gordon	Malchon	Weinstock
Childers	Grant	Meek	Wexler
Crenshaw	Grizzle	Myers	Yancey
Crotty	Jenne	Plummer	
Dantzler	Jennings	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thomas

## CS for CS for SB 1280

Yeas—31

Madam President	Dantzler	Johnson	Scott
Bankhead	Davis	Kiser	Souto
Beard	Dudley	Langley	Thomas
Bruner	Girardeau	Malchon	Thurman
Burt	Gordon	McKay	Walker
Casas	Grant	Meek	Weinstock
Childers	Grizzle	Myers	Yancey
Crotty	Jennings	Plummer	

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

## SB 1314

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick, Thurman

## SB 1370

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Jenne, Souto

## SB 1374

Yeas—32

Madam President	Davis	Jenne	Scott
Bankhead	Diaz-Balart	Jennings	Souto
Bruner	Dudley	Johnson	Thurman
Burt	Forman	Kiser	Walker
Casas	Girardeau	Langley	Weinstein
Childers	Gordon	McKay	Weinstock
Crenshaw	Grant	Meek	Wexler
Dantzler	Grizzle	Myers	Yancey

Nays—None

Vote after roll call:

Yea—Kirkpatrick

## CS for SB 1392

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Childers, Davis, Souto

## CS for SB 1484

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Childers, Davis

CS for CS for SB 1614

Yeas—29

Madam President	Dudley	Kiser
Bankhead	Forman	Kurth
Bruner	Girardeau	Langley
Burt	Gordon	Malchon
Casas	Grant	Meek
Crotty	Grizzle	Myers
Dantzler	Jennings	Plummer
Davis	Johnson	Scott

Nays—None

Vote after roll call:

Yea—Childers, Crenshaw, Jenne, Kirkpatrick

CS for SB 1648

Yeas—33

Madam President	Dudley	Kirkpatrick
Bankhead	Forman	Kiser
Beard	Girardeau	Kurth
Bruner	Gordon	Langley
Burt	Grant	Malchon
Casas	Grizzle	Meek
Crenshaw	Jenne	Myers
Crotty	Jennings	Plummer
Dantzler	Johnson	Scott

Nays—None

Vote after roll call:

Yea—Childers, Davis

SB 1896

Yeas—31

Madam President	Dantzler	Jennings	Plummer
Bankhead	Davis	Johnson	Scott
Beard	Dudley	Kiser	Souto
Bruner	Girardeau	Kurth	Walker
Burt	Gordon	Langley	Weinstein
Casas	Grant	Malchon	Weinstock
Childers	Grizzle	Meek	Wexler
Crotty	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman, Yancey

CS for SB 1900

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Jenne, Yancey

SB 1902

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Childers, Davis, Malchon

CS for SB 1976

Yeas—30

Madam President	Dudley	Kurth	Thurman
Bankhead	Forman	Langley	Walker
Beard	Girardeau	Malchon	Weinstein
Bruner	Grant	McKay	Weinstock
Casas	Grizzle	Meek	Wexler
Crenshaw	Jenne	Plummer	Yancey
Crotty	Kirkpatrick	Scott	
Dantzler	Kiser	Souto	

Nays—2

Burt Johnson

Vote after roll call:

Yea—Davis

Yea to Nay—McKay, Plummer, Thurman

SB 2042

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Childers, Jenne

SB 2096

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick, Meek, Thurman

**SB 2160—Amendment 2**

Yeas—24

Bankhead	Crenshaw	Grizzle	McKay
Beard	Crotty	Jennings	Myers
Bruner	Dantzler	Johnson	Plummer
Burt	Diaz-Balart	Kirkpatrick	Scott
Casas	Dudley	Kiser	Souto
Childers	Grant	Langley	Walker

Nays—12

Madam President	Girardeau	Malchon	Weinstock
Davis	Gordon	Meek	Wexler
Forman	Jenne	Thurman	Yancey

**SB 2160**

Yeas—16

Madam President	Girardeau	Kurth	Walker
Davis	Gordon	Malchon	Weinstein
Forman	Jenne	Meek	Weinstock
Gardner	Kirkpatrick	Thurman	Wexler

Nays—23

Bankhead	Crenshaw	Grizzle	Myers
Beard	Crotty	Jennings	Plummer
Bruner	Dantzler	Johnson	Scott
Burt	Diaz-Balart	Kiser	Souto
Casas	Dudley	Langley	Yancey
Childers	Grant	McKay	

**SB 2164**

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Childers, Jenne

**SB 2164—Motion to Reconsider**

Yeas—17

Madam President	Forman	Malchon	Wexler
Beard	Gardner	Plummer	Yancey
Bruner	Girardeau	Thomas	
Childers	Jenne	Thurman	
Dantzler	Kirkpatrick	Walker	

Nays—18

Bankhead	Gordon	Kurth	Souto
Burt	Grant	Langley	Weinstein
Casas	Jennings	Meek	Weinstock
Crenshaw	Johnson	Myers	
Dudley	Kiser	Scott	

**SR 2522**

Yeas—39

Madam President	Childers	Dudley	Grizzle
Bankhead	Crenshaw	Forman	Jenne
Beard	Crotty	Gardner	Jennings
Bruner	Dantzler	Girardeau	Johnson
Burt	Davis	Gordon	Kirkpatrick
Casas	Diaz-Balart	Grant	Kiser

Kurth	Myers	Thomas	Weinstock
Langley	Plummer	Thurman	Wexler
Malchon	Scott	Walker	Yancey
McKay	Souto	Weinstein	

Nays—None

All Senators voting were recorded as co-sponsors of **SR 2522**.

**ROLL CALLS ON HOUSE BILLS**

**CS for HB 133**

Yeas—35

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

Nays—1

McKay

Vote after roll call:

Yea—Yancey

**HB 187**

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick

**HB 1355**

Yeas—31

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

Nays—1

Davis

Vote after roll call:

Yea—Bruner

**Abstention from Voting**

To avoid the appearance I did not vote on HB 1355 regarding railroads. I am an employee of the CSX Transportation Co.

*W. G. (Bill) Bankhead, 9th District*

**HB 1851—Amendment 1A**

Yeas—12

Bankhead	Diaz-Balart	Johnson	Kurth
Beard	Dudley	Kirkpatrick	Langley
Crenshaw	Gardner	Kiser	Souto

Nays—17

Madam President	Grant	Myers	Weinstock
Childers	Grizzle	Plummer	Wexler
Dantzler	Jenne	Scott	
Davis	Malchon	Thomas	
Forman	Meek	Weinstein	

**HB 1851—Amendment 1B**

Yeas—15

Bankhead	Crenshaw	Grant	McKay
Beard	Crotty	Johnson	Myers
Bruner	Diaz-Balart	Kirkpatrick	Souto
Casas	Dudley	Langley	

Nays—16

Dantzler	Grizzle	Plummer	Weinstein
Davis	Jenne	Thomas	Weinstock
Forman	Kurth	Thurman	Wexler
Gordon	Malchon	Walker	Yancey

**ROLL CALLS ON MOTIONS**

**HB 1851  
Motion to Read in Full**

Yeas—12

Bankhead	Crotty	Grizzle	Langley
Casas	Diaz-Balart	Johnson	McKay
Crenshaw	Dudley	Kiser	Souto

Nays—21

Bruner	Girardeau	Malchon	Weinstock
Childers	Gordon	Meek	Wexler
Dantzler	Grant	Plummer	Yancey
Davis	Jenne	Thomas	
Forman	Kirkpatrick	Thurman	
Gardner	Kurth	Walker	

**Motion to Recess**

Yeas—32

Beard	Dudley	Johnson	Souto
Casas	Forman	Kirkpatrick	Thomas
Childers	Gardner	Kurth	Thurman
Crenshaw	Girardeau	Malchon	Walker
Crotty	Gordon	Meek	Weinstein
Dantzler	Grant	Myers	Weinstock
Davis	Grizzle	Plummer	Wexler
Diaz-Balart	Jenne	Scott	Yancey

Nays—4

Bankhead	Kiser	Langley	McKay
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**ENROLLING REPORTS**

SB 102, CS for SB 240, CS for SB 456, Senate Bills 698, 730, 808, CS for SB 882, Senate Bills 1168, 1516 and 1714 have been enrolled, signed by the required Constitutional Officers and presented to the Governor on March 10, 1992.

*Joe Brown, Secretary*

**CORRECTION AND APPROVAL OF JOURNAL**

The Journal of March 9 was corrected and approved.

**CO-SPONSORS**

Senator Crotty—SB 444; Senator Bankhead—SB 1362; Senator Souto—CS for SB 1688; Senator Thomas—CS for SB 2416

**RECESS**

Pursuant to the motion by Senator Thomas, the Senate recessed at 5:30 p.m. to reconvene at 2:00 p.m., Wednesday, March 11.

**SENATE PAGES**

March 9-13

Eddie Allen, Arcadia; Kimberley Buffmire, Rockledge; Stephanie Lyn Buffmire, Rockledge; Mark Chastain, Miami; William B. Clark, Gainesville; Molly Fertitta, Okeechobee; Gretchen Griffith, Melbourne; Tracie S. Hamersley, Tallahassee; Nisha Stephanie Daniele Hitchman, Miami; Jolene Jilnicki, Inverness; Brandon Knotts, Miami; Richard Christian Komando, Niceville; Jason Eric Lindsey, Niceville; April Denise Millsaps, Wilton Manors; Disston Taylor Moore, Daytona Beach; Victoria Pierre, Ft. Lauderdale; Daron Pins, Winter Park; Kimberly Gail Presnell, Quincy; Leigh Ann Smith, Quincy; Eric Travis, Tallahassee; Carey L. Worthington, Ocala; Daniel James Wray, Ocala