



Journal of the Senate

Number 18

Wednesday, March 11, 1992

CALL TO ORDER

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

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

Excused: Senator Walker at 3:45 p.m.

PRAYER

The following prayer was offered by the Rev. L. M. Thorne, Pastor, Abundant Life Church, Fort Walton Beach:

Father, as we come to you this afternoon, we ask you to forgive us for all our sins and all our shortcomings. We offer thanks for all the blessings you have given to us. We are thankful for our country and our state and for these leaders. The Apostle Paul exhorts us to pray for those who are in authority, that we may lead a quiet and peaceable life in all godliness and reverence.

Father, we have so many needs in our state today. We have drug problems, AIDS, crime, the homeless, abortion, the budget and many, many other pressing problems. We have the struggle for power and position by those who would do anything for their own gain. But, Lord, we know that you are in control of our lives and though many seek these leaders' favor, justice for man comes from you, Lord.

In James, you said to us, "if anyone lacks wisdom, let him ask of God who gives to all liberally and without reproach, and it will be given to him."

Lord, if there has ever been a time that we need your wisdom it is now. It seems as if we are on a runaway train with no way to stop it. Every day things look worse than the day before.

Lord, what we need is your wisdom, your direction and your help. Lord, we need you to heal our land.

In Genesis 11, you made a statement about the people of Babel. You said, "the people are in unity and they all say the same thing; now nothing that they propose to do will be withheld from them."

Lord, I ask you to reveal to these leaders your wisdom and your plans and give them the courage to come into your unity and heal our land. I pray these things in Jesus' name. Amen.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Gordon, by two-thirds vote **SR 2450** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Gordon—

SR 2450— A resolution recognizing May 1992 as "National Huntington's Disease Awareness Month."

WHEREAS, 25,000 Americans are victims of Huntington's Disease, a fatal, hereditary, neurological disorder which typifies other late-onset, behavioral genetic disorders by presenting the victim and the victim's family with a broad range of biomedical, psychological, social, and economic problems, and

WHEREAS, an additional 125,000 Americans have a 50-percent chance of inheriting the gene responsible for Huntington's Disease from an affected parent and are considered to be "at risk" for the disease, and

WHEREAS, tens of thousands of Americans experience the destructive effects of the disease, including suffering from the social stigma associated with the disease, assuming the difficult role of caring for a loved victim of the disease, witnessing the prolonged, irreversible physical and mental deterioration of a loved one, and agonizing over the death of a loved one, and

WHEREAS, there is no cure for Huntington's Disease and no means available to retard or reverse the effects of the disease, and

WHEREAS, a victim of the later stages of Huntington's Disease invariably requires total personal care, the provision of which often results in devastating financial consequences for the victim and the victim's family, and

WHEREAS, recent advances in the field of molecular genetics have enabled scientists to locate approximately the gene site responsible for Huntington's Disease, and many of the novel techniques resulting from these advances have also been instrumental in locating the gene sites responsible for familiar Alzheimer's Disease, manic depression, kidney cancer, and other disorders, and

WHEREAS, increased federal funding of medical research could facilitate additional advances and result in the discovery of the cause and chemical processes of Huntington's Disease and the development of strategies to stop and reverse the progress of the disease, and

WHEREAS, in the absence of a cure for Huntington's Disease, victims of the disease deserve to live with dignity and to be regarded as full and respected members of families and of society, NOW, THEREFORE,

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

That the month of May 1992 is recognized as "National Huntington's Disease Awareness Month."

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

SPECIAL GUESTS

Senator Gordon introduced the following guests who were presented copies of the resolution: Barry Goldring, President, South Florida Chapter, Huntington's Disease Society of America; and Paul Thomason, patient.

On motion by Senator Plummer, by two-thirds vote **SR 2436** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Plummer—

SR 2436—A resolution declaring April 26, 1992, as Florida Earth Day.

WHEREAS, last year's celebration of the 21st anniversary of Earth Day was a resounding success in reawakening dormant global interest in the problems of the environment, and

WHEREAS, efforts to build on such success must continue to be made if problems such as global warming, ozone depletion, overpopulation, deforestation, desertification, and pollution from medical, toxic, and nuclear wastes and emissions are to be overcome, and

WHEREAS, Florida intends to do its part in 1992 by recognizing Florida Earth Day on April 26 and by emphasizing recycling as one of the many solutions presently available for reducing negative effects on the environment, NOW, THEREFORE,

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

That April 26, 1992, is declared to be Florida Earth Day and that recycling be given special emphasis as an immediately available option for reducing negative effects on the environment.

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Grizzle, by two-thirds vote **CS for SB 1936** and **SB 2520** were withdrawn from the Committee on Community Affairs.

On motions by Senator Gardner, by two-thirds vote **CS for SB 1998**, **CS for SB 690**, **Senate Bills 714** and **2336**, **CS for SB 6**, **SB 224**, **CS for CS for SB 966**, **CS for SB 1444**, **CS for SB 270**, **CS for SB 2124**, **CS for CS for SB 1624**, **CS for SB 2014**, **CS for SB 2184**, **SB 368**, **CS for SB 1768** and **CS for SB 1564** were withdrawn from the Committee on Appropriations.

MOTIONS

On motions by Senator Girardeau, the rules were waived and the Committee on Executive Business, Ethics and Elections was granted permission to meet March 12 upon recess of the morning session to consider appointments of Norman Stephenson and Jerry Switts.

On motion by Senator Childers, the rules were waived by unanimous consent and the Senate reverted to introduction for the purpose of introducing the following bill out of order notwithstanding the fact that the final day had passed for introduction of bills:

INTRODUCTION AND REFERENCE OF BILL

By Senator Childers—

SB 2524—A bill to be entitled An act relating to local option taxes; ratifying county referenda heretofore held pursuant to s. 212.055, F.S., at which local option sales surtaxes were approved and acts in connection with such referenda; providing an effective date.

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

On motion by Senator Childers, by two-thirds vote **SB 2524** was withdrawn from the Committee on Rules and Calendar and placed on the calendar.

SPECIAL ORDER

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

The Senate resumed consideration of—

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.

—which had been considered and amended on March 10.

On motion by Senator Weinstock, **SB 344** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—26 Nays—10

Consideration of **SB 1458** was deferred.

The Senate resumed consideration of—

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.

—which had been amended and read the third time by title on March 10.

RECONSIDERATION

On motion by Senator Kirkpatrick, the Senate reconsidered the vote by which **CS for CS for CS for SB 12, SB 508 and SB 1310** was read the third time.

On motion by Senator Kirkpatrick, the Senate reconsidered the vote by which **Amendment 5** was adopted.

Senator Kirkpatrick moved the following substitute amendment which was adopted:

Amendment 8 (with Title Amendment)—On page 95, strike all of lines 22-24 and insert:

Section 30. The 10-cent tax increase in the documentary stamp tax levied by section 1 of this act does not apply to deeds and other taxable instruments relating to real property located in 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; however, each such county is only eligible to participate in programs funded pursuant to sections 2 and 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 section 420.9072(4), Florida Statutes.

And the title is amended as follows:

In title, on page 5, strike all of line 6 after "Agency" and lines 7 and 8 through "Florida" 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;

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 9—On page 96, lines 20-31, and on page 97, lines 1-20, strike all of said lines and insert:

Section 32. From the Local Government Housing Trust Fund, the sum of \$25.82 million shall be allocated to implement the State Housing Initiatives Partnership Program established pursuant to section 420.9072, Florida Statutes.

Section 33. Funds available from the State Housing Trust Fund shall be allocated as follows:

(1) The sum of \$14.57 million shall be allocated to implement the State Apartment Incentive Loan Program established pursuant to sections 420.507 and 420.5087, Florida Statutes.

(2) The sum of \$2 million shall be allocated to implement the Homeownership Assistance Program established pursuant to sections 420.507 and 420.5088, Florida Statutes.

(3) The sum of \$1 million shall be allocated to implement the Housing Predevelopment Trust Fund Program established pursuant to section 420.307, Florida Statutes.

(4) The sum of \$1 million shall be allocated to implement the Elderly Homeowner Rehabilitation Program established pursuant to section 420.34, Florida Statutes.

(5) The sum of \$2 million shall be allocated to match funds available to the state from the federal HOME program; however, any portion of that amount not needed to match federal moneys shall be allocated to the State Apartment Incentive Loan Program.

(6) The sum of \$4.3 million shall be allocated to assist in funding the debt service reserve account pursuant to section 420.5092 (5) and (6) for bonds issued under the Florida Affordable Housing Guarantee Program; however, any portion of that amount not needed to cover debt service shall be allocated to the State Apartment Incentive Loan Program

Amendment 10—On page 6, line 23, through page 12, line 30, strike all of said lines and insert:

Section 2. Effective July 1, 1992, section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under the provisions of this chapter shall be distributed as follows:

(1) ~~Seventy and nineteen Seventy-six and twenty-one~~ hundredths percent of the total taxes collected under the provisions of this chapter shall be used for the following purposes:

(a) Subject to the maximum amount limitations set forth in this paragraph, an amount as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund shall not exceed \$90 million in fiscal year 1992-1993, \$120 million in fiscal year 1993-1994, \$150 million in fiscal year 1994-1995, \$180 million in fiscal year 1995-1996, \$210 million in fiscal year 1996-1997, \$240 million in fiscal year 1997-1998, \$270 million in fiscal year 1998-1999, and \$300 million in fiscal year 1999-2000 and thereafter. No individual series of bonds may be issued pursuant to this paragraph unless the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Department of Natural Resources Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed pursuant to this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) ~~Seven and seventy-nine Eight and forty-nine~~ hundredths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) ~~Two and one hundredth Two and eighteen hundredths~~ percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) ~~Six and five Six and fifty-six~~ hundredths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) ~~Six and five~~ ~~Six and fifty-six~~ hundredths percent of the total taxes collected under the provisions of this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

(6) *Seven and ninety-one hundredths percent of the total taxes collected under this chapter shall not be subject to the service charge provided in s. 215.20 and shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:*

(a) *Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.*

(b) *Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.*

Section 3. Effective July 1, 1993, section 201.15, Florida Statutes, as amended by section 2 of this act, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter shall be distributed as follows:

(1) ~~Sixty-two and twenty-eight~~ ~~seventy and nineteen~~ hundredths percent of the total taxes collected under this chapter shall be used for the following purposes:

(a) Subject to the maximum amount limitations set forth in this paragraph, an amount as shall be necessary to pay the debt service on, or fund debt service reserve funds, rebate obligations, or other amounts with respect to bonds issued pursuant to s. 375.051 and payable from moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund to be used for such purposes. The amount transferred to the Land Acquisition Trust Fund shall not exceed \$90 million in fiscal year 1992-1993, \$120 million in fiscal year 1993-1994, \$150 million in fiscal year 1994-1995, \$180 million in fiscal year 1995-1996, \$210 million in fiscal year 1996-1997, \$240 million in fiscal year 1997-1998, \$270 million in fiscal year 1998-1999, and \$300 million in fiscal year 1999-2000 and thereafter. No individual series of bonds may be issued pursuant to this paragraph unless the first year's debt service for such bonds is specifically appropriated in the General Appropriations Act. No moneys transferred to the Land Acquisition Trust Fund pursuant to this paragraph, or earnings thereon, shall be used or made available to pay debt service on the Department of Natural Resources Save Our Coast revenue bonds.

(b) The remainder of the moneys distributed pursuant to this subsection, after the required payment under paragraph (a), shall be paid into the State Treasury to the credit of the General Revenue Fund of the state to be used and expended for the purposes for which the General Revenue Fund was created and exists by law.

(2) Seven and seventy-nine hundredths percent of the total taxes collected under this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Sums deposited in such fund pursuant to this subsection may be used for any purpose for which funds deposited in the Land Acquisition Trust Fund may lawfully be used and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(3) Two and one hundredth percent of the total taxes collected under this chapter shall be paid into the State Treasury to the credit of the Land Acquisition Trust Fund. Moneys deposited in the trust fund pursuant to this section shall be used for the following purposes:

(a) Sixty percent of the moneys shall be used to acquire coastal lands or to pay debt service on bonds issued to acquire coastal lands; and

(b) Forty percent of the moneys shall be used to develop and manage lands acquired with moneys from the Land Acquisition Trust Fund.

(4) Six and five hundredths percent of the total taxes collected under this chapter shall be paid into the State Treasury to the credit of the Water Management Lands Trust Fund. Sums deposited in that fund may be used for any purpose authorized in s. 373.59 and may be used to pay the cost of the collection and enforcement of the tax levied by this chapter.

(5) Six and five hundredths percent of the total taxes collected under this chapter shall be paid into the State Treasury to the credit of the Conservation and Recreation Lands Trust Fund to carry out the purposes set forth in s. 253.023.

(6) Seven and ninety-one hundredths percent of the total taxes collected under this chapter shall not be subject to the service charge provided in s. 215.20 and shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:

(a) Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

(b) Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(7) *Seven and ninety-one hundredths percent of the total taxes collected under this chapter shall not be subject to the service charge provided in s. 215.20 and shall be paid into the State Treasury to the credit of the State Housing Trust Fund and shall be used as follows:*

(a) *In each fiscal year, an amount shall be distributed to the General Revenue Fund equal to an amount calculated by subtracting the total amount distributed pursuant to subsection (1) during that fiscal year from the total amount distributed pursuant to subsection (1) during fiscal year 1992-1993 plus \$25 million. If the result of this calculation is negative, no money shall be distributed. If in any fiscal year no money is distributed to the General Revenue Fund pursuant to this paragraph, no money shall be distributed in any future fiscal year. It is the legislative intent that these distributions to the General Revenue Fund be used to partially offset the loss to the General Revenue Fund of debt service moneys on bonds issued pursuant to s. 375.051 in fiscal year 1993-1994.*

(b) *From the amount remaining, such remaining amount not to exceed one-half of the total taxes distributed under this subsection, 25 percent shall be deposited into the State Housing Trust Fund and be expended by the Department of Community Affairs and by the Florida Housing Finance Agency for the purposes for which the State Housing Trust Fund was created and exists by law.*

(c) *The remainder shall be distributed to the Local Government Housing Trust Fund and shall be used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.*

Senator Dudley moved the following amendment which failed:

Amendment 11—On page 83, line 21, strike “65” and insert: 75

Senator Grizzle moved the following amendment which was adopted:

Amendment 12—On page 81, strike line 29 and insert:

Low-income Emergency Home Repair Program.

A county or an eligible municipality may not expend its portion of the local housing distribution to provide rent subsidies.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for CS for CS for SB 12, SB 508 and SB 1310** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—6

CONSIDERATION OF BILL OUT OF ORDER

On motion by Senator Crenshaw, by unanimous consent—

HJR 2491—A joint resolution of apportionment; providing for the apportionment of the House of Representatives and the Senate; adopting the federal decennial census for use in such apportionment; providing for omitted areas; providing for areas with no population specified for inclusion in one district which are entirely surrounded by other districts; providing severability of invalid portions; providing for nomination and election of candidates from representative and senatorial districts; providing an effective date.

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

Senator Thomas moved the following amendment:

Amendment 1 (with Title Amendment)—On page 1, line 17, through page 2, line 13, strike all of said lines and insert:

Section 1. (1) In accordance with s. 8(a), Art. X of the State Constitution, the United States Decennial Census of 1990 is the official census of the state for the purposes of this joint resolution.

(2) The following delineation of areas to be included in each representative district and senatorial district employs the official census county divisions, tracts, block numbering areas, block groups, and blocks used by the United States Department of Commerce, Bureau of the Census, in compiling the United States Decennial Census of 1990 in this state. The populations within these census geographic units are the population figures reported in the counts of the United States Decennial Census of 1990 provided to the state in accordance with Pub. L. No. 94-171.

(3) As used in this joint resolution, the term:

(a) "Block" means the smallest geographic unit for which population was ascertained in taking the 1990 census.

(b) "Block group" means the combination of blocks within a single tract or block numbering area the numbers of which begin with the same digit.

(c) "Tract" means the combination of blocks within a county which is delineated as a tract by local committee according to Census Bureau guidelines.

(d) "Block numbering area" or "BNA" means the combination of blocks within a county which are not included in a tract.

(e) "Census county division" means an administrative division of a county which contains tracts or block numbering areas.

And the title is amended as follows:

In title, on page 1, strike all of lines 2-13 and insert: A joint resolution of apportionment; providing for the apportionment of the House of Representatives and the Senate; adopting the United States Decennial Census of 1990 for use in such apportionment; providing for omitted areas; providing for areas with no population specified for inclusion in one district which are entirely surrounded by other districts; providing severability of invalid portions; providing for application beginning in 1992.

On motion by Senator Crenshaw, further consideration of **HJR 2491** with pending **Amendment 1** was deferred.

SPECIAL ORDER, Continued

The Senate resumed consideration of—

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.

—which had been considered and amended on March 10.

Senator Dudley withdrew the motion that **HB 1851** be read in full.

On motion by Senator Dudley, by unanimous consent, **HB 1851** was returned to second reading.

On motion by Senator Dudley, the Senate reconsidered the vote by which **Amendment 1** as amended was adopted.

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

Amendment 1F—On page 4, line 22, after "which" insert: , without treatment,

Amendment 1 as amended was adopted.

On motion by Senator Malchon, by two-thirds vote **HB 1851** as amended 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 2416—A bill to be entitled An act relating to higher education; creating the State University System equity incentive program; requiring the development of a plan by each state university; providing for the submission of reports; providing for administrative evaluations; creating pools of vacant positions to be used to reward managers who attain equity goals; establishing educational leadership enhancement grants; requiring the establishment of a similar equity program in the Community College System; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Kirkpatrick and adopted:

Amendment 1—On page 8, strike all of lines 5-7 and insert: funding shall take into consideration this evaluation.

Amendment 2—On page 5, lines 6-8, strike "The pool is capped at 25 percent of the total number of positions described in paragraph (2)(a)." and insert: Each university president shall develop rules regarding the filling of vacant positions and the transfer of positions into the vacant position pool as required to implement the provisions of this act. Such rules shall provide for a total cap on the vacant position pool at 10 percent of the number of vacant positions for the university as of the date of the preparation of the initial operating budget for each year. The rule shall also provide that the number of positions to be transferred into the vacant position pool, at the departmental level, shall not exceed 10 percent of the total number of authorized positions for the department as of the date of the preparation of the initial operating budget for each year.

Senators Kirkpatrick and Johnson offered the following amendment which was moved by Senator Kirkpatrick:

Amendment 3 (with Title Amendment)—On page 8, between lines 18 and 19, insert:

Section 4. Paragraph (g) is added to subsection (10) of section 240.1201, Florida Statutes, to read:

240.1201 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition fees in public community colleges and universities.

(10) The following persons shall be classified as residents for tuition purposes:

(g) *McKnight Doctoral Fellows who are United States citizens.*

Section 5. Paragraphs (j) and (p) of subsection (3) and paragraph (b) of subsection (5) of section 240.209, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

240.209 Board of Regents; powers and duties.—

(3) The board shall:

(j) After consultation with the university presidents, adopt a system-wide master plan which specifies goals and objectives for the State University System and a master plan for each of the universities defining the particular contributions each university will make toward the achievement of these goals and objectives. In developing the plan these plans, the board shall consider the role of individual public and independent institutions within the state. The plan shall also provide for the roles of the universities to be coordinated to best meet state needs and reflect cost-effective use of state resources. The systemwide master plan shall identify service areas for purposes of continuing education and extension programs, except that the service area of the comprehensive

~~graduate research and service universities shall be statewide in scope. The university master plan shall clarify mission statements and identify degree programs to be offered at each university in accordance with the objectives provided herein and translate general systemwide guidelines into specific goals, objectives, priorities, and strengths for the universities. Plans shall also include recommendations regarding the upper division concept. The systemwide master plan and university master plans shall provide projections for the State University System for a period of 5 years with modification of the program lists after 2 years biennially. The systemwide master plan and the university master plans shall be consistent with the defined mission of each university. The Board of Regents shall submit a report to the Speaker of the House of Representatives and the President of the Senate upon modification of the system plan or any university plan.~~

(p) Notwithstanding the provisions of ss. 216.044, 255.248, 255.249, 255.25, 255.28, 255.29, and 287.055, adopt rules to administer a program for the maintenance and construction of facilities in the State University System and to secure, or otherwise provide as a self-insurer pursuant to s. 440.38(6), workers' compensation coverage for contractors and subcontractors, or each of them, employed by or on behalf of the Board of Regents when performing work on or adjacent to property owned or used by the Board of Regents or the State University System.

(5) The Board of Regents is responsible for:

(b) Coordinating with the Postsecondary Education Planning Commission the programs, including doctoral programs, to be reviewed every 7 1/2 years or whenever the board determines that the effectiveness or efficiency of a program is jeopardized. The board shall define the indicators of quality and the criteria for program review for every program. Such indicators shall include need, student demand, and resources available to support continuation. The results of the program reviews shall be tied to the university budget requests.

(8) Notwithstanding the provisions of s. 283.33, books published by the State University System press are not subject to the bid requirements provided in s. 287.017.

Section 6. Section 240.255, Florida Statutes, is created to read:

240.255 State University System challenge grants program.—

(1) LEGISLATIVE INTENT.—The Legislature recognizes the role of private donations in providing the margin of excellence to the funds provided to the State University System from other sources. It is therefore the intent of the Legislature to establish a trust fund to provide each university and the New College with the opportunity to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments, which shall be invested, with the proceeds of the investment used for the improvement of the operation of educational and academic programs.

(2) FUNDING.—There is hereby created the Challenge Grants Trust Fund. All funds appropriated for the challenge grants, new donors, major gifts, or eminent scholars program shall be deposited into the trust fund and invested pursuant to the provisions of s. 18.125 until the Board of Regents allocates such funds to universities to match private donations. Notwithstanding the provisions of s. 216.301, and pursuant to the provisions of s. 216.351, interest income accruing to the portion of the trust fund not matched and distributed to universities shall increase the total funds available for challenge grants. The Board of Regents may authorize any university to encumber the state matching portion of a challenge grant from funds available under s. 240.272.

(3) ADMINISTRATION BY THE BOARD OF REGENTS.—The Board of Regents shall specify the process for submission, documentation, and approval of requests for matching funds, accountability for endowments and proceeds of endowments, allocations to universities, restrictions on the use of the proceeds from endowments, and criteria used in determining the value of donations.

(4) THE SCHEDULE OF MATCHING PRIVATE DONATIONS.—

(a) The amount appropriated to the trust fund shall be allocated by the Board of Regents to each university and the New College based on the amount of the donation and the restrictions applied to the donation.

(b) Donations for a specific purpose are matched in the following manner:

1. Each university that raises at least \$100,000 but no more than \$599,999 from a private source shall receive a matching grant equal to 50 percent of the private contribution.

2. Each university that raises a contribution of at least \$600,000 but no more than \$1,000,000 from a private source shall receive a matching grant equal to 70 percent of the private contribution.

3. Each university that raises a contribution in excess of \$1,000,000 but no more than \$1,500,000 from a private source shall receive a matching grant equal to 75 percent of the private contribution.

4. Each university that raises a contribution in excess of \$1,500,000 but no more than \$2,000,000 from a private source shall receive a matching grant equal to 80 percent of the private contribution.

5. Each university that raises a contribution in excess of \$2,000,000 from a private source shall receive a matching grant equal to 100 percent of the private contribution.

(c) A single donation made after July 1, 1992, for the establishment of a permanent endowment to be used at the discretion of the president for improving the educational and academic programs of the university, which is not restricted for use by a specific college, department, discipline, or program, and which is at least \$100,000, shall be matched at the rate of 70 percent of the private contribution. A donation for the establishment of a permanent endowment to be used at the discretion of the president for improving the academic programs of the university, which is not restricted for use by a specific college, department, discipline, or program, and which is in excess of \$1,000,000, shall be matched pursuant to the provisions of this subsection for matching a restricted donation. Annually, each foundation shall submit to the Board of Regents a report specifying the use of the proceeds of endowments established pursuant to this subsection. The Board of Regents shall specify the format and content of the annual report.

(d) The Board of Regents shall specify conditions under which matching funds may be encumbered by a down payment and pledged schedule of future donations. Such conditions shall include conditions of default and reinstatement of defaulted pledges.

(5) ELIGIBLE DONATIONS.—Matching funds shall be provided for contributions to the President's Fund only when the contributions are made on or after July 1, 1992. Matching funds may be provided for contributions encumbered or pledged under the Florida Endowment Trust Fund for Eminent Scholars Act or the Trust Fund for Major Gifts prior to July 1, 1992, and for donations or pledges of any amount equal to or in excess of the prescribed minimums which are pledged for the purpose of this section.

(6) UNIVERSITY ADMINISTRATION.—

(a) Each university foundation and the New College Foundation shall establish a challenge grant account for each challenge grant as a depository for private contributions and state matching funds to be administered on behalf of the university or the New College. State matching funds shall be transferred to a university foundation or the New College Foundation upon notification that the university or the New College has received and deposited the amount specified in this section in an institutional challenge grant account.

(b) The foundation serving a university and the New College Foundation shall have the responsibility for the maintenance and investment of its challenge grant account and for the administration of the program on behalf of the university or the New College, pursuant to procedures specified by the Board of Regents. Each foundation shall include in its annual report to the Board of Regents information concerning collection and investment of matching gifts and donations and investment of the account.

(c) A donation of at least \$600,000 and associated state matching may be designated as an Eminent Scholar Endowed Chair pursuant to procedures specified by the Board of Regents.

(7) PROHIBITED USES.—The donations, state matching, or proceeds from endowments established pursuant to this section shall not be expended for the construction, renovation, or maintenance of facilities or for the support of intercollegiate athletics.

Section 7. Paragraph (p) of subsection (3) of section 240.319, Florida Statutes, is amended to read:

240.319 Community college district boards of trustees; duties and powers.—

(3) Such rules, procedures, and policies for the boards of trustees include, but are not limited to, the following:

(p) Each board of trustees is authorized to contract for the purchase, lease, or acquisition in any manner (including purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased) of equipment required by the college. The board of trustees may choose to have such equipment contracts consolidated under master equipment financing agreements made pursuant to s. 287.064. *Any such lease, lease-purchase, or installment contract providing for the payment of interest on the unpaid balance or granting a security interest and not subject to a consolidated master equipment financing agreement pursuant to s. 287.064 may be authorized pursuant to s. 240.367(1).*

Section 8. Subsection (7) of section 240.35, Florida Statutes, is amended, and subsection (17) is added to said section to read:

240.35 Student fees.—

(7) Each community college board of trustees shall establish matriculation, tuition, and noncredit fees, which may vary no more than 10 percent from the fee schedule adopted by the State Board of Community Colleges, *except community colleges in districts which have a cost differential above 1.00 as calculated by the Division of Community Colleges as specified in s. 236.081(2). Upon notification of eligibility by the Executive Director of the Division of Community Colleges, the boards of trustees of such institutions may establish fees up to 20 percent above the fee schedule adopted by the State Board of Community Colleges. Multi-county community college districts shall have their district cost differential computed from the weighted average of the population of the counties in their service area.* However, any community college may conduct customized supplemental vocational instruction if the instruction is requested by a private employer solely for the benefit of his employees. Such instruction may not be made available for public enrollment. The community college board of trustees shall charge the private employer the full cost of the provision of such instruction, and enrollment may not be counted for state funding purposes.

Section 9. Paragraph (c) of subsection (1) of section 240.359, Florida Statutes, is amended to read:

240.359 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313 shall be as follows:

(1) DETERMINING THE AMOUNT TO BE INCLUDED IN THE STATE COMMUNITY COLLEGE PROGRAM FUND FOR THE CURRENT OPERATING PROGRAM.—

(c) The funding category of lifelong learning is for certain students in adult basic and secondary education programs or in supplemental vocational program areas.

1. A student in an adult basic and secondary education course is a lifelong learning student if he has received a high school diploma and does not demonstrate skills at or below the eighth-grade level.

2. A student in a supplemental vocational course is a lifelong learning student unless he fulfills one of the following criteria:

a. He currently holds wage-earning employment and is taking a course to enhance or upgrade skills related to that employment; or

b. He has a wage-earning employment history with intent to seek employment in an occupation directly related to that course and to that employment history.

3. A student shall be reported for funding as a lifelong learning student for enrollment in a consumer home economics course unless that course comprehensively addresses competencies identified in the program courses standards as home and family management competencies. Students in courses that comprehensively address such competencies may be reported as full-time equivalent students in the vocational supplemental category.

~~4. A student shall be reported as a lifelong learning student for his enrollment in any course that he has previously taken, unless it is a credit course in which he earned a grade of D or F.~~

Section 10. Subsection (5) of section 240.36, Florida Statutes, is amended to read:

240.36 Florida Academic Improvement Trust Fund for Community Colleges.—

(5) Funds sufficient to provide the match shall be transferred from the state trust fund to the community college foundation ~~in increments of \$3,000~~ upon notification that a proportionate amount has been received and deposited by the community college in its own trust fund. *No payment shall be made for an amount less than \$3,000.*

Section 11. Subsection (1) of section 240.367, Florida Statutes, is amended to read:

240.367 Current loans to community college district boards of trustees.—

(1) At any time the current funds on hand are insufficient to pay obligations created by the board of trustees of any community college district in accordance with the approved budget of the community college, the board of trustees may request approval by the *Executive Director of the Division of Community Colleges* ~~Commissioner of Education~~ of a proposal to negotiate a current loan, with provisions for the repayment of such loan during the fiscal year in which the loan is made, in order to meet these obligations. *However, pursuant to s. 240.319(3)(p), such obligations may be extended from year to year with the consent of the lender and approval of the executive director for a period not to exceed 4 years, or a total of 5 years including the initial year of the loan.*

Section 12. Section 240.4988, Florida Statutes, is created to read:

240.4988 The Theodore R. and Vivian M. Johnson Scholarship Program and trust fund.—

(1) There is established the Theodore R. and Vivian M. Johnson Scholarship Program and the Johnson Scholarship Trust Fund to be administered by the Board of Regents. The trust fund shall provide scholarships to students attending a State University System institution. The program shall be funded by contributions from the Theodore R. and Vivian M. Johnson Scholarship Foundation and from state matching funds to be allocated from the Trust Fund for Major Gifts.

(2) The amount to be allocated to the Johnson Scholarship Trust Fund shall be on the basis of a 50 percent match of funds from the Trust Fund for Major Gifts for each contribution received from the Theodore R. and Vivian M. Johnson Scholarship Foundation. The funds in the Johnson Scholarship Trust Fund, including the corpus and interest income, shall be expended for scholarships to benefit disabled students of the State University System.

(3) Students eligible for receipt of scholarship funds shall provide documentation of a disability and shall have a demonstrated financial need for the funds.

Section 13. Section 240.61, Florida Statutes, is amended to read:

240.61 College reach-out program.—

(1) *There is established a college reach-out program to increase the number of low-income students and educationally disadvantaged students in grades 6-12 who are admitted to and successfully complete postsecondary education. Participants should be students It is the intent of the Legislature to increase the number of students successfully completing a postsecondary education, who would be unlikely to seek admission to a community college, state university, or independent postsecondary institution without special support and recruitment efforts.*

(2) *As used in this section, the term "low-income student" means a student from a family that has a taxable income that does not exceed 150 percent of the poverty level, as defined by the Bureau of the Census during the initial calendar year in which the student participates in the college reach-out program. There is established a college reach-out program. The primary objective of the program is to strengthen the educational motivation and preparation of low income or educationally disadvantaged students in grades 6 through 12 who desire, and who may benefit from, a postsecondary education.*

(3) To participate in the college reach-out program, a community college, a public university, or an independent postsecondary institution that is participating in a special program for students from disadvantaged backgrounds pursuant to 20 U.S.C., ss. 1070d et seq. may submit

a proposal to the Department of Education. The State Board of Education shall consider the proposals and determine which proposals to implement as programs that which will strengthen the educational motivation and preparation of low-income students or educationally disadvantaged students.

(4) Community colleges, universities, and independent postsecondary institutions that participate must provide on-campus academic and advisory activities which are offered during summer vacation and provide opportunities for interacting with college and university students as mentors, tutors, or role models. University Proposals submitted by universities and consortia involving universities may ~~must~~ provide students with an opportunity to live on campus.

(5) Community colleges, universities, and independent postsecondary institutions that participate must also provide procedures for continuous contact with students from the point at which they are selected for participation until they enroll in a postsecondary education institution in order to assist students in selecting courses required for graduation from high school and admission to a postsecondary institution and to ensure students continue to participate in program activities.

(6) In selecting proposals for approval, the State Board of Education shall give preference to:

(a) Proposals submitted jointly by two or more eligible postsecondary institutions;

(b) A program that will ~~use~~ utilize institutional, federal, or private resources to supplement state appropriations;

(c) An applicant that demonstrates success in conducting similar programs previously funded under this section;

(d) A program that includes innovative approaches, provides a great variety of activities, and includes a large number of disadvantaged and minority students in the college reach-out program;

(e) An applicant that demonstrates commitment to the program by proposing to match the grant funds at least one-to-one in services or cash, or both; ~~and~~

(f) An applicant that demonstrates an interest in cultural diversity and that addresses the unmet regional needs of varying communities; ~~and~~.

(g) A program that identifies participants for the college reach-out program from among students in similar programs to assist low-income students and educationally disadvantaged students.

(7) A participating college or university is encouraged to use its resources to meet program objectives. A participating college, university, or institution ~~must shall~~ establish an advisory committee composed of high school and junior high school personnel to provide advice and assistance in implementing its program.

(8) A proposal must contain the following information:

(a) A statement of purpose which includes a description of the need for, and the results expected from, the proposed program;

(b) An identification of the service area which names the schools to be served, provides community and school demographics, and sets forth the postsecondary enrollment rates of high school graduates within the area;

(c) An identification and description of existing programs for improving the preparation of minority and disadvantaged students for postsecondary education;

(d) A description of the proposed program which describes criteria to be used to identify students and schools for participation in the program. *All participants must be either low-income or educationally disadvantaged students, and at least two-thirds of the participants must be minority students who are low-income students or educationally disadvantaged students;*

(e) A description of the program activities which must encompass the following goals:

1. Identifying students who are not motivated to pursue a postsecondary education;

2. Identifying students who are not developing basic learning skills;

3. Counseling students and parents on the benefits of postsecondary education;

4. Providing supplemental instruction; and

(f) *An evaluation component which provides for the collection, maintenance, and retrieval of the data required by this paragraph. The data shall be used to assess the extent to which programs have accomplished specific objectives and achieved the goals of the college reach-out program. Data specified in subparagraphs 1. through 6. must be provided by the public school districts in which participating students are enrolled. Data specified in subparagraphs 7. through 9. must be provided by the Division of Universities, the Division of Community Colleges, and the Division of Vocational, Adult and Community Education, for participants who enroll in public postsecondary institutions. The Postsecondary Education Planning Commission shall solicit the cooperation of the independent postsecondary education sector to collect data on the performance of participants who enroll in independent colleges and universities. To be eligible for program funds, each proposal must include a written agreement to provide the data specified in subparagraphs 1. through 6., signed by the superintendent of each public school district in which program participants are enrolled. Data specified in subparagraphs 1. through 9. must be submitted by the school districts, the Division of Community Colleges, the Division of Universities, and the Division of Vocational, Adult and Community Education directly to the Postsecondary Education Planning Commission. The commission, in consultation with the Department of Education, shall develop specifications and procedures for the collection and transmission of the data. The annual evaluation component must contain: A design for program evaluation which incorporates results, procedures, and the accomplishment of objectives. The evaluation design shall include quantitative measures, including, but not limited to, the following:*

1. *The student identification number or social security number, if available; the name of the public school attended; gender; ethnicity; and grade level of each participant;*

2. *The number and percent of participants in the program at the end of the academic year;*

3. *The number and percent of participants suspended or expelled from public school;*

4. *The number and percent of participants promoted to the next public school grade level;*

5. *The number and percent of high school participants who satisfactorily complete 2 sequential years of a foreign language and Level 2 and 3 mathematics and science courses;*

6. *The number and percent of participants eligible to be graduated from high school who receive a standard high school diploma or a high school equivalency diploma, pursuant to s. 229.814;*

7. *The number and percent of participants who are accepted for enrollment and who enroll in a postsecondary institution;*

8. *The number and percent of participants who enroll in a public postsecondary institution and who fail to achieve a passing score, as defined in State Board of Education rule, on college placement tests pursuant to s. 240.117; and*

9. *The number and percent of participants who enroll in a postsecondary institution and have a cumulative 2.0 grade-point average on a 4.0 scale by the end of the second semester.*

~~1. An identification of each student, by middle school or high school, and grade level at the time of participation in the program;~~

~~2. The student's academic performance, by course, each year during and following participation in the program;~~

~~3. The student's attendance rate and disciplinary record for each year during and following participation in the program;~~

~~4. If applicable, an identification of the postsecondary institution in which the student enrolled; and~~

~~5. The student's academic performance following enrollment in a postsecondary institution.~~

(9) ~~A council~~ An advisory committee shall review the proposals and recommend to the State Board of Education an order of priority for fund-

ing the proposals. Proposals shall be funded competitively. The ~~council advisory committee~~ shall consist of nine members and shall be established as follows:

(a) The two equal opportunity coordinators for the Community College System and the State University System;

(b) Two representatives of private or community-based associations that ~~which~~ have similar programs, appointed by the President of the Senate and the Speaker of the House of Representatives, respectively;

(c) One representative of the State University System, appointed by the Chairman of the Board of Regents;

(d) One representative of the Community College System, appointed by the Chairman of the State Board of Community Colleges;

(e) One representative of the Independent Colleges and Universities of Florida, appointed by the President of the Independent Colleges and Universities of Florida;

(f) One representative of a public school district, appointed by the Commissioner of Education; and

(g) One representative of the Postsecondary Education Planning Commission, appointed by the chairman of the commission.

(10) *Except for the equal opportunity coordinators for the community college and state university systems, who shall continue to serve on the council, effective September 1, 1992, the terms of all initial council members holding office on that date shall expire. The terms of office of persons appointed to the council after that date shall be as follows: three members shall be appointed for 2-year terms; four members shall be appointed for 3-year terms; and three members shall be appointed for 4-year terms. Thereafter, terms of office shall be 4 years. Members may be reappointed to the council. A vacancy shall be filled with a person of the same status as the original appointee and shall be filled for the remainder of the term. Members shall be entitled to travel and per diem expenses as provided in s. 112.061 while performing council duties.*

(11)(10) On or before October 15 of each year, universities, *independent postsecondary institutions*, and community colleges participating in the program shall submit to the *Postsecondary Education Planning Commission* a ~~their respective boards an interim~~ report on the effectiveness of their participation in the program and shall submit a final report by January 15 of each year. ~~Independent postsecondary institutions shall submit such report to the Commissioner of Education.~~ The final report must include, without limitation:

(a) A certificate-of-expenditures form showing expenditures by category; encumbered expenses; state grant funds; and institutional matching, in cash or in services, or both;

(b) The number of students participating in the program by grade, age, sex, and race;

(c) A description of the needs for the program;

(d) A statement of how the program addresses:

1. Identification of students who do not realize the value of postsecondary education;

2. Identification of students who are not developing basic learning skills;

3. Counseling and advising of students and parents;

4. Supplemental instruction; and

5. Instruction on the relationship between good learning skills and economic and social mobility.

(e) A *brief description and analysis of program characteristics and activities critical to program success* ~~recommendation as to how the results of the program could be achieved by other institutions or agencies;~~

(f) A description of the cooperation received from other units or organizations; and

(g) An explanation of how the program accomplished its objectives, including *data related to student performance on the measures provided for in paragraph (8)(f).*

(12) *By January 15 of each year, the Postsecondary Education Planning Commission shall submit a report to the President of the Senate, the Speaker of the House of Representatives, the Commissioner of Education, and the Governor which evaluates the effectiveness of the college reach-out program. The report must be based upon information provided by participating institutions, the Division of Universities, the Division of Community Colleges, and the Division of Vocational, Adult and Community Education pursuant to subsections (8) and (11). The evaluation must include longitudinal assessments of the performance of annual cohorts of college reach-out program participants. To the extent feasible, the performance of college reach-out program participants must be compared to the performance of comparable cohorts of students who did not participate in the college reach-out program.*

(13)(11) Funding for the college reach-out program shall be provided in the General Appropriations Act. *From these funds, the Department of Education shall provide an annual allocation to the Postsecondary Education Planning Commission to conduct the annual program evaluation required by subsection (11).*

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 12, after the semicolon (;) insert: amending s. 240.1201, F.S.; adding certain persons to the classification of residents for tuition purposes; amending s. 240.209, F.S.; revising powers and duties of the Board of Regents; authorizing the provision of workers' compensation coverage; creating s. 240.255, F.S.; creating the Challenge Grants Trust Fund; providing for administration, matching grants, and university accounts; prohibiting certain uses; amending s. 240.319, F.S.; revising provisions relating to certain community college board of trustees contracts; amending s. 240.35, F.S.; revising provisions relating to establishment of community college student fees; amending s. 240.359, F.S.; revising provisions relating to the funding category of lifelong learning; amending s. 240.36, F.S.; revising provisions relating to payments from the Florida Academic Improvement Trust Fund for Community Colleges; amending s. 240.367, F.S.; revising provisions relating to negotiation of current loans; amending s. 240.61, F.S.; prescribing student eligibility criteria; specifying data required to evaluate program effectiveness; providing for the collection of such data; revising the College Reach-Out Advisory Committee; providing for a council and for terms of its members; requiring the Postsecondary Education Planning Commission to report on program effectiveness; providing for certain allocations;

Senators Childers, Thomas and Bruner offered the following amendments to **Amendment 3** which were moved by Senator Childers and adopted:

Amendment 3A—On page 9, between lines 2 and 3, insert:

(17) *Each community college district board of trustees may grant student registration and tuition fee waivers for up to 40 full-time equivalent students enrolled in advanced and professional, postsecondary vocational, and college-preparatory programs. The community college may waive fees in accordance with rules established by the board of trustees.*

Amendment 3B—In title, on page 21, line 29, after "fees," insert: authorizing certain fee waivers;

Amendment 3 as amended was adopted.

Senator Johnson moved the following amendment:

Amendment 4 (with Title Amendment)—On page 8, between lines 18 and 19, insert:

Section 53. The Department of Education is authorized to offer active employees of the department with 30 or more years of creditable service in a state administered retirement system a one-time voluntary reduction-in-force bonus during the 1992-1993 fiscal year. Such bonus shall represent a payment for insurance costs and shall be paid as an annuity to be purchased by the department within appropriated funds, which shall include funds derived from eliminating up to 200 vacated positions. Additionally, the department is authorized to certify forward on June 30, 1992, any unexpended funds to pay accrued annual and sick leave balances for terminating employees under this reduction-in-force program. Notwithstanding the terms of Chapter 447, Florida Statutes, the Commissioner of Education shall be deemed to be the public employer for purposes of negotiating the terms and conditions related to

the reduction-in-force bonuses authorized by this section. All persons retiring under this program shall do so no later than July 1, 1993. The provisions of this section shall stand repealed on July 30, 1993.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 12, after the semicolon (;) insert: providing a one-time voluntary reduction-in-force retirement bonus;

Senator Kirkpatrick moved the following amendments to **Amendment 4** which were adopted:

Amendment 4A—On page 4, lines 5-7, strike everything after “funds” on line 5 through “deposited” on line 7 and insert: previously appropriated for the challenge grants, new donors, major gifts, or eminent scholars programs shall be transferred

Amendment 4B—On page 11, lines 20 and 23, strike “Trust Fund for Major Gifts” and insert: Challenge Grants Trust Fund

Amendment 4C—On pages 20 and 21, between line 31 on page 20, and line 1 on page 21, insert:

Section 14. Section 240.254, Florida Statutes, section 240.257, Florida Statutes, as amended by chapters 90-365 and 91-13, Laws of Florida, and section 240.2605, Florida Statutes, as amended by chapters 90-302 and 90-365, Laws of Florida, are repealed.

Amendment 4D—On page 22, line 14, after the semicolon (;) insert: repealing ss. 240.254, 240.257, and 240.605, F.S., relating to the Florida Endowment Trust Fund for Eminent Scholars Act, the Trust Fund for New Donors, and the Trust Fund for Major Gifts;

Amendment 4 as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 2416** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29 Nays—None

CS for CS for SB 756—A bill to be entitled An act relating to adoption; amending s. 39.462, F.S.; revising provisions with respect to process and services required before parental rights may be terminated; amending ss. 63.022, 63.042, 63.162, 63.165, 63.172, 63.207, F.S.; eliminating reference to natural parents and substituting the term “birth parents”; amending s. 63.052, F.S.; providing for an intermediary to have responsibility of a minor under certain circumstances; providing for reports to the court under certain circumstances; amending s. 63.062, F.S.; requiring notice and consent from persons required to give consent to an adoption; establishing requirements for good faith and diligent efforts in giving notice; amending s. 63.082, F.S.; revising requirements with respect to certain forms provided by the Department of Health and Rehabilitative Services to an intermediary who intends to place a child for adoption; amending s. 63.085, F.S.; revising provisions with respect to disclosure by an intermediary; amending s. 63.092, F.S.; providing for a report to the court of intended placement by an intermediary; providing for an advisory group and for recommendations to the court; providing for a preliminary home study to be performed by an agency or professional designated by the court; deleting provisions with respect to injunction against an intermediary; amending s. 63.097, F.S.; providing for paying fees to intermediaries; providing for paying fees to agencies or to the department; amending s. 63.102, F.S.; providing for the consolidation of the petition for declaratory statement and the petition for adoption under certain circumstances; amending s. 63.112, F.S.; revising provisions that specify documents required to be filed at the time the petition for adoption is filed; amending s. 63.122, F.S.; deleting provisions with respect to an investigation of the prospective adoptive home; creating s. 63.125, F.S.; providing for the final home investigation; amending s. 63.132, F.S.; requiring the living expenses of the birth mother to be documented in detail; amending s. 63.165, F.S.; revising the duty to inform certain persons about the state registry of adoption information; directing the department to review licensing standards for child-placing agencies; amending s. 63.185, F.S.; providing an exception to the residency requirement for adoption of a special needs child; amending s. 63.207, F.S.; requiring an intermediary in an out-of-state placement to petition for approval of fees and costs; providing penalties for violating a court order issued in response to such a petition; amending s. 63.212, F.S.; prohibiting certain acts by an intermediary; providing penalties; creating s. 63.219, F.S.; providing for sanctions; amending s. 409.166, F.S.; revising language with respect to waiver of adoption fees; providing effective dates.

—was read the second time by title.

Senators Langley and Weinstock offered the following amendment which was moved by Senator Weinstock:

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

Section 1. Paragraph (a) of subsection (1) of section 39.462, Florida Statutes, is amended to read:

39.462 Process and services.—

(1) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements shall be met:

(a) Notice and copy of the petition shall be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The mother of the child.

2. The father of the child, if:

a. The child was conceived or born while the father was married to the mother;

b. The child is his by adoption;

c. The child has been established by a court proceeding to be his child;

d. He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the child and has filed such acknowledgment with the Office of Vital Statistics of the Department of Health and Rehabilitative Services; or

e. He has provided the child with support in a repetitive, customary manner.

3. The legal custodians or guardian of the child.

4. If the natural parents who would be entitled to notice are dead or unknown, a living relative of such child, unless upon diligent search and inquiry no such relative can be found.

5. Any person who has physical custody of the child.

6. *Any grandparent entitled to priority for adoption under s. 63.0425.*

Section 2. Subsection (1) and paragraphs (g) and (k) of subsection (2) of section 63.022, Florida Statutes, are amended to read:

63.022 Legislative intent.—

(1) It is the intent of the Legislature to protect and promote the well-being of persons being adopted and their *birth natural* and adoptive parents and to provide to all children who can benefit by it a permanent family life, and, whenever possible, to maintain sibling groups.

(2) The basic safeguards intended to be provided by this act are that:

(g) Social and medical information concerning the child and the *birth natural* parents is furnished by the *birth natural* parent when available and filed with the consent to the adoption when a minor is placed by an intermediary.

(k) ~~The birth natural parent or parents, the adoptive parent or parents, and the child shall receive the same or similar safeguards, guidance, counseling, and supervision in an intermediary adoption as they receive in an agency or department adoption.~~

Section 3. Subsection (14) is added to section 63.032, Florida Statutes, to read:

63.032 Definitions.—As used in this act, unless the context otherwise requires, the term:

(14) “Abandoned” means a situation in which the parent or legal custodian of a child, while being able, makes no provision for the child’s support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If, in the opinion of the court, the efforts of such parent or legal custodian to support and communicate with the child do not evince a settled pur-

pose to assume all parental duties, the court may declare the child to be abandoned. In making this decision, the court may consider the conduct of a father towards the child's mother during her pregnancy.

Section 4. Paragraphs (b) and (c) of subsection (2) of section 63.042, Florida Statutes, are amended to read:

63.042 Who may be adopted; who may adopt.—

(2) The following persons may adopt:

(b) An unmarried adult, including the ~~birth natural~~ parent of the person to be adopted;

(c) The unmarried minor ~~birth natural~~ parent of the person to be adopted; or

Section 5. Section 63.052, Florida Statutes, is amended to read:

63.052 Guardians designated; proof of commitment.—

(1) For minors who have been placed for adoption with and permanently committed to an agency, the agency shall be the guardian of the person of the child; for those who have been placed for adoption with and permanently committed to the department, the department shall be the guardian of the person of the child. *For minors who have been voluntarily surrendered to an intermediary through an execution of consent to adoption, the intermediary shall be responsible for the child until the time a court orders preliminary approval of placement of the child in the prospective adoptive home at which time the prospective adoptive parents become guardians pending finalization of adoption.*

(2) For minors who have been placed for adoption with or voluntarily surrendered to an agency, but have not been permanently committed to the agency, the agency shall have the responsibility and authority to provide for the needs and welfare for such minors. For those minors placed for adoption with or voluntarily surrendered to the department, but not permanently committed to the department, the department shall have the responsibility and authority to provide for the needs and welfare for such minors. The department, an intermediary, or a licensed child-placing agency ~~has shall~~ have the authority to authorize all appropriate medical care for the children who have been placed for adoption with or voluntarily surrendered to them. *The provisions of s. 627.6578 shall remain in effect notwithstanding the guardianship provisions in this section.*

(3) *If a minor is surrendered to an intermediary for subsequent adoption and a suitable prospective adoptive home is not available, the intermediary shall be responsible for the child until a suitable prospective adoptive home is available.*

(4) *If a child is voluntarily surrendered to an intermediary for subsequent adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child and the court may at that time proceed under s. 39.453 or take action reasonably necessary to protect the best interest of the child.*

(5)(3) The recital in the written consent given by the department that the child sought to be adopted has been permanently committed to the department shall be prima facie proof of such commitment. The recital in the written consent given by a licensed child-placing agency or the declaration in an answer or recommendation filed by a licensed child-placing agency that the child has been permanently committed and the child-placing agency is duly licensed by the department shall be prima facie proof of such commitment and of such license.

(6)(4) Unless otherwise authorized by law, the department is ~~shall~~ not be responsible for expenses incurred by licensed child-placing agencies or intermediaries participating in placement of a child for the purposes of adoption.

Section 6. Section 63.062, Florida Statutes, is amended to read:

63.062 Persons required to consent to adoption.—

(1) Unless consent is excused by the court, a petition to adopt a minor may be granted only if written consent has been executed after the birth of the minor by:

(a) The mother of the minor.

(b) The father of the minor, if *he has provided the child with support in a repetitive, customary manner and if:*

1. The minor was conceived or born while the father was married to the mother;:

2. The minor is his child by adoption;:

3. The minor has been established by court proceeding to be his child; or:

4. He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the minor and has filed such acknowledgment with the vital statistics office of the Department of Health and Rehabilitative Services.

~~5. He has provided the child with support in a repetitive, customary manner.~~

(c) The minor, if more than 12 years of age, unless the court in the best interest of the minor dispenses with the minor's consent.

(2) The court may require that consent be executed by:

(a) Any person lawfully entitled to custody of the minor; or

(b) The court having jurisdiction to determine custody of the minor, if the person having physical custody of the minor has no authority to consent to the adoption.

(3) The petitioner must make good-faith and diligent efforts to notify, and obtain written consent from, the persons required to consent to adoption within 60 days after filing the petition. These efforts may include conducting interviews and record searches to locate those persons, including verifying information related to location of residence, employment, service in the Armed Forces, vehicle registration in this state, and corrections records.

~~(4)(3) If parental rights to the minor have has previously been terminated, an intermediary, permanently committed to a licensed child-placing agency, or the department with which the child has been placed for subsequent adoption may provide consent to the adoption. In such case, no other consent is required, consent may be given by the licensed child-placing agency or the department, to which the minor has been so committed, and this consent is sufficient.~~

(5)(4) A petition to adopt an adult may be granted if:

(a) Written consent to adoption has been executed by the adult and the adult's spouse, if any.

(b) Written consent to adoption has been executed by the ~~birth natural parent or~~ parents, if any, or proof of service of process has been filed, showing notice has been served on the ~~parent or~~ parents as provided in this section ~~herein~~.

(6) If a father challenges the waiver of his consent to adoption, he must prove his paternity and his fulfillment of parental responsibilities in order to regain his right to consent to, or withhold his consent to, the adoption. In order to prove his paternity and his fulfillment of parental responsibilities, he must demonstrate that he has provided the birth mother and child with meaningful financial support in a repetitive, customary manner, prenatally and postnatally, and that:

(a) *The child was conceived or born while he was married to the mother;*

(b) *The child is his by adoption;*

(c) *The child has been established by a court proceeding to be his child; or*

(d) *He has acknowledged in writing, signed in the presence of a competent witness, that he is the father of the child and has filed such acknowledgment with the Office of Vital Statistics of the department.*

Section 7. Subsections (3) and (4) of section 63.082, Florida Statutes, are amended to read:

63.082 Execution of consent; family medical history; withdrawal of consent.—

(3)(a) ~~The department must of Health and Rehabilitative Services shall~~ provide a consent form and a family medical history form to an intermediary who intends to place a child for adoption. *The Said forms completed by the birth natural parent or parents must shall* be attached to the petition and *must shall* contain such biological and sociological

information, or such information as to the family medical history, regarding the child and the ~~birth natural~~ parents as is required by the department. ~~The department shall incorporate the information must be incorporated into the final home preliminary study and the social investigation report specified in s. 63.125. The court may also require that the birth natural mother be interviewed by a representative of the department, a licensed child-placing agency, a professional, or other person or agency designated by the court pursuant to s. 63.092.~~

(b) Consent executed by the department, by a licensed child-placing agency, by an intermediary, or by an appropriate order or certificate of the court ~~must shall~~ be attached to the petition and ~~must shall~~ be accompanied by a family medical history ~~that includes which shall contain~~ such information concerning the medical history of the child and the ~~birth natural~~ parents as is available or readily obtainable.

(4) The consent for voluntary surrender ~~must shall~~ be executed only after the birth of the child, in the presence of two witnesses, and be acknowledged before a notary public. The witnesses' names ~~must shall~~ be typed or printed underneath their signatures, and their home or ~~and~~ business addresses and social security numbers ~~must shall~~ be included. The absence of a social security number shall not be deemed to invalidate the consent.

Section 8. Section 63.085, Florida Statutes, is amended to read:

63.085 Disclosure by intermediary.—

(1) An intermediary ~~must shall~~ disclose the following circumstances to ~~a person or persons who are~~ seeking to adopt a child being placed for adoption by the intermediary:

(a) That the payment of the medical or hospital care ~~and counseling~~ received by the ~~birth natural~~ mother or by the minor during the mother's prenatal care and confinement or of the living expenses of the ~~birth natural~~ mother does not guarantee that the ~~birth natural~~ mother will give the required consent for adoption of the child.

(b) ~~That a favorable preliminary home study and a home investigation must be completed as required by this chapter.~~

(c) That a consent for adoption which is executed pursuant to s. 63.082 is binding from the time of valid execution of consent, unless it is shown that the consent was obtained by fraud or duress.

(d)(e) That the termination of parental rights will occur simultaneously with the finalization of the adoption, which will occur ~~no sooner than~~ 90 days after placement.

(e)(d) That, pursuant to s. 63.182, for a period of 1 year from the entry of a judgment of adoption, any irregularity or procedural defect in the adoption proceeding may be the subject of an appeal contesting the validity of the judgment.

(f)(e) Written acknowledgment ~~must shall~~ be provided by the intermediary, signed by the persons required to consent to adoption pursuant to s. 63.062, that the intermediary has informed them that he represents the adoptive parents and that regarding the ~~birth natural parent or~~ parents, he acts only as intermediary for placement of the child.

(2) The intermediary ~~must shall~~ obtain a statement signed by the ~~person or persons~~ seeking to adopt a child that ~~they such person or persons~~ have been informed of the circumstances enumerated in subsection (1). A copy of the statement ~~must shall~~ be maintained in the files of the intermediary, and a copy ~~must be included in the preliminary home study shall accompany the report to the department of intended placement as required in by s. 63.092(2).~~

Section 9. Section 63.092, Florida Statutes, is amended to read:

63.092 Report to the ~~court department~~ of intended placement by an intermediary; preliminary study; ~~injunction against intermediary.~~

(1) ~~REPORT TO THE COURT.~~—The intermediary ~~must shall~~ report any intended placement of a minor for adoption with any person not related within the third degree or a stepparent if the intermediary has knowledge of, or participates in, such ~~intended placement intention to place~~. The report ~~must shall~~ be made to the court ~~before department of Health and Rehabilitative Services at least 30 days prior to the placement of a minor is placed in the home.~~

(2) ~~PRELIMINARY HOME STUDY.~~—~~Before placing the minor in the intended adoptive home, a preliminary home study must be performed by a licensed child-placing agency, a licensed professional or agency described in s. 61.20(2), or any other person approved by the presiding judge, unless the petitioner is a stepparent, a spouse of the birth parent, or a relative. The preliminary study shall be completed within 30 days after the receipt by the court of the intermediary's report, but in no event may the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. If the petitioner is a stepparent, a spouse of the birth parent, or a relative, the preliminary home study may be required by the court for good cause shown. The department is required to perform the preliminary home study only if there is no licensed child-placing agency, licensed professional or agency described in s. 61.20(2), or any other person who the presiding judge determines is qualified to conduct the study in the county where the prospective adoptive parents reside. The preliminary home study must be made to determine the suitability of the intended adoptive parents and may be completed prior to identification of a prospective adoptive child, whether born or unborn. A favorable preliminary home study is valid for 1 year after the date of its completion. A child must not be placed in an intended adoptive home before a favorable preliminary home study is completed unless the adoptive home is also a licensed foster home under s. 409.175. The preliminary home study must include, at a minimum:~~

(a) ~~An interview with the intended adoptive parents;~~

(b) ~~Records checks of the department's central abuse registry under chapter 415 and statewide criminal records correspondence checks through the Department of Law Enforcement on the intended adoptive parents;~~

(c) ~~An assessment of the physical environment of the home;~~

(d) ~~A determination of the financial security of the intended adoptive parents;~~

(e) ~~Documentation of counseling and education of the intended adoptive parents on adoptive parenting;~~

(f) ~~Documentation that information on adoption and the adoption process has been provided to the intended adoptive parents;~~

(g) ~~Documentation that information on support services available in the community has been provided to the intended adoptive parents;~~

(h) ~~A copy of the signed statement required by s. 63.085; and~~

(i) ~~A copy of the written acknowledgment required by s. 63.085(1).~~

~~If the preliminary home study is favorable, a minor may be placed in the home pending entry of the judgment of adoption. A minor may not be placed in the home if the preliminary home study is unfavorable. If the preliminary home study is unfavorable, the intermediary or petitioner may, within 20 days after receipt of a copy of the written recommendation, petition the court to determine the suitability of the intended adoptive home. A determination as to suitability under this subsection does not act as a presumption of suitability at the final hearing. In determining the suitability of the intended adoptive home, the court must consider the totality of the circumstances in the home. In exceptional cases when placement is immediately possible, the 30-day requirement may be waived by the Department of Health and Rehabilitative Services if it is determined to be in the best interest of the child; however, prior to the placement, the report of the intermediary must be submitted to the department, and the preliminary study must have been completed by the department. The report shall contain:~~

(a) ~~The name and address of the person with whom the minor is intended to be placed.~~

(b) ~~The identification of the child proposed for placement.~~

(c) ~~The intended placement date.~~

(d) ~~A copy of the signed statement required by s. 63.085.~~

(e) ~~Additional information requested by the department.~~

~~The court may waive the 30-day requirement, but the court may not enter an order waiving the requirement unless the court is satisfied that it is in the best interest of the child; that the department has been notified by the intermediary of the intended placement and the intermediary has submitted the required report; and that the department has completed the preliminary study and recommends the placement.~~

(2) A preliminary study shall be made by the department, or agency designated by the department, for the purpose of determining the suitability of the intended placement and whether the consent of the natural parent or parents has been given on an informed and voluntary basis. The preliminary study shall be completed within 30 days of the receipt by the department of the intermediary's report, but in no event shall the child be placed in the prospective adoptive home prior to the completion of the preliminary study unless ordered by the court. When the petitioner is a stepparent, spouse of the natural parent, or relative, the preliminary study may be required by the court when good cause is shown.

(3)(a) In the preliminary study, the department or agency shall include interviews with the:

1. Natural mother;
2. Natural father, if his consent would be required under s. 63.062(1)(b);
3. Person or persons seeking to adopt the child; and
4. Child, if more than 12 years of age, unless the court in the best interests of the child dispenses with the child's consent under s. 63.062(1)(c).

(b) The court may permit the department or agency to omit from its study an interview with the natural mother or natural father if good cause is shown.

(c) The department or agency shall include in its preliminary study all information available to it demonstrating that the consent of the natural parent or parents has been given on an informed and voluntary basis. "An informed basis" means that the natural parent or parents have been given information concerning, and have knowledge of, available alternative procedures should the intended placement by the intermediary not be completed.

(d) A written recommendation based on the preliminary study shall be mailed to the intermediary and to the petitioner, upon the completion of the preliminary study.

(4) If the preliminary study is favorable, the minor may be placed in the home pending entry of the judgment of adoption. Under no circumstances may the minor be placed in the home if the preliminary study is unfavorable, unless the court, finding the preliminary study not to be supported by the substantial weight of the evidence, orders that the minor be placed in the home pending final action.

(5) In the event of an unfavorable preliminary study, the intermediary or petitioner may within 20 days of receipt of a copy of the written recommendation petition the court for a determination as to the suitability of the intended placement. A determination as to suitability under this section shall not act as a presumption of suitability at the final hearing. In the event that the parties do not contest an unfavorable recommendation by the department or agency, the intermediary shall file a written report with the department or agency concerning what plan has been made for the child. Regardless of the nature of the preliminary study, the department or agency shall be required to determine the status of the child and take any action needed for the child's protection in any case in which 6 months elapses from the initial filing of the petition for adoption without any final action.

(6) In the event that an unfavorable preliminary study prevents the immediate placement of the child with the intended adoptive parents, the child shall be placed in the care of the department or a licensed child-caring agency, or shall remain in the custody of the parent.

(7) If the child is ultimately placed with the parent or parents seeking to adopt the child, the department or agency preparing the preliminary study shall, within 90 days after the placement, conduct two scheduled visits with the child and the child's adoptive parent or parents, one of which visits shall be in their home, to determine the suitability of the placement. In the event that the department or agency finds the placement unsuitable, it shall so inform the court and the intermediary, in writing; and the court, after notice to all affected parties and after a hearing, shall take such action as it deems necessary, including removal of the child from the home. If at any time prior to the discharge of the responsibilities of the department or agency the family moves to another state, the department or agency shall notify the agency most similar to the department in the state in which the family is at that time residing for the purpose of protecting the child's interests.

(8) The person or persons seeking the adoption shall pay the department or agency an amount equal to the value or cost of all services performed, including, but not limited to, conducting the preliminary study, counseling, and postplacement services, unless the court, finding that the person or persons seeking to adopt the child are financially unable to pay all or any part of such amount, orders that they pay a lesser amount or nothing.

(9) Upon a finding by the department that an intermediary has violated the provisions of this section, the department is authorized to obtain an injunction to prohibit the intermediary from placing a minor for adoption in the future.

Section 10. Section 63.097, Florida Statutes, is amended to read:

63.097 Approval of Fees to Intermediaries.—

(1) *APPROVAL OF FEES TO INTERMEDIARIES.*—Any fee, including intermediary or attorney fees over \$1,000 and those costs as set out in s. 63.212(1)(d) over \$2,500, paid to an intermediary other than actual, documented medical costs, court costs, and hospital costs must be approved by the court prior to assessment of the fee by the intermediary and upon a showing of justification for the larger fee.

(2) *FEES FOR AGENCIES OR THE DEPARTMENT.*—When an intermediary uses the services of a licensed child-placing agency, a professional, any other person or agency designated by the court pursuant to s. 63.092, or, if necessary, the department, the person seeking to adopt the child must pay the licensed child-placing agency, professional, other person or agency, or the department an amount equal to the cost of all services performed, including, but not limited to, the cost of conducting the preliminary home study, counseling, and the final home investigation. The court, upon a finding that the person seeking to adopt the child is financially unable to pay that amount, may order that such person pay a lesser amount.

Section 11. Subsection (5) of section 63.102, Florida Statutes, is amended to read:

63.102 Filing of petition; venue; proceeding for approval of fees and costs.—

(5) A proceeding for prior approval of fees and costs may be commenced any time after an agreement is reached between the birth natural mother and the adoptive parents by filing a petition for declaratory statement on the agreement entitled "In the Matter of the Proposed Adoption of a Minor Child" in the circuit court. If a petition for adoption is subsequently filed, the petition for declaratory statement and the petition for adoption must be consolidated into one case.

Section 12. Paragraph (b) of subsection (2) of section 63.112, Florida Statutes, is amended, and paragraph (c) is added to that subsection, to read:

63.112 Petition for adoption; description; report or recommendation, exceptions; mailing.—

(2) The following documents are required to be filed with the clerk of the court at the time the petition is filed:

(b) The favorable preliminary home study recommendation of the department, licensed child-placing of Health and Rehabilitative Services or agency, professional, or other person or agency designated by the court pursuant to s. 63.092, as to the suitability of the home in which the minor has been placed.

(c) The surrender document must include documentation that interviews were held with:

1. The birth mother, if parental rights have not been terminated;
2. The birth father, if his consent to the adoption is required and parental rights have not been terminated; and
3. The child, if older than 12 years of age, unless the court, in the best interest of the child, dispenses with the child's consent under s. 63.062(1)(c).

The court may waive the requirement for an interview with the birth mother or birth father in the investigation for good cause shown.

2. Documentation that the informed consent of the birth parents has been voluntarily given. Consent by a birth parent is informed if it was

given after the birth parent was provided information concerning, and has knowledge of, alternative procedures that are available if the intended placement by the intermediary is not completed.

3. Documentation that counseling has been offered or provided to the birth parents.

4. Documentation that information on adoption and the adoption process has been provided to the birth parents.

5. Documentation that information on support services available in the community has been provided to the birth parents.

Section 13. Section 63.122, Florida Statutes, is amended to read:

63.122 Notice of hearing on petition; ~~investigation.~~—

(1) After the petition to adopt a minor is filed, the court *must establish* ~~shall fix~~ a time and place for hearing the petition. The hearing *must* ~~shall~~ not be held sooner than ~~set until at least~~ 90 days after the placing of the minor in the physical custody of the petitioner. *The minor must remain* under the supervision of the department of Health and Rehabilitative Services, an intermediary, or a licensed child-placing agency until the adoption becomes final. When the petitioner is a spouse of the birth ~~natural~~ parent, the hearing may be held immediately after the filing of the petition.

(2) Notice of hearing *must* ~~shall~~ be given as prescribed by the rules of civil procedure, and service of process *must* ~~shall~~ be made as specified by law for civil actions.

(3) Upon a showing by the petitioner that the privacy of the petitioner or child may be endangered, the court may order the names of the petitioner or child, or both, to be deleted from the notice of hearing and from the copy of the petition attached thereto, provided the substantive rights of any person will not thereby be affected.

(4) Notice of the hearing *must* ~~shall~~ be given by the petitioner to:

(a) The department or any licensed child-placing agency placing the minor.

(b) The intermediary.

(c) Any person whose consent to the adoption is required by this act who has not consented, unless such person's consent is excused by the court.

(d) Any person who is seeking to withdraw consent.

~~(5) An investigation shall be made by the agency or by the department to ascertain whether the adoptive home is a suitable home for the minor and the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required when the petitioner is a stepparent or when the child is related to one of the adoptive parents within the third degree.~~

~~(6) A written report of the investigation shall be filed with the court and with the petitioner by the investigator within 90 days from the date of the filing of the petition.~~

~~(7) The report of the investigation shall contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor. When the placement has been made through the department or an agency, the report may be limited to a recommendation on the desirability of the adoption.~~

~~(8) The department or the agency making the required investigation may request other departments or agencies within or without this state to make investigations of designated parts of the inquiry and to make a written report to the department or agency.~~

(5)(9) After filing the petition to adopt an adult, a notice of the time and place of the hearing *must* ~~shall~~ be given to any person whose consent to the adoption is required but who has not consented. The court may order an appropriate investigation to assist in determining whether the adoption is in the best interest of the persons involved.

Section 14. Section 63.125, Florida Statutes, is created to read:

63.125 Final home investigation.—

(1) The final home investigation must be conducted before the adoption becomes final. The investigation may be conducted by a licensed child-placing agency, a professional, or any other person or agency designated by the court in the same manner as provided in s. 63.092 to ascertain whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor. Unless directed by the court, an investigation and recommendation are not required if the petitioner is a stepparent or if the child is related to one of the adoptive parents within the third degree of consanguinity. The department is required to perform the home investigation only if there is no licensed child-placing agency, professional, or other person or agency that the court determines to be qualified to conduct a home study pursuant to s. 63.092 in the county in which the prospective adoptive parent resides.

(2) The department, the licensed child-placing agency, the professional, or other person or agency that performs the investigation must file a written report of the investigation with the court and the petitioner within 90 days after the date the petition is filed.

(3) The report of the investigation must contain an evaluation of the placement with a recommendation on the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

(4) The department, the licensed child-placing agency, the professional, or other person or agency making the required investigation may request other state agencies or child-placing agencies within or outside this state to make investigations of designated parts of the inquiry and to make a written report to the department, the professional, or other person or agency.

(5) The final home investigation must include:

(a) The information from the preliminary home study.

(b) After the child is placed in the intended adoptive home, two scheduled visits with the child and the child's adoptive parent or parents, one of which visits must be in the home, to determine the suitability of the placement.

(c) The family medical history as provided in s. 63.082.

(d) Any other information relevant to the suitability of the intended adoptive home.

(e) Any other relevant information, as provided in rules that the department may adopt.

Section 15. Subsection (1) of section 63.132, Florida Statutes, is amended to read:

63.132 Report of expenditures and receipts.—

(1) *At least 10 days before the time set for the hearing*, the petitioner and any intermediary *must* ~~shall~~ each file two copies of an affidavit containing a full accounting of all disbursements and receipts of anything of value, including professional fees, made or agreed to be made by or on behalf of the petitioner and any intermediary in connection with the adoption. The clerk of the court shall forward a copy of the affidavit to the department of Health and Rehabilitative Services. The report *must* ~~shall~~ show any expenses or receipts incurred in connection with:

(a) The birth of the minor.

(b) The placement of the minor with the petitioner.

(c) The medical or hospital care received by the mother or

(d) The living expenses of the birth ~~natural~~ mother. *The living expenses must be documented in detail to apprise the court of the exact expenses incurred.*

(e) The services relating to the adoption or to the placement of the minor for adoption that were received by or on behalf of the petitioner, the intermediary, either natural parent, the minor, or any other person.

Section 16. Paragraphs (b), (d), and (f) of subsection (1) of section 63.162, Florida Statutes, are amended to read:

63.162 Hearings and records in adoption proceedings; confidential nature.—

(1)

(b) All papers and records pertaining to the adoption, including the original birth certificate, whether part of the permanent record of the court or of a file in the department, of Health and Rehabilitative Services or in a licensed child-placing agency, or in the office of an intermediary are confidential and exempt from the provisions of s. 119.07(1) and subject to inspection only upon order of the court; however, the petitioner in any proceeding for adoption under this chapter may, at the option of the petitioner, make public the reasons for a denial of the petition for adoption. ~~The Such order must shall specify which portion of the records are subject to inspection, and it may exclude the name and identifying information concerning the birth natural parent or adoptee. Papers and records of the department, a court, or any other governmental agency, which papers and records relate to adoptions, are exempt from s. 119.07(1). In the case of a nonagency adoption, the department must shall be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. In the case of an agency adoption, the licensed child-placing agency must shall be given notice of hearing and be permitted to present to the court a report on the advisability of disclosing or not disclosing information pertaining to the adoption. Nothing in This paragraph does not prohibit shall be construed to mean that the department from inspecting and copying shall not have the right to inspect and copy any official record pertaining to the adoption that is maintained by the department and does not prohibit an and that any licensed child-placing agency from inspecting and copying shall not have the right to inspect and copy any official record pertaining to the adoption that is maintained by that the agency.~~

(d) A No person may not shall disclose from the records the name and identity of a birth natural parent, an adoptive parent, or an adoptee unless:

1. The birth natural parent authorizes in writing the release of his name;
2. The adoptee, if 18 or more years of age, authorizes in writing the release of his name; or, if the adoptee is less than 18 years of age, written consent to disclose his name is obtained from an adoptive parent;
3. The adoptive parent authorizes in writing the release of his name; or
4. Upon order of the court for good cause shown. In determining whether good cause exists, the court shall give primary consideration to the best interests of the adoptee, but must shall also give due consideration to the interests of the adoptive and birth natural parents. Factors to be considered in determining whether good cause exists include, but are not limited to:
 - a. The reason the information is sought;
 - b. The existence of means available to obtain the desired sought-after information without disclosing the identity of the birth natural parents, such as by having the court, a person appointed by the court, the department, or the licensed child-placing agency contact the birth natural parents and request specific information;
 - c. The desires, to the extent known, of the adoptee, the adoptive parents, and the birth natural parents;
 - d. The age, maturity, judgment, and expressed needs of the adoptee; and
 - e. The recommendation of the department, licensed child-placing or the agency, professional, or other person or agency designated by the court which prepared the preliminary study and home investigation, or the department if no such study was prepared, concerning the advisability of disclosure.
- (f) Subject to the provisions of paragraph (d), no identifying information regarding the birth natural parents, adoptive parents, and adoptee may not shall be disclosed unless a birth natural parent, adoptive parent, or adoptee has authorized in writing the release of such information concerning himself. No Specific names or identifying information must not shall be given in a family medical history. All nonidentifying information, including the family medical history and social history of the adoptee and the birth natural parents, when available, must shall be furnished to the adoptive adopting parents before prior to finalization of the adoption becomes final and to the adoptee, upon his request, after he reaches majority. Upon the request of the adoptive parents parent, all nonidentifying information obtained before prior to or after subsequent to the adoption has become final must shall be furnished to the adoptive parents parent.

Section 17. Section 63.165, Florida Statutes, is amended to read:

63.165 State registry of adoption information; duty to inform and explain.—The department, intermediary, or licensed child-placing agency must shall inform the birth natural parents before prior to the termination of parental rights are terminated, and the adoptive parents before prior to placement, in writing, of the existence and purpose of the registry established under s. 382.027, but failure to do so does shall not affect the validity of any proceeding under this chapter.

Section 18. Paragraphs (a) and (b) of subsection (1) of section 63.172, Florida Statutes, are amended to read:

63.172 Effect of judgment of adoption.—

(1) A judgment of adoption, whether entered by a court of this state, another state, or of any other place, has the following effect:

(a) It relieves the birth natural parents of the adopted person, except a birth natural parent who is a petitioner or who is married to a petitioner, of all parental rights and responsibilities.

(b) It terminates all legal relationships between the adopted person and his relatives, including his birth natural parents, except a birth natural parent who is a petitioner or who is married to a petitioner, so that the adopted person thereafter is a stranger to his former relatives for all purposes, including inheritance and the interpretation or construction of documents, statutes, and instruments, whether executed before or after entry of the adoption judgment, that do not expressly include the adopted person by name or by some designation not based on a parent and child or blood relationship.

Section 19. The Department of Health and Rehabilitative Services must review and evaluate the merits and feasibility of incorporating national accreditation standards, in whole or in part, into the process of licensing child-placing agencies under chapter 63, Florida Statutes. The department must also review and evaluate standards and procedures for an adoption specialist credential system to provide preparation and training in conducting home studies. In addition to the critical practice and procedural issues for analysis, this review must consider the fiscal impact of a change in administrative rules on adoptive families and child-placing agencies. This review must be completed by October 1, 1992, and proposed legislation, if required, must be submitted to the President of the Senate and the Speaker of the House of Representatives on or before November 15, 1992.

Section 20. Section 63.185, Florida Statutes, is amended to read:

63.185 Residency requirement.—For any person to adopt in this state, his primary residence and place of employment in Florida is required, except for adoption of a special needs child, as defined in s. 409.166.

Section 21. Subsections (1) and (2) of section 63.207, Florida Statutes, are amended to read:

63.207 Out-of-state placement.—

(1) Unless the child is to be placed with a relative within the third degree or with a stepparent, no person except an intermediary, an agency, or the department of Health and Rehabilitative Services shall:

(a) Take or send a child out of the state for the purpose of placement for adoption; or

(b) Place or attempt to place a child for the purpose of adoption with a family who primarily lives and works outside Florida in another state. An intermediary may place or attempt to place a child for adoption in another state only if the child is a special-needs child as that term is defined in s. 409.166. If an intermediary is acting under this subsection, the intermediary shall file a petition for declaratory statement pursuant to s. 63.102 for prior approval of fees and costs. The court shall review the costs pursuant to s. 63.097. The petition for declaratory statement must be converted to a petition for an adoption upon placement of the child in the home. The circuit court in this state must retain jurisdiction over the matter until the adoption becomes final. The adoptive parents must come to this state to have the adoption finalized. Violation of the order subjects the intermediary to contempt of court and to the penalties provided in s. 63.212.

(2) An No intermediary may not shall counsel a birth natural mother to leave the state for the purpose of giving birth to a child outside the

state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child is to be placed for adoption outside the state.

Section 22. Paragraphs (a) and (b) of subsection (1) and subsections (3), (4), and (5) of section 63.212, Florida Statutes, are amended, subsection (6) of that section is renumbered as subsection (7) and a new subsection (6) is added to that section, to read:

63.212 Prohibited acts; penalties for violation.—

(1) It is unlawful for any person:

(a) Except the department, ~~an intermediary, of Health and Rehabilitative Services~~ or an agency, to place or attempt to place a child for adoption with a person who primarily lives and works outside this state unless the child is placed with a relative within the third degree or with a stepparent. *An intermediary may place or attempt to place a special needs child for adoption with a person who primarily lives and works outside this state only if the intermediary has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the child is placed with a relative within the third degree or with a stepparent.*

(b) Except the department, ~~an intermediary, of Health and Rehabilitative Services~~ or an agency, to place or attempt to place a child for adoption with a family whose primary residence and place of employment is in another state unless the child is placed with a relative within the third degree or with a stepparent. *An intermediary may place or attempt to place a special needs child for adoption with a family whose primary residence and place of employment is in another state only if the intermediary has a declaratory statement from the court establishing the fees to be paid. This requirement does not apply if the child is placed with a relative within the third degree or with a stepparent.*

(3) It is unlawful for any intermediary to fail to report to the court ~~department, at least 30 days prior to placement, unless waived by the department as provided for in s. 63.092(1),~~ the intended placement of a child for purposes of adoption with any person not a stepparent or a relative within the third degree, if the intermediary participates in such intended placement.

(4) It is unlawful for any intermediary to charge any fee, ~~including intermediary or attorney fees~~ over \$1,000 and those costs as set out in paragraph (1)(d) over \$2,500, other than for actual documented medical costs, court costs, and hospital costs unless such fee is approved by the court prior to the assessment of the fee by the intermediary and upon a showing of justification for the larger fee.

(5) It is unlawful for any intermediary to counsel a ~~birth natural~~ mother to leave the state for the purpose of giving birth to a child outside the state in order to secure a fee in excess of that permitted under s. 63.097 when it is the intention that the child be placed for adoption outside the state.

(6) *It is unlawful for any intermediary to obtain a preliminary home study or final home investigation and fail to disclose the existence of the study to the court.*

(7)(6) A person who violates any provision of this section, excluding paragraph (1)(h), is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who violates paragraph (1)(h) is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083; and each day of continuing violation shall be considered a separate offense.

Section 23. Section 63.219, Florida Statutes, is created to read:

63.219 Sanctions.—Upon a finding by the court that an intermediary or agency has violated any provision of this chapter, the court is authorized to prohibit the intermediary or agency from placing a minor for adoption in the future.

Section 24. Subsection (5) of section 409.166, Florida Statutes, is amended to read:

409.166 Special needs children; subsidized adoption program.—

(5) **WAIVER OF ADOPTION FEES.**—The adoption fees shall be waived for all adoptive parents who participate in the program *who adopt children in the custody of the department. Fees may be waived for families who adopt children in the custody of licensed child-placing agencies*

or who adopt children through independent adoptions, and who receive or may be eligible for subsidies through the department. Retroactive reimbursement of fees may not be required for families who adopt children in the custody of licensed child-placing agencies.

Section 25. 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 adoption; amending s. 39.462, F.S.; revising provisions with respect to process and services required before parental rights may be terminated; amending ss. 63.022, 63.042, 63.162, 63.165, 63.172, 63.207, F.S.; eliminating references to natural parents and substituting the term "birth parents"; amending s. 63.032, F.S.; providing a definition of the term "abandoned"; amending s. 63.052, F.S.; providing for an intermediary to have responsibility of a minor under certain circumstances; providing for reports to the court under certain circumstances; amending s. 63.062, F.S.; requiring notice to and consent from persons required to give consent to an adoption; establishing requirements for good faith and diligent efforts in giving notice; providing a procedure for challenging a waiver of consent to adoption; amending s. 63.082, F.S.; revising requirements with respect to certain forms provided by the Department of Health and Rehabilitative Services to an intermediary who intends to place a child for adoption; amending s. 63.085, F.S.; revising provisions with respect to disclosure by an intermediary; amending s. 63.092, F.S.; providing for a report to the court of intended placement by an intermediary; requiring a preliminary home study to be performed by an agency, professional, or person designated by the court; deleting provisions with respect to injunction against an intermediary; amending s. 63.097, F.S.; providing for paying fees to intermediaries; providing for paying fees to agencies or to the department; amending s. 63.102, F.S.; providing for the consolidation of the petition for declaratory statement and the petition for adoption under certain circumstances; amending s. 63.112, F.S.; revising provisions that specify documents required to be filed at the time the petition for adoption is filed; amending s. 63.122, F.S.; deleting provisions with respect to an investigation of the prospective adoptive home; creating s. 63.125, F.S.; providing for the final home investigation; amending s. 63.132, F.S.; requiring the living expenses of the birth mother to be documented in detail; amending s. 63.162, F.S.; providing that adoption records of an intermediary are confidential; providing that papers and records of the department, a court, or any other governmental agency which relate to adoptions are exempt from the public records law; amending s. 63.165, F.S.; revising the duty to inform certain persons about the state registry of adoption information; directing the department to review licensing standards for child-placing agencies; amending s. 63.185, F.S.; providing an exception to the residency requirement for adoption of a special needs child; amending s. 63.207, F.S.; requiring an intermediary in an out-of-state placement to petition for approval of fees and costs; providing penalties for violating a court order issued in response to such a petition; limiting out-of-state placements to special needs children; amending s. 63.212, F.S.; prohibiting certain acts by an intermediary; providing penalties; creating s. 63.219, F.S.; providing for sanctions against violators; amending s. 409.166, F.S.; revising provisions respecting waiver of adoption fees; providing an effective date.

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

Amendment 1A—On page 3, line 11, after "child" insert: *are only marginal efforts that*

Amendment 1B—On page 3, line 15, after "pregnancy." insert: *The burden of proof shall be on the father to prove he did not abandon the child.*

Amendment 1C—On page 7, line 13, strike "in order to regain his right to consent to, or withhold his consent to, the adoption" and after "responsibilities" insert:

Amendment 1D—On page 18, strike all of lines 22-31

Amendment 1E—On page 19, strike all of lines 1-3

Amendment 1 as amended was adopted.

On motion by Senator Weinstock, by two-thirds vote **CS for CS for SB 756** 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 SB 586—A bill to be entitled An act relating to transportation; amending s. 341.302, F.S.; providing for development of a rail system plan; providing for inclusion of certain elements of the plan; amending s. 341.3025, F.S.; prescribing rulemaking authority of entities that own or operate certain public rail systems; amending s. 341.303, F.S.; providing for funding of rail systems; amending s. 343.54, F.S.; requiring plans for expansion of service of the Tri-County Commuter Rail Authority to be consistent with local comprehensive plans; amending s. 343.64, F.S.; prescribing powers of the Central Florida Commuter Rail Authority with respect to feeder transit services and purchase of insurance; requiring the authority to adopt a plan of development; amending s. 343.73, F.S.; providing for membership of the governing board of the Tampa Bay Commuter Rail Authority; amending s. 343.74, F.S.; providing the authority with power to purchase insurance; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1—On page 3, strike line 13 and insert: *authority and such enforcement officers carrying weapons must be in compliance with chapter 493 and all other applicable Florida Statutes.*

On motion by Senator Forman, by two-thirds vote **CS for SB 586** 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

SB 680—A bill to be entitled An act relating to DUI programs; amending s. 25.387, F.S.; increasing the assessment on convictions that result in attendance at DUI programs; requiring the DUI Programs Coordination Office to evaluate the effectiveness of the programs and to report to the Legislature; providing an effective date.

—was read the second time by title.

Senator Yancey moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, line 21, through page 2, line 9, strike all of said lines and insert:

(3)(a) *The DUI program shall collect and deposit into the fund a \$10 \$6 assessment on each conviction under s. 316.193(1) which results in attendance at a DUI program shall be collected by the DUI program and deposited in the fund.*

(b) *The DUI program shall forward the moneys collected to the fund monthly, to be used to administer the DUI Programs Coordination Office.*

(4) ~~The moneys collected by the DUI program will be forwarded on a monthly basis to the fund, to be used to administer the DUI Program Coordination Office. The DUI Programs Director is shall be responsible for establishing standards for the operation of the DUI programs in the state.~~

(5) *The DUI Programs Coordination Office shall conduct an ongoing evaluation to assess the effectiveness of the programs. The evaluation shall include the curriculum, client treatment referrals, and recidivism rates. The office shall report to the Chief Justice of the Supreme Court, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives, and the appropriate substantive legislative committees by January 1, 1994, and by January 1 each year thereafter, on the progress of the evaluation and any recommendations for improvements in the DUI programs.*

And the title is amended as follows:

In title, on page 1, line 8, before "the Legislature" insert: the Supreme Court and

On motion by Senator Yancey, by two-thirds vote **SB 680** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **SB 874** and **SB 1356** was deferred.

CS for SB's 1368 and 72—A bill to be entitled An act relating to civil rights; amending s. 760.01, F.S.; renaming the Human Rights Act of 1977 as the Florida Civil Rights Act of 1992; including provisions concerning public lodging establishments and public food service establishments in the act; amending s. 760.02, F.S.; providing definitions; amending s. 760.03, F.S.; providing for full-time and advisory commissioners; revising the quorum provisions; revising language with respect to the executive director of the Florida Commission on Human Relations; amending s. 760.04, F.S.; providing for the assignment of the commission to the Executive Office of the Governor; amending s. 760.06, F.S.; revising language with respect to the powers of the commission; creating s. 760.07, F.S.; providing for a right of action for persons aggrieved by discriminatory practices in the areas of education, employment, housing, and public accommodations; amending s. 760.10, F.S.; eliminating language with respect to remedies and construction concerning unlawful employment practices; providing for the application of the section to certain religious corporations, associations, educational institutions, or societies; creating s. 760.11, F.S.; providing for administrative and civil remedies; providing for construction; amending s. 760.36, F.S.; revising language with respect to conciliation agreements to conform to the act; providing for application; amending s. 509.092, F.S.; revising language with respect to public lodging establishments and public food service establishments; providing for a right of action for civil rights violations; providing for severability; providing effective dates.

—was read the second time by title.

The Committee on Commerce recommended the following amendments which were moved by Senator Girardeau and adopted:

Amendment 1 (with Title Amendment)—On page 4, lines 10 and 11, strike "six advisory members and three full-time" and insert: 12

And the title is amended as follows:

In title, on page 1, lines 9-11, strike "providing for full-time and advisory commissioners; revising the quorum provisions;

Amendment 2—On page 4, strike all of lines 14 and 15

Amendment 3—On page 4, line 16, strike "four" and insert: Seven

Senator Girardeau moved the following amendments which were adopted:

Amendment 4—On page 16, lines 30 and 31, and on page 17, lines 1-6, strike all of said lines and insert: an aggrieved person shall not exceed \$100,000. In any action or proceeding under this subsection, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. The right to trial by jury is preserved in

Amendment 5—On page 18, strike all of lines 18-25 and insert: reasonable cause by the commission. In any action or proceeding under this subsection, the commission, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action.

Amendment 6—On page 19, strike all of lines 14-20 and insert: In any action or proceeding under this subsection, the commission, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. It is the intent of the Legislature that this provision for attorney's fees be interpreted in a manner consistent with federal case law involving a Title VII action. In the

Amendment 7—On page 22, lines 30 and 31, strike "causes of action accruing" and insert: conduct occurring

Senator Meek moved the following amendment which was adopted:

Amendment 8—On page 4, line 22, strike "may shall" and insert: shall

On motion by Senator Girardeau, by two-thirds vote **CS for SB's 1368 and 72** 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

On motions by Senator Weinstein, by two-thirds vote **CS for HB 465** was withdrawn from the Committees on Commerce, Professional Regulation and Appropriations.

On motion by Senator Weinstein—

CS for HB 465—A bill to be entitled An act relating to consumer protection; amending s. 501.059, F.S.; placing restrictions on telephone solicitors who offer for sale certain consumer information; amending s. 501.603, F.S.; revising certain definitions in the Florida Telemarketing Act; amending s. 501.604, F.S.; revising exemptions from provisions of the act; amending ss. 501.605 and 501.607, F.S.; requiring additional information in an application for licensure as a commercial telephone seller or salesperson; requiring rules for operation on an interim basis; amending s. 501.608, F.S.; revising provisions relating to license display; providing an effective date.

—a companion measure, was substituted for **CS for SB's 1590 and 1704** and read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for HB 465** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 874—A bill to be entitled An act relating to the Florida Vessel Registration and Safety Law; amending s. 327.72, F.S.; providing that for any violation of the Florida Vessel and Registration Safety Law or chapter 328, F.S., relating to vessels, the vessel is also liable in rem; providing exceptions; providing for enforcement; providing an effective date.

—was read the second time by title.

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

Amendment 1 (with Title Amendment)—On page 1, line 13, strike everything after the enacting clause and insert:

Section 1. Section 327.22(1) is amended to read:

327.22 Regulation of vessels by municipalities or counties.—

(1) Nothing in this chapter shall be construed to prohibit any municipality or county that expends money for the patrol, regulation, and maintenance of any lakes, rivers, or waters and for other boating-related activities in such municipality or county from regulating vessels resident in such municipality or county. *Any county or municipality may adopt ordinances which provide for the enforcement of noncriminal violations of s. 327.33 relating to the careless operation of a vessel which results in the endangering or damaging of property, by citation mailed to the registered owner of the vessel. Any such ordinance shall apply only in designated restricted areas which are properly marked and in need of shoreline protection.* Any county and the municipalities located within the county may jointly regulate vessels.

Section 2. This act shall take effect October 1, 1992.

And the title is amended as follows:

In title, on page 1, strike all of lines 2-9 and insert: An act relating to vessels; amending s. 327.22, F.S.; authorizing a local government to adopt ordinances providing for the enforcement of violations of s. 327.33, F.S.; relating to careless operation of a vessel resulting in endangerment or damage to property; providing an effective date.

Senator Jenne moved the following amendment:

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

Section 1. Subsection (1) of section 327.22, Florida Statutes, is amended to read:

327.22 Regulation of vessels by municipalities or counties.—

(1)(a) Nothing in this chapter shall be construed to prohibit any municipality or county that expends money for the patrol, regulation, and maintenance of any lakes, rivers, or waters and for other boating-related activities in such municipality or county from regulating vessels resident in such municipality or county. *Any county or municipality may adopt ordinances which provide for enforcement of noncriminal violations of s. 327.33 relating to the careless operation of a vessel which*

results in the endangering or damaging of property, by citation mailed to registered owner of the vessel. Any such ordinance shall apply only in designated restricted areas which are properly marked and in need of shoreline protection. Any county and the municipalities located within the county may jointly regulate vessels.

(b) *Citations issued to liveried vessels pursuant to this subsection shall be the responsibility of the lessee of the vessel. It shall be the responsibility of the lessor upon request of the agency issuing the citation, to provide the name and address of the lessee. It shall be the responsibility of the livery to provide such information as a part of the rental agreement. The livery is not responsible for the payment of citations if the livery provides the required information.*

Section 2. This act shall take effect October 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 the Florida Vessel Registration and Safety Law; amending s. 327.22, F.S.; providing that any county or municipality may adopt ordinances for enforcement of noncriminal violations of s. 327.33, F.S.; providing for applicability; providing an effective date.

Senator Jenne moved the following amendments to **Amendment 2** which were adopted:

Amendment 2A—On page 1, between lines 29 and 30, insert:

Section 2. Subsection (1) of section 327.50, Florida Statutes, is amended to read:

327.50 Vessel safety regulations; equipment and lighting requirements.—

(1) Every vessel on the waters of this state shall carry, store, maintain and use safety equipment in accordance with current United States Coast Guard safety equipment requirements as specified in the Code of Federal Regulations, unless expressly exempted by state law. *Every person under 6 years of age on board a motorboat, sailboat, or vessel which measures less than 26 feet in length shall wear a type I, II, or III Coast Guard approved personal flotation device while such motorboat, sailboat, or vessel is underway. For the purpose of this section, "underway" shall mean at all times except when a motorboat, sailboat, or vessel is anchored, moored, or aground.*

(Renumber subsequent section.)

Amendment 2B—In title, on page 2, line 17, after the semicolon (;) insert: amending s. 327.50, F.S.; requiring persons under 6 years of age to wear personal flotation devices while on board certain vessels while such vessels are underway;

Amendment 2 as amended was adopted.

On motion by Senator Jenne, by two-thirds vote **SB 874** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

RECONSIDERATION

On motion by Senator Jenne, the Senate reconsidered the vote by which **SB 874** passed as amended this day.

Pending further consideration of **SB 874** as amended, on motions by Senator Jenne, by two-thirds vote—

CS for HB 789—A bill to be entitled An act relating to the Florida Vessel Registration and Safety Law; amending s. 327.22, F.S.; providing that any county or municipality may adopt ordinances for enforcement of noncriminal violations of s. 327.33, F.S.; providing for applicability; amending s. 327.50, F.S.; requiring persons under 6 years of age to wear personal flotation devices while on board certain vessels while such vessels are underway; providing an effective date.

—a companion measure, was substituted for **SB 874** and by two-thirds vote read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 789** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for SB 1736—A bill to be entitled An act relating to the local option tourist development tax; amending s. 125.0104, F.S.; authorizing the use of tax revenues for public recreational parks in less populous counties; providing an effective date.

—was read the second time by title. On motion by Senator Thurman, by two-thirds vote **CS for SB 1736** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—2

SB 1458—A bill to be entitled An act relating to the tax on sales, rental, use, consumption, distribution, and storage; amending s. 212.08, F.S.; exempting Coast Guard auxiliaries from payment of the tax; providing an effective date.

—was read the second time by title.

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

Amendment 1 (with Title Amendment)—On page 1, between lines 25 and 26, insert:

Section 1. Subsection (11) is added to section 212.06, Florida Statutes, to read:

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

(11)(a) *Notwithstanding any other provision of this part, the taxes imposed by this part shall not be imposed on promotional materials, which are imported, purchased, sold, used, manufactured, fabricated, processed, printed, imprinted, assembled, distributed or stored in this state, if the promotional materials are subsequently exported outside this state, and regardless of whether the exportation process is continuous and unbroken, a separate consideration is charged for the material so exported, or the taxpayer keeps, retains, or exercises any right, power, dominion, or control over the promotional materials before or for the purpose of subsequently transporting them outside this state.*

(b) *As used in this subsection, the term promotional materials means tangible personal property that is given away or otherwise distributed to promote the sale of a subscription to a publication; written or printed advertising material, direct-mail literature, correspondence, written solicitations, renewal notices and billings for sales connected with or to promote the sale of a subscription to a publication; and the component parts of each of these types of promotional materials.*

(c) *After July 1, 1992, this exemption inures to the taxpayer only through refund of previously paid taxes or by self-accruing taxes as provided s. 212.183 and applies only where the seller of subscriptions to publications sold in the state:*

1. *Is registered with the department pursuant to this part; and*
2. *Remits the taxes imposed by this part on such publications.*

Section 2. Subsection (6) is added to section 212.183, Florida Statutes, to read:

212.183 Rules for self-accrual of sales tax.—Rule 12A-1.091(6) of the Department of Revenue is hereby repealed. However, the Department of Revenue is authorized to provide by rule for self-accrual of the sales tax under one or more of the following circumstances:

(6) *When the purchaser makes purchases of promotional materials as defined in s. 212.06(11) and at the time of purchase, the purchaser does not know whether the materials will be exported outside this state.*

And the title is amended as follows:

In title, on page 1, line 5, after the semicolon (;) insert: amending s. 212.06, F.S.; providing for the applicability of the tax to certain “promotional materials,” as defined in this act; providing for retroactivity;

Senator Childers moved the following amendment which was adopted:

Amendment 2 (with Title Amendment)—On page 1, strike all of lines 10-19 and insert:

Section 1. Paragraphs (bb) and (cc) are added to subsection (7) of section 212.08, Florida Statutes, to read:

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

(7) MISCELLANEOUS EXEMPTIONS.—

(bb) *Community cemeteries.*—Also exempt are purchases by any nonprofit corporation that has qualified under s. 501(c)(13) of the Internal Revenue Code of 1986, as amended, and is operated for the purpose of maintaining a cemetery that was donated to the community by deed.

(cc) *Coast Guard auxiliaries.*—A nonprofit

And the title is amended as follows:

In title, on page 1, line 4, after the semicolon (;) insert: exempting qualified nonprofit corporations operated for the purpose of maintaining community cemeteries from the payment of sales and use tax;

On motion by Senator Thurman, by two-thirds vote **SB 1458** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—1

Consideration of **CS for SB 1850** was deferred.

SB 50—A bill to be entitled An act relating to trafficking in controlled substances; amending s. 893.135, F.S.; including mixtures containing cocaine in a reference to “cocaine”; providing that certain persons shall be sentenced to a term of life imprisonment; providing that certain sentences are not subject to sentencing guidelines; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **SB 50** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for CS for SB 78—A bill to be entitled An act relating to pest control; transferring the Office of Entomology Services of the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; providing for location of the Office of Entomology Services; transferring and continuing existing rules and pending judicial and administrative proceedings; amending s. 482.011, F.S.; retitling the Pest Control Act; amending s. 482.021, F.S.; providing definitions; amending s. 482.032, F.S.; providing for enforcement of pest-control laws by the Department of Agriculture and Consumer Services; amending s. 482.051, F.S.; authorizing the department to adopt rules; amending s. 482.061, F.S.; providing for inspectors; amending s. 482.071, F.S.; providing for licenses; prescribing license fees; prohibiting issuing a new license to a licensee that sells its business or goes out of business in certain circumstances; amending and renumbering s. 482.081, F.S.; providing conditions precedent to issuing a pest control occupational license; amending s. 482.091, F.S.; providing for employee identification cards; amending s. 482.111, F.S.; providing for pest control operator’s certificates; amending s. 482.121, F.S.; prohibiting misuse of certificates; amending s. 482.132, F.S.; revising qualifications for examination and certification; amending s. 482.141, F.S.; revising guidelines with respect to examinations; amending s. 482.151, F.S.; providing for special identification card for persons who perform fumigation; amending s. 482.152, F.S.; revising provisions relating to duties of certified operators; creating ss. 482.155, 482.156, F.S.; providing for limited certification of certain persons; amending s. 482.161, F.S.; providing disciplinary grounds; providing disciplinary actions; increasing maximum penalties; amending s. 482.165, F.S.; providing remedies for unlicensed practice; repealing s. 482.182, F.S., relating to offenses committed before 1965; creating s. 482.1821, F.S.; providing that it is unlawful to close a pest control business and open up a new pest control business under certain circumstances; amending s. 482.183, F.S.; providing a limit on actions; amending s. 482.191, F.S.; providing penalties; amending and renumbering s. 482.201, F.S.; providing for liens for furnishing pest control; amending s. 482.211, F.S.; providing exemptions; amending s. 482.226, F.S.; revising provisions with respect to wood-destroying organism inspections and inspection reports; revising financial responsibility requirements; amending s. 482.2265, F.S.;

providing for consumer information and notice of pesticide application; providing for a registry of pesticide-sensitive persons; amending s. 482.227, F.S.; revising provisions relating to warranties and guarantees; amending s. 482.231, F.S.; providing for use of fogging machines; creating s. 482.2401, F.S.; providing for disposition and use of revenues from fees and fines; amending s. 482.241, F.S.; providing for liberal interpretation; repealing s. 482.25, F.S., relating to application of pest control law; repealing s. 15, ch. 82-229, s. 18, ch. 89-180, and s. 2, ch. 89-198, Laws of Florida, which provide for termination of ss. 482.011-482.25, F.S., effective October 1, 1992; providing an appropriation; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for CS for SB 78** to conform the bill to **HB 2341**.

Pending further consideration of **CS for CS for SB 78** as amended, on motions by Senator Weinstock, by two-thirds vote—

HB 2341—A bill to be entitled An act relating to pest control; revising chapter 482, F.S., relating to the licensing and regulation of pest control, pursuant to review under the Regulatory Sunset Act; amending s. 482.011, F.S.; renaming the Pest Control Act as the Structural Pest Control Act; amending s. 482.021, F.S.; rearranging, modifying, adding, and deleting definitions applicable to the chapter; amending s. 482.032, F.S., relating to enforcement; authorizing the Department of Health and Rehabilitative Services or agent thereof to enter upon public or private premises or carriers during regular business hours in the performance of departmental duties relating to pesticides and related records; amending s. 482.051, F.S., relating to rules; providing technical changes; amending s. 482.061, F.S.; providing for the appointment of inspectors, including setting the criteria therefor by rule; providing for waiver of examination and certificate issuance and renewal fees; amending s. 482.071, F.S., relating to licenses; revising license issuance and renewal fees; providing for expediting the processing of a license application, including payment of a special fee therefor; prohibiting a licensee that is going out of business or selling its business from being relicensed for a specified period if the licensee does not cover its existing contract responsibilities; authorizing specified combined single-limit coverage as meeting the minimum financial responsibility for bodily injury and property damage; providing that licensure under the chapter is a prerequisite to issuance of a local occupational license; transferring and amending s. 482.081, F.S., relating to issuance of local occupational licenses, to conform; creating s. 205.065, F.S.; providing an exemption for nonresident persons regulated by the Department of Professional Regulation who have paid an occupational license tax in the county or municipality where their permanent business location is maintained; amending s. 482.091, F.S.; revising requirements for the issuance and use of employee identification cards, including the fee therefor; amending s. 482.111, F.S.; revising requirements for issuance and use of pest control operators' certificates; limiting the scope of such certificates to defined categories; revising certificate issuance and renewal fees; revising continuing education requirements; amending s. 482.121, F.S., relating to misuse of a certificate; providing technical changes; amending s. 482.132, F.S.; revising qualifications for examination and certification; amending s. 482.141, F.S., relating to examinations; revising examination fees; amending s. 482.151, F.S.; revising requirements for issuance and use of special identification cards; restricting such cards to the performance of fumigation; revising examination and card issuance and renewal fees; revising the expiration date; revising renewal requirements; amending s. 482.152, F.S., relating to the duties of a certified operator in charge of pest control activities of a licensee; providing technical changes; creating ss. 482.155 and 482.156, F.S.; providing for limited certification for certain governmental, private property, and commercial uses; requiring examinations, examination and recertification fees, and certain continuing education; requiring commercial landscape maintenance certificateholders to furnish proof of required minimum financial responsibility for bodily injury and property damage and to maintain certain records; amending s. 482.161, F.S., relating to disciplinary grounds and actions; providing applicability to limited certificateholders; providing a ground for failure to pay an administrative fine; revising the administrative fine and the factors in consideration thereof; providing that certified operators in charge are responsible for the actions of their employees and may be disciplined therefor; providing applicability to licensees; amending s. 482.165, F.S., relating to the unlicensed practice of pest control; providing technical changes; creating s. 482.1821, F.S.; prohibiting a licensee from closing its pest control business and opening a new pest control business under a different name without satisfying out-

standing contracts and liabilities; providing certain mitigating circumstances; amending s. 482.183, F.S., relating to limitations on violations of the chapter; providing technical changes; amending s. 482.191, F.S., relating to violation and penalty; providing technical changes; amending s. 482.201, F.S., relating to liens for furnishing pest control services; providing technical changes; amending s. 482.211, F.S.; providing exemptions from the regulatory control of the chapter; authorizing the department to prescribe other exemptions by rule; amending s. 482.226, F.S.; revising requirements for wood-destroying organism inspections and reports; revising minimum financial responsibility requirements; amending s. 482.2265, F.S.; revising consumer information and application notice requirements; providing for a pest control notification registry of pesticide-sensitive persons; providing for registration of such persons, including initial and annual renewal fees; providing for waiver of fees due to financial inability; providing for notice to such persons prior to any pesticide application within specified areas determined by the department; providing for expansion of such areas by the department, within certain limits; requiring such persons to notify the department of the properties and residences within their areas of sensitivity as set by the department; amending s. 482.227, F.S., relating to guarantees and warranties; providing technical changes; amending s. 482.231, F.S., relating to the use of fogging machines; providing technical changes; creating s. 482.2401, F.S.; providing for disposition and use of revenues from fees and fines assessed under the chapter; amending s. 482.241, F.S., relating to liberal interpretation of the chapter; providing technical changes; amending s. 482.242, F.S.; preempting to the state all regulation of pest control, except for the issuance of local occupational licenses; repealing ss. 482.182 and 482.25, F.S., relating to offenses committed prior to the original act and to the application of the original act; repealing s. 15, ch. 82-229, s. 18, ch. 89-180, and s. 2, ch. 89-198, Laws of Florida, relating to Sunset repeal of various sections of chapter 482, F.S.; saving chapter 482, F.S., from Sunset repeal; providing for future review and repeal; providing an appropriation and the creation of positions within the department for the purposes of this act; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 78** and by two-thirds vote read the second time by title.

Senator Weinstock moved the following amendment:

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

Section 1. (1) All powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the John A. Mulrennan, Sr., Arthropod Research Laboratory of the Department of Health and Rehabilitative Services are transferred to the Department of Education by a type four transfer, as defined in section 20.06(4), Florida Statutes, and placed under the administration of Florida Agricultural and Mechanical University. The rules adopted for the laboratory which are in effect on the effective date of this act are included in such transfer and shall remain in effect until specifically changed in the manner provided by law.

(2)(a) All powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Office of Entomology of the Department of Health and Rehabilitative Services are transferred by a type four transfer, as defined in section 20.06(4), Florida Statutes, to the Department of Agriculture and Consumer Services. The rules adopted by or for the office which are in effect on the effective date of this act are included in such transfer and shall remain in effect until specifically changed in the manner provided by law.

(b) Upon transfer of the Office of Entomology Services from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services, the office's Jacksonville headquarters and staff shall remain in the same space at the Department of Health and Rehabilitative Services' facility which it occupied on December 1, 1991, at the same rental rate. The Department of Agriculture and Consumer Services shall pay the Office of Entomology Service's share of the telephone bill and the prorated share of utilities. This arrangement shall remain in effect until such time as the Legislature appropriates the funds necessary to move the office and personnel to another facility.

(3) Rules adopted by the Department of Health and Rehabilitative Services under authority of chapter 388, Florida Statutes, which are in effect on the effective date of this act shall remain in effect and, except as otherwise provided in this act, shall be administered by the Department of Agriculture and Consumer Services until specifically changed in the manner provided by law.

(4) This act does not affect the validity of any judicial or administrative proceeding pending on the effective date of this act, and any agency to which are transferred the powers, duties, and functions relating to the pending proceeding shall be substituted as a party in interest for that proceeding.

Section 2. Section 388.011, Florida Statutes, is amended to read:

388.011 Definitions.—As used in this chapter:

(1)(4) "Arthropod" means those insects of public health or nuisance importance, including all mosquitoes, midges, sand flies, dog flies, yellow flies, and house flies.

(2)(3) "Board of commissioners" means the governing body of any mosquito control district, and may include boards of county commissioners when context so indicates.

(3)(4) "County" means a political subdivision of the state administered by a board of county commissioners.

(4)(6) "Department" means the Department of *Agriculture and Consumer Health and Rehabilitative Services*.

(5)(2) "District" means any mosquito control district established in this state by law for the express purpose of controlling arthropods within boundaries of said districts.

(6)(5) "Integrated arthropod control" means the implementation of arthropod control measures, including, but not limited to, the use of pesticides and biological control agents and source reduction, to control arthropods without an unreasonable adverse effect on the environment.

(7)(10) "Land management agency" means the agency charged with managing publicly owned lands.

(8)(11) "Local arthropod control agency" means the county, city, or district charged with arthropod control over publicly owned lands.

(9) "Nuisance" means a condition in which pestiferous arthropods occur in such numbers as to be annoying, obnoxious, or inimical to human comfort.

(10)(7) "Source reduction" means the physical land or water management of arthropod breeding areas to reduce the area's suitability for arthropod breeding.

(11)(8) "Unreasonable adverse effects on the environment" means any unreasonable risk to man or the environment, with due consideration of the economic, social, and environmental costs and benefits of the use of any arthropod control measure.

Section 3. Section 388.111, Florida Statutes, is amended to read:

388.111 District boards of commissioners; vacancies.—In the event of a vacancy due to any cause in any board of commissioners, the same shall be filled by appointment by the *Commissioner of Agriculture Governor* for the unexpired term.

Section 4. Section 388.131, Florida Statutes, is amended to read:

388.131 Commissioners; surety bond.—Each commissioner, before he assumes office, shall be required to give the *Commissioner of Agriculture Governor* a good and sufficient surety bond in the sum of \$2,000, the cost thereof being borne by the district, conditioned on the faithful performance of the duties of his office, said bond to be approved and filed in the same manner as is that of the board of county commissioners. The failure of any person to make and file this bond within 10 days after his election shall create a vacancy on said board.

Section 5. Section 388.151, Florida Statutes, is amended to read:

388.151 District boards of commissioners; meetings.—All boards of commissioners shall hold regular monthly meetings, and special meetings as needed, in the courthouse or in the offices of the district. The time and place of said regular meetings shall be on file in the office of the *district board of commissioners Department of Health and Rehabilitative Services*.

Section 6. Section 388.161, Florida Statutes, is amended to read:

388.161 District boards of commissioners; powers and duties.—

(1) The board of commissioners may do any and all things necessary for the control and elimination of all species of mosquitoes and other arthropods of public health importance and the board of commissioners is specifically authorized to provide for the construction and maintenance of canals, ditches, drains, dikes, fills, and other necessary works and to install and maintain pumps, excavators, and other machinery and equipment, to use oil, larvicide paris green, or any other chemicals approved by the department of ~~Health and Rehabilitative Services~~ but only in such quantities as may be necessary to control mosquito breeding and not be detrimental to fish life.

(2) The board of commissioners shall have all the powers of a body corporate, including the power to sue and be sued as a corporation in said name in any court; to contract, to adopt and use a common seal and alter same at pleasure, to purchase, hold, lease, and convey such real estate and personal property as said board may deem proper to carry out the purpose of this chapter; to acquire by gift real estate, personal property, and moneys and to employ a field director and such trained personnel, legal, clerical or otherwise, and laborers as may be required. The board of commissioners shall ~~adopt promulgate~~ such rules and regulations not inconsistent with the provisions of this chapter or with other legislation which in its judgment may be necessary for the proper enforcement of this chapter provided such rules and regulations are approved by the department of ~~Health and Rehabilitative Services~~.

Section 7. Section 388.162, Florida Statutes, is amended to read:

388.162 Direction of the program.—The program shall be administered for the board of commissioners by a qualified person. The department of ~~Health and Rehabilitative Services~~ shall establish minimum qualifications for employment of a director in accordance with the responsibilities attached to the position.

Section 8. Subsection (1) of section 388.231, Florida Statutes, is amended to read:

388.231 Restrictions on use, loan or rental of equipment; charges.—

(1) Equipment purchased for use in control of mosquitoes and other arthropods and paid for with funds budgeted for arthropod control shall not be used for any private purpose. No county or district shall lend or rent equipment so purchased to any other department within the county, or to another county, district or any public agency or political subdivision of the state without the prior written approval of the department of ~~Health and Rehabilitative Services~~; nor shall it be so lent or rented without making a use or rental charge for the use thereof. The department is authorized to establish a fair use or rental charge on equipment so purchased and may require the maintenance of reasonable and proper records in connection with the loan or rental of such equipment.

Section 9. Subsection (1) of section 388.261, Florida Statutes, is amended to read:

388.261 State aid to counties and districts for arthropod control; distribution priorities and limitations.—

(1) Every county or district budgeting local funds, derived either by special tax levy or funds appropriated or otherwise made available for the control of mosquitoes and other arthropods under a plan submitted by the county or district and upon approval by the department of ~~Health and Rehabilitative Services~~, shall be eligible to receive state funds, supplies, services, and equipment on a dollar for dollar matching basis up to but not exceeding \$30,000 for any one county for any one year. A county or district may, without contributing matching funds, receive state funds, supplies, services, or equipment in an amount of no more than \$30,000 per year for up to 3 years for any new or expanded program which serves an area not previously served by the county or district. These funds may be expended for any and all types of control measures approved by the department.

Section 10. Subsection (1) of section 388.281, Florida Statutes, is amended to read:

388.281 Use of state matching funds.—

(1) All funds, supplies, and services released to counties and districts hereunder shall be used in accordance with the detailed work plan and certified budget approved by both the department of ~~Health and Rehabilitative Services~~ and the county or district. The plan and budget may be amended at any time upon prior approval of the department.

Section 11. Section 388.301, Florida Statutes, is amended to read:

388.301 Payment of state funds; supplies and services.—State funds shall be payable quarterly, in accordance with the rules and regulations of the department of Health and Rehabilitative Services, upon requisition by the department to the Comptroller. The department is authorized to furnish insecticides, chemicals, materials, equipment, vehicles, and personnel in lieu of state funds where mass purchasing may save funds for the state, or where it would be more practical and economical to use ~~utilize~~ equipment, supplies, and services between two or more counties or districts.

Section 12. Subsection (3) of section 388.323, Florida Statutes, is amended to read:

388.323 Disposal of surplus property.—Surplus property shall be disposed of according to the provisions set forth in s. 274.05 with the following exceptions:

(3) All proceeds from the sale of any real or tangible personal property owned by the county or district shall be deposited in the county's or district's state fund account unless otherwise specifically designated by the department of Health and Rehabilitative Services.

Section 13. Section 388.341, Florida Statutes, is amended to read:

388.341 Reports of expenditures and accomplishments.—Each county and district participating under the provisions of this chapter shall within 30 days after the end of each month submit to the department of Health and Rehabilitative Services a monthly report for the preceding month of expenditures from all funds for arthropod control, and such reports of activities and accomplishments as may be required by the department.

Section 14. Section 388.351, Florida Statutes, is amended to read:

388.351 Transfer of equipment, personnel, and supplies during an emergency.—The department of Health and Rehabilitative Services, upon notifying a county or district and obtaining its approval, is authorized to transfer equipment, materials, and personnel from one district to another in the event of an emergency brought about by an arthropod-borne epidemic or other disaster requiring emergency control.

Section 15. Paragraph (c) of subsection (2) and subsections (3) and (4) of section 388.361, Florida Statutes, are amended to read:

388.361 Rules; administration.—

(2) The department shall ~~adopt promulgate~~ rules to implement the provisions of this chapter. Such rules shall provide for:

(c) Requirements that all arthropod control pesticides, including adulticides and larvicides, be used only in accordance with the registered label and labeling or be otherwise accepted by the United States Environmental Protection Agency or the department of Agriculture and Consumer Services.

(3) The department is authorized to ~~adopt promulgate~~ rules which are more detailed or stringent than, but not otherwise inconsistent with, the label requirements of the United States Environmental Protection Agency and the Department of Agriculture and Consumer Services.

(4) The department shall ~~adopt, by January 1, 1987, promulgate~~ rules which establish criteria for the licensure or certification of all private and public arthropod control applicators and program directors and require recordkeeping and reporting of applicator activities in furtherance of the goal of integrated arthropod control. No licensure or certification shall be required of private applicators controlling arthropods upon their own individual residential or agricultural property.

Section 16. Subsection (4) of section 388.3711, Florida Statutes, is amended to read:

388.3711 Enforcement.—

(4) The department, pursuant to chapter 120, in addition to or in lieu of any other remedy provided by state or local law, may impose an administrative fine not exceeding \$500, or less than \$25, for each the violation of any of the provisions of this chapter. Each day that a violation continues shall constitute a separate violation. All amounts collected pursuant to this section shall be deposited in the ~~department's Health and Rehabilitative Services~~ Aid to Local Governments Arthropod Control Program to be used for arthropod control research.

Section 17. Section 388.381, Florida Statutes, is amended to read:

388.381 Cooperation by counties and district.—Any county or district carrying on an arthropod control program may cooperate with another county, district, or municipality in carrying out a program for the control of mosquitoes and other arthropods, by agreement as to the program and reimbursement thereof, when approved by the department of Health and Rehabilitative Services.

Section 18. Paragraph (a) of subsection (2) of section 388.4111, Florida Statutes, is amended to read:

388.4111 Public lands; arthropod control.—

(2)(a) The department shall ~~adopt by January 1, 1987, promulgate~~ rules to specify procedures for development and promulgation of a public lands control plan. Such rules shall require that all land management agencies identify environmentally sensitive and biologically highly productive public lands under their control which shall be subject to a public lands control plan. Such public lands shall be identified to the department and the local arthropod control agency along with a description of the purpose for which the lands are managed. All public lands not identified by a land management agency as environmentally sensitive or biologically highly productive shall be subject to the local arthropod control agency's general work plan.

Section 19. Subsection (1) of section 388.42, Florida Statutes, is amended to read:

388.42 John A. Mulrennan, Sr., Arthropod Research Laboratory.—

(1) The John A. Mulrennan, Sr., Arthropod Research Laboratory, located in Panama City shall be a research laboratory under the ~~administration of Florida Agricultural and Mechanical University supervision of the department~~. The laboratory shall perform basic and applied research to develop and test formulations, application techniques, and procedures of pesticides and biological control agents for the control of arthropods and, in particular, biting arthropods of public health or nuisance importance. Special attention shall be given to the needs of arthropod control districts, counties, and municipalities of the state by providing information, assistance, and recommendations for the safe and effective control of arthropods which create a health or nuisance problem. The laboratory shall also conduct environmental impact studies to determine the effects of arthropod control pesticides, with a special emphasis on integrated arthropod control. *Each quarter, the laboratory shall provide the department with such information as the department requires to assist it in the performance of its duties with respect to arthropod control under this chapter. The laboratory shall also serve as a center for the training of students and state and local government personnel in the safe and effective control of biting arthropods that create a public health or nuisance problem.*

Section 20. Subsection (2) of section 388.43, Florida Statutes, is amended to read:

388.43 Florida Medical Entomology Laboratory.—

(2) The Florida Medical Entomology Laboratory shall perform basic and applied research in the biology and control of biting insects and other arthropods of importance as transmitters of disease or as pest annoyances, with special attention to the needs of the various mosquito-control organizations, districts, counties, and municipalities of the state. *Each quarter* ~~On a quarterly basis~~, the laboratory shall provide the department of Health and Rehabilitative Services with such information as the department shall require to assist it in the performance of its duties with respect to mosquito control under this chapter. The laboratory shall also *serve as* be a center for the training of students and personnel in the entomological aspects of public health, veterinary science, sanitation, mosquito control, drainage and irrigation design, wetlands management, and other areas of service requiring knowledge of medical entomology. Research and training may extend to international programs of the university under appropriate contract and grant arrangements with international, foreign, and federal agencies.

Section 21. Section 388.45, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 388.45, F.S., for present text.)

388.45 Threat to public health; emergency declarations.—The State Health Officer has the authority to declare that a threat to public health exists when the Department of Health and Rehabilitative Services dis-

covers in the human or surrogate population the occurrence of an infectious disease that can be transmitted from arthropods to humans. The State Health Officer must immediately notify the Commissioner of Agriculture of the declaration of this threat to public health. The Commissioner of Agriculture is authorized to issue an emergency declaration based on the State Health Officer's declaration of a threat to the public health or based on other threats to animal health. Each declaration must contain the geographical boundaries and the duration of the declaration. The State Health Officer shall order such human medical preventive treatment and the Commissioner of Agriculture shall order such ameliorative arthropod control measures as is necessary to prevent the spread of disease, notwithstanding contrary provisions of this chapter or the rules adopted under this chapter. Within 24 hours after a declaration of a threat to the public health, the State Health Officer must also notify the agency heads of the Department of Natural Resources, the Department of Environmental Regulation, and the Game and Fresh Water Fish Commission of the declaration. Within 24 hours after an emergency declaration based on the public health declaration or based on other threats to animal health, the Commissioner of Agriculture must notify the agency heads of the Department of Natural Resources, the Department of Environmental Regulation, and the Game and Fresh Water Fish Commission of the declaration. Within 24 hours after an emergency declaration based on other threats to animal health, the Commissioner of Agriculture must also notify the agency head of the Department of Health and Rehabilitative Services of the declaration.

Section 22. Section 388.46, Florida Statutes, is amended to read:

388.46 Florida Coordinating Council on Mosquito Control; establishment; membership; organization; responsibilities.—

(1) ESTABLISHMENT OF COUNCIL; LEGISLATIVE INTENT.—It is declared to be in the best interest of the state that public agencies responsible for and involved in arthropod control activities work together to reduce duplication of effort, foster maximum efficient use of existing resources, advise and assist the agencies involved in arthropod control in implementing best management practices and best available technology in controlling arthropods, develop outside funding sources and establish priorities for research into the environmental effects of arthropod control, and enhance communication between all interests involved in arthropod control activities. It is therefore the intent of the Legislature to establish the Florida Coordinating Council on Mosquito Control *within the department*. The Florida Coordinating Council on Mosquito Control shall be an advisory body, as defined in s. 11.611(3)(a).

(2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

(a) Membership.—The Florida Coordinating Council on Mosquito Control shall be comprised of the following representatives or their authorized designees:

1. The Secretary of Environmental Regulation and the Secretary of Health and Rehabilitative Services;
2. The executive directors of the Game and Fresh Water Fish Commission and the Department of Natural Resources;
3. The state epidemiologist;
4. The Commissioner of Agriculture; and
5. Representatives from:
 - a. The University of Florida, Institute for Food and Agricultural Sciences, Florida Medical Entomological Research Laboratory;
 - b. *Florida Agricultural and Mechanical University*;
 - c.b. The United States Environmental Protection Agency;
 - d.e. The United States Department of Agriculture, Insects Affecting Man Laboratory;
 - e.d. The United States Fish and Wildlife Service; and
 - f.e. Two mosquito control directors to be nominated by the Florida Mosquito Control Association, two representatives of Florida environmental groups, and two private citizens who are property owners whose lands are regularly subject to mosquito control operations, to be appointed to 4-year 2-year terms by the *Commissioner of Agriculture Governor*.

(b) Organization.—The council shall be chaired by the *Commissioner of Agriculture Secretary of Health and Rehabilitative Services* or the *commissioner's* his authorized designee. A majority of the membership of the council shall constitute a quorum for the conduct of business. The chairman shall be responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council shall meet at least three times each year, or as needed. The council may designate subcommittees from time to time to assist in carrying out its responsibilities, provided that the Subcommittee on Managed Marshes shall be the first subcommittee appointed by the council. The subcommittee shall continue to provide technical assistance and guidance on mosquito impoundment management plans and develop and review research proposals for mosquito source reduction techniques.

(c) Responsibilities.—The council shall:

1. Develop and implement guidelines to assist the department in resolving disputes arising over the control of arthropods on publicly owned lands.
2. Identify and recommend to *Florida Agricultural and Mechanical University* the department research priorities for arthropod control practices and technologies.
3. Develop and recommend to the department a request for proposal process for arthropod control research.
4. Identify potential funding sources for research or implementation projects and evaluate and prioritize proposals upon request by the funding source.
5. Prepare and present reports, as needed, on arthropod control activities in the state to the Pesticide Review Council, the Florida Coastal Management Program Interagency Management Committee, and other governmental organizations, as appropriate.

Section 23. Paragraph (a) of subsection (24) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules and regulations adopted and promulgated by it and, for this purpose, to:

(24)(a) Establish a permit system to provide for spoil site approval, as may be requested and required by local governmental agencies as defined in s. 403.1822(3), or mosquito control districts as defined in s. 388.011(5)(2), to facilitate these agencies in providing spoil sites for the deposit of spoil from maintenance dredging of navigation channels, port harbors, turning basins, and harbor berths, as part of a federal project, when the agency is acting as sponsor of a contemplated dredge and fill operation involving an established navigation channel, harbor, turning basin, or harbor berth. A spoil site approval granted to the agency shall be granted for a period of 10 to 25 years when such site is not inconsistent with an adopted local governmental comprehensive plan and the requirements of this chapter. The department shall periodically review each permit to determine compliance with the terms and conditions of the permit. Such review shall be conducted at least once every 10 years.

Section 24. (1) All powers, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Office of Entomology of the Department of Health and Rehabilitative Services are transferred by a type four transfer, as defined in section 20.06(4), Florida Statutes, to the Department of Agriculture and Consumer Services. Any rules adopted by or for the office which are in effect on the effective date of this act are included in such transfer and shall remain in effect until specifically changed in the manner provided by law.

(2) Upon transfer of the Office of Entomology Services from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services, the office's Jacksonville headquarters and staff shall remain in the same space at the Department of Health and Rehabilitative Services' facility which it occupied on December 1, 1991, at the same rental rate. The Department of Agriculture and Consumer Services shall pay the Office of Entomology Service's share of the telephone bill and the prorated share of utilities. This arrangement shall remain in effect until such time as the Legislature appropriates the funds necessary to move the office and personnel to another facility.

(3) Rules adopted by the Department of Health and Rehabilitative Services under authority of chapter 482, Florida Statutes, which are in effect on the effective date of this act shall remain in effect and, except as otherwise provided in this act, shall be administered by the Department of Agriculture and Consumer Services until specifically changed in the manner provided by law.

(4) This act does not affect the validity of any judicial or administrative proceeding pending on the effective date of this act, and any agency to which are transferred the powers, duties, and functions relating to the pending proceeding shall be substituted as a party in interest for that proceeding.

Section 25. Section 482.011, Florida Statutes, is amended to read:

482.011 Short title.—This chapter ~~act~~ may be cited as the “Structural Pest Control Act.”

Section 26. Section 482.021, Florida Statutes, is amended to read:

482.021 Definitions.—For the purposes of this chapter ~~measure~~, and unless otherwise required by the context, the term ~~following definitions shall prevail, to-wit:~~

(1) “Agricultural area” means ~~an any~~ area:

(a) Upon which a ground crop, trees, or plants are grown for commercial purposes; ~~or~~

(b) Where a golf course, park, nursery, or cemetery is located; or

(c) Where farming of any type is performed or livestock is raised.

~~(2) “Department” means the Department of Health and Rehabilitative Services.~~

~~(2)(3)~~ “Business location” means ~~an any~~ advertised permanent location in or from which pest control business is solicited, accepted, or conducted.

(3)(4) “Category” means a distinct branch or phase of pest control for which a pest control operator’s certificate may be issued such as: fumigation, general household pest control, termites and other wood-destroying organisms pest control, lawn and ornamental pest control, and such a combination or division of such branches of pest control as the department may by rule establish.

~~(4)(5)~~ “Certified operator” means an individual holding a current valid pest control operator’s certificate issued by the department.

(5) “Certified operator in charge” means a certified operator:

(a) Whose primary occupation is the pest control business;

(b) Who is employed full time by a licensee; and

(c) Whose principal duty is the personal supervision of the licensee’s operation in a category or categories of pest control in which the operator is certified.

(6) “Department” means the Department of Agriculture and Consumer Services.

(7) “Employee” means a person who is employed by a licensee that provides that person necessary training, supervision, pesticides, equipment, and insurance and who receives compensation from and is under the supervision and control of the licensee from which compensation of the licensee regularly deducts and matches federal insurance contributions and federal income and Social Security taxes.

~~(6) “Fumigation” means the use, within an enclosed space or in or under a structure or tarpaulins, of a fumigant in concentrations which may be hazardous to man.~~

(8)(7) “Fumigant” means a chemical which, at a required temperature and pressure, can exist in the gaseous state in sufficient concentration to be lethal to a given organism. This definition implies that a fumigant acts as a gas in the strictest sense of the word. This definition excludes aerosols that which are particulate suspensions of liquids or solids dispersed in air.

(9) “Fumigation” means the use, within an enclosed space or in or under a structure or tarpaulins, of a fumigant in concentrations that may be hazardous to man.

~~(10)(8)~~ “General household pest control” means pest control with respect to any structure, not including fumigation or pest control with respect to termites ~~and or~~ other wood-destroying organisms.

~~(11)(9)~~ “Identification cardholder” means ~~an owner or employee a person~~ to whom a current card has been issued by the department ~~appropriately~~ identifying the holder to the public or to any law enforcement officer or any agent of the department charged with, or entitled to exercise any function in connection with, the enforcement of this chapter and any rules made pursuant to this chapter.

(12) “Independent contractor” means an entity separate from the licensee that:

(a) Receives moneys from a customer which are deposited in a bank account other than that of the licensee;

(b) Owns or supplies its own service vehicle, equipment, and pesticides; or

(c) Pays its own worker’s compensation as an independent contractor.

(13) “Infestation” means the presence of living pests in, on, or under a structure, lawn, or ornamental.

(14) “Integrated pest management” means the selection, integration, and implementation of multiple pest control techniques based on predictable economic, ecological, and sociological consequences, making maximum use of naturally occurring pest controls, such as weather, disease agents, and parasitoids, using various biological, physical, chemical, and habitat modification methods of control, and using artificial controls only as required to keep particular pests from surpassing intolerable population levels predetermined from an accurate assessment of the pest damage potential and the ecological, sociological, and economic cost of other control measures.

~~(15)(10)~~ “Lawn” means the turf formed from grass or other plants.

~~(16)(11)~~ “Lawn and ornamental pest control” means pest control with respect to pests of any lawn or ornamental.

~~(17)(12)~~ “Licensee” means a person, partnership, firm, corporation, or other business entity having a license issued by the department for engaging in the business of pest control at a particular business location.

~~(13) “This measure” means this law and rules of the department.~~

~~(18)(14)~~ “Ornamental” means any shrub, bush, tree or other plant used or intended for use:

(a) In connection with the occupation or use of any structure; or

(b) ~~the use~~ By man for purposes other than ~~in~~ as an agricultural area.

(19) “Pest” means an arthropod, wood-destroying organism, rodent, or other obnoxious or undesirable living plant or animal organism.

~~(20)(15)~~ “Pest control” includes ~~means~~:

(a) The use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on, or under a structure, lawn, or ornamental;

(b) The identification of or inspection for infestations or infections in, on, or under a structure, lawn, or ornamental;

(c) The use of any pesticide, economic poison, or mechanical device for preventing, controlling, eradicating, identifying, inspecting for, mitigating, diminishing, or curtailing insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental;

(d) All phases of fumigation, including:

1. The treatment of products by vault fumigation; and

2. The fumigation of boxcars, trucks, ships, airplanes, docks, warehouses, and common carriers; and

(e) The advertisement of, the solicitation of ~~advertising, soliciting,~~ or the acceptance of remuneration for any such work described in this subsection, but does not include the solicitation of a bid from a licensee to be incorporated in an overall bid by an unlicensed primary contractor to supply services to another.

(21)(16) "Pesticide or economic poison" means any substance or mixture of substances intended for:

(a) Preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses or fungi on or in living man or other animals; or;

(b) ~~and any substance or mixture of substances intended for~~ Use as a plant regulator, defoliant, or desiccant.

(17) ~~"Pests" means arthropods, wood-destroying organisms, rodents, or any other obnoxious or undesirable living plant or animal organism.~~

(22)(18) "Rodent" means a rat, mouse, squirrel, or flying squirrel or ~~rats, mice, squirrels and flying squirrels, and any other animal of the order "rodentia," including a bat bats, which may become a structure pest in, on, or under a structure.~~

(23)(19) "Rodent control" means application of remedial measures for the purpose of controlling rodents.

(24)(20) "Special identification cardholder" means a person to whom an identification card has been issued by the department showing that ~~he, the holder, is authorized to perform fumigation a particular function or functions of a certified pest control operator as may be specified thereon.~~

(25)(21) "Structure" means:

(a) Any type of edifice or building, together with the land thereunder, together with the contents thereof, ~~and together with any patio or terrace thereof;~~

(b) ~~also,~~ That portion of land upon which work has commenced for the erection of an edifice or building; or

(c) ~~A also,~~ railway car ears, motor vehicle vehicles, trailer trailers, barge barges, boat boats, ship ships, aircraft, wharf wharves, dock docks, warehouse warehouses, or and common carrier carriers.

(22) ~~"Structural pest control" means pest control except with regard to lawns or ornamentals.~~

(26)(23) "Termites and ~~Termite or other wood-destroying organisms pest organism control"~~ means pest control with respect to any termite or other wood-destroying organisms, including fungi, by the use of any chemical or mechanical methods, including moisture control for the prevention or control of fungus in existing structures, but not including fumigation or general household pest control.

(24) ~~"Advanced training or a major in entomology or horticulture" means completion of 20 semester hours or 30 quarter hours of college credits in these subjects.~~

(25) ~~"Infestation" means the presence of living pests in, on, or under a structure, lawn, or ornamental.~~

(27)(26) "Wood-destroying organism" means arthropod or plant life which damages and can reinfest seasoned wood in a structure, namely termites, powder-post beetles, oldhouse borers, and wood-decaying fungi.

(27) ~~"Certified operator in charge" means a certified pest control operator who is a state resident whose primary occupation is the pest control business, who is employed on a full-time basis by a licensee, and whose principal duty is the personal supervision of the licensee's operation in the category or categories of pest control in which the operator is certified.~~

Section 27. Section 482.032, Florida Statutes, is amended to read:

482.032 Enforcement.—

(1) ~~The Office of Entomology Services under the Deputy Secretary for Health of the department of Health and Rehabilitative Services is empowered to enforce this chapter measure. The Chief of Entomology Services shall be a graduate entomologist having college-level training in insect control, including pesticides, and a minimum of 5 years' experience in research or field work in insect control.~~

(2) ~~It is shall be the duty of every state attorney, sheriff, police officer, and other appropriate city and county or municipal officer officers to enforce, or to assist the Office or any duly authorized inspector or other agent of the department in the enforcement of, this chapter act and the rules adopted promulgated by the department under the provisions of this chapter measure.~~

(3) ~~The department, through the Office of Entomology Services, may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:~~

(a) To enforce its rules.

(b) To make application for injunction to the proper circuit court, and the judge of ~~that said court has shall have~~ jurisdiction, upon hearing and for cause shown, to grant a temporary *injunction* or a permanent injunction, or both, restraining a ~~any~~ person from violating or continuing to violate any of the provisions of this *chapter* or of the rules adopted under this *chapter measure* or from failing or refusing to comply with the requirements of this *chapter* or of the rules adopted under this *chapter measure*.

(4) ~~The department, or its agent, is authorized to enter upon any public or private premises or carrier during regular business hours in the performance of its duties relating to pesticides and records pertaining to same.~~

Section 28. Section 482.051, Florida Statutes, is amended to read:

482.051 Rules.—

(1) ~~The department shall adopt of Health and Rehabilitative Services is authorized, empowered, and directed to make rules to carry out the intent and purpose of this chapter. Prior to proposing the adoption of a rule, the department shall counsel with members of the pest control industry concerning the proposed rule. The department shall adopt rules for the protection of the health, safety, and welfare of pest control employees and the general public, in conformity with this chapter and chapter 120, which require: by requiring~~

(1) That all pesticides or economic poisons be used only in accordance with the registered labels label and labeling, or as directed otherwise accepted by the United States Environmental Protection Agency or, the United States Department of Agriculture, or the department of Agriculture and Consumer Services.

(2) ~~The department shall hold public hearings or counsel with members of the industry when proposing changes to the statutes or rules.~~

(2)(3) ~~The department shall adopt rules requiring~~ That vehicles and trailers used in pest control be permanently marked with the licensee's name that is registered with the department.;

(3) That a written ~~contracts contract~~ be required for providing control of termites and other wood-destroying organisms *pest control*, and that provisions necessary to assure consumer protection as be specified by the department be included and required in such contracts, and that require the contract. ~~The department shall adopt a rule requiring licensees to comply with the contracts issued.~~

(4) ~~The department shall adopt rules requiring~~ That a each licensee, before performing general fumigation, notify in writing the department inspector having jurisdiction over the location where the fumigation operation is to be performed, ~~which. Such notice must shall~~ be received by the department inspector at least 24 hours in advance of the fumigation period and ~~must shall~~ contain such information as the department requires ~~may require~~. However, in an authentic and verifiable emergency emergencies only, when 24 hours' advance notification is not possible, advance telephone or telegraph notice ~~may shall~~ be given; ~~but and~~ such notice ~~must shall~~ be immediately followed by written confirmation *providing stating* the required information.

Section 29. Section 482.061, Florida Statutes, is amended to read:

482.061 Inspectors.—~~To assist the Chief of Entomology Services in the enforcement of this act, the department shall appoint, two or more graduate entomologists as inspectors, certified operators having at least 5 years' experience in all categories of pest control or graduate entomologists for the Office of Entomology Services. The inspectors shall make, or have made by representatives of the county or municipal health unit, inspections of licensees. The inspectors shall report all violations to the department Chief of Entomology Services, who shall be the chief inspector. Department inspectors must shall be qualified to take the certified pest control examinations. The department shall waive their fees for examination for certification and for issuance or, and the annual renewal of fees for their certificates shall be waived during the time that they serve as department inspectors.~~

Section 30. Section 482.071, Florida Statutes, is amended to read:
482.071 Licenses.—

(1) The department of Health and Rehabilitative Services may issue licenses to qualified businesses to engage in the business of pest control in this state. It is unlawful for any person to operate a pest control business that is not licensed by the department.

(2)(a) Before entering business or upon transfer of business ownership, and also annually thereafter, on or before an anniversary date to be set by the department for each licensed business location, each person, firm, partnership, firm, or corporation, or other business entity engaged in pest control must shall apply to the department for a license, or a renewal thereof, for each of its business locations location. Applications must shall be made on forms prescribed and furnished by the department.

(b) The department shall establish a issuance fee for the issuance of a license, which fee may shall not be more than \$300 \$75 or less than \$75, and a \$50. The renewal fee for the renewal of a license, which fee may shall not be more than \$300 \$75 or less than \$75; however, \$50. until rules setting these fees are adopted by the department, the issuance fee and renewal fee shall each be \$75 \$50. After a grace period not exceeding 30 calendar days following the anniversary renewal date, the department there shall assess be a late renewal charge of \$50, which must shall be assessed and paid in addition to the renewal fee. The aggregate of the fees assessed pursuant to this paragraph may not exceed 105 percent of the direct costs for administering this chapter.

(c) Unless timely renewed, a license shall automatically expires expire 60 calendar days after the anniversary renewal date. Subsequent to such expiration, a license may be reinstated only upon reapplication and payment of the issuance fee and the any late renewal fee fees due, as provided herein.

(d) A license shall automatically expires expire when a licensee changes its his business location address or its his business name as registered with the department. The department shall issue old license shall be surrendered and a new license shall be issued for the remainder of the unexpired term upon payment of for a fee of \$25 \$10.

(e) The department may shall not issue or renew a license to engage in the a pest control business unless the applicant's its pest control activities are under in the charge of a certified operator or operators in charge who are certified in the categories of the licensee and resident in the state.

(f) The department by rule may establish a procedure for expediting the processing of an application for license upon payment by the applicant of a special fee in an amount sufficient to cover the cost of such expedited process, but not exceeding \$50.

(g) If a licensee goes out of business or sells its business and does not reimburse the prorated value of its customers' remaining contract periods or its existing contract responsibility is not assumed by another licensed pest control business, the department may not issue another business license to that licensee for a period of 5 years.

(f) All fees collected by the department shall be deposited in the Pest Control Trust Fund and shall be used in carrying out the provisions of this measure.

(3)(2) A Each licensee shall display its his current license at each of its within his business locations location. Each business location of a licensee must be licensed.

(4)(3) A No licensee may not shall operate a pest control business without carrying the required insurance coverage. Each person making application for a pest control business license or renewal thereof must shall furnish to the department a certificate of insurance that meets the requirements for minimum financial responsibility for bodily injury and property damage consisting of:

(a) Bodily injury: \$100,000 each person and \$300,000 each occurrence; and

(b) property damage: \$50,000 each occurrence and \$100,000 in the aggregate; or,

(b) Combined single-limit coverage: \$400,000 in the aggregate.

(5) A license under this section is a prerequisite for the issuance of a local occupational license to engage in pest control, as provided in s. 205.1967.

Section 31. Section 482.081, Florida Statutes, is transferred, renumbered as section 205.1967, Florida Statutes, and amended to read:

205.1967 482.081 Prerequisite for issuance of pest control occupational license.—A No municipality or county may not shall issue an occupational license to any pest control business coming under chapter 482 the provision of this act, unless a current license has been procured for each business location from the Department of Agriculture and Consumer Health and Rehabilitative Services for each of its business locations in that municipality or county. Upon presentation of the requisite licenses a current business license from the department and the required fee, an occupational license shall be issued by in the county or municipality or county in which application is made.

Section 32. Section 482.091, Florida Statutes, is amended to read:
482.091 Employee identification cards.—

(1)(a) Each employee who performs pest control for a licensee must have an identification card.

(b)(1) Either the licensee or the licensee's certified operator in charge must shall apply to the department for an identification card for each employee who will perform pest control therefor within 30 days after of employment of that employee such person, on a form prescribed by the department. The licensee and the licensee's certified operator in charge are jointly responsible for obtaining such identification cards.

(2)(a) An identification cardholder must be an employee of the licensee and work under the direction and supervision of the licensee's certified operator in charge and may not be an independent contractor. An identification cardholder may perform only pest control services out of, or for customers arising from, the licensee's licensed business location. An identification cardholder may not perform any pest control independently of and without the knowledge of the licensee and the licensee's certified operator in charge and may perform pest control only for the licensee's customers.

(b) The identification card shall be carried on the employee's person while performing or soliciting pest control and shall be presented on demand to the person for whom pest control is being performed or solicited, or to any inspector of the department, or to any of such other persons as are designated may be prescribed by the rules of the department.

(c) An employee may not (2) The responsibility for obtaining identification cards for employees is jointly on the licensee and the certified pest control operator in charge. However, no one shall perform pest control without being of good moral character and carrying on his person a current valid identification card and without having affixed with the employee's thereto his signature and a current photograph of himself.

(d) An identification cardholder may use only the licensee's pesticides, equipment, and other materials when performing pest control.

(e) An identification cardholder shall consult regularly with the licensee's certified operator in charge concerning:

1. The selection of proper and correct chemicals for the particular pest control work to be performed;

2. The safe and proper use of the particular pesticides applied; and

3. The correct concentrations and formulations of pesticides used for the various types of pest control work performed.

(3) A No licensee or certified operator may not shall assign or use an any employee to perform any category of pest control without providing trained supervision unless the such employee is trained and qualified in that category of pest control. An employee may not No one shall perform, solicit, inspect, or apply pest control without first having been provided had at least 5 days of field training in the appropriate category of pest control under the direct supervision, direction, and control of a certified operator.

(4) An identification card shall automatically expires expire when the holder thereof ceases to be an employee of the licensee for which the card was secured the card. In such case, either the licensee or certified operator in charge shall obtain and destroy the expired old card. An identifica-

~~tion~~ Each card ~~expires issued shall expire~~ on the licensee's next anniversary date after issuance or upon transfer of business ownership, change of business name registered with the department, or change of licensee's business location address. Each *identification card must shall* be renewed annually thereafter on or before the licensee's anniversary date as set by the department for each licensed business location.

(5) The fee for each identification card is \$10 ~~\$5~~.

(6)(3) An employee whose duties are confined to office secretarial, bookkeeping, office clerical, office filing, trenching, digging, raking, putting up or taking down tents, clamping, or carrying away debris; or such other activities as specified by the department shall be *exempted made exempt* by the department from being required to hold an identification card.

(7)(4) A ~~No~~ person ~~may not shall~~ be issued, or ~~may not~~ hold, an identification card for more than one licensee at any one time, except a certified operator for the express and sole purpose of, and period for, obtaining experience to qualify for examination in a category for which such person is not certified and seeks certification.

(8)(5) A licensee having more than one licensed business location may temporarily assign an identification cardholder, *other than a certified operator in charge*, to any of its licensed business locations without obtaining another identification card for such holder, ~~except that this subsection shall not apply to certified operators in charge.~~

(9)(6) For every ~~employee person~~ who performs inspections for wood-destroying organisms pursuant to s. 482.226, the licensee or certified operator in charge *must shall* apply for an identification card *that which* identifies that ~~employee person~~ as having received the special training specified in this subsection in order to perform ~~such~~ inspections pursuant to s. 482.226. The application for such identification card *must shall* be accompanied by an affidavit, signed by the prospective identification cardholder and by the licensee or certified operator in charge, which *states shall state* that the prospective identification cardholder has received adequate training in the detection and control of wood-destroying organisms, including but not limited to *training in the following*:

(a) The biology, behavior, and identification of wood-destroying organisms with particular emphasis on ones common *in to* this state and the damage caused by such organisms;

(b) The inspection forms to be used to report the finding; and

(c) Applicable federal, state, and local laws or ordinances.

Such identification cards *must shall* be applied for, *and shall be* issued, and used, in accordance with ~~the provisions of~~ this section. This subsection does not apply to a certified operator who is certified in the category of pest control with respect to termites and other wood-destroying organisms. A ~~No~~ person ~~may not shall~~ perform such inspections *except unless* under the supervision of a certified operator in charge who is certified in the category of *termites termite* and other wood-destroying organisms *pest control*.

Section 33. Section 482.111, Florida Statutes, is amended to read:

482.111 *Pest control operator's certificate; disposition of moneys received.*—

(1) The department shall issue a pest control operator's certificate to each individual who qualifies under this *chapter measure*. Before engaging in pest control work, each certified ~~pest control operator must shall~~ be certified as provided in *this section herein*. Application *must shall* be made and the issuance fee *must shall* be paid to the department for the original certificate within 60 days after the postmark date of written notification of passing the examination. During a period of 30 calendar days following expiration of the 60-day period, an original certificate may be issued; however, a late issuance charge of \$50 shall be assessed and *must be* paid in addition to the issuance fee. ~~An No~~ original certificate ~~may not shall~~ be issued after expiration of the 30-day period, without reexamination.

(2)(a) *The department shall issue pest control operator's certificates in several categories, including fumigation, general household pest control, lawn and ornamental pest control, and termites and other wood-destroying organisms pest control.*

(b) *The specific scope of work (or job scope) for individuals in each category established under paragraph (a) must be pursuant to the definitions set forth in this chapter. Individuals certified in a particular category, or individuals operating pursuant to the authority of a certified individual, may not perform operations outside that category's job scope if such operations are within the job scope of another category, unless the individual is certified in that category or unless otherwise provided in this chapter.*

(3)(2) Annually ~~thereafter~~, on or before an anniversary date set by the department, ~~an each~~ individual so issued a pest control operator's certificate *must shall* apply to the department on a *form prescribed by forms* of the department for renewal of such certificate. After a grace period of not exceeding 30 calendar days following such renewal date, a late renewal charge of \$50 shall be assessed and *must be* paid in addition to the renewal fee.

(4) Unless timely renewed, a certificate ~~shall~~ automatically *expires expire* 180 calendar days after the anniversary renewal date. Subsequent to such expiration, a certificate may be *issued reinstated* only upon successful reexamination and upon payment of the examination and issuance fees due, ~~as provided herein~~.

(5) Each certified operator in charge ~~of pest control~~ at a licensed business location shall display his certificate and current renewal receipt at the business location in his charge.

(6)(a)(3) Each *location category* of each licensed *pest control business must have licensee shall be in the charge* of a certified operator in charge who is certified for the particular category of *pest control engaged in at that location*. A certified operator in charge *must be registered with the department pursuant to rules adopted pursuant to this section*. A certified operator in charge may be in charge of one or more of all categories if *provided* he is certified for *those such* categories.

(b)(4) A ~~No~~ person ~~may not shall~~ be in charge of the performance of pest control activities of any category of a ~~any~~ licensee unless *he such person is properly certified for that category*.

(c)(5) A ~~No~~ certified operator ~~may not shall~~ be in charge of the performance of pest control activities at more than one business location *for a licensee*; however, the department shall prescribe by rule that, during the temporary absence of the certified operator currently registered in charge of a licensed business location, the licensee may, for a period not exceeding 30 days, designate another certified operator, certified in the same categories as the certified operator in charge, to be in charge of and responsible for performing those duties requiring the physical presence of a certified operator in charge. In any such case, the certified operator designated temporarily in charge and the licensee ~~are shall be held~~ jointly responsible for the pest control work performed and for compliance with other provisions of this *chapter and of the rules adopted pursuant to this chapter measure*.

(7)(6) The fee for issuance of ~~an each~~ original certificate ~~or the, and the fee for renewal thereof shall be set by the department but may, shall~~ not be more than \$150 ~~\$75~~ or less than \$75; ~~however, \$50.~~ until rules *setting these fees providing otherwise* are adopted by the department, the issuance fee and the renewal fee shall each be \$75 ~~\$50~~.

(7) ~~All moneys received by the department under this measure shall be deposited in the Pest Control Trust Fund and shall be used by the department in carrying out the provisions of this measure and in the education of the pest control industry. All expenditures authorized by this measure shall be paid upon presentation of vouchers approved by the department. Fine revenues shall be used to support contract research in all pest control categories. The department shall appoint a committee composed of pest control industry members which shall assist the department in establishing research priorities, in developing requests for proposals for bids, and in selecting research contractors from qualified bidders.~~

(8) ~~A pest control operator's certificate is~~ *Certificates issued by the department are* not transferable to another person.

(9) In the event of the loss of a certified operator in charge or other emergency, one or more emergency pest control certificates may be issued by the department, upon the request of the licensee, to one or more designated identification cardholders for a period of 30 days. The department may issue additional emergency certificates to one or more designated identification cardholders for periods not ~~exceeding to exceed~~ 30 days,

for up to a maximum of 1 year. The sum of the periods for which emergency certificates are issued to the same licensee ~~may shall~~ not exceed 1 year during any 3-year period except in the event of the death of a certified operator in charge, in which case, additional emergency certificates may be issued for an extension of up to 120 days. The department shall collect \$50 for each emergency certificate issued. Upon request by the department, the licensee shall submit interim reports at 30-day intervals containing documented evidence indicating specific actions being taken *by the licensee* to fill the vacancy created by the loss of a certified operator in charge. The department shall adopt rules and prescribe forms for this purpose; however, an emergency certificate *may shall* not be issued in the category of fumigation.

(10) Prior to the ~~expiration~~ *renewal* date of a certificate, the certificateholder ~~must shall~~ complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling, *and integrated pest management* and 2 hours of approved continuing education in each category of his certificate, or *must* pass an examination given by the department. *The department may not renew a certificate if the failure to meet continuing education requirements or to pass an examination requirement is not met shall result in the nonrenewal of a certificate.*

(a) Courses or programs, to be considered for credit, ~~shall contain~~ *must include* one or more of the following topics:

- 1.(a) The law and rules of ~~this~~ the state pertaining to pest control.
 - 2.(b) Precautions necessary to safeguard life, health, and property in the conducting of pest control and the application of pesticides.
 - 3.(c) Pests, their habits, recognition of the damage they cause, and identification of them by accepted common name.
 - 4.(d) Current accepted industry practices in the conducting of fumigation, *termites and other wood-destroying organisms pest termite* control, lawn and ornamental pest control, and household pest ~~and rodent~~ control.
 - 5.(e) How to read labels, a review of current state and federal laws on labeling, and a review of changes in or additions to labels used in pest control.
6. *Integrated pest management.*
- (b) The certificateholder ~~must shall~~ submit with his application for renewal a statement certifying that he has completed the required number of hours of continuing education. The statement ~~must shall~~ be on a form prescribed by the department and ~~must shall~~ identify at least the date, location, provider, and subject of the training and ~~must provide~~ such other information as ~~may be~~ required by the department.

(c) The department shall charge ~~the same~~ a fee for examination as provided in s. 482.141(2).

(11) When a certified operator becomes a member of the Armed Forces of the United States on active duty, the renewal fee and ~~requirement for obtaining~~ continuing education requirements are waived while the individual remains on active duty as a member of the armed forces. If the individual is designated as the certified operator in charge and no other certified operator is available to be placed in charge, an emergency certificate may be granted without a time or fee requirement until the certified operator is no longer on active duty.

Section 34. Section 482.121, Florida Statutes, is amended to read:

482.121 ~~Misuse~~ *False use* of certificate.—

(1) A ~~No~~ certified pest control operator ~~may not shall~~ allow his certificate to be used by a ~~any~~ licensee to secure or keep a license unless:

- (a) ~~He the certified operator~~ is in charge of the pest control activities of the licensee in the category or categories covered by his certificate;
- (b) ~~He and~~ is a full-time employee of the licensee; and
- (c) His primary occupation is with the licensee.

(2) A ~~No~~ licensee ~~may not shall~~ use the certificate of any certified operator to secure or keep a license unless the holder of ~~the said~~ certificate is in charge of the pest control activities in the category or categories of the licensee covered by ~~the~~ his certificate.

(3) ~~If a certificate is used in violation of this section, the department may revoke. False use of a certificate may result in automatic revocation of the license of the pest control licensee's business or license and the certified operator's certificate, or both such license and certificate.~~

Section 35. Section 482.132, Florida Statutes, is amended to read:

482.132 Qualifications for examination and certification.—

(1) The department may award a pest control operator's certificate to an individual who has passed the examinations prescribed by the department and who submits to the department proof that he is not under the ~~disability~~ disabilities of minority and that he is ~~domiciled in and a resident citizen of the state, is of good moral character and of good reputation for fair dealings,~~ is qualified to be a certified operator with regard to the safety of ~~to~~ persons and property, and is otherwise qualified under the provisions of this chapter and the rules made pursuant to ~~this chapter hereto.~~

(2) Each applicant for examination for a pest control operator's certificate must possess the *minimum qualifications specified* in one of the following ~~paragraphs~~ *basic qualifications*:

(a) ~~Three years' employment~~ years as a service employee of a licensee ~~that who performs pest control in the category or categories in which the applicant service employee seeks certification, 1 year of which employment must have been in this state within the year immediately preceding application for examination, except that a maximum of 30 calendar days break in this 1-year requirement will be authorized;~~

(b) A degree with advanced training or a major in entomology, botany, *agronomy*, or horticulture from a recognized college or university, *which training or major included the completion of at least 20 semester hours or 30 quarter hours of college credits in those subjects, plus 1 year's employment as a service employee of a licensee that performs pest control in the category or categories in which the applicant seeks certification. If such Those holding a degree with advanced training or a major is in entomology, the applicant is are qualified for the examination in all categories; but if such Those holding a degree with advanced training or a major is in horticulture or botany, agronomy, or horticulture, the applicant is are qualified for the examination only in the category of lawn and ornamental pest control; or*

(c) ~~1.—Each person who holds~~ A 2-year degree in horticultural technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in horticulture, *plus 1 year's employment as a service employee of a licensee that performs pest control only in the category of lawn and ornamental pest control. Such an applicant, is qualified for the examination only in the category of lawn and ornamental pest control.*

(d) A 2-year degree in general pest control technology or the equivalent from a college or university, with advanced training of 20 or more semester hours or 30 or more quarter hours of credit in entomology, *plus 1 year of employment as a service employee of a licensee that performs pest control in any category or categories. Such an applicant is qualified for all examinations.*

(e) *Twenty-four semester hours or 36 quarter hours of courses in entomology, pest control technology, and related subjects, plus 1 year of employment as a service employee of a licensee that performs pest control in the category of general household pest, termite, and fumigation. Such an applicant is qualified only for examination in the categories of general household pest control, termite and other wood-destroying organisms pest control, and fumigation.*

(f) *Twenty-four semester hours or 36 quarter hours of courses in entomology, pest control technology, agronomy, botany, horticulture, and related subjects, plus 1 year of employment as a service employee of a licensee that performs pest control in the category of lawn and ornamental pest control. Such an applicant is qualified only for examination in the category of lawn and ornamental pest control.*

~~2.—For the purpose of qualifying to take the examination for certification in the lawn and ornamental pest control category, an applicant may be permitted to take the examination without meeting other qualifications of this subsection if he demonstrates to the satisfaction of the department that he is performing interior plant pest control of pests of lawns, foliage plants, or flowering plants, or any other ornamental plant, within a structure in this state on October 1, 1990. This subparagraph is repealed 1 year after the effective date of this subparagraph.~~

(3) *In addition*, each applicant must have knowledge of practical and scientific facts of pest control and be a graduate of an accredited high school or submit to the department satisfactory evidence of equivalent education.

Section 36. Section 482.141, Florida Statutes, is amended to read:

482.141 Examinations.—

(1) Each individual seeking certification must satisfactorily pass an examination which must be written but which may include practical demonstration. *The department shall hold at least A minimum of two examinations each year shall be held annually. An applicant may seek certification in one or more categories.*

(2) *An application Applications for examination must shall be made in accordance with the rules of the department. Each application must be accompanied by a fee set by the department, in an amount of not more than \$300 \$150 or less than \$150 \$100, to be set by the department, for each category in which the applicant desires to be examined; however, until rules setting these fees providing otherwise are adopted by the department, the examination fee for each category shall be \$150 \$100. Any applicant who fails to pass one or more categories may reapply for examination upon the payment of the applicable fee for each category in which the applicant seeks reexamination additional fees as provided in this subsection.*

(3) The department shall give an examination in each category for which application is made which tests testing the applicant's knowledge of pest control as applicable to that the specific category applied for. *Applicants may seek certification in one or more categories. The certificate issued must shall state the categories allowed thereby.*

(4) ~~All provisions of this measure apply whenever a certified operator is certified in less than all categories except that the activities of each certified operator, and the categories in his charge of any licensee, are confined to the category or categories granted.~~

(4)(5) ~~A refund No refunds of examination these fees may not shall be made unless the applicant presents can present written evidence that he was under military orders, on jury duty or otherwise subpoenaed, or under medical care which precluded his reporting to take the examination, in which case the department shall exercise its discretion as to a refund on refunds.~~

Section 37. Section 482.151, Florida Statutes, is amended to read:

482.151 Special identification card for performance of fumigation.—

(1) Any individual who performs fumigation *must be shall be required to become* a special identification cardholder, unless such individual is a certified operator who is certified in the category of fumigation. *When performing fumigation, a The special identification cardholder or certified operator may shall act only under the direction and supervision of the certified pest-control operator in charge.*

(2) The department shall *prescribe provide* by rule the qualifications, privileges, duties, and limitations of regarding holders of special identification cards.

(3) The department may issue special identification cards to qualified individuals who pass written examinations *that which* may include practical demonstration. *The application forms shall be prescribed by the department.*

(4) The department, in its rules, shall provide for such matters as required qualifications for applicants for examination, written or practical phases or categories of examinations, and time of examinations. The fee for *an each* examination shall be set by the department but may not be more than \$200 \$100 or less than \$100 \$75 for each category; *however, until rules setting these fees are adopted by the department, the fee for each category shall be \$100 \$75.*

(5) *An application must shall be made and the issuance fee paid to the department for an the original special identification card within 60 days after the postmark date of written notification of passing the examination. The fee for issuance of an original special identification card shall be set by the department but may not be more than \$100 or less than \$50; however, until a rule setting this fee is adopted by the department, the fee shall be \$50. During a period of 30 days following expiration of the 60-day period, an original special identification card may be issued; however, the department shall assess a late issuance charge of*

\$25, which must be shall be assessed and paid in addition to the issuance fee. An No original special identification card may not shall be issued after expiration of the 30-day period, without reexamination.

(6) *An application to the department for renewal of a each special identification card must shall be made on or before an anniversary date set by the department. The issuance fee for renewal of a each special identification card shall be set by the department but may and for each renewal thereof shall not be more than \$100 \$50 or less than \$50, however, \$25, until a rule setting this fee is rules providing otherwise are adopted by the department, the issuance fee and the renewal fee shall each be \$50 \$25. After a grace period of not exceeding 30 calendar days following such renewal date, the department there shall assess be a late renewal charge of \$25, which must shall be assessed and paid in addition to the renewal fee.*

(7) *Unless timely renewed, a each special identification card shall automatically expires 180 expire 60 calendar days after the anniversary renewal date. Subsequent to such expiration, a special identification card may be issued reinstated only upon successful reexamination and upon payment of examination and issuance fees due, as provided in this section herein.*

(8)(7) *Prior to the expiration renewal date of a special identification card, the cardholder must:*

(a) *shall Complete 2 hours of approved continuing education on legislation, safety, and pesticide labeling and 2 hours of approved continuing education in the fumigation category; or*

(b) *Pass an examination in fumigation given by the department.*

(9)(8) *If When a special identification cardholder becomes a member of the Armed Forces of the United States on active duty, the renewal fee and requirement for obtaining continuing education requirements are waived while the individual remains on active duty as a member of the armed forces.*

Section 38. Section 482.152, Florida Statutes, is amended to read:

482.152 Duties of certified pest-control operator in charge of pest control activities of licensee.—A certified operator in charge of the pest control activities of a licensee shall have his primary occupation with the licensee and shall be a full-time employee of the licensee, and his principal duty shall include the responsibility for the personal supervision of and participation in the pest control activities at the business location of the licensee as the same relate to the following:

(1) The selection of proper and correct chemicals for the particular pest control work to be performed.

(2) The safe and proper use of *the these* pesticides used.

(3) The correct concentration and formulation of pesticides used in all pest control work performed.

(4) The training of personnel in the proper and acceptable methods of pest control.

(5) The control measures and procedures used.

(6) The notification of the department, ~~within 24 hours~~, of any ~~knowledge of~~ accidental human poisoning or death connected with pest control work performed on a job jobs he is supervising, *within 24 hours after he has knowledge of the poisoning or death.*

Section 39. Section 482.155, Florida Statutes, is created to read:

482.155 Limited certification for governmental pesticide applicators or private applicators.—

(1)(a) The department shall establish limited certification categories for:

1. Persons who apply pesticides only as governmental employees.

2. Persons who apply pesticides only to their own private property, and employees who apply pesticides to private property owned by their employers. This includes properties such as public buildings, schools, hospitals, nursing homes, grocery stores, restaurants, apartments, and common areas of condominiums and any other private properties where the public may be exposed to pesticide applications.

(b) A person seeking limited certification under this subsection must pass an examination given or approved by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than \$150 or less than \$50; and each annual application for recertification must be accompanied by a recertification fee of \$25. Until rules setting these fees are adopted by the department, the examination fee is \$50. Application for recertification must be accompanied by proof of having completed 4 classroom hours of acceptable continuing education. The department shall provide the appropriate reference material and make the examination readily accessible and available to all applicants at least quarterly or as necessary in each county.

(c) Certification obtained under this subsection does not authorize operation of a pest control business.

(2) In lieu of obtaining limited certification under subsection (1), a governmental employee or private property applicator may apply pesticides if he is trained and supervised by a certified operator who is certified by the department in the categories of pest control that are performed by the employee or applicator and who is employed full time by the governmental agency or private property owner for which the pest control is performed.

Section 40. Section 482.156, Florida Statutes, is created to read:

482.156 Limited certification for commercial landscape maintenance personnel.—

(1) The department shall establish a limited certification category for commercial landscape maintenance personnel to authorize them to apply herbicides for controlling weeds in plant beds and to perform integrated pest management on ornamental plants using the following materials: insecticides having the signal word "caution" but not having the word "warning" or "danger" on the label, insecticidal soaps, horticultural oils, and bacillus thuringiensis (BT) formulations. The application equipment that may be used by a person certified pursuant to this section is limited to portable, handheld 3-gallon compressed air sprayers or backpack sprayers having no more than a 5-gallon capacity and may not include power equipment.

(2)(a) A person seeking limited certification under this section must pass an examination given by the department. Each application for examination must be accompanied by an examination fee set by the department, in an amount of not more than \$150 or less than \$50; however, until a rule setting this fee is adopted by the department, the examination fee is \$50. Each person making application for certification under this section must furnish proof of having a certificate of insurance which states that the employer meets the requirements for minimum financial responsibility for bodily injury and property damage required by s. 482.071(4). To be eligible to take the examination, an applicant must have completed 8 classroom hours of lawn and ornamental continuing education training approved by the department and provide sufficient proof, according to criteria established by department rule, that the applicant has been in the landscape maintenance business for at least 3 years.

(b) The department shall provide the appropriate reference materials for the examination and make the examination readily accessible and available to applicants at least quarterly or as necessary in each county.

(3) An application for recertification under this section must be made annually and be accompanied by a recertification fee set by the department, in an amount of not more than \$75 or less than \$25; however, until a rule setting this fee is adopted by the department, the fee for recertification is \$25. The application must also be accompanied by proof of having completed 4 classroom hours of acceptable continuing education and the same proof of having a certificate of insurance as is required for initial certification.

(4) Certification under this section does not authorize:

(a) Application of pesticides to turf;

(b) Operation of a pest control business; or

(c) The application of pesticides by unlicensed or uncertified personnel under the supervision of the certified person.

(5) A person certified under this section shall maintain records documenting the pests and areas treated, plus the methods and materials applied for control of such pests, which records must be available for review by the department upon request.

Section 41. Section 482.161, Florida Statutes, is amended to read:

482.161 *Disciplinary grounds and actions; reinstatement Remedies of department.*—

(1) The department may issue a written warning to or fine a ~~the~~ licensee, certified operator, *limited certificateholder*, identification cardholder, or special identification cardholder or may suspend, revoke, or stop the issuance or renewal of any *license*, certificate, *limited certificate* special identification card, ~~license~~, or *special* identification card coming within the scope of this *chapter measure*, in accordance with the ~~provisions of~~ chapter 120, upon any one or more of the following grounds as the same may be applicable:

(a) Violation of *any provision of this chapter or of any rule of the department adopted pursuant to or any provision of this chapter.*

(b) Conviction in any court within this state of a violation of any provision of this chapter ~~or any rule of the department.~~

(c) Habitual intemperance or addiction to narcotics.

(d) Conviction in any court in any state or in any federal court of a felony, unless civil rights have been restored.

(e) Knowingly making false or fraudulent claims *with respect to pest control*; knowingly misrepresenting the effects of materials or methods used *in pest control*; or knowingly failing to use materials or methods suitable for the pest control undertaken.

(f) Performing pest control in a negligent manner.

(g) Failure to give to the department, or authorized representative thereof, true information upon request regarding methods and materials used, work performed, or other information essential to the administration of this *chapter measure*.

(h) Fraudulent or misleading advertising *relative to pest control* or advertising in an unauthorized category of *pest control*.

(i) *Failure to pay an administrative fine imposed pursuant to subsection (7).*

(2) A revocation or suspension of a *license, certificate, or limited certificate is effective*, ~~special identification card, or license shall be~~ for all categories unless the department, in its sole discretion, suspends or revokes *fewer than all one or more* categories thereof.

(3) Three years after a revocation, application may be made to the department for reinstatement; and the department may authorize reinstatement.

(4) Any charge of a violation of this *chapter or of the rules adopted pursuant to this chapter measure* by a licensee ~~shall affect~~ only the license of the business location from which the violation is alleged to have occurred. Another license ~~may~~ *shall* not be issued to the same licensee, or to any person who has an ownership interest in the *suspended or revoked* business license of the licensee and who knew or should have known of the violation ~~that which~~ resulted in the *suspension or revocation*, for a new business location in the same county or any contiguous county for a period of 3 years ~~after from~~ the effective date of the *suspension or revocation*.

(5) If, after appropriate hearing in accordance with the ~~provisions of~~ chapter 120, the department finds that a *licensee, certified operator, limited certificateholder, an identification cardholder, or special identification cardholder, certified operator, or licensee* has committed any act ~~described set forth~~ in subsection (1), but further finds that such ~~act violation~~ is of such nature or *occurred* under such circumstances that ~~revocation or suspension or revocation of the a~~ *license, certificate, limited certificate, identification card, or special identification card, or certificate* would either be detrimental to the public or be unnecessarily harsh under the circumstances, it may, ~~in its discretion, and~~ in lieu of executing the order of suspension or revocation, either:

(a) Reprimand the party publicly or privately; or

(b) Place the party on probation for a period of not more than 2 years.

(6)(a) If the department finds that the terms of any such probation have been violated, it may revoke ~~the such~~ *such* probation ~~order~~ immediately; and its initial order ~~takes effect shall become effective~~.

(b) ~~If a person~~ ~~In the event that a party~~ is found by the department to have violated any of the other terms of this chapter or of the rules adopted pursuant to this chapter measure, the department may declare such probation revoked; and, in its proceeding with regard to such additional violation, the department may consider the violation for which probation is in effect in determining the extent of its order with regard to such additional new violation.

(7) The department, pursuant to chapter 120, in addition to or in lieu of any other remedy provided by state or local law, may impose an administrative fine, in an amount not exceeding \$5,000, \$1,000 for the violation of any of the provisions of this chapter or of the rules adopted pursuant to this chapter measure. All amounts collected pursuant to this section shall be deposited in the Pest Control Trust Fund. In determining the amount of fine to be levied for a violation, the following factors shall be considered:

(a) The severity of the violation, including the probability that the death, or serious harm to the health or safety, of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this chapter or of the rules adopted pursuant to this chapter measure were violated;

(b) Any actions taken by the licensee or certified operator in charge, or limited certificateholder, to correct the violation or to remedy complaints; and

(c) Any previous violations of this chapter or of the rules adopted pursuant to this chapter; and measure.

(d) The cost to the department of investigating the violation.

(8) A hearing officer may, in lieu of or in addition to imposition of a fine, recommend probation or public or private reprimand. A public reprimand must shall be made in a newspaper of general circulation in the county of the licensee.

(9) The department shall publish quarterly a list of disciplinary actions taken pursuant to this section measure and shall provide such list to each licensee.

(10)(9) The department may require any licensee disciplined for a any violation of s. 482.226 may be required by the department to submit to the department reports for wood-destroying organism inspections and treatments performed. These reports must shall be submitted at such times on a timely basis as required by the department but not in no case more frequently than once a week.

Section 42. Section 482.163, Florida Statutes, is created to read:

482.163 Responsibility for pest control activities of employee.— Proper performance of pest control activities by a pest control business employee is the responsibility not only of the employee but also of the certified operator in charge, and the certified operator in charge may be disciplined pursuant to the provisions of s. 482.161 for the pest control activities of his employee. A licensee may not automatically be considered responsible for violations made by an employee. However, the licensee may not knowingly encourage, aid, or abet violations of this chapter.

Section 43. Section 482.165, Florida Statutes, is amended to read:

482.165 Unlicensed practice of pest control; cease and desist order notice; injunction; civil suit and penalty.—

(1) It is unlawful for a person, partnership, firm, corporation, or other business entity not licensed by the department to practice pest control as defined by this chapter.

(2) If ~~When~~ the department has probable cause to believe that a any person, partnership, firm, corporation, or other business entity not licensed by the department to practice pest control has violated any provision of this chapter, the department shall issue and deliver to that such person, partnership, firm, corporation, or other business entity a notice to cease and desist from such violation. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person, partnership, firm, corporation, or other business entity that who violates any provision of the such order.

(3)(2) In addition to or in lieu of any remedy provided under in subsection (2)(1), the department may institute a civil suit in through circuit court to recover a civil penalty for any violation for which the depart-

ment may issue a notice to cease and desist under subsection (2)(1). The civil penalty may not shall be no less than \$500 or and no more than \$5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney's fees.

(4) The violation or disregard of a cease and desist order issued for the purpose of terminating unlicensed pest control activities is a ground for denial of a license or certificate when applied for.

(3) ~~The unlawful practice of pest control is grounds for denial of a license when applied for.~~

(4) ~~The provisions of this section only apply to the performance of pest control as defined in s. 482.021(15).~~

Section 44. Section 482.182, Florida Statutes, is repealed.

Section 45. Section 482.1821, Florida Statutes, is created to read:

482.1821 Closing pest control business without providing for contracts and liabilities.—A licensee may not close its pest control business and open up a new pest control business under a different name without providing for meeting or satisfying its outstanding pest control contracts and liabilities. However, the department may waive this requirement if the licensee has filed for bankruptcy and reached agreement with his creditors on the terms for disposing of existing debts and obligations.

Section 46. Section 482.183, Florida Statutes, is amended to read:

482.183 Limitations.—

(1) A ~~No~~ person may not shall be charged with a violation of this chapter act or any rule rules effective or adopted pursuant to this chapter hereto more than 3 years after the date of the such violation.

(2) For the purpose of this section, a charge of violation is considered to have been made upon of this act or rules adopted pursuant hereto shall be construed to mean the issuance of a notice or citation by the department of Health and Rehabilitative Services charging such violation.

Section 47. Section 482.191, Florida Statutes, is amended to read:

482.191 Violation and penalty.—

(1) It is unlawful to solicit, practice, perform, or advertise in pest control except as provided by this chapter measure.

(2) A Any person who violates any provision of this chapter act is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who violates any rule of the department of Health and Rehabilitative Services relative to pest control is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 48. Section 482.201, Florida Statutes, is transferred, renumbered as section 713.665, Florida Statutes, and amended to read:

713.665 482.201 Liens for furnishing pest control on real and personal property.—The holder of a license under chapter 482 to engage in the business of pest control has

(1) ~~A licensee may have and may enforce:~~

(1) A lien on real property improved for any money that is owed to shall be owing him for labor or services performed or materials furnished in accordance with his contract and with the direct contract, subject to the licensee's compliance with the provisions of part I of this chapter 713.

(2) ~~A licensee may have and enforce~~ A lien for labor and services on personal property upon which the licensee has performed pest control, and the same may be enforced in accordance with the provisions of and subject to the licensee's compliance with the provisions of part I of this chapter 713 and s. 713.58.

Section 49. Section 482.211, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 482.211, F.S., for present text.)

482.211 Exemptions.—This chapter does not apply to:

(1) Pest control, except for fumigation, performed by a person upon his own individual residential property.

(2) Pest control performed on a United States Department of Defense installation or other federal property, except as outlined in the memorandum of agreement between the Department of Agriculture and Consumer Services and the United States Department of Defense.

(3) Pest control performed in greenhouses, in plant nurseries, or on agricultural crops, trees, groves, or orchards.

(4) Aerial application of pesticides.

(5) Aquatic weed control.

(6) Other weed control not specifically regulated by this chapter.

(7) Area mosquito control.

(8) Pest control performed for lawns and ornamental plants which is performed on an agricultural area.

(9) The use of wood preservatives during the manufacturing process when applied only on wood, pretreated lumber, or metal shields for use in the construction of structures.

(10) The use of the antibiotic oxytetracycline hydrochloride or other antibiotic for the control of lethal yellowing.

(11) A yardman when applying a pesticide to the lawn or ornamental plants of an individual residential property owner using pesticides owned and supplied by the individual residential property owner, provided the yardman does not advertise for or solicit pest control business and does not hold himself out to the public as being engaged in pest control. The yardman may not supply his own pesticide application equipment, use pesticide-applying power equipment, or use any equipment other than a handheld container when applying the pesticide.

Section 50. Section 482.226, Florida Statutes, is amended to read:

482.226 ~~Termite or other~~ Wood-destroying organism inspection report; notice of inspection or treatment; *financial responsibility*.—

(1) When an inspection for wood-destroying organisms is made by a licensee for purposes of a real estate transaction *and either*, a fee is charged for the inspection or a written report is requested by the customer, a ~~termite or other~~ wood-destroying organism inspection report shall be provided by the licensee or its representative qualified under this chapter ~~measure~~ to perform such inspections. The inspection shall be made in accordance with good industry practice and standards as established by rule and *must* shall include inspection for all wood-destroying organisms. The inspection findings shall be reported to the ~~person party~~ requesting the inspection. The report *must* shall be made on a form prescribed by the department and furnished by the licensee. ~~The inspection report shall contain a statement that a notice of the wood-destroying organism inspection has been affixed to the property in accordance with subsection (5) or subsection (6) and shall state the location of the notice.~~ A copy of the inspection report shall be retained by the licensee for a period of not less than 3 years.

(2)(a) The inspection report ~~must form prescribed pursuant to this section~~ shall include the following information *and statements*:

1.(a) The licensee's name.

2.(b) The date of the inspection.

3.(c) The address of the structure inspected.

4.(d) Any visible accessible areas not inspected and the *reasons* ~~reason~~ for not inspecting *them*.

5.(e) The areas of the structure ~~that~~ *which* were inaccessible.

6.(f) Any visible evidence of previous treatments for, or infestations of, wood-destroying organisms.

7.(g) The identity of any wood-destroying organisms present and any visible damage caused.

8. A statement that a notice of the inspection has been affixed to the property in accordance with subsection (4) or subsection (5) and a statement of the location of the notice.

(b) If any pest control treatment is provided at the time of the inspection, the inspection report *must also provide* ~~shall include~~ the name of each of the wood-destroying organisms for which treatment was provided, the name of the pesticide used, and all conditions and terms associated with *that* ~~such~~ treatment.

(c) ~~An inspection~~ *Such report does* ~~shall not be construed to constitute a guarantee of the absence of wood-destroying such organisms or damage therefrom or other evidence unless the report specifically states therein the extent of such guarantee.~~

(d)(3) The inspection report ~~must also form prescribed pursuant to this section~~ shall include a statement certifying that neither the inspector nor the licensee by whom the inspection is made has any financial interest in the property inspected or is associated in any way in the transaction with any party to the transaction other than for inspection purposes.

(3)(4) ~~If~~ *When* periodic reinspections or retreatments are specified in wood-destroying organisms preventive or control contracts, the licensee shall furnish the property owner or his authorized agent, after each such reinspection or retreatment, a signed report indicating the presence or absence of wood-destroying organisms covered by the contract, whether retreatment was made, and the common or brand name of the pesticide used. Such report need not be on a form prescribed by the department. A person may not perform periodic reinspections or retreatments unless he has an identification card issued under s. 482.091(9)(6).

(4)(5) When a wood-destroying organism inspection is provided in accordance with subsection (1), the licensee shall post notice of such inspection immediately adjacent to the access to the attic or crawl area or other readily accessible area of the property inspected. This notice *must* shall be at least 3 inches by 5 inches *in size* and *must* shall consist of a material that will last at least 3 years. It is a violation of this chapter ~~measure~~ for anyone other than the property owner to remove such notice at any time. The licensee's name and address and the date of inspection *must* shall be stated on the notice.

(5)(6) In addition to the notice required by subsection (4)(5), any licensee who performs control of any wood-destroying organism shall post notice of such treatment immediately adjacent to the access to the attic or crawl area or other readily accessible area of the property treated. This notice *must* shall be at least 3 inches by 5 inches *in size* and *must* shall consist of a material that will last at least 3 years. It is a violation of this chapter ~~measure~~ for anyone other than the property owner to remove such notice at any time. The licensee's name and address, the date of treatment, the name of the pesticide used, and the wood-destroying organism for which treatment was performed *must* shall be stated on the notice. The contract for treatment between the licensee and the consumer *must* shall state the location of such notice.

(6)(7) ~~Effective July 1, 1990,~~ Any licensee ~~that~~ *who* performs wood-destroying organism inspections in accordance with subsection (1) *must* shall ~~be required to~~ meet minimum financial responsibility in the form of ~~errors and omissions (professional liability) insurance coverage or bond in an amount no less than \$50,000 in the aggregate and \$25,000 per occurrence,~~ or demonstrate that the licensee ~~firm~~ has equity or net worth of no less than \$100,000 as determined by generally accepted accounting principles substantiated by a certified public accountant's review or certified audit.

(a) The licensee *must* shall show proof of meeting this requirement at the time of license application or renewal thereof.

(b) ~~The department shall specify by rule any further requirements of this subsection.~~

Section 51. Section 482.2265, Florida Statutes, is amended to read:

482.2265 *Consumer information*; notice of application of pesticide; *registry of pesticide-sensitive persons*.—

(1) Any person, *partnership, firm, corporation, or other business entity that* ~~who~~ is licensed or certified under this chapter to engage in the business of pest control, or any other person who is a limited certificateholder under this chapter, shall, upon request, provide a ~~each~~ customer of its pest control services with the following *information*:

(a) The business name of the licensee or certificateholder or the name of the limited certificateholder ~~person applying the pesticide.~~

(b) The identification card number of the person applying the pesticide or, if a limited certificateholder, the name of that person.

(c) The common or brand name of the pesticide to be used *and* ~~or~~ the common name of the active ingredient in *that* ~~the~~ pesticide.

(d) Appropriate safety information *pertaining to the pesticide for end use* ~~dilution of product to be used,~~ as provided on the label for that product ~~manufacturer's safety data sheet.~~

(2) Any person who is licensed or certified under this chapter, including any person who is a limited certificateholder, shall post a notice in a conspicuous location at the time of application of a pesticide to a lawn or to exterior foliage. The department shall provide for the wording and physical makeup of such notice by rule, but the notice must:

- (a) Be at least 4 inches by 5 inches in size;
- (b) Be constructed of rigid, durable weatherproof material;
- (c) Have a background and lettering of contrasting colors; and
- (d) Clearly set forth the business name of the licensee or name of the limited certificateholder making the pesticide application.

The notice may be made part of a larger sign containing additional information, but the department may not require a sign larger than 4 inches by 5 inches unless the licensee or limited certificateholder seeks to include additional information on the sign.

(3)(a) The department shall maintain a current registry of pesticide-sensitive persons. Upon request, the department shall register any person who pays a registration fee of \$50 and submits to the department:

1. A certificate from a physician qualified in a category established by department rule which states that the person has a sensitivity to a particular pesticide or class of pesticides and which either states that the physician has a pre-existing doctor-patient relationship with that person or provides a detailed medical history of that person for the particular pesticide-sensitivity designation; or

2. A physician's certificate stating that the person is currently under the physician's care for a diagnosed condition or ailment for which the physician has documented proof that the normal application of a pesticide according to good industry practice and standards would aggravate the condition or ailment to such an extent that placement on the registry for prior notification of the application of a pesticide is necessary to protect that person's health.

A person desiring to have his name continue to appear on the registry from year to year must register each year in the same manner as for original registration except that the fee for any subsequent registration is only \$10. In a bona fide case of a person's financial inability to pay the initial registration fee or any subsequent registration fee, the department may grant a waiver of the fee or all such fees.

(b) The department shall notify all licensees and certificateholders quarterly or more often if necessary of the names and addresses of those persons who are currently registered as pesticide-sensitive and of their particular sensitivities and of any special notification requirements established pursuant to paragraph (d).

(c) Before making a pesticide application to a lawn, plant bed, or exterior foliage on property contiguous with or adjacent to the property on which the primary residence of a person registered under paragraph (a) is located, a licensee or certificateholder must notify that person at least 24 hours before applying the pesticide. Notification may be made by telephone, by mail, in person, or by hand delivery. Notification must also include information on the type of pesticide to be used, except in an instance of pesticide application of a small amount on an infestation or disease that is discovered onsite at the time of treatment.

(d) The department may designate a particular person as especially pesticide-sensitive if the person, in addition to submitting the documentation and fees required by paragraph (a), submits clear and convincing proof that he has a hypersensitivity to pesticides to such an extent that the notification required by paragraph (c) would not be adequate to prevent his health from being endangered and that notification of pesticide application at a greater distance from his residence is necessary to protect his health. Any person registered under this paragraph must be provided notification of a pesticide application at a greater distance from the person's residence as fixed by the department based on the proof submitted by the registrant. However, the department may not require notification of pesticide application at a distance any greater than one-half mile from the boundaries of the property where a hypersensitive person resides, and it shall limit such extra-distance notifications to instances of use of the pesticide or pesticide class to which sensitivity is documented. Additionally, the department may limit notification requirements with respect to the application of a pesticide in excess of a stipulated quantity. Further, a distance requirement must

be set at the minimum distance required to prevent the health of the registrant from being endangered. The department's determination with respect to an application to designate a person under this paragraph as especially pesticide-sensitive is subject to the procedure set forth in s. 120.57, and pest control operators conducting business in the general area of the person's residence have standing to participate as parties to such proceeding.

(e) It is the responsibility of a registrant under this subsection to notify the department of the addresses of the properties or residences that fall within the applicable contiguous, adjacent, or special-distance parameters for notification. The department shall supply this information to licensees and certificateholders.

(f) This section does not create any duties, liabilities, or obligations of licensees or certificateholders to registrants other than those expressly stated in this section.

~~(3) The department shall establish by rule criteria for medical proof by which a person may be determined to be chemically sensitive. Any person may, by certified mail, supply the department with such medical proof and his home address. The department shall provide to all persons licensed or certified to engage in the business of pest control under this chapter the name and home address of each person who has submitted medical proof of his chemically sensitive condition and paid a fee set by the department. Each person who is licensed or certified to engage in the business of pest control under this chapter shall notify a chemically sensitive person at least 24 hours prior to applying pesticide. Provisions for such notification shall be by department rule.~~

Section 52. Section 482.227, Florida Statutes, is amended to read:

482.227 Guarantees and warranties.—

(1) The term "guarantee" or "warranty" may be used in a contract for treatment of wood-destroying organisms only in the following circumstances:

(a) If the licensee promises to restore any property damaged by wood-destroying organisms during a specified period after the treatment, the term "full" or "unlimited" must ~~shall~~ be used together with the term "guarantee" or "warranty" wherever that such term occurs other than in a disclaimer under subsection (2).

(b) If the licensee promises only to provide additional treatment if infestation occurs during a specified period after treatment, the term "limited" must ~~shall~~ be used with the term "guarantee" or "warranty" wherever that such term occurs other than in a disclaimer under subsection (2).

(c) If the licensee does not promise to restore the property or provide additional treatment, the term "guarantee" or "warranty" may ~~shall~~ not be used except in a disclaimer under subsection (2).

(2) Any statement disclaiming an expressed or implied guarantee or warranty must ~~shall~~ appear in conspicuous type on the face of the contract.

Section 53. Section 482.231, Florida Statutes, is amended to read:

482.231 Use of fogging machines ~~permitted~~.—Only a certified operator who is operators certified in the category of general household pest control pests, or an authorized employee of a licensee employees under the supervision of such an operator thereof, may use a thermal-aerosol fogging machine machines in general household pest control.

Section 54. Section 482.2401, Florida Statutes, is created to read:

482.2401 Disposition and use of revenues from fees and fines.—

(1) All moneys collected or received by the department under this chapter shall be deposited in the Pest Control Trust Fund and, except as provided in subsection (3), shall be used by the department in carrying out the provisions of this chapter and in the education of the pest control industry.

(2) All expenditures authorized by this chapter shall be paid upon presentation of vouchers approved by the department.

(3) All revenues from administrative fines shall be used to support contract research in all pest control categories. The department shall appoint a committee composed of pest control industry members which shall assist the department in establishing research priorities, in developing requests for proposals for bids, and in selecting research contractors from qualified bidders.

Section 55. Section 482.241, Florida Statutes, is amended to read:

482.241 Liberal interpretation.—The provisions of this chapter ~~act~~ shall be liberally construed in order to effectively carry ~~them out the provisions of this act~~ in the interest of the public and its health, welfare, and safety.

Section 56. Section 482.25, Florida Statutes, is repealed.

Section 57. Section 15 of chapter 82-229, Laws of Florida, section 18 of chapter 89-180, Laws of Florida, and section 2 of chapter 89-198, Laws of Florida, are repealed.

Section 58. There is hereby appropriated to the Department of Agriculture and Consumer Services for fiscal year 1992-1993: six full-time equivalent positions, \$168,152 in recurring funds from the Pest Control Trust Fund, and \$46,149 in nonrecurring funds from the Pest Control Trust Fund to carry out the requirements of chapter 482, Florida Statutes, as amended by this act.

Section 59. The republication or amendment by this act of any provision of the Florida Statutes which is repealed by any other act of the Legislature, regardless of the effective date of the repeal and regardless of the session of the Legislature in which such repeal was enacted, shall not operate to abrogate that repeal.

Section 60. 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 pest control; transferring authority and responsibility for the John A. Mulrennan, Sr., Arthropod Research Laboratory from the Department of Health and Rehabilitative Services to the Department of Education; transferring the Office of Entomology Services in the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; transferring and continuing existing rules and pending judicial and administrative proceedings; amending ss. 388.011, 388.161, 388.162, 388.231, 388.261, 388.281, 388.301, 388.323, 388.341, 388.351, 388.361, 388.371, 388.381, F.S.; transferring authority and responsibility for mosquito control from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; amending ss. 388.111, 388.131, F.S.; authorizing the Commissioner of Agriculture to fill certain vacancies on mosquito control district boards of directors and to hold commissioners' surety bonds; amending s. 388.151, F.S.; requiring times and places of board meetings to be on file in the office of the board; amending s. 388.411, F.S.; deleting obsolete language; amending s. 388.42, F.S.; transferring the John A. Mulrennan, Sr., Arthropod Research Laboratory to the Department of Education, to be administered by Florida Agricultural and Mechanical University; providing additional responsibilities; amending s. 388.43, F.S.; requiring the Florida Medical Entomology Laboratory to report to the Department of Agriculture and Consumer Services; amending s. 388.45, F.S.; providing respective responsibilities of the Department of Health and Rehabilitative Services and the Department of Agriculture and Consumer Services regarding certain threats to public health and emergency declarations; amending s. 388.46, F.S.; transferring the Florida Coordinating Council on Mosquito Control to the Department of Agriculture and Consumer Services; providing for a representative from Florida A & M University; providing for appointment of the citizen members by the Commissioner of Agriculture for 4-year terms; amending s. 403.061, F.S.; conforming a cross-reference; transferring the Office of Entomology Services of the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; providing for location of the Office of Entomology Services; transferring and continuing existing rules and pending judicial and administrative proceedings; amending s. 482.011, F.S.; retitling the Pest Control Act; amending s. 482.021, F.S.; providing definitions; amending s. 482.032, F.S.; providing for enforcement of pest-control laws by the Department of Agriculture and Consumer Services; amending s. 482.051, F.S.; authorizing the department to adopt rules; amending s. 482.061, F.S.; providing for inspectors; amending s. 482.071, F.S.; providing for licenses; prescribing license fees; prohibiting issuing a new license to a licensee that sells its business or goes out of business in certain circumstances; amending and renumbering s. 482.081, F.S.; providing conditions precedent to issuing a pest control occupational license; amending s. 482.091, F.S.; providing for employee identification cards; amending s. 482.111, F.S.; providing for pest control operator's certificates; amending s. 482.121, F.S.; prohibiting misuse of certificates; amending s. 482.132, F.S.; revising qualifications for examination and certification; amending s. 482.141,

F.S.; revising guidelines with respect to examinations; amending s. 482.151, F.S.; providing for special identification card for persons who perform fumigation; amending s. 482.152, F.S.; revising provisions relating to duties of certified operators; creating ss. 482.155, 482.156, F.S.; providing for limited certification of certain persons; amending s. 482.161, F.S.; providing disciplinary grounds; providing disciplinary actions; increasing maximum penalties; creating s. 482.163, F.S.; prescribing responsibility for pest control activities of employee; providing for disciplinary actions with respect thereto; amending s. 482.165, F.S.; providing remedies for unlicensed practice; repealing s. 482.182, F.S., relating to offenses committed before 1965; creating s. 482.1821, F.S.; prohibiting a pest control business from closing its business and opening up a new pest control business under certain circumstances; providing for waiver under certain circumstances; amending s. 482.183, F.S.; providing a limit on actions; amending s. 482.191, F.S.; providing penalties; amending and renumbering s. 482.201, F.S.; providing for liens for furnishing pest control; amending s. 482.211, F.S.; providing exemptions; amending s. 482.226, F.S.; revising provisions with respect to wood-destroying organism inspections and inspection reports; revising financial responsibility requirements; amending s. 482.2265, F.S.; providing for consumer information and notice of pesticide application; providing for a registry of pesticide-sensitive persons; amending s. 482.227, F.S.; revising provisions relating to warranties and guarantees; amending s. 482.231, F.S.; providing for use of fogging machines; creating s. 482.2401, F.S.; providing for disposition and use of revenues from fees and fines; amending s. 482.241, F.S.; providing for liberal interpretation; repealing s. 482.25, F.S., relating to application of pest control law; repealing s. 15, ch. 82-229, s. 18, ch. 89-180, and s. 2, ch. 89-198, Laws of Florida, which provide for termination of ss. 482.011-482.25, F.S., effective October 1, 1992; providing an appropriation; providing for effect of subsequent amendments; providing an effective date.

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

Amendment 1A—On page 49, strike all of lines 28-30 and insert: amount of not more than \$150 or less than \$50; and a recertification fee of \$25 every 4 years. Until rules setting these fees

Amendment 1 as amended was adopted.

On motion by Senator Weinstock, by two-thirds vote **HB 2341** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—0

SB 590—A bill to be entitled An act relating to the Transportation Disadvantaged Commission; amending s. 287.042, F.S.; authorizing private nonprofit community transportation coordinators, while conducting commission business, to purchase operational supplies at state contract rates; amending s. 427.011, F.S.; amending the definition of the term "transportation disadvantaged"; defining the term "nonsponsored transportation disadvantaged services"; amending s. 427.012, F.S.; increasing the membership of the Transportation Disadvantaged Commission; amending s. 427.013, F.S.; providing for the development of needs-based criteria for the distribution of funds for nonsponsored transportation disadvantaged services; providing for the review of rates charged by proposed alternate transportation operators; providing for a cost-comparison study of community transportation coordinators; amending s. 427.0155, F.S.; increasing the duties of community transportation coordinators; amending s. 427.0157, F.S.; increasing the powers and duties of coordinating boards; amending s. 427.0159, F.S.; providing for distribution criteria for funds for nonsponsored transportation disadvantaged services; amending s. 427.016, F.S.; authorizing the use of alternate transportation operators in certain circumstances; requiring each state agency to inform the commission in writing of the amount of funds the agency has allocated for transportation disadvantaged services; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **SB 590** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

On motions by Senator Thurman, by two-thirds vote **CS for HB 729** was withdrawn from the Committees on Agriculture and Appropriations.

On motion by Senator Thurman—

CS for HB 729—A bill to be entitled An act relating to firefighting training; amending s. 590.02, F.S.; providing that the Division of Forestry of the Department of Agriculture and Consumer Services shall develop a training curriculum for forestry firefighters; amending s. 633.35, F.S.; authorizing the Division of State Fire Marshal to issue a Certificate of Forestry Firefighter to persons who successfully complete training; providing for rights, privileges, and benefits of forestry firefighters; providing an effective date.

—a companion measure, was substituted for **CS for SB 1958** and read the second time by title. On motion by Senator Thurman, by two-thirds vote **CS for HB 729** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for CS for SB 684—A bill to be entitled An act relating to the district school tax; amending s. 236.25, F.S.; providing for additional purposes for which the school board millage levy may be used; deleting the maximum period for which proceeds from the millage levied pursuant to s. 236.25(2), F.S., may be used to lease relocatable educational facilities; providing an effective date.

—was read the second time by title.

Senator Gardner moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, line 1, insert:

Section 2. Paragraph (c) of subsection (3) of section 235.435, Florida Statutes, is amended to read:

235.435 Funds for comprehensive educational plant needs.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows:

(3)

(c) A school board may lease relocatable educational facilities for up to 3 years using ~~local capital outlay millage and~~ nonbonded PECO funds and for any time period using local capital outlay millage.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 9, after the semicolon (;) insert: amending s. 235.435, F.S.; deleting the 3-year limit on leasing relocatable educational facilities using local capital outlay millage;

On motion by Senator Gardner, by two-thirds vote **CS for CS for SB 684** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **CS for CS for SB 936** was deferred.

CS for SB 452—A bill to be entitled An act relating to dependent children; amending s. 39.01, F.S.; revising the definition of the term “abandoned” for the purposes of proceedings relating to juveniles; providing an effective date.

—was read the second time by title. On motion by Senator Gardner, by two-thirds vote **CS for SB 452** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2178—A bill to be entitled An act relating to local option tourist development taxes; authorizing the governing body of a county that levied a tourist development tax before a certain date, which tax is invalidated because a specified condition precedent to the levy of the tax was not complied with before the ordinance levying the tax was adopted, and that levies another such tax in accordance with general law, which tax is approved by the voters of that county before a certain date, to use the proceeds from the invalidated tax for the purposes authorized in the new levy; providing an effective date.

—was read the second time by title.

The Committee on International Trade, Economic Development and Tourism recommended the following amendment which was moved by Senator Dudley and failed:

Amendment 1 (with Title Amendment)—On page 1, line 27, strike “may” and insert: must

And the title is amended as follows:

In title, on page 1, line 3, strike “authorizing” and insert: requiring

Senator Dudley moved the following amendment:

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

Section 1. The governing body of any county that levied a tourist development tax pursuant to section 125.0104, Florida Statutes, before December 1, 1991, regardless of the effective date of the initial ordinance, which tax is invalidated or subject to invalidation for failure to follow the requirements of section 125.0104(4), Florida Statutes, including, but not limited to, the failure of a tourist development council to submit a requisite spending plan for tourist development to the governing body of the county for approval before the ordinance levying the tax was adopted, and that subsequently levies another such tax pursuant to section 125.0104, Florida Statutes, which tax is approved by a majority vote of the electors of the county voting in a referendum before July 1, 1993, shall use the proceeds of the invalidated tax for the purposes that are authorized in the new levy. If the subsequent tourist development tax is disapproved by a majority of the electors of the county voting in a referendum before July 1, 1993, the proceeds of the tourist development tax which was levied prior to December 1, 1991, and was invalidated or subject to invalidation as a result of a failure to follow the requirements of section 125.0104(4), Florida Statutes, shall be used for any purpose which was authorized in the initial ordinance. Nothing in this section shall be construed to cure any failure to comply with section 125.0104(6), Florida Statutes.

Section 2. Paragraphs (a) and (b) of subsection (5) and subsections (7) and (9) of section 125.0104, Florida Statutes, are amended to read:

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

(5) AUTHORIZED USES OF REVENUE.—

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums, or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied. However, these purposes may be implemented through service contracts and leases with persons who maintain and operate adequate existing facilities;

2. To promote and advertise tourism in the State of Florida and nationally and internationally;

3. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county; or

4. To finance beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access.

(b) Tax revenues received pursuant to this section by a county of less than 500,000 population imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more museums, zoological parks, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to the provisions of s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(7) **AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.**—Anything in this section to the contrary notwithstanding, if the plan for tourist development approved by the governing board of the county, as amended from time to time pursuant to paragraph (4)(d), includes the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization, the county ordinance levying and imposing the tax shall automatically expire upon the retirement of all bonds issued by the county for financing the same; however, nothing herein shall preclude that county from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

(9) **COUNTY TOURISM PROMOTION AGENCIES.**—In addition to any other powers and duties provided for agencies created for the purpose of tourism promotion by a county levying the tourist development tax, such agencies are authorized and empowered to:

(a) Provide, arrange, and make expenditures for transportation, lodging, meals, and other reasonable and necessary items and services for such persons, as determined by the head of the agency, in connection with the performance of promotional and other duties of the agency. However, entertainment expenses shall be authorized only when meeting with travel writers, tour brokers, or other persons connected with the tourist industry. All travel and entertainment-related expenditures in excess of \$10 made pursuant to this subsection shall be substantiated by paid bills therefor. Complete and detailed justification for all travel and entertainment-related expenditures made pursuant to this subsection shall be shown on the travel expense voucher or attached thereto. Transportation and other incidental expenses, other than those provided in s. 112.061, shall only be authorized for officers and employees of the agency, other authorized persons, travel writers, tour brokers, or other persons connected with the tourist industry when traveling pursuant to paragraph (c). All other transportation and incidental expenses pursuant to this subsection shall be as provided in s. 112.061. Operational or promotional advancements, as defined in s. 288.35(4), obtained pursuant to this subsection, shall not be commingled with any other funds.

(b) Pay by advancement or reimbursement, or a combination thereof, the costs of per diem and incidental expenses of officers and employees of the agency and other authorized persons, for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)." The provisions of this paragraph shall apply for any officer or employee of the agency traveling in foreign countries for the purposes of promoting tourism and travel to the county, if such travel expenses are approved and certified by the agency head from whose funds the traveler is paid. As used in this paragraph, the term "authorized person" shall have the same meaning as provided in s. 112.061(2)(e). With the exception of provisions concerning rates of payment for per diem, the provisions of s. 112.061 are applicable to the travel described in this paragraph. As used in this paragraph, "foreign travel" means all travel outside the United States. Persons traveling in foreign countries pursuant to this subsection shall not be entitled to reimbursements or advancements pursuant to s. 112.061(6)(a)2.

(c) Pay by advancement or reimbursement, or by a combination thereof, the actual reasonable and necessary costs of travel, meals, lodging, and incidental expenses of officers and employees of the agency and other authorized persons when meeting with travel writers, tour brokers, or other persons connected with the tourist industry, and while attending or traveling in connection with travel or trade shows. With the exception of provisions concerning rates of payment, the provisions of s. 112.061 are applicable to the travel described in this paragraph.

(d) Undertake marketing research and advertising research studies and provide reservations services and convention and meetings booking services consistent with the authorized uses of revenue as set forth in subsection (5).

1. Information given to a county tourism promotion agency which, if released, would reveal the identity of persons or entities who provide data or other information as a response to a research project or whose names, addresses, meeting or convention plan information or accommodations or other visitation needs become booking or reservation list data, is exempt from the provisions of s. 119.07(1).

2. When held by a county tourism promotion agency, the following are exempt from the provisions of s. 119.07(1):

- a. A trade secret, as defined in s. 812.081.
- b. Booking business records, as defined in s. 255.047.
- c. Trade secrets and commercial or financial information gathered from a person and privileged or confidential, as defined and interpreted under 5 U.S.C., s. 552(b)(4), or any amendments thereto.

The exemptions in this paragraph are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Joint interim study committee.—There is created a joint interim study committee, to be known as the Joint Study Committee on Tourist-Related Taxes.

(1) **MEMBERSHIP, ORGANIZATION, AND MEETINGS.**—

(a) The committee shall be composed of six members, three of whom shall be members of the House of Representatives appointed by the Speaker of the House of Representatives and three of whom shall be members of the Senate appointed by the President of the Senate. At least one member from each house shall be a member of the minority party.

(b) Upon appointment of the members, the committee shall meet and organize. Thereafter, the committee shall meet in Tallahassee and at such other locations in Florida as may be convenient.

(2) **PER DIEM AND TRAVEL EXPENSES.**—Members of the Joint Study Committee on Tourist-Related Taxes shall be entitled to reimbursement for per diem and travel expenses, as set forth in s. 112.061, Florida Statutes.

(3) **REVIEW.**—The committee shall review:

- (a) Current tourist-related tax laws, levying procedures, taxpayer compliance, and local tax revenue use policies as they relate to legislative intent;
- (b) The duties of both the tourist development councils and the county governing boards regarding the authority to levy the local option tourist development tax and approval of tax revenue expenditure plans;
- (c) Local tourism promotion and advertising needs;
- (d) Local tourism facility capitalization needs;
- (e) Specific categories of currently authorized tax revenue uses, as well as other proposed uses, including usage for such purposes as emergency services and purchase of property for assemblage for redevelopment;
- (f) Any other subject relative to tourist taxes deemed advisable by the committee.

(4) **COMMITTEE REPORT; TERMINATION OF COMMITTEE.**—The committee shall make a report of its findings and recommendations relative to those issues specified for review in subsection (3), which report may include proposed legislation, which shall be presented to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate no later than January 1, 1993, upon which date the committee shall cease to exist.

Section 4. 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 the tourist development tax; authorizing the governing body of a county that levied a tourist development tax before a certain date, which tax is invalidated or subject to invalidation for specified reasons and that levies another such tax in accordance with general law, which tax is approved by the voters of that county before a certain date, to use the proceeds from the invalidated tax for the purposes authorized in the new levy; providing for the use of the proceeds of such invalidated tax for the purposes authorized in the initial ordinance if the referendum on the new levy is disapproved; amending s. 125.0104, F.S.; allowing revenues from the tax to be used for certain museums by any county that imposes the tax; providing for expiration of the tax upon the retirement of bonds issued to finance such museums; authorizing county tourism promotion agencies to undertake certain research studies and provide certain reservation and booking services; providing an

exemption from public records requirements for certain information given to or held by county tourism promotion agencies; providing for future review and repeal; providing for the creation of a joint legislative committee to study tourist-related taxes and make recommendations; providing for expiration; providing an effective date.

On motion by Senator Dudley, further consideration of **SB 2178** with pending **Amendment 2** was deferred.

Consideration of **CS for SB 2026** was deferred.

CS for HB 89—A bill to be entitled An act for the relief of James Wortham, a minor; providing an appropriation to compensate him for injuries suffered due to the negligence of the Department of Health and Rehabilitative Services; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for HB 89** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—None

CS for HB 601—A bill to be entitled An act for the relief of Marshall D. Simmons and Alicia Simmons, a minor; providing an appropriation to compensate them for the wrongful death of Kathy Ann Simmons, wife and mother, and other damages sustained in an auto accident resulting from the negligence of the Department of Transportation; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for HB 601** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—1

CS for HB 1011—A bill to be entitled An act for the relief of M. H., a single woman; providing an appropriation to compensate her for injuries sustained as a result of the negligence of the District Board of Trustees of Miami-Dade Community College; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote **CS for HB 1011** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26 Nays—1

HB 1065—A bill to be entitled An act relating to Metropolitan Dade County; providing for the relief of James C. Griffin, as personal representative of the estate of Desire M. Griffin, a deceased minor, James C. Griffin, individually and as surviving parent of Desire M. Griffin, a deceased minor, and Judith L. Griffin, individually and as surviving parent of Desire M. Griffin, a deceased minor, to compensate them for losses they sustained as the result of an accident which caused the death of Desire M. Griffin, a minor child, as a result of the negligence of Metropolitan Dade County; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1065** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28 Nays—4

CS for HB 1111—A bill to be entitled An act for the relief of Edith and Lewis Crosley, parents of Todd Patrick Neely; providing an appropriation to compensate them for losses incurred in defense of their son, unjustly arrested by the Martin County Sheriff's Department and convicted on the basis of evidence suppressed by the state; providing an effective date.

—was read the second time by title. On motion by Senator Johnson, by two-thirds vote **CS for HB 1111** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—3

CS for HB 1419—A bill to be entitled An act for the relief of Mr. and Mrs. Darriel Swindell; providing an appropriation to compensate them for injuries caused by the negligence of Prison Rehabilitative Industries and Diversified Enterprises, Inc., (PRIDE); providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 2, lines 21-31, and on page 3, lines 1-10, strike all of said lines and insert:

Section 2. The company created under chapter 946, F.S., is directed to pay out of its funds, to Mr. and Mrs. Darriel Swindell as relief for their injuries and damages sustained, no later than 60 days after this act takes effect, the sum of \$372,741, without interest. The Department of Corrections shall not pay, directly or indirectly; out of any of its funds or any funds under its control, any of the sum specified and directed in this act.

(Renumber subsequent section.)

On motion by Senator Girardeau, by two-thirds vote **CS for HB 1419** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

HB 2203—A bill to be entitled An act relating to the School District of Dade County, Florida; providing for the relief of Kevin Johnson, a minor, by and through his mother and guardian, Joanne Adside; directing the district school board to provide compensation for serious physical injury suffered by Kevin Johnson while enrolled in an after-school child care program at Lillie C. Evans Elementary School; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote **HB 2203** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

HB 2219—A bill to be entitled An act for the relief of Ozie L. Brown, as personal representative of the estate of Alton P. Bass, deceased; providing an appropriation to compensate her for the death of her son, Alton P. Bass, in a drowning accident at Lake Wauberg in Alachua County, Florida; providing an effective date.

—was read the second time by title. On motion by Senator Weinstein, by two-thirds vote **HB 2219** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—26 Nays—9

RECONSIDERATION

On motion by Senator Girardeau, the Senate reconsidered the vote by which—

CS for SB's 1368 and 72—A bill to be entitled An act relating to civil rights; amending s. 760.01, F.S.; renaming the Human Rights Act of 1977 as the Florida Civil Rights Act of 1992; including provisions concerning public lodging establishments and public food service establishments in the act; amending s. 760.02, F.S.; providing definitions; amending s. 760.03, F.S.; providing for full-time and advisory commissioners; revising the quorum provisions; revising language with respect to the executive director of the Florida Commission on Human Relations; amending s. 760.04, F.S.; providing for the assignment of the commission to the Executive Office of the Governor; amending s. 760.06, F.S.; revising language with respect to the powers of the commission; creating s. 760.07, F.S.; providing for a right of action for persons aggrieved by discriminatory practices in the areas of education, employment, housing, and public accommodations; amending s. 760.10, F.S.; eliminating language with respect to remedies and construction concerning unlawful employment practices; providing for the application of the section to certain religious corporations, associations, educational institutions, or societies; creating s. 760.11, F.S.; providing for administrative and civil remedies; providing for construction; amending s. 760.36, F.S.; revising language with respect to conciliation agreements to conform to the act; providing for application; amending s. 509.092, F.S.; revising language with respect to public lodging establishments and public food service establishments; providing for a right of action for civil rights violations; providing for severability; providing effective dates.

—passed as amended this day.

On motion by Senator Girardeau, by two-thirds vote the Senate reconsidered the vote by which **CS for SB's 1368 and 72** was read the third time.

Senator Gordon moved the following amendment which was adopted:

Amendment 9 (with Title Amendment)—On page 22, between lines 29 and 30, insert:

Section 12. Discriminatory practices of certain clubs prohibited; remedies.—

(1) It is unlawful for a person to discriminate against any individual because of race, color, religion, gender, national origin, handicap, age above the age of 21, or marital status in evaluating an application for membership in a club that has more than 400 members, that provides regular meal service, and that regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from nonmembers for business purposes. It is unlawful for a person, on behalf of such a club, to publish, circulate, issue, display, post, or mail any advertisement, notice, or solicitation that contains a statement to the effect that the accommodations, advantages, facilities, membership, or privileges of the club are denied to any individual because of race, color, religion, gender, national origin, handicap, age above the age of 21, or marital status. This subsection does not apply to fraternal or benevolent organizations, ethnic clubs, or religious organizations where business activity is not prevalent.

(2) A person who has been discriminated against in violation of this act may file a complaint with the Commission on Human Relations or with the Attorney General's Office of Civil Rights. A complaint must be in writing and must contain such information and be in such form as the commission requires. Upon receipt of a complaint, the commission or the Attorney General shall provide a copy to the person who represents the club. Within 30 days after receiving a complaint, the commission or the Attorney General shall investigate the alleged discrimination and give notice in writing to the person who filed the complaint if it intends to resolve the complaint. If the commission or the Attorney General decides to resolve the complaint, it shall attempt to eliminate or correct the alleged discriminatory practices of a club by informal methods of conference, conciliation, and persuasion.

(3) If the commission or the Attorney General fails, within 30 days after receiving a complaint filed pursuant to subsection (2), to give notice of its intent to eliminate or correct the alleged discriminatory practices of a club, or if the commission or the Attorney General fails to resolve the complaint within 30 days after giving such notice, the person or the Attorney General on behalf of the person filing the complaint may commence a civil action in a court against the club, its officers, or its members to enforce this section. If the court finds that a discriminatory practice occurs at the club, the court may enjoin the club, its officers, or its members from engaging in such practice or may order other appropriate action.

(4) This section shall take effect on January 1, 1993.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 6, after the semicolon (;) insert: 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 exceptions; 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;

On motion by Senator Girardeau, by two-thirds vote **CS for SB's 1368 and 72** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **SB 2224** and **SB 930** was deferred.

CS for SB 1040—A bill to be entitled An act relating to the Administrative Procedure Act; providing legislative intent; amending s. 120.54, F.S.; requiring agencies to consider the impact of rule adoption, amendment, or repeal on certain counties; requiring agencies to allow such counties to present evidence and hear arguments and to propose alternatives to intended agency actions; requiring agencies to adopt proposed alternatives when possible; providing for notification; providing an effective date.

—was read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for SB 1040** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

SB 1186—A bill to be entitled An act relating to sales and use taxes; amending s. 212.08, F.S.; exempting the sale of certain film, art, and other supplies used in the process of producing printed or other reproductions of written or graphic matter for resale from the sales and use tax; providing an effective date.

—was read the second time by title.

On motion by Senator Scott, further consideration of **SB 1186** was deferred.

The Senate resumed consideration of—

SB 2178—A bill to be entitled An act relating to local option tourist development taxes; authorizing the governing body of a county that levied a tourist development tax before a certain date, which tax is invalidated because a specified condition precedent to the levy of the tax was not complied with before the ordinance levying the tax was adopted, and that levies another such tax in accordance with general law, which tax is approved by the voters of that county before a certain date, to use the proceeds from the invalidated tax for the purposes authorized in the new levy; providing an effective date.

—which had been previously considered this day with pending **Amendment 2** by Senator Dudley.

Senator Childers moved the following amendments to **Amendment 2** which were adopted:

Amendment 2A—On page 1, between lines 10 and 11, insert:

Section 1. All acts and proceedings taken before the date this act becomes a law in connection with a referendum election held in any county before that date, including the publication of the notice of such election, at which election the levy of a local option sales surtax was authorized, pursuant to section 212.055, Florida Statutes, on transactions occurring within the county for the purpose of providing funds for local government infrastructure needs are ratified, validated, and confirmed, and the referendum election is declared to be legal and valid in all respects.

(Renumber subsequent sections.)

Amendment 2B—In title, on page 8, strike line 21 and insert: An act relating to local option taxes; ratifying county referenda heretofore held at which local option sales surtaxes were approved and acts in connection with such referenda;

On motion by Senator Dudley, further consideration of **SB 2178** with pending **Amendment 2** as amended was deferred.

SB 930—A bill to be entitled An act relating to law enforcement officers; amending s. 112.19, F.S.; redefining the term "law enforcement officer" with respect to the payment of certain death benefits; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 930** to conform the bill to **HB 935**.

Pending further consideration of **SB 930** as amended, on motions by Senator Crotty, by two-thirds vote **HB 935** was withdrawn from the Committees on Personnel, Retirement and Collective Bargaining; Community Affairs; and Appropriations.

On motion by Senator Crotty—

HB 935—A bill to be entitled An act relating to public safety officers; amending s. 112.19, F.S.; redefining the term "law enforcement officer" with respect to death benefits to include officers who serve process or attend terms of the circuit or county court or bailiffs; amending s. 112.191, F.S.; revising language with respect to death benefits payable to firefighters killed in the line of duty; providing for retroactive application; providing an effective date.

—a companion measure, was substituted for **SB 930** and read the second time by title.

Senator Weinstein moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 2, strike all of lines 3-5 and insert:

Section 2. Paragraph (b) of subsection (1) and paragraph (c) of subsection (2) of section 112.191, Florida Statutes, are amended to read:

112.191 Firefighters; death benefits.—

(1) Whenever used in this act:

(b) The term “firefighter” means any full-time duly employed uniformed firefighter employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of municipal, county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is certified pursuant to s. 633.35, and who is a member of a duly constituted fire department of such employer or is a volunteer firefighter, ~~and not a volunteer fireman.~~

And the title is amended as follows:

In title, on page 1, line 7, after the second semicolon (;) insert: redefining the term “firefighter” to include volunteer firefighters;

On motion by Senator Crotty, by two-thirds vote **HB 935** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **CS for SB 1252** was deferred.

CS for SB 1152—A bill to be entitled An act relating to victim assistance; amending s. 90.616, F.S.; providing that in criminal cases certain witnesses may not be excluded; amending ss. 775.089, 921.187, F.S.; clarifying provisions relating to orders of restitution; amending s. 960.03, F.S.; revising the definition of the terms “claimant,” “crime,” and “hearing officer” for the purposes of the Florida Crimes Compensation Act; amending and transferring s. 960.06, F.S.; providing for and expanding eligibility for awards under the Florida Crimes Compensation Act; amending and transferring s. 960.04, F.S.; providing for the powers and duties of the Department of Legal Affairs; amending s. 960.05, F.S.; providing additional duties of the Crime Victims’ Services Office; amending s. 960.07, F.S.; correcting a cross-reference to conform; amending s. 960.09, F.S.; providing for the designation of hearing officers by the Attorney General with respect to claims; providing for the referral of certain claims; amending s. 960.13, F.S.; authorizing the department to establish limits for compensation for certain situations; amending s. 960.16, F.S.; revising provisions relating to subrogation and providing that certain claims shall be subrogated; amending s. 960.17, F.S.; providing for enforcement of restitution orders; providing for interest on outstanding unpaid amounts of restitution orders, and for liens on real estate owned by the defendant; amending s. 960.20, F.S.; increasing certain additional costs; requiring clerks of court to collect and remit such amounts; amending s. 960.28, F.S.; providing for enforcement of restitution orders; repealing s. 960.24, F.S.; relating to the functions and duties of the Department of Legal Affairs; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1—On page 3, strike all of lines 1-7 before, “NOW, THEREFORE,”

Amendment 2—On page 10, lines 28-31, and on page 11, lines 1-13, strike all of said lines and insert:

960.20 Additional costs.—When any person pleads guilty or nolo contendere to, or is convicted of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of \$50 \$20. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(10) shall also be assessed such cost. The clerk of the court shall collect and forward \$49 \$19 of each \$50 \$20 collected to the Treasurer, to be deposited in the Crimes Compensation Trust Fund.

The clerk shall retain the remaining \$1 of each \$50 \$20 collected as a service charge of the clerk’s office. Under no condition shall a political subdivision be held liable for the payment of this sum of \$50 \$20.

On motion by Senator Johnson, by two-thirds vote **CS for SB 1152** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **CS for CS for SB 620** was deferred.

SB 826—A bill to be entitled An act relating to governmental purchasing; amending ss. 235.31, 287.093, F.S.; providing for certain local government entities to set aside certain funds allocated for contracts with small businesses; providing for the use of such set-asides; 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 Meek and adopted:

Amendment 1 (with Title Amendment)—On page 1, strike all of lines 11-15 after Section 1. and insert:

Paragraph (b) is amended and paragraph (c) is added to subsection (1) of section 235.31, Florida Statutes, to read:

235.31 Advertising and awarding contracts; day-labor projects; pre-qualification of contractor.—

(1)

(b) As an option, any county, municipality, community college, or district school board may set aside up to 10 percent of the total amount of funds allocated for the purpose of entering into construction capital project contracts with minority business enterprises, as defined in s. 288.703 287.094. Such contracts shall be competitively bid only among minority business enterprises. Such set-aside shall be used to redress present effects of past discriminatory practices and shall be subject to periodic reassessment to account for changing needs and circumstances.

And the title is amended as follows:

In title, on page 1, line 3, after the semicolon (;) insert: correcting a cross-reference;

Amendment 2—On page 1, line 17, and on page 2, line 12, strike all of said lines and insert: *district school board may set aside up to 10 percent of the total amount of funds allocated for*

On motion by Senator Meek, by two-thirds vote **SB 826** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—28 Nays—6

CS for CS for SB 936—A bill to be entitled An act relating to traffic infractions; amending s. 318.14, F.S.; providing for a reduction in civil penalty for electing to attend a driver improvement course; correcting a cross-reference; amending s. 318.1451, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to license and regulate driving schools; authorizing the department to test the effectiveness of such schools; amending s. 322.291, F.S.; requiring attendance at an advanced driver improvement course for a person whose driver’s license has been suspended or revoked for certain specified offenses; repealing s. 6, ch. 91-200, Laws of Florida, abrogating the repeal of ss. 318.14(9), 318.1451, 322.291, F.S.; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for CS for SB 936** to conform the bill to **CS for HB 1441**.

Pending further consideration of **CS for CS for SB 936**, on motions by Senator Jenne, by two-thirds vote—

CS for HB 1441—A bill to be entitled An act relating to traffic infractions; amending s. 318.14, F.S.; providing for a reduction in civil penalty for electing to attend a driver improvement course; correcting a cross-reference; amending s. 318.1451, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to license and regulate driving schools; authorizing the department to test the effectiveness of such

schools; amending s. 318.21, F.S.; providing for use of funds deposited into the Grants and Donations Trust Fund in the Department of Health and Rehabilitative Services; amending s. 322.291, F.S.; requiring attendance at an advanced driver improvement course for a person whose driver's license has been suspended or revoked for certain specified offenses; repealing s. 6, ch. 91-200, Laws of Florida, abrogating the repeal of ss. 318.14(9), 318.1451, 322.291, F.S.; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 936** and by two-thirds vote read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 1441** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

Consideration of **CS for CS for SB 832** was deferred.

SENATOR CHILDERS PRESIDING

CS for SB 716—A bill to be entitled An act relating to education; amending s. 228.041, F.S.; revising terminology in definitions of the terms "school day" and "exceptional student" and defining the term "year-round school"; amending s. 228.053, F.S.; conforming cross-references; amending s. 228.195, F.S.; providing for school breakfast programs for pre-kindergarten students; amending s. 229.555, F.S.; requiring school improvement plans to meet certain planning and budgeting requirements; amending s. 229.592, F.S.; conforming cross-references; amending s. 229.808, F.S.; providing for biennial nonpublic school surveys; amending s. 229.8341, F.S.; revising terminology relating to services for infants and preschool children; amending s. 230.23, F.S.; revising provisions relating to district school board powers and duties for provision of special instruction and services for exceptional students; amending and renumbering s. 235.439, F.S.; revising provisions relating to program monitoring and evaluation of full school utilization programs; amending s. 230.2303, F.S.; revising terminology relating to the Florida First Start Program; amending s. 230.2305, F.S., and repealing subsection (5), relating to pre-kindergarten early intervention program plan approval; revising terminology; revising requirements for plans and plan approval; requiring certain guidelines; amending s. 230.2316, F.S.; revising provisions relating to dropout prevention programs and program plans; deleting provisions relating to dropout retrieval assistance programs, a dropout prevention manual, community-based dropout prevention program grants, grants for mini-schools as educational alternatives, and grants for alternatives to out-of-school suspension; amending s. 230.2318, F.S.; conforming a cross-reference; amending s. 230.33, F.S.; revising provisions relating to planned school programs with respect to duties of the superintendent; amending s. 230.645, F.S.; providing for certain fee waivers; amending s. 231.15, F.S.; revising provisions relating to fees for certification; amending s. 231.17, F.S.; revising provisions relating to issuance of certificates, application procedures, the professional orientation program, and application of rules; requiring the state board to adopt rules under which applicants who have failed certain test requirements may be awarded a teaching certificate; amending s. 231.1711, F.S.; revising provisions relating to the statement of eligibility for certification; amending s. 231.173, F.S.; providing for qualification for certification of out-of-state administrators; amending s. 231.24, F.S.; revising provisions relating to certificate renewal; amending s. 231.603, F.S.; revising provisions relating to teacher education center inservice plans; amending s. 231.606, F.S.; revising teacher education center council duties; amending s. 231.609, F.S.; deleting college and university funding for teacher education centers; amending s. 231.613, F.S.; revising provisions relating to inservice training institutes; deleting requirements for plan approval; amending s. 231.62, F.S.; conforming a cross-reference; amending s. 232.01, F.S., relating to school attendance; revising terminology; amending s. 232.032, F.S.; providing for automated transfer of immunization certification; amending s. 232.246, F.S.; revising provisions relating to funding for special instruction for certain high school students; amending s. 232.2462, F.S.; revising provisions relating to attendance requirements for receipt of credit; creating s. 232.259, F.S.; authorizing rules to assist schools and school districts in implementing driver's license requirements; amending s. 233.056, F.S.; revising terminology relating to certain instructional programs; amending s. 233.07, F.S.; revising definition of the term "instructional materials"; amending s. 233.16, F.S.; authorizing cash deposits in lieu of bonds for instructional materials contracts; amending s. 233.18, F.S.; revising provisions relating to copies of bids, contracts, and books; amending s. 233.25, F.S.; revising provisions relating to publishers and manufacturers of instructional materials; amending s. 234.01, F.S.; authorizing the provision of certain transportation; amending s. 234.041, F.S.; revising termi-

nology relating to transportation of certain students; amending s. 235.014, F.S., and repealing subsection (3), relating to off-site hazards; revising provisions relating to functions of the Office of Educational Facilities; providing Department of General Services' duties; amending s. 235.19, F.S.; providing for request relating to off-site hazards; amending s. 235.26, F.S.; revising provisions relating to conformance to the state uniform building code; amending s. 236.013, F.S., relating to definitions; revising requirements for summer school programs; amending s. 236.081, F.S.; revising provisions relating to a program membership survey of schools and year-round schools; amending s. 236.0815, F.S.; revising provisions relating to funding of additional educational services to certain high school students; amending s. 236.083, F.S.; providing for funding for transportation to year-round schools; amending s. 236.0835, F.S.; revising terminology; amending s. 236.13, F.S.; conforming a cross-reference; amending s. 236.145, F.S., relating to residential nonpublic school contract reimbursement; revising terminology; amending s. 237.041, F.S.; revising provisions relating to the examination of annual budgets; amending s. 237.081, F.S.; revising provisions relating to submission of budgets; amending s. 240.405, F.S.; revising provisions relating to grants for teachers for training in exceptional student education; amending s. 242.332, F.S.; revising terminology; amending s. 381.0072, F.S.; deleting schools from provisions relating to food protection; repealing ss. 231.532, 233.0615, 236.022, 236.1227, 236.135, F.S., relating to district quality instruction incentives programs, law education, study of alternative methods of school finance, quality instruction incentive categorical program, and equipment purchasing or leasing; providing an effective date.

—was read the second time by title.

Senator Johnson moved the following amendments which were adopted:

Amendment 1 (with Title Amendment)—On page 75, line 6, insert:

Section 37. Paragraph (a) of subsection (1) of section 234.02, Florida Statutes, is amended to read:

234.02 Safety and health of pupils.—Maximum regard for safety and adequate protection of health shall be primary requirements which shall be observed by school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and regulations of the state board in providing transportation pursuant to s. 234.01:

(1) School boards shall use school buses, as defined in s. 234.051, for all regular transportation. Regular transportation or regular use shall mean transportation of students to and from school or school-related activities which are part of a scheduled series or sequence of events to the same location. "Students" means, for the purposes of this section, students enrolled in the public schools in prekindergarten programs through grade 12. School boards may regularly use motor vehicles other than school buses only under the following conditions:

(a) When the transportation is for *students with disabilities, physically handicapped or isolated students, or participants in teenage parent programs pursuant to s. 230.2316*, and the district has elected to provide for the transportation of the student through written or oral contracts or agreements.

When students are transported in motor vehicles, the occupant crash protection system provided by the vehicle manufacturer shall be used unless the student's physical condition prohibits such use.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 4, line 4, after the semicolon (;) insert: amending s. 234.02, F.S., relating to health and safety of pupils; changing the term "physically handicapped" to "students with disabilities"; providing certain transportation for participants in teenage parent programs;

Amendment 2 (with Title Amendment)—On page 86, between lines 3 and 4, insert:

Section 41. Subsection (1) of section 235.42, Florida Statutes, is amended to read:

235.42 Educational and ancillary plant construction funds; Public Education Capital Outlay and Debt Service Trust Fund; allocation of funds.—

(1) The commissioner, through the office, shall administer the Public Education Capital Outlay and Debt Service Trust Fund. The commissioner shall allocate or reallocate funds as authorized by the Legislature. Copies of each allocation or reallocation shall be provided to members of the State Board of Education and to the chairmen of the House of Representatives and Senate Appropriations Committees. The commissioner shall provide for timely encumbrances of funds for duly authorized projects. *Encumbrances may include proceeds to be received under a resolution approved by the State Board of Education authorizing the issuance of public education capital outlay bonds pursuant to s. 9(a)(2), Art. XII of the State Constitution, s. 215.61, and other applicable laws.* The commissioner shall provide for the timely disbursement of moneys necessary to meet the encumbrance authorizations of the boards, including the Board of Regents. Records shall be maintained by the office to identify legislative appropriations, allocations, encumbrance authorizations, disbursements, transfers, investments, sinking funds, and revenue receipts by source. The Department of Education shall pay the administrative costs of the Public Education Capital Outlay and Debt Service Trust Fund from the funds which comprise the trust fund.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 4, line 15, after the semicolon (;) insert: amending s. 236.42, F.S.; listing funds eligible for encumbrance;

Amendment 3 (with Title Amendment)—On page 96, lines 3-31, and on page 97, lines 1-17, strike all of said lines

And the title is amended as follows:

In title, on page 5, lines 8-10, strike everything after the semicolon (;) on line 8 through the semicolon (;) on line 10

Amendment 4 (with Title Amendment)—On page 97, between lines 17 and 18, insert:

Section 53. Paragraph (a) of subsection (9) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(9)(a) In addition to the notice required in subsection (3), a district school board shall publish a second notice of intent to levy additional taxes under s. 236.25(2). Such notice shall specify the projects or number of school buses anticipated to be funded by such additional taxes and shall be published in the size, within the time periods, adjacent to, and in substantial conformity with the advertisement required under subsection (3). The projects shall be listed in priority within each category as follows: construction and remodeling; maintenance, renovation, and repair; bus purchases; new and replacement equipment, *including instructional equipment and the software necessary for such equipment*; payments for educational facilities and sites due under a lease-purchase agreement; payments of loans approved pursuant to ss. 237.161 and 237.162; payment of costs of compliance with environmental statutes and regulations; and payment of costs of leasing relocatable educational facilities for up to 3 years. The additional notice shall be in the following form, except that the second sentence of the second paragraph shall be deleted if the district is advertising pursuant to paragraph (3)(e):

NOTICE OF TAX FOR SCHOOL
CAPITAL OUTLAY

The . . . (name of school district) . . . will soon consider a measure to impose a . . . (number) . . . mill property tax for the capital outlay projects listed herein.

This tax is in addition to the school board's proposed tax of . . . (number) . . . mills for operating expenses and is proposed solely at the discretion of the school board. **THE COMBINED SCHOOL BOARD TAX INCREASE FOR BOTH OPERATING EXPENSES AND CAPITAL OUTLAY IS SHOWN IN THE ADJACENT NOTICE.**

The capital outlay tax will generate approximately \$. . . (amount) . . ., to be used for the following projects:

. . . (list of capital outlay projects) . . .

All concerned citizens are invited to a public hearing to be held on . . . (date and time) . . . at . . . (meeting place) . . .

A DECISION on the proposed CAPITAL OUTLAY TAXES will be made at this hearing.

Section 54. Paragraph (d) of subsection (2) of section 236.25, Florida Statutes, is amended to read:

236.25 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 2 mills against the nonexempt assessed valuation for school purposes to fund:

(d) The purchase of new and replacement equipment, *including instructional equipment and the software necessary for such equipment.*

Section 55. Subsection (1) of section 237.161, Florida Statutes, is amended to read:

237.161 Obligations for a period of 1 year.—The school board of any district is authorized only under the following conditions to create obligations by way of anticipation of budgeted revenues accruing on a current basis without pledging the credit of the district or requiring future levy of taxes for certain purposes for a period of 1 year; however, such obligations may be extended from year to year with the consent of the lender for a period not to exceed 4 years, or for a total of 5 years including the initial year of the loan:

(1) PURPOSES.—The purposes for which such obligations may be incurred within the intent of this section shall include only the purchase of school buses, land, and equipment for educational purposes, *including instructional equipment and the software necessary for such equipment*; the erection of, alteration to, or addition to educational facilities; and the adjustment of insurance on educational property on a 5-year plan, as provided by rules of the state board.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 5, line 10, after the semicolon (;) insert: amending ss. 200.065, 236.25, 237.161, F.S.; providing for equipment purchased by school boards to include instructional equipment and software; requiring the notice of tax for school capital outlay to specify such purchases; authorizing school boards to incur obligations in anticipation of revenue for such purchases;

Amendment 5 (with Title Amendment)—On page 97, between lines 17 and 18, insert:

Section 53. The Department of Education is authorized to offer active employees of the department with 30 or more years of creditable service in a state administered retirement system a one-time voluntary reduction-in-force bonus during the 1992-1993 fiscal year. Such bonus shall represent a payment for insurance costs and shall be paid as an annuity to be purchased by the department within appropriated funds, which shall include funds derived from eliminating up to 200 vacated positions. Additionally, the department is authorized to certify forward on June 30, 1992, any unexpended funds to pay accrued annual and sick leave balances for terminating employees under this reduction-in-force program. Notwithstanding the terms of Chapter 447, Florida Statutes, the Commissioner of Education shall be deemed to be the public employer for purposes of negotiating the terms and conditions related to the reduction-in-force bonuses authorized by this section. All persons retiring under this program shall do so no later than July 1, 1993. The provisions of this section shall stand repealed on July 30, 1993.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 5, line 10, after the semicolon (;) insert: providing a one-time voluntary reduction-in-force retirement bonus;

Senator Gordon moved the following amendment which was adopted:

Amendment 6 (with Title Amendment)—On page 97, between lines 17 and 18, insert:

Section 53. Paragraph (d) of subsection (3) of section 229.591, Florida Statutes, is amended to read:

229.591 Comprehensive revision of Florida's system of school improvement and education accountability.—

(3) EDUCATION GOALS.—The state as a whole shall work toward the following goals:

(d) Learning environment.—School boards provide a learning environment conducive to teaching and learning that includes sequential instruction in mathematics, science, reading, writing, *the arts*, and the social sciences and appropriate educational materials, equipment, and pupil-teacher ratio.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 5, line 10, following the semicolon (;) insert: amending s. 229.591, F.S.; adding sequential instruction in the arts to the list of educational goals prescribed for improvement of the learning environment in the schools;

On motion by Senator Johnson, by two-thirds vote **CS for SB 716** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30 Nays—None

The Senate resumed consideration of—

SB 2178—A bill to be entitled An act relating to local option tourist development taxes; authorizing the governing body of a county that levied a tourist development tax before a certain date, which tax is invalidated because a specified condition precedent to the levy of the tax was not complied with before the ordinance levying the tax was adopted, and that levies another such tax in accordance with general law, which tax is approved by the voters of that county before a certain date, to use the proceeds from the invalidated tax for the purposes authorized in the new levy; providing an effective date.

—which had been previously considered this day with pending **Amendment 2** as amended by Senator Dudley.

Senator Kurth moved the following amendments to **Amendment 2** which were adopted:

Amendment 2C—On page 7, strike all of lines 4-6 and insert: shall meet, organize, and elect a chairman. Thereafter, the committee shall meet in Tallahassee and at such other locations in Florida as may be convenient. The President of the Senate and the Speaker of the House of Representatives shall appoint staff members from appropriate legislative committees to provide staff for the committee.

Amendment 2D—On page 3, line 4, strike "500,000" and insert: 600,000

Amendment 2 as amended was adopted.

On motion by Senator Dudley, by two-thirds vote **SB 2178** 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

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

HB 1301—A bill to be entitled An act relating to firefighters' pension trust funds; amending s. 175.021, F.S.; providing that it is the legislative intent that firefighters employed by special fire control districts should be entitled to the same retirement benefits as municipal firefighters; amending ss. 121.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.351, and 175.361, F.S.; providing for pension funds and retirement benefits for firefighters employed by special fire control districts, which funds and benefits are subject to the same statutory requirements as pension funds and retirement benefits for municipal firefighters; amending s. 175.121, F.S.; clarifying that undistributed funds are annually transferred to support the firefighters' supplemental compensation program; providing for redistribution of certain funds to specified cities and special districts; amending s. 624.520, F.S., to conform; amending s. 633.382, F.S.; providing for curing of deficits; providing for redistribution of certain funds; providing an effective date.

—a companion measure, was substituted for **SB 1312** and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 1301** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

Consideration of **CS for CS for SB 1014** was deferred.

SB 1010—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; removing the requirement that the exemption for butane, propane, and other liquefied petroleum gases used for agricultural purposes inure to the taxpayer only through refund; providing an effective date.

—was read the second time by title.

Two amendments were adopted to **SB 1010** to conform the bill to **HB 827**.

Pending further consideration of **SB 1010** as amended, on motions by Senator Jennings, by two-thirds vote **HB 827** was withdrawn from the Committees on Agriculture; and Finance, Taxation and Claims.

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

HB 827—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; removing the requirement that the exemption for butane, propane, and other liquefied petroleum gases used for agricultural purposes inure to the taxpayer only through refund; providing an exemption for qualified nonprofit corporations operated for the purpose of maintaining community cemeteries; amending s. 212.0515, F.S., relating to the tax on sales from vending machines; revising calculation of the tax for certain beverages; revising the reporting requirement for persons who sell food or beverages for resale; removing a requirement that dealers purchasing food or beverages for resale provide certain information to the dealer from whom such items are purchased; requiring operators to furnish certain information to the Department of Revenue; providing penalties for filing or providing false information; providing an effective date.

—a companion measure, was substituted for **SB 1010** and by two-thirds vote read the second time by title. On motion by Senator Jennings, by two-thirds vote **HB 827** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31 Nays—None

CS for SB 288—A bill to be entitled An act relating to local officers; amending s. 145.19, F.S.; deleting provisions requiring an annual adjustment in county officers' salaries; providing for adjustments in those salaries only upon approval of the board of county commissioners; amending s. 230.202, F.S.; providing for adjustments in the salaries of school board members only upon approval of the district school board; prescribing method of calculating cost-of-living increases for certain school board members; validating certain prior salary adjustments for school board members; providing an effective date.

—was read the second time by title.

Senator Childers offered the following amendment which was moved by Senator Langley:

Amendment 1 (with Title Amendment)—On page 1, line 18, strike everything after the enacting clause and insert:

Section 1. Paragraph (u) of subsection (1) of section 125.01, Florida Statutes, is amended to read:

125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

(u) Create civil service systems and boards, *including such systems and boards for employees or appointees of officers for the county.*

Section 2. Section 145.19, Florida Statutes, is amended to read:

145.19 Annual percentage increases based on increase for state career service employees; limitation; *salary levels; commission; report.*—

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

(a) "Annual factor" means 1 plus the lesser of:

1. The average percentage increase in the salaries of state career service employees for the current fiscal year as determined by the Department of Administration or as provided in the General Appropriations Act; or

2. Seven percent.

(b) "Cumulative annual factor" means the product of all annual factors certified under this act prior to the fiscal year for which salaries are being calculated.

(c) "Initial factor" means a factor of 1.292, which is a product, rounded to the nearest thousandth, of an earlier cost-of-living increase factor authorized by chapter 73-173, Laws of Florida, and intended by the Legislature to be preserved in adjustments to salaries made prior to enactment of chapter 76-80, Laws of Florida, multiplied by the annual increase factor authorized by chapter 79-327, Laws of Florida.

(2) Each fiscal year, the salaries of all county officers listed in this chapter shall be adjusted by the annual factor. The Department of Administration shall certify the annual factor and the cumulative annual factors. The adjusted salary rate shall be the product, rounded to the nearest dollar, of the salary rate granted by the appropriate section of this chapter multiplied first by the initial factor, then by the cumulative annual factor, and finally by the annual factor. Any special qualification salary received under this chapter shall be added to such adjusted salary rate, which special qualification salary shall be \$2,000, but shall not exceed \$2,000.

Notwithstanding the provisions of subsection (2), or any other provision of law to the contrary notwithstanding, annual salaries of all county officers listed in this chapter shall remain at the 1991-1992 levels for the 1992-1993 fiscal year.

(3) *There is created a County Officers' Salaries Study Commission to be composed of 17 members. The commission shall hold its organizational meeting by June 1, 1992. The Governor, Speaker of the House of Representatives, and President of the Senate shall make their appointments by May 15, 1992. Four members shall be appointed by the Speaker of the House of Representatives, one of whom shall be a member of the House of Representatives, three of whom shall be citizens who are not currently holding, nor have ever held, office as a county constitutional officer listed in chapter 145 or chapter 230. Four members shall be appointed by the President of the Senate with one member being a member of the Senate and three of whom shall be citizens who are not currently holding, nor have ever held, office as a county constitutional officer listed in chapter 145 or chapter 230. Nine members shall be appointed by the Governor selected by the nominations submitted to him by May 1, 1992, by the following groups representing each county constitutional officer and one citizen who is not currently holding, nor has ever held, office as a county constitutional officer:*

- (a) County commissioners.
- (b) Court clerks.
- (c) Supervisors of elections.
- (d) Tax collectors.
- (e) Property appraisers.
- (f) Sheriffs.
- (g) School boards.
- (h) Elected school superintendents.

The commission shall make recommendations for updating, revising, or restructuring the process of setting compensation for county officers provided for in chapters 145 and 230.

(4) *The commission shall conduct a review of salaries of all county officers listed in chapters 145 and 230, including, but not limited to, the following issues:*

- (a) *The feasibility of performance standards and goals for each officers' area of responsibility.*
- (b) *The appropriate governing body, group, or official qualified to measure the performance of each officers' duties.*
- (c) *The appropriateness of the current funding formulas provided in chapters 145 and 230.*
- (d) *The appropriateness of the \$2,000 salary supplement provided in ss. 145.19(2) and 230.303.*

(e) *The appropriateness of allowing county commissioners to determine the salaries of their own members.*

(f) *The county budget process provided in chapter 129.*

(g) *The authorized and actual salaries of county officers in charter counties compared to noncharter counties.*

(5) *A chairperson shall be elected by a majority vote of the members of the commission. The Florida Advisory Council on Intergovernmental Relations shall staff the council and conduct research for the commission. The commission shall report its findings to the Legislature no later than December 15, 1992.*

(6) *Members of the commission are not entitled to reimbursement for travel or per diem.*

(7) *The commission shall expire on April 15, 1993.*

Section 3. Section 230.202, Florida Statutes, is amended to read:

230.202 District school board members; compensation; salary levels.—

(1) Each member of the district school board shall receive as salary the amount indicated, based on the population of his county. In addition, compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. Laws which increase the base salary herein provided shall contain provisions on no other subject.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.083300
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

(2) *Notwithstanding any other law to the contrary, annual salaries of school board members shall remain at the 1991-1992 levels for the 1992-1993 fiscal year.*

Section 4. Section 230.303, Florida Statutes, is amended to read:

230.303 Superintendent of schools; salary levels.—

(1) Each superintendent of schools shall receive as salary the amount indicated, based on the population of his county; however, a district school board, by majority vote, may approve a salary in excess of the amount specified herein. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate. Laws which increase the base salary herein provided shall contain provisions on no other subject.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	49,999	\$21,250	\$0.07875
II	50,000	99,999	24,400	0.06300
III	100,000	199,999	27,550	0.02625
IV	200,000	399,999	30,175	0.01575
V	400,000	999,999	33,325	0.00525
VI	1,000,000		36,475	0.00400

(2) On October 1, 1973, no elected superintendent shall be caused to suffer a decrease in gross salary as a result of the implementation of subsection (1).

(3) This section does not apply to a superintendent of schools appointed pursuant to the terms of s. 230.321.

(4) *Notwithstanding any other law to the contrary, annual salaries of superintendents of schools whose compensation is set by s. 230.303 shall remain at the 1991-1992 levels for the 1992-1993 fiscal year.*

(5)(4)(a) There shall be an additional \$2,000 per year special qualification salary for each superintendent of schools who has met the certification requirements established by the Department of Education. Any

superintendent of schools who is certified during a calendar year shall receive in that year a pro rata share of the special qualification salary based on the remaining period of the year.

(b) In order to qualify for the special qualification salary provided by paragraph (a), the superintendent must complete the requirements established by the Department of Education within 6 years after first taking office, except that those superintendents holding office on July 1, 1980, shall have until July 1, 1986, to complete such requirements.

(c) After a superintendent meets the requirements of paragraph (a), in order to remain certified the superintendent shall thereafter be required to complete each year a course of continuing education as prescribed by the Department of Education.

(6)(5)(a) The Florida Council on Educational Management shall provide a leadership development and performance compensation program for superintendents of schools, comparable to chief executive officer development programs for corporate executive officers, to include:

1. A content-knowledge-and-skills phase consisting of: creative leadership models and theory, demonstration of effective practice, simulation exercises and personal skills practice, and assessment with feedback, taught in a professional training setting under the direction of experienced, successful trainers.

2. A competency-acquisition phase consisting of on-the-job application of knowledge and skills for a period of not less than 6 months following the successful completion of the content-knowledge-and-skills phase. The competency-acquisition phase shall be supported by adequate professional technical assistance provided by experienced trainers approved by the Florida Council on Educational Management. Competency acquisition shall be demonstrated through assessment and feedback.

(b) Upon the successful completion of both phases and demonstrated successful performance, as determined by the Florida Council on Educational Management, a superintendent of schools shall be issued a Chief Executive Officer Leadership Development Certificate and shall be given an annual performance salary incentive of not less than \$3,000 or more than \$7,500 based upon his performance evaluation.

(c) A superintendent's eligibility to continue receiving the annual performance salary incentive is contingent upon his continued performance assessment and followup training prescribed by the Florida Council on Educational Management.

Section 5. This act shall take effect April 1, 1992, or upon becoming law, whichever occurs later.

And the title is amended as follows:

In title, on page 1, strike everything before the enacting clause and insert: A bill to be entitled An act relating to local officers; amending s. 125.01, F.S.; revising language with respect to the powers and duties of the legislative and governing body of a county; amending s. 145.19, F.S.; maintaining the 1991-1992 annual salaries of all county officers through the 1992-1993 fiscal year; creating a County Officers' Salaries Study Commission consisting of members representing certain groups; providing for the commission to report recommendations concerning the process of setting compensation for county officers provided for in chapters 145 and 230, F.S.; specifying issues to be examined; providing for expiration of the commission; amending ss. 230.202 and 230.303, F.S.; maintaining the 1991-1992 annual salaries of school board members and certain superintendents of schools, respectively, through the 1992-1993 fiscal year; providing an effective date.

Senators Walker and Childers offered the following amendments to **Amendment 1** which were moved by Senator Langley and adopted:

Amendment 1A—On page 1, strike all of lines 25-30, and on page 2, strike all of lines 1-3 and renumber subsequent sections.

Amendment 1B—On page 1, lines 14-17, strike everything after the semicolon (;) on line 14 through the semicolon (;) on line 17

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

Amendment 1C (with Title Amendment)—On page 1, lines 20-31, and on page 2, lines 1-23, strike all of said lines and insert:

145.19 Annual salary adjustment percentage increases based on increase for state career service employees; limitation.—

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

(a) "Annual factor" means 1 plus the lesser of:

1. The average percentage increase in the salaries of state career service employees for the current fiscal year as determined by the Department of Administration or as provided in the General Appropriations Act; or

2. Seven percent.

(b) "Cumulative annual factor" means the product of all annual factors certified under this act prior to the fiscal year for which salaries are being calculated.

(c) "Initial factor" means a factor of 1.292, which is a product, rounded to the nearest thousandth, of an earlier cost-of-living increase factor authorized by chapter 73-173, Laws of Florida, and intended by the Legislature to be preserved in adjustments to salaries made prior to enactment of chapter 76-80, Laws of Florida, multiplied by the annual increase factor authorized by chapter 79-327, Laws of Florida.

(2) Each fiscal year, the board of county commissioners may adjust the salaries of all county officers listed in this chapter, except the salaries of the clerks of the circuit court shall be adjusted by the annual factor. The Department of Administration shall certify the annual factor and the cumulative annual factors. The adjusted salary rate shall be the product, rounded to the nearest dollar, of the salary rate granted by the appropriate section of this chapter multiplied first by the initial factor, then by the cumulative annual factor, and finally by the annual factor.

(3) Any special qualification salary received under this chapter must shall be added to the such adjusted salary rate, which special qualification salary shall be \$2,000, but may shall not exceed \$2,000.

And the title is amended as follows:

In title, on page 1, strike all of lines 3-5 and insert: 145.19, F.S.; requiring an annual adjustment in salaries of clerks of the circuit court; providing for adjustments of other county officers' salaries

Amendment 1 as amended was adopted.

On motion by Senator Langley, by two-thirds vote **CS for SB 288** 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

CS for CS for CS for SB 832—A bill to be entitled An act relating to food and lodging; amending s. 381.006, F.S.; providing for a specified surcharge; specifying contents of the environmental health program; amending s. 381.0072, F.S.; revising duties of the Department of Health and Rehabilitative Services relating to food services regulated under chapter 500, F.S.; revising definitions; deleting reference to a contract between the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Health and Rehabilitative Services; providing for transfer of a portion of certain food service establishment licensing fees to the Department of Health and Rehabilitative Services; specifying use of funds; revising membership on the Food Services Standards Advisory Council; creating s. 381.00715, F.S.; providing a short title; providing legislative intent; providing definitions; providing permitting requirements for packaged ice plant operators and dealers; providing fees; providing operating standards; providing for enforcement by the Department of Health and Rehabilitative Services; providing for penalties and an administrative fine; preempting to the state the regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers; creating s. 381.0079, F.S.; providing for a registry of mobile food dispensing vehicles; creating s. 381.00791, F.S.; providing for applicability of certain laws to food service establishments licensed under ch. 381, F.S.; amending s. 381.0061, F.S., relating to administrative fines, to conform; amending s. 500.03, F.S.; revising definitions; defining "convenience store," "food establishment," "food outlet," "food service establishment," "minor food outlet," and "retail food store"; amending s. 500.04, F.S.; expanding prohibited acts to include alteration, destruction, or removal of specified labeling information; amending s. 500.09, F.S.; expanding and clarifying provisions which require the Department of Agriculture and Consumer Services to adopt rules governing food products, authorizing certain exemptions from labeling requirements; amend-

ing s. 500.12, F.S.; requiring food permits; providing exemptions; providing an application fee; providing that the Department of Agriculture and Consumer Services shall be the exclusive permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets; providing legislative intent; providing for rules on certification of food managers and inspectional personnel; creating s. 500.1465, F.S.; authorizing the department to inspect all entities permitted under chapter 500, F.S.; providing inspection requirements and procedures; providing additional positions within, and making appropriations to, the Department of Agriculture and Consumer Services to administer the act; providing for due consideration of personnel affected by the act; amending s. 500.146, F.S.; expanding the department's authority to adopt rules; revising provisions relative to analytical work; creating s. 500.165, F.S.; prohibiting carriers from transporting food items in certain vehicles or rail cars; providing for standards by rule; providing an administrative fine; providing a penalty; amending s. 500.167, F.S.; revising provisions which provide exemptions for carriers engaged in interstate commerce; amending ss. 502.091, 502.165, 502.191, F.S.; clarifying and updating references; amending s. 502.231, F.S.; revising penalty and injunction provisions; providing for administrative fines; providing for suspension or revocation of permit; providing applicability to milk and milk product producers and handlers; transferring, renumbering, and amending s. 509.036, F.S.; revising standards for persons who perform food service inspections; amending s. 583.09, F.S.; requiring food permits for egg dealers and poultry dealers; amending s. 583.022, F.S.; providing for the refrigeration of eggs for sale or processing; providing temperature requirements; amending s. 585.002, F.S.; requiring the department to establish a fee schedule for specified costs; amending s. 585.21, F.S.; revising provisions relating to the sale of biological products; amending s. 585.90, F.S., relating to inspection, stop-sale orders, condemnation, and destruction of animal products; creating s. 585.902, F.S.; providing causes for seizure and condemnation of animal products; creating s. 585.903, F.S.; providing procedures with respect to seizure of animal products; providing a penalty; providing for suspension or revocation of permit; providing a fine; creating s. 585.904, F.S.; providing for condemnation, sale, and release of seized animal products; amending s. 571.11, F.S.; conforming a cross-reference; amending s. 20.16, F.S.; redesignating the Division of Hotels and Restaurants of the Department of Business Regulation as the Division of Public Lodging; amending ss. 159.27, 215.20, 404.056, 509.013, 509.032, 509.035, 509.072, 509.091, 509.092, 509.101, 509.141, 509.142, 509.151, 509.162, 509.191, 509.211, 509.2112, 509.215, 509.221, 509.241, 509.242, 509.251, 509.261, 509.281, 509.291, F.S.; requiring certain public lodging establishments to be equipped with sprinkler systems; providing conforming language; amending s. 509.302, F.S.; providing conforming language; transferring and renumbering ss. 381.297, 509.213, 509.214, 509.232, 509.292, F.S.; providing conforming language; providing for a transfer of the statutory powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Division of Hotels and Restaurants of the Department of Business Regulation which relate to public food service establishments to the Deputy Secretary of Health of the Department of Health and Rehabilitative Services; repealing s. 509.036, F.S.; providing for public food service inspector standardization; providing effective dates.

—was read the second time by title.

Senator Gardner moved the following amendment:

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

Section 1. Section 381.006, Florida Statutes, is amended to read:

381.006 Environmental health.—The department shall conduct an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(1) ~~A food protection function.~~

(1)(2) A drinking water function.

(2)(3) An environmental health surveillance function which shall collect, compile, and correlate information on public health and exposure to hazardous substances through sampling and testing of water, air, or foods. Environmental health surveillance shall include a comprehensive assessment of drinking water under the department's supervision and an indoor air quality testing and monitoring program to assess health risks from exposure to chemical, physical, and biological agents in the indoor environment.

(3)(4) A toxicology and hazard assessment function which shall conduct toxicological and human health risk assessments of exposure to toxic agents, for the purposes of:

(a) Supporting determinations by the State Health Officer of safe levels of contaminants in water, air, or food if applicable standards or criteria have not been adopted. These determinations shall include issuance of health advisories to protect the health and safety of the public at risk from exposure to toxic agents.

(b) Provision of human toxicological health risk assessments to the public and other governmental agencies to characterize the risks to the public from exposure to contaminants in air, water, or food.

(c) Consultation and technical assistance to the Department of Environmental Regulation and other governmental agencies on actions necessary to ameliorate exposure to toxic agents, including the emergency provision by the Department of Environmental Regulation of drinking water in cases of drinking water contamination that present an imminent and substantial threat to the public's health, as required by s. 376.30(3)(c)1.a.

(d) Monitoring and reporting the body burden of toxic agents to estimate past exposure to these toxic agents, predict future health effects, and decrease the incidence of poisoning by identifying and eliminating exposure.

(4)(5) A sanitary nuisance function, as that term is defined in chapter 386.

(5)(6) A migrant labor function.

(6)(7) A public facilities function, including sanitary practices relating to state, county, municipal, and private institutions serving the public; jointly with the Department of Education, publicly and privately owned schools; all places used for the incarceration of prisoners and inmates of state institutions for the mentally ill; toilets and washrooms in all public places and places of employment; any other condition, place, or establishment necessary for the control of disease or the protection and safety of public health.

(7)(8) An onsite sewage disposal function.

(8)(9) A biohazardous waste control function.

(9)(10) A function to control diseases transmitted from animals to humans, including the segregation, quarantine, and destruction of domestic pets and wild animals having or suspected of having such diseases.

(10)(11) An environmental epidemiology function which shall investigate food-borne disease, water-borne disease, and other diseases of environmental causation, whether of chemical, radiological, or microbiological origin. *A \$10 surcharge for this function shall be assessed upon all persons permitted under chapter 500.* This function shall include an educational program for physicians and health professionals designed to promote surveillance and reporting of environmental diseases, and to further the dissemination of knowledge about the relationship between toxic substances and human health which will be useful in the formulation of public policy and will be a source of information for the public.

(11)(12) Mosquito and pest control functions as provided in chapters 388 and 482.

(12)(13) A radiation control function as provided in chapter 404 and part IV of chapter 468.

(13)(14) A public swimming and bathing facilities function as provided in chapter 514.

(14)(15) A mobile home and recreational vehicle parks function as provided in chapter 513.

The department may adopt rules to carry out the provisions of this section.

Section 2. Section 381.007, Florida Statutes, is renumbered as section 500.457, Florida Statutes, and amended to read:

500.457 381.007 Bottled water plants.—

(1) **SHORT TITLE.**—This section may be cited as the "Bottled Water Act."

(2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to protect the public's health by requiring permits and establishing stand-

ards for bottled water plants, water dealers, and water transportation vehicles or vessels to ensure that consumers who obtain water through such means are given appropriate information as to the nature of such water and that such consumers are assured that the water meets acceptable standards for human consumption.

(3) DEFINITIONS.—As used in this section, *the term*:

(a) "Department" means the Department of Agriculture and Consumer Services ~~Health and Rehabilitative Services~~.

(b) "Bottled water" means water that is sealed in a container or package and is offered for sale for human consumption or other consumer uses.

(c) "Bottled water plant" means any place or establishment in which bottled water is prepared for sale.

(d) "Bottled water plant operator" means any person or public body which establishes, maintains, or operates a bottled water plant.

(e) "Water dealer" means any person or public body which imports water or causes water to be transported into or within the state for human consumption or other consumer uses.

(f) "Approved source," when used in reference to a bottled water plant's product or water used in such plant's operations, means a source of water, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the rules of the department. The presence in the bottled water plant of current certificates or notifications of approval from the department shall constitute approval of the source and the water supply.

(4) PERMITTING REQUIREMENTS.—

(a) Each person or public body which establishes, maintains, or operates a bottled water plant in the state shall first secure an annual operating permit from the department.

(b) Each person or public body which imports water or causes water to be transported into or within the state for human consumption or other consumer uses shall secure an annual dealer permit from the department. Water which is transported into the state and which is bottled before or after importation into the state shall meet all of the requirements of this section and shall be bottled, labeled, handled, and otherwise processed and sold according to the provisions of this section.

(c) Each person or public body which is both a bottled water plant operator and a water dealer shall be issued a combination permit and shall be required to remit one fee only.

(d) An application for a bottled water plant operator permit or water dealer permit shall be made in writing to the department on forms provided by the department. The application shall state the location of the bottled water plant, the source of the water, the treatment the water received prior to being packaged, and any other information deemed necessary by the department.

(e) If, after considering the source of water and the treatment process provided by a bottled water plant operator or a water dealer, the department finds that the finished water will not meet the primary and secondary drinking water quality standards, the permit shall be denied. The department shall give specific technical reasons for denying the permit.

(5) FEES.—

(a) Each person or public body seeking a bottled water plant operator permit or a water dealer permit shall pay the department a fee *not to exceed \$1,000* which shall be set by rule of the department.

(b) Fees established pursuant to paragraph (a) shall be in an amount sufficient to meet, *but not exceed, the all* costs incurred by the department in carrying out its permitting, inspection, sampling, enforcement, and administrative responsibilities under this section, ~~but shall not exceed \$1,000.~~

(c) No other fees shall be charged by other governmental agencies for these purposes.

(6) OPERATING STANDARDS.—

(a) Water samples shall be taken from the water supply source as often as reasonably necessary, but at least annually, to ensure compliance with water quality standards as established by rule of the department. A plant may conduct its own water sampling and analyses for purposes including internal monitoring for quality control. Analysis for microbiological contaminants shall be made weekly if the source is other than a community water system. Records of the sampling and analyses shall be maintained on file at the plant and at department offices for not less than 2 years. Analysis of the samples may be performed by approved commercial laboratories *certified by the Department of Health and Rehabilitative Services or by the department's state laboratories of the Department of Agriculture and Consumer Services.*

(b) To ensure that the bottled water is in compliance with water quality standards as established by rule of the department, the following analyses shall be performed by a laboratory certified by the Department of Health and Rehabilitative Services. The representative sample shall be derived from the bottled product.

1. For microbiological purposes, a bottled water plant shall employ a certified laboratory to conduct a weekly analysis of a representative sample from a batch or segment of a continuous production of each type of bottled water produced by the plant.

2. For chemical, physical, and radiological purposes, a bottled water plant shall employ a certified laboratory to conduct an annual analysis of a representative sample of a finished product of a continuous product run for each type of bottled drinking water produced by the plant. The department may take the quality of source water and type packaging materials into consideration in determining the extent of product analysis needed.

(c) A bottled water plant shall maintain all records pertaining to sampling and analysis at the plant for not less than 2 years. All required documents shall be available for official review upon request.

(d) The department may adopt any additional rules which are necessary to carry out its duties or necessary to protect the health, safety, and welfare of the public.

(e) The department shall order a bottled water plant operator to discontinue the operation of any bottled water plant the condition of which represents a threat to the life or health of any person or the finished water of which does not meet the standards established by rule of the department. Such bottled water plant shall not be operated until such time as the department determines that the condition which caused the discontinuance of operation no longer exists.

(7) ENFORCEMENT AND PENALTIES.—

(a) Any person who operates a bottled water plant or causes water to be transported into or within the state without first obtaining a permit as required by subsection (4), who operates a bottled water plant or water transporting vehicle or vessel in violation of an order to discontinue operation, or who maintains or operates a bottled water plant or water transporting vehicle or vessel after revocation of the permit is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) This section and rules adopted hereunder may be enforced in the manner provided in s. 500.121 ~~381.0012~~. Any person who violates this section or any rule adopted hereunder shall be punished as provided in ~~chapter 500 ss. 381.0025 and 381.0061.~~

(c) The department may deny, suspend, or revoke a permit when the department determines that there has been a substantial failure to comply with the provisions of this section or any rule adopted hereunder.

(8) PREEMPTION OF AUTHORITY TO REGULATE.—Regulation of bottled water plants, bottled water plant operators, and water dealers is hereby preempted by the state. No county or municipality may adopt or enforce any ordinance which regulates the licensure or operation of bottled water plants. This subsection does not prohibit a local government from requiring an occupational license tax pursuant to chapter 205.

Section 3. Section 381.0071, Florida Statutes, is renumbered as section 500.459, Florida Statutes, and amended to read:

500.459 ~~381.0071~~ Water vending machines.—

(1) SHORT TITLE.—This section may be cited as the "Water Vending Machine Protection Act."

(2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to protect the public health through licensing and establishing standards for water vending machines to ensure that consumers obtaining water through such means are given appropriate information as to the nature of such water and that such consumers are assured that the water meets acceptable standards for human consumption.

(3) **DEFINITIONS.**—As used in this section, the term:

(a) “Approved” means approved by the department in writing.

(b) “Department” means the Department of *Agriculture and Consumer Services Health and Rehabilitative Services*.

(c) “Nontoxic” means free of substances which may render the water injurious to health or may adversely affect the flavor, color, odor, or microbiological quality of the water.

(d) “Purified water” means water produced by distillation, deionization, or other approved method established by rule of the department.

(e) “Sanitized” means the effective bactericidal treatment of clean surfaces of equipment, utensils, and containers by an approved process which destroys pathogens.

(f) “Vended water” means water dispensed by means of a water vending machine.

(g) “Water vending machine” means any self-service device which, upon insertion of a coin, coins, or token, or upon receipt of payment by other means, dispenses unit servings of water in bulk into a container.

(h) “Water vending machine operator” means a person who owns, leases, manages, or is otherwise responsible for the operation of, a water vending machine.

(4) **PERMITTING REQUIREMENTS.**—

(a) Each person or public body which establishes, maintains, or operates any water vending machine in the state shall first secure from the department an annual operator’s permit.

(b) An application for an operator’s permit shall be made in writing to the department on forms provided by the department and shall be accompanied by a fee as provided in subsection (5). The application shall state the location of each water vending machine, the source of the water to be vended, the treatment the water will receive prior to being vended, and any other information deemed necessary by the department.

(5) **FEES.**—A person seeking an operator’s permit to establish, operate, or maintain any water vending machine shall pay the department an annual fee of no more than \$200, which fee shall be set by rule of the department in an amount sufficient to meet all costs incurred by the department in carrying out its permitting, inspection, sampling, enforcement, and administrative responsibilities under this section. Such fees shall be deposited in a trust fund administered by the department to be used ~~utilized~~ for the sole purpose of this section.

(6) **OPERATING STANDARDS.**—

(a) A water vending machine operator must obtain a permit prior to operating any water vending machine.

(b) Each water vending machine shall be located indoors or otherwise protected against tampering and vandalism and shall be located in an area that can be maintained in a clean condition and in a manner that avoids insect and rodent harborage. The floor upon which the water vending machine is located should be smooth and of cleanable construction.

(c) The source of water supply shall be an approved public water system.

(d) Each water vending machine shall have an approved backflow prevention device and an adequate system for collecting and handling dripping, spillage, and overflow of water.

(e) All parts and surfaces of the water vending machine with which the water comes into contact must be of nontoxic, corrosion-resistant, nonabsorbent material capable of withstanding repeated cleaning and sanitizing treatments.

(f) Each water vending machine shall be maintained in a clean and sanitary condition, free from rust, dirt, and vermin.

(g) The vended water shall receive treatment and postdisinfection according to approved methods as established by rule of the department. Activated carbon, if used, shall comply with specifications for granular activated carbon used in water treatment applications as established by rule of the department.

(h) The vended water may not be described as “purified water” unless the water conforms to that term as defined in this section. Further, no water vending machine operator shall claim that the vended water has medicinal or health-giving properties, nor shall any vended water be described as “spring water.”

(i) The operator shall place on each water vending machine, in a position clearly visible to customers, the following information: the name and address of the operator; the operator’s permit number; the fact that the water is obtained from a public water supply; the method of treatment ~~used~~ ~~utilized~~; the method of postdisinfection ~~used~~ ~~utilized~~; and a local or toll-free telephone number that may be called for further information, reporting problems, or making complaints.

(7) **DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT.**—

(a) The department may adopt such additional rules not inconsistent with law as may be necessary to carry out the duties and authority conferred on the department by this section or as may be necessary to protect the health, safety, and welfare of the public.

(b) If, considering the source of water and the treatment process provided by the water vending machine, the department finds that the finished water will not meet the primary and secondary drinking water quality standards as provided for in department rules, the permit shall be denied. Specific technical reasons for the denial shall be given by the department.

(c) The water from each water vending machine shall be sampled and tested for compliance with the water quality standards established by rule of the department at frequencies established by rule of the department.

(d) The vended water from each water vending machine ~~using~~ ~~utilizing~~ silver-impregnated carbon filters in the treatment process shall be sampled for silver at frequencies established by rule of the department.

(e) The department shall order a water vending machine operator to discontinue the operation of any water vending machine the condition of which represents a threat to the life or health of any person, or when the finished water does not meet the standards provided in this section. Such water vending machine shall not be returned to use or be used until such time as the department determines that the condition which caused the discontinuance of operation no longer exists.

(8) **ENFORCEMENT AND PENALTIES.**—

(a) The department may deny, suspend, or revoke a permit when it finds that there has been a substantial failure to comply with the provisions of this section or rules adopted under this section.

(b) This section and the rules adopted hereunder may be enforced in the manner provided in s. 500.121 ~~381.0012~~. Any person who violates the provisions of this section or the rules adopted under this section is subject to the penalties provided in ~~chapter 500 ss. 381.0025 and 381.0061~~.

(c) Any person who operates a water vending machine without first obtaining a permit as required by subsection (4), who operates a water vending machine in violation of an order to discontinue operation, or who maintains or operates a water vending machine after revocation of the permit is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(9) **PREEMPTION OF AUTHORITY TO REGULATE.**—The regulation of water vending machines is hereby preempted by the state. No county or municipality may adopt or enforce any ordinance which regulates the licensure or operation of water vending machines. Nothing herein shall be construed to prohibit a local government from requiring an occupational license tax pursuant to chapter 205.

Section 4. Effective October 1, 1992, section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health and Rehabilitative Services to adopt and enforce sanita-

tion rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, processing, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509. This includes grocery stores, food processors, restaurants, schools, and detention facilities and other institutions, as well as all other places serving food or drink to the public.

(1) DEFINITIONS.—As used in this section, the term:

(a) "Department" means the Department of Health and Rehabilitative Services or its representative county public health unit.

(b) "Food establishment" means any food service, food outlet, or food processor, or any other facility where food intended for human consumption is processed, prepared, or served.

(b)1. "Food service establishment" means any facility, as described in this paragraph, place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such facility place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes detention facilities, child care facilities, any food operation that is conducted on a temporary basis, eateries and delicatessen type operations that prepare sandwiches, salads, and other food intended for individual service; schools; institutions; and fraternal organizations, as well as bars and lounges. The term does not include private homes where food is prepared or served for individual family consumption; nor does the term include churches, synagogues, or other not-for-profit religious organizations as long as these organizations serve only their members and guests and do not advertise food or drink for public consumption, or any facility or establishment permitted or licensed under chapter 500 or chapter 509; nor does the term include any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

2. "Food outlet" means any grocery store, food market, meat, fruit or vegetable market, food warehouse, refrigerated storage facility, freezer locker, or salvage food facility, or any other similar place storing or offering food for sale.

3. "Food processor" means any commercial building or establishment in which food is processed or otherwise prepared and packaged for human consumption.

(c) "Operator" means the owner, operator, keeper, proprietor, lessee, manager, assistant manager, agent, or employee of a food service establishment.

(2) DUTIES.—

(a) The department shall adopt rules consistent with law prescribing minimum sanitation standards and manager certification requirements as prescribed in s. 509.039, which shall be enforced in food service establishments as defined in this section. Public and private schools, hospitals licensed under chapter 395, nursing homes licensed under part I of chapter 400, child care facilities as defined in s. 402.301, and residential facilities colocated with a nursing home or hospital if all food is prepared in a central kitchen that complies with nursing or hospital regulations shall be exempt from the rules developed for manager certification. The department shall administer a comprehensive inspection, monitoring, and sampling program to ensure such standards are maintained in all establishments not licensed under chapter 509. With respect to food service establishments permitted or licensed under chapter 500 or chapter 509, the department, pursuant to contract with the Division of Hotels and Restaurants of the Department of Business Regulation, shall assist the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Agriculture and Consumer Services with rulemaking by providing technical information in administering a comprehensive inspection, monitoring, and sampling program to ensure such standards are maintained.

(b) The department shall carry out all provisions of this chapter and all other applicable laws and rules relating to the inspection or regulation of food service establishments as defined in this section, for the purpose of safeguarding the public's health, safety, and welfare.

(c) The department shall inspect each food service establishment not licensed under chapter 509 as often as necessary to ensure compliance

with applicable laws and rules. The department shall have the right of entry and access to these food service establishments at any reasonable time.

(d) Notwithstanding the provisions of chapter 509, 5 percent of the fees collected on all food service establishment permits and licenses issued by the Department of Business Regulation shall be journal transferred to the Department of Health and Rehabilitative Services to provide epidemiological services relating to outbreaks and investigations of food-borne illness. The department is authorized to enter into an agreement with the Department of Business Regulation to inspect those food service establishments licensed by the Department of Business Regulation, to ensure compliance with applicable laws and rules. The department shall have the right of entry and access to these food establishments at any reasonable time.

(e) The department or other appropriate regulatory entity may inspect theaters exempted in subsection (1) to ensure compliance with applicable laws and rules pertaining to minimum sanitation standards. A fee for inspection shall be prescribed by rule, but the aggregate amount charged per year per theater establishment shall not exceed \$300, regardless of the entity providing the inspection.

(3) LICENSES REQUIRED.—

(a) Licenses; annual renewals.—Each food service establishment regulated under this section not licensed under chapter 509 shall obtain a license from the department annually. Food service establishment licenses shall expire annually and shall not be transferable from one place or individual to another. However, those facilities licensed by the department's office of Licensure and Certification, the Children, Youth and Families Program Office or the Developmental Services Program Office are exempt from this subsection. However, those facilities licensed by the department's office of licensure and certification, the Children, Youth, and Families Program Office, or the Developmental Services Program Office, and those facilities licensed or permitted pursuant to chapter 500, chapter 502, chapter 503, chapter 585, chapter 601, or chapter 603, are exempt from this subsection. It shall be a misdemeanor of the second degree, punishable as provided in s. 381.0061, s. 775.082, or s. 775.083, for such an establishment to operate without this license. The department may refuse a license, or a renewal thereof, to any establishment that is not constructed or maintained in accordance with law and with the rules of the department. Annual application for renewal shall not be required. Nonprofit organizations temporarily serving such events as fairs, carnivals, and athletic contests or other nonprofit organizations conducting food events only for their members shall be exempt from licensure.

(b) Application for license.—Each person who plans to open a food service establishment not regulated licensed under chapter 500 or chapter 509 shall apply for and receive a license prior to the commencement of operation.

(4) LICENSE; INSPECTION; FEES.—

(a) The department is authorized to collect fees from establishments licensed under this section and from those facilities exempted from licensure under subsection (3) for services provided under this section, with such services to include the quarterly inspection of each food establishment to ensure sanitary conditions are maintained. It is the intent of the Legislature that the total fees assessed under this section be in an amount sufficient to meet the cost of carrying out the provisions of this section.

(b) The fee schedule for food service establishments licensed under this section shall be prescribed by rule, but the aggregate license fee per establishment shall not exceed \$300. Until rules are adopted, the minimum annual fee for the basic operation shall be \$150 per establishment. For establishments with multiple food operations at the same location, licensed under this chapter, the fee shall be \$100 for the first operation and 50 percent of the minimum fee for each additional operation. Fees charged under this section for food outlets shall be divided equally between the Department of Health and Rehabilitative Services and the Department of Agriculture and Consumer Services, or as provided by memorandum of agreement between the two departments.

(c) The fee schedule shall require an establishment which applies for an initial license to pay the full license fee. The license fees shall be prorated on a quarterly basis. Annual licenses shall be renewed as prescribed by rule.

(5) FINES; SUSPENSION OR REVOCATION OF LICENSES; PROCEDURE.—

(a) The department may impose fines against the establishment or operator ~~regulated licensed~~ under this section for violations of sanitary standards, in accordance with s. 381.0061. All amounts collected shall be deposited to the credit of the Public Health Unit Trust Fund administered by the department.

(b) The department may suspend or revoke the license of any food service establishment licensed under this section that has operated or is operating in violation of any of the provisions of this section or the rules adopted under this section. Such food service establishment shall remain closed when its license is suspended or revoked.

(c) The department may suspend or revoke the license of any food service establishment licensed under this section when such establishment has been deemed by the department to be an imminent danger to the public's health for failure to meet sanitation standards or other applicable regulatory standards.

(d) No license shall be suspended under this section for a period of more than 12 months. At the end of such period of suspension, the establishment may apply for reinstatement or renewal of the license. A food service establishment which has had its license revoked may not apply for another license for that location prior to the date on which the revoked license would have expired.

(6) IMMINENT DANGERS; STOP-SALE ORDERS.—

(a) ~~In the course of epidemiological investigations or for those establishments regulated under this chapter, the department, to protect the public from food that is unwholesome or otherwise unfit for human consumption, the department may examine, sample, seize, and stop the sale or use of food to determine its condition. The department may stop the sale and supervise the proper destruction of food when determined by the State Health Officer or his designee determines that such food represents a threat to the public health.~~

(b) The department may determine that a food service establishment ~~regulated under this section not licensed under chapter 500~~ is an imminent danger to the public health and require its immediate closure when such establishment fails to comply with applicable sanitary and safety standards and, because of such failure, presents an imminent threat to the public's health, safety, and welfare. The department may accept inspection results from state and local building and firesafety officials and other regulatory agencies as justification for such actions. Any facility so deemed and closed shall remain closed until allowed by the department or by judicial order to reopen.

(7) MISREPRESENTING FOOD OR FOOD PRODUCTS.—No operator of any food service establishment ~~regulated under this section~~ shall knowingly and willfully misrepresent the identity of any food or food product to any of the patrons of such establishment. Food used by food establishments shall be identified, labeled, and advertised in accordance with the provisions of chapter 500.

(8) ~~FOOD MANAGER CERTIFICATION.~~ It shall be the duty of the department to adopt, by rule, food safety protection standards for the training and certification of all food service managers who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this section or chapter 500. However, any theater, if the primary use is as a theater and patron service is limited to food items customarily served to the admittees of theaters, hospitals licensed under chapter 305, nursing homes licensed under part I of chapter 400, a child care facility as defined under s. 402.301, and residential facilities collocated with a nursing home or hospital if all food is prepared in a central kitchen that complies with nursing home or hospital regulations shall be exempt from the provisions of this subsection. These standards are to be adopted by the department to ensure that upon the successful passing of a test, a manager of a food establishment shall have demonstrated a knowledge of basic food protection practices. These standards shall also provide for a certification program which authorizes private or public agencies to conduct an approved test and certify the results of those tests to the department. The fee for the test shall not exceed \$50. All managers employed by a food establishment shall have passed this test and received a certificate attesting thereto. Managers shall have a period of 90 days after employment to pass the required test. The regulation of food safety protection standards for any required training and testing of food service establishment personnel is hereby pre-

empted to the state. The ranking of food service establishments is also preempted to the state; provided, however, that any local ordinances establishing a ranking system in existence prior to October 1, 1988, may remain in effect. The regulation and inspection of food service establishments licensed by chapter 500 and regulation of food safety protection standards for required training and testing of food service establishment personnel are preempted to the state.

(9) ~~FOOD SERVICES STANDARDS ADVISORY COUNCIL.~~—

(a) ~~The Food Services Standards Advisory Council, hereafter known as the "council," consisting of nine members, shall be created to assist the department with the implementation of this section, including food service manager certification. The council shall also serve as the review board for the variance process described in this section. The State Health Officer shall appoint the members of the council, as follows:~~

1. ~~The state epidemiologist or his designee.~~
2. ~~Two county public health unit representatives.~~
3. ~~Four food service industry representatives.~~
4. ~~One consumer representative not affiliated with the food service industry.~~
5. ~~One representative of the State Health Office.~~

(b) ~~Members shall be appointed for a 5 year term and may be reappointed to one additional term.~~

(c) ~~The council may elect one member to serve as chairperson and one member to serve as vice chairperson. The term of office for chairperson and vice chairperson shall be for 2 years.~~

(d) ~~The purpose of the council is to promote better relations, understanding, and cooperation between the industry and the department; to suggest improved means of protecting the health of persons being served; to give the department the benefit of its knowledge and experience concerning how applicable laws and rules affect the industry; to promote and coordinate educational and certification efforts aimed at improving food protection and preventing food borne illness; and to review variance requests submitted to the department.~~

(e) ~~The council shall meet at least quarterly, or upon the call of the Assistant Health Officer for Environmental Health, for the purpose of reviewing food standards and making recommendations to the department for rule or statutory amendments, and for reviewing variance requests as described in subsection (10). The department shall provide administrative and clerical support services for the council.~~

(f) ~~The members of the council shall serve without compensation, but shall be entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061.~~

(10) ~~VARIANCES.~~—

(a) ~~The department may grant variances from construction standards in hardship cases, which variances may be less restrictive than the provisions specified in this section or by rules adopted under this section. A variance may not be granted pursuant to this section until the department is satisfied that:~~

1. ~~The variance shall not adversely affect the health of the public.~~
2. ~~No reasonable alternative exists for the required construction.~~
3. ~~The hardship was not caused intentionally by the action of the applicant.~~

(b) ~~The Food Services Standards Advisory Council shall review applications for variances and recommend agency action at their quarterly meetings. The department shall make arrangements to expedite emergency requests for variances, to ensure that such requests are acted upon within 30 days of receipt.~~

(c) ~~The department shall establish by rule a fee for the cost of the variance process. Such fee shall not exceed \$150 for routine variance requests and \$300 for emergency variance requests.~~

Section 5. All powers, authority, responsibilities, duties and functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds associated with the "Water Vending Machine Protection Act" as set forth in section 381.0071, Florida Stat-

utes, and the "Bottled Water Act" as set forth in section 381.007, Florida Statutes, are hereby transferred to the Department of Agriculture and Consumer Services by a type four transfer, as defined in section 20.06(4), Florida Statutes.

Section 6. Effective October 1, 1992, section 500.509, Florida Statutes, is created to read:

500.509 Packaged ice plants.—

(1) **SHORT TITLE.**—This section may be cited as the "Packaged Ice Act."

(2) **LEGISLATIVE INTENT.**—It is the intent of the Legislature to protect the public's health by requiring permits and establishing standards for packaged ice plants, packaged ice dealers, and packaged ice transportation vehicles or vessels to ensure that consumers who obtain ice through such means are given appropriate information as to the nature of such ice and that such consumers are assured that the ice meets acceptable standards for human consumption.

(3) **DEFINITIONS.**—As used in this section, the term:

(a) "Department" means the Department of Agriculture and Consumer Services.

(b) "Packaged ice" means ice that is containerized and is offered for sale for human consumption or other consumer uses. Packaged ice does not include ice which is manufactured by any business licensed under chapter 509. Packaged ice containers shall be clearly labeled to show the product name, manufacturer, location of processing plant, and package weight. The label shall bear the packaged ice plant's permit number issued by the department.

(c) "Packaged ice plant" means any place or establishment in which packaged ice is manufactured or processed for human consumption.

(d) "Packaged ice plant operator" means any person or public body which establishes, maintains, or operates a packaged ice plant.

(e) "Packaged ice dealer" means any person or public body which imports ice or causes ice to be transported into or within the state for human consumption or other consumer uses.

(f) "Approved source," when used in reference to a packaged ice plant's product or water used in such plant's operations, means any source of water, whether it be from a spring, artesian well, drilled well, municipal water supply, or any other source, that has been inspected and the water sampled, analyzed, and found to be of a safe and sanitary quality in accordance with the rules of the department. The presence in the packaged ice plant of current certificates or notifications of approval from the department shall constitute approval of the source and the water supply.

(4) **PERMITTING REQUIREMENTS.**—

(a) Each person or public body that establishes, maintains, or operates a packaged ice plant in the state shall first secure an annual operating permit from the department. Each packaged ice plant location shall have a permit.

(b) Each person or public body that imports packaged ice or causes ice to be transported into or within the state for human consumption or other consumer uses shall secure an annual dealer permit from the department. Packaged ice which is transported into the state and which is packaged before or after importation into the state shall meet all of the requirements of this section and shall be packaged, labeled, handled, and otherwise processed and sold according to the provisions of this section.

(c) Each person or public body that is both a packaged ice plant operator and packaged ice dealer shall be issued a combination permit and shall be required to remit one fee only.

(d) An application for a packaged ice plant operator permit or packaged ice dealer permit shall be made in writing to the department on forms provided by the department. The application shall state the location of the packaged ice plant, the source of the water, the treatment the ice received prior to being packaged, and any other information deemed necessary by the department.

(e) If, after considering the source of the water and the treatment process provided by a packaged ice plant operator or a packaged ice dealer, the department finds that the finished packaged ice will not meet

primary and secondary drinking water quality standards, the permit shall be denied. The department shall give specific technical reasons for denying the permit.

(5) **FEEES.**—

(a) Each person or public body seeking a packaged ice plant operator permit or a packaged ice dealer permit shall pay the department a fee which shall be set by rule of the department.

(b) Fees established pursuant to paragraph (a) shall be in an amount sufficient to meet all costs incurred by the department in carrying out its permitting, inspection, sampling, enforcement, and administrative responsibilities under this section, but shall not exceed \$250.

(c) No other fees shall be charged by other governmental agencies for these purposes.

(6) **OPERATING STANDARDS.**—

(a) Water samples shall be taken from the water supply source as often as reasonably necessary, but at least annually, to ensure compliance with water quality standards as established by rule of the department. A packaged ice plant may conduct its own water sampling and analyses for purposes including internal monitoring for quality control. Analysis for microbiological contaminants shall be made weekly if the source is other than a community water system. Records of the sampling and analyses shall be maintained on file at the plant and at department offices for not less than 2 years. Analysis of the samples may be performed by approved commercial laboratories certified by the Department of Health and Rehabilitative Services or by the state laboratories of the Department of Agriculture and Consumer Services.

(b) To ensure that the packaged ice is in compliance with packaged ice standards as established by rule of the department, the following analyses shall be performed by a laboratory certified by the Department of Health and Rehabilitative Services. The representative sample shall be derived from the packaged ice product.

1. For microbiological purposes, a packaged ice plant shall employ a certified laboratory to conduct a weekly analysis of a representative sample from a batch or segment of a continuous production of each type of packaged ice produced by the plant.

2. For chemical, physical, and radiological purposes, a packaged ice plant shall employ a certified laboratory to conduct an annual analysis of a representative sample of a finished product of a continuous product run for each type of packaged ice produced by the plant. The department may take the quality of source water and type of packaging materials into consideration in determining the extent of product analysis needed.

(c) A packaged ice plant shall maintain all records pertaining to sampling and analysis at the plant for not less than 2 years. All required documents shall be available for official review upon request.

(d) The department may adopt any additional rules which are necessary to carry out its duties or necessary to protect the health, safety, and welfare of the public.

(e) The department shall order a packaged ice plant operator to discontinue the operation of any packaged ice plant the condition of which represents a threat to the life or health of any person or the finished packaged ice of which does not meet the standards established by rule of the department. Such packaged ice plant shall not be operated until such time as the department determines that the condition which caused the discontinuance of operation no longer exists.

(7) **ENFORCEMENT AND PENALTIES.**—

(a) Any person who operates a packaged ice plant or causes packaged ice to be transported into or within the state without first obtaining a permit as required by subsection (4), who operates a packaged ice plant or packaged ice transporting vehicle or vessel in violation of an order to discontinue operation, or who maintains or operates a packaged ice plant or packaged ice transporting vehicle or vessel after revocation of the permit commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) This section and rules adopted under this section may be enforced in the manner provided in s. 500.121. Any person who violates this section or any rule adopted under this section shall be punished as provided in this chapter.

(c) The department may deny, suspend, or revoke a permit when the department determines that there has been a substantial failure to comply with the provisions of this section or any rule adopted under this section.

(8) **PREEMPTION OF AUTHORITY TO REGULATE.**—Regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers is hereby preempted by the state. No county or municipality may adopt or enforce any ordinance which regulates the licensure of operation of packaged ice plants, unless it is determined that unique conditions exist within the county which require the county to regulate packaged ice plants in order to protect the public health or welfare. This subsection does not prohibit a local government from requiring an occupational license tax pursuant to chapter 205.

Section 7. Effective October 1, 1992, section 381.0061, Florida Statutes, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which shall not exceed \$500 for each violation, for a violation of s. 381.0065, s. 381.0066, ~~s. 381.007~~, s. 381.0072, or part III of chapter 489, for a violation of any rule adopted under this chapter, or for a violation of any of the provisions of chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

(2) In determining the amount of fine to be imposed, if any, for a violation, the following factors shall be considered:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated.

(b) Actions taken by the owner or operator to correct violations.

(c) Any previous violations.

(3) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

Section 8. Subsection (1) of section 500.03, Florida Statutes, is amended to read:

500.03 Definitions of terms; construction; applicability.—

(1) For the purpose of this chapter, the term:

(a) "Advertisement" means any representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(b) "Color" includes black, white, and intermediate grays.

(c)1. "Color additive" means a material which:

a. Is a dye pigment, or other substance, made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or

b. When added or applied to a food, is capable, alone or through reaction with other substance, of imparting color thereto;

except that such term does not include any material which has been, or hereafter is, exempt under the federal act.

2. Nothing in subparagraph 1. shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(d) "Contaminated with filth" applies to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, all foreign or injurious contamination.

(e) "Convenience store" means a business that is engaged primarily in the retail sale of groceries or motor fuels or special fuels and may

offer food services to the public. For the purposes of this chapter, businesses providing motor fuel or special fuel to the public which also offer groceries or food service are included in the definition of a convenience store.

(f)(e) "Department" means the Department of Agriculture and Consumer Services.

(g)(f) "Federal act" means the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. ss. 301 et seq.; 52 Stat. 1040 et seq.

(h)(g) "Food" means:

1. Articles used for food or drink for man or other animals;
2. Chewing gum; and
3. Articles used for components of any such article.

(i)(h) "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, transporting, or holding food and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

1. A pesticide chemical in or on a raw agricultural commodity;
2. A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
3. A color additive; or
4. Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act (21 U.S.C. ss. 451 et seq.); or the Meat Inspection Act of March 4, 1967 (34 Stat. 1260), as amended and extended (21 U.S.C. ss. 71 et seq.).

(j) "Food establishment" means any food outlet or any facility manufacturing, processing, packing, holding, or preparing food, or selling food at retail.

(k) "Food outlet" means any grocery store; convenience store; minor food outlet; meat, poultry, or fish and related aquatic food market; fruit or vegetable market; food warehouse; refrigerated storage facility; freezer locker; salvage food facility; or any other similar place storing or offering food for sale.

(l) "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include schools, institutions, fraternal organizations, private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, and supply vehicles.

(m)(i) "Immediate container" does not include package liners.

(n)(j) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there is any, of the retail package of such article or is easily legible through the outside container or wrapper.

(o)(k) "Labeling" means all labels and other written, printed, or graphic matters:

1. Upon an article or any of its containers or wrappers; or
2. Accompanying such article.

(p) "Minor food outlet" means any retail establishment that sells groceries and may offer food service to the public, but neither business activity is a major retail function based on allocated space or gross sales.

~~(l) "Person" includes an individual, a partnership, a corporation, and an association.~~

~~(q)(m)~~ "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is a "pesticide" within the meaning of the Florida Pesticide Law, chapter 487, and which is used in the production, storage, or transportation of raw agricultural commodities.

~~(r)(n)~~ "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(s) "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only. The term does not include establishments which handle only prepackaged, nonpotentially hazardous foods; roadside markets that offer only fresh fruits and fresh vegetables for sale; food service establishments; or food and beverage vending machines.

Section 9. Subsection (11) is added to section 500.04, Florida Statutes, to read:

500.04 Prohibited acts.—The following acts and the causing thereof within the state are prohibited:

(11) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling information, whether in coded form or otherwise, identifying the article's expiration date or similar date, date of manufacture, or manufacturing or distribution lot or batch, if such act is done while such article is held for sale.

Section 10. Section 500.09, Florida Statutes, is amended to read:

500.09 The department may ~~adopt~~ promulgate rules.—

(1) When in the judgment of the department such action will promote honesty and fair dealing in the interest of consumers, the department ~~with the advice and consent of the state chemist~~ shall ~~adopt promulgate~~ rules fixing and establishing for any food or class of food under its common or usual name ~~so far as practicable~~ a reasonable definition and standard of identity, or reasonable standard of quality or fill of container, or reasonable sanitary rules governing the manufacture, processing, or handling of such food products. In the prescribing of any standard of quality for any canned fruit or canned vegetable, consideration shall be given and due allowance made for the differing characteristics of the several varieties of such fruit or vegetable. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the department ~~with the advice and consent of the state chemist~~ shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so ~~adopted promulgated~~ shall conform ~~so far as practicable~~ to the definitions and standards ~~adopted promulgated~~ by the Secretary of the United States Department of Health and Human Services under authority conferred by s. 401 of the federal act and those definitions and standards ~~adopted promulgated~~ by the Secretary of the United States Department of Agriculture under the authority conferred by the Agriculture Marketing Act of 1946.

(2) The department may adopt rules exempting from any labeling requirements of this chapter:

(a) Small open containers of fresh fruits and fresh vegetables.

(b) Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.

Section 11. Effective January 1, 1993, section 500.12, Florida Statutes, is amended to read:

500.12 Food permits.—

(1)(a) A food permit from the department is required of any person in the business of manufacturing, processing, packing, holding, preparing, or selling food at retail, except persons registered under chapter 601 engaged in packing or processing, or those food service establishments regulated under chapter 509. Persons subject to continuous, on-site federal or state inspection are exempt from the provisions of this section.

(b) Applications for a food permit from the department shall be accompanied by a fee to be determined by department rule, not to exceed \$350. Food permits shall be renewed annually on or before January 1. The moneys collected shall be deposited in the General Inspection Trust Fund.

(c) The department shall be the exclusive regulatory and permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets in accordance with this section. Application for a food permit shall be made on forms provided by the department and that form shall also contain provision for application for registrations and permits issued by other state agencies, and for collection of the food permit fee and any other fees associated with registration, licensing, or applicable surcharges. The details of the application shall be prescribed by department rule.

~~(d) The department may, by rule, establish conditions for the manufacturing, processing, packing, holding, preparing, selling at retail of food, or transporting of food to protect the public health and promote public welfare by protecting the purchasing public from injury by merchandising deceit. No person, firm, or corporation not operating under continuous inspection of a state or federal agency, except persons subject to the provisions of subsection (2), may engage in the business of manufacturing, processing, packing, holding, or selling at retail any food in any manner without first obtaining a food permit from the department. The permit shall be issued upon application to the department on forms furnished by the department and upon such conditions prescribed by regulations of the department governing the manufacturing, processing, packing, holding, or selling at retail of food as may be necessary to protect the public health and promote public welfare by protecting the purchasing public from injury by merchandising deceit. Such permit shall be renewed annually on or before January 1.~~

(2) Any person selling or distributing for sale any candy containing more than 0.5 percent but less than 5 percent by volume of alcohol shall apply for a food permit pursuant to subsection (1) and disclose to the department any intent to sell or distribute such candy. If the person already holds a permit, written disclosure of intent to sell or distribute such candy shall be provided to the department and the person shall comply with all rules ~~adopted promulgated~~ by the department relating to such candy. If the product is sold by a person licensed under chapter 565, the Department of Business Regulation shall inspect, sample, and verify compliance with the provisions of this chapter. The Department of Agriculture and Consumer Services and the Department of Business Regulation shall enter into a cooperative agreement relative to the enforcement of this chapter, including delegation of authority under the provisions of ss. 500.173-500.175 relating to seizure and condemnation of adulterated or misbranded products.

(3)(a) The department may suspend immediately upon notice any permit issued under authority of this section if it ~~finds~~ is found that any of the conditions of the permit have been violated. The holder of a permit so suspended may at any time apply for the reinstatement of such permit; and the department shall, immediately after prompt hearing and an inspection of the establishment, reinstate such permit if ~~the department finds it is found~~ that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

~~(b)(4) The state chemist or assistant state chemist or any officer or inspector duly designated by~~ The department shall have access to any factory or establishment the operator of which holds a permit from the department, for the purpose of ascertaining compliance with this section, ~~whether or not the conditions of the permit are being complied with;~~ and Denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

(4) It is the intent of the Legislature to eliminate duplication of regulatory inspections of foods. Regulatory and permitting authority over food manufacturing, processing, packing, holding, transporting, and preparing, or selling food at retail, is preempted to the department except as provided in chapters 370 and 372.

(a) Food establishments or retail food stores which have ancillary food service activities shall be permitted and inspected by the department.

(b) Primary food service establishments, as defined in chapters 500 and 509, which have ancillary prepackaged retail food sales shall be licensed and inspected by the Department of Business Regulation.

(c) The department and the Department of Business Regulation shall cooperate to assure equivalency of inspection and enforcement and to share information on those establishments identified in paragraphs (a) and (b) and to address any other areas of potential duplication. The department and the Department of Business Regulation are authorized to adopt rules to enforce statutory requirements under their purview regarding foods.

(5) The department shall ~~adopt promulgate~~ rules for the training and certification of managers of food establishments, food outlets, and food service establishments regulated under this section and for the training and certification of department personnel. ~~exempting from any labeling requirement of this chapter:~~

~~(a) Small open containers of fresh fruits and fresh vegetables; and~~

~~(b) Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that such food is not adulterated or misbranded under the provisions of this chapter upon removal from such processing, labeling, or repacking establishment.~~

Section 12. Section 500.1465, Florida Statutes, is created to read:

500.1465 Inspection of permitted establishments.—

(1) The department is authorized to inspect all entities eligible to be permitted under this chapter.

(2) As far as is practicable, all required inspections shall be performed during a single inspection visit. An inspection visit may last more than 1 day, provided that the inspector or inspection team performing that inspection is not able to complete all of the required inspection duties for that permitted business site during normal business hours. An inspector or inspection team must complete an inspection visit without allowing an intervening business day to elapse during which no inspection duties were performed, except when precluded by a personal or departmental emergency. This shall not preclude:

(a) Additional inspections necessary to ensure correction of violations noted during previous inspections; or

(b) Departmental responses to complaints; or

(c) Response to notifications of food safety hazards.

Visits for the purpose of sample collection do not constitute an inspection visit.

Section 13. There is hereby appropriated (26) FTE positions and \$1,045,787 to the Department of Agriculture and Consumer Services from the General Inspection Trust Fund for Fiscal Year 1992-1993 to implement the provisions of this act.

(2) County level personnel of the Department of Health and Rehabilitative Services who are affected by the elimination of the duplication of responsibilities for inspection of food establishments, as provided in this act, shall be given due consideration for any vacant positions advertised pursuant to subsection (1).

Section 14. Section 500.146, Florida Statutes, is amended to read:

500.146 Department may ~~adopt promulgate~~ rules; analytical work.—

(1) The authority to ~~adopt promulgate~~ rules for the efficient enforcement of this chapter as they relate to foods is vested in the department. The department may ~~adopt promulgate~~ such rules as will conform with those ~~adopted promulgated~~ under the federal act in regard to foods and, to this end, may ~~adopt promulgate~~ by reference any rules ~~adopted promulgated~~ under the federal act insofar as applicable and practicable.

(2) The analytical work ~~necessary for incident to~~ the proper enforcement of this law ~~in regard to foods~~ and rules ~~adopted promulgated~~ by the department in regard to foods shall be done ~~by the department or under~~

the direction of the ~~department and state chemist or his assistants and, when properly verified,~~ shall be prima facie evidence in any court of law or equity in this state.

(3) The department shall have the authority to adopt rules relating to food safety and consumer protection requirements for the manufacturing, processing, packing, holding, preparing, selling at retail of any food, or transporting of foods by places of business not regulated under chapter 381 or chapter 509.

Section 15. Section 500.165, Florida Statutes, is created to read:

500.165 Transporting shipments of food items; rules; penalty.—

(1) It is unlawful for a carrier to transport food items in a vehicle or rail car that has been or is being used to transport solid waste, hazardous substances, hazardous wastes, biohazardous wastes, or any substance that may pose a threat to human health. The department may, by rule, set standards for decontamination and provide for exceptions when the standards are met.

(2) The department is authorized to adopt rules to implement the provisions of this section and to set standards for decontamination. The department shall also adopt rules for administrative fines based upon the potential damage caused by violation, not to exceed the amount provided in subsection (3).

(3) Any person who violates the provisions of this section or rules adopted hereunder shall be subject to an administrative fine not to exceed \$50,000 per violation. In addition, any person who violates the provisions of this section or rules adopted hereunder commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Section 500.167, Florida Statutes, is amended to read:

500.167 Carriers in interstate commerce; exception.—Carriers engaged in interstate commerce are ~~exempt from not subject to~~ the provisions of this chapter, ~~except ss. 500.165 and other than s. 500.166, by reason of their receipt, carriage, or delivery of food in the usual course of business as carriers.~~

Section 17. Subsection (1) of section 502.091, Florida Statutes, is amended to read:

502.091 Milk and milk products which may be sold.—

(1) Only ~~Grade grade~~ A pasteurized milk and milk products or certified pasteurized milk shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments. In an emergency, however, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the department, in which case such milk and milk products shall be labeled "ungraded." Further, if the milk from a producer is less than ~~Grade grade~~ A for reasons of failure on the part of the producer to comply with sanitation or bacterial standards, as defined in this chapter, or if any specific shipment of milk from points beyond routine supervision fails to comply with standards of the Grade A Pasteurized Milk Ordinance, 1989, as amended 1978, Recommendations of the United States Public Health Service, Food and Drug Administration, but is determined by the department to be fit for human consumption, such milk may be received into a milk plant, under written permit issued by the department, for use in ungraded products, such as frozen desserts, which are being processed by such milk plant. During processing of such milk, it shall be pasteurized at a temperature of at least 175° F. for at least 15 seconds or at least 160° F. for at least 30 minutes.

Section 18. Paragraph (a) of subsection (1), and subsections (2) and (4) of section 502.165, Florida Statutes, are amended to read:

502.165 Imitation and substitute milk and milk products.—

(1) DEFINITIONS.—

(a) "Imitation milk and imitation milk products" means those foods that have the physical characteristics, such as taste, flavor, body, texture, or appearance, of milk or milk products as defined in this chapter and the Grade A Pasteurized Milk Ordinance, 1989, as amended 1978, Recommendations of the United States Public Health Service, Food and Drug Administration, but do not come within the definition of "milk" or a "milk product," and are nutritionally inferior to the product imitated.

(2) LABELING.—

(a) All labeling requirements for imitation and substitute milk and milk products shall be in accordance with *Title 21 of the Code of Federal Regulations 21 C.F.R. pts. 101-105 (1983)*.

(b) Imitation or substitute milk or milk products containing no milk-derived ingredients shall be labeled "nondairy." Additionally, all imitation and substitute milk and milk products shall be nutritionally labeled in the format as outlined in *Title 21 of the Code of Federal Regulations 21 C.F.R. pt. 101.9 (1983)*, even though no minerals, vitamins, or proteins have been added or no nutritional claims have been made.

(4) **HEALTH STANDARDS.**—In the interest of public health, imitation or substitute milk and milk products shall comply with the following standards:

(a) **Temperature.**—Cooled to 45° F. 45° F or 7° C. 7° C or less and maintained thereat.

(b) **Bacterial limits.**—20,000 per ml, not applicable to cultured products.

(c) **Coliform.**—Not to exceed 10 per ml.

Sanitation standards for imitation and substitute milk and milk products shall be at least the minimum as authorized in *Title 21 of the Code of Federal Regulations 21 C.F.R. pt. 110 (1983)*.

Section 19. Section 502.191, Florida Statutes, is amended to read:

502.191 **Rules.**—The department may define and establish standards for milk and milk products and goat milk and to adopt rules to implement, interpret, and make specific the provisions of this chapter. Such rules shall include provisions for the regulation of the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and goat milk sold for ultimate consumption within the state or its jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; and the issuance and revocation of permits to milk producers, haulers, and distributors. In adopting such rules and standards, the department shall be guided by, and may, to the extent practicable, conform to, the definitions and standards and all or any part of the administrative procedures and provisions of the appendices contained in the Grade A Pasteurized Milk Ordinance, 1989, as amended, and Recommendations of the United States Public Health Service, Food and Drug Administration, and any addendum thereto.

Section 20. Section 502.231, Florida Statutes, is amended to read:

502.231 **Penalty and injunction.**—

(1) *The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this chapter or the rules adopted hereunder or who impedes, obstructs, or hinders the department in the performance of its duty in connection with the provisions of this chapter:*

(a) *Issuance of a warning letter.*

(b) *Imposition of an administrative fine of not more than \$1,000 per occurrence after the issuance of a warning letter. When imposing any fine under this section, the department shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator benefited from by noncompliance, whether the violation was committed willfully, and the compliance record of the violator.*

(c) *Revocation or suspension of any permit issued by the department under this chapter.*

(2) ~~Any person who violates shall violate any of the provisions of this chapter or rules adopted hereunder commits shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

(3) Such persons may also be enjoined by the circuit courts of this state on complaint of the department from continuing such violations, and injunction shall issue without bond. ~~Each day upon which such a violation occurs shall constitute a separate violation.~~

(4) *Milk and milk product producers and handlers are subject to the provisions of s. 500.172, and the provisions of this section.*

Section 21. Subsection (5) of section 509.013, Florida Statutes, is amended to read:

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

(5)(a) "Public food service establishment" means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption.

(b) The following are excluded from the definition in paragraph (a):

1. Any place maintained and operated by a public or private school, college, or university:

a. For the use of students and faculty; or

b. Temporarily to serve such events as fairs, carnivals, and athletic contests.

2. Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:

a. For the use of members and associates; or

b. Temporarily to serve such events as fairs, carnivals, or athletic contests.

3. Any eating place located on an airplane, train, bus, or watercraft which is a common carrier.

4. Any eating place maintained by a hospital, nursing home, sanitarium, adult congregate living facility, adult day care center, or other similar place.

5. Any place of business issued a permit or inspected by the Department of Agriculture and Consumer Services which manufactures, processes, packages, holds, or sells food at retail pursuant to s. 500.12, ~~unless such place provides food service.~~

6. Any place of business where the food available for consumption is limited to ice, beverages with or without garnishment, popcorn, or pre-packaged items sold without additions or preparation.

7. Any theater, if the primary use is as a theater and if patron service is limited to food items customarily served to the admittees of theaters.

~~8. Any vending machines that dispense prepared meals or any food items.~~

Section 22. Effective October 1, 1992, subsections (2) and (3) of section 509.032, Florida Statutes, are amended to read:

509.032 **Duties.**—

(2) **INSPECTION OF PREMISES.**—

(a) The division has responsibility and jurisdiction for all inspections required by this chapter, ~~however, the division may enter into contracts with other entities for purposes of performing required inspections.~~ The division has responsibility for quality assurance and shall have oversight of inspections performed under contract. Each licensed establishment shall be inspected in accordance with the following schedule:

1. Each public lodging establishment renting transiently shall be inspected at least four times annually. However, units classified as resort condominiums or resort dwellings shall not be subject to this requirement, but shall be made available to the division upon request.

2. Each public lodging establishment classified as renting to nontransient tenants shall be inspected at least twice annually.

3. *Statewide, the average number of Each public food service establishment inspections shall be four per year and shall be based on sanitary conditions of the establishment. Each establishment shall be inspected at least three four times annually.*

(b) For purposes of performing required inspections and the enforcement of this chapter, the division, or its agent, has the right of entry and access to public lodging establishments and public food service establishments at any reasonable time.

(c) *Public food service establishment inspections shall be conducted to enforce provisions of this part and to educate, inform, and promote cooperation between the division and the establishment.*

(d) *The division shall adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness in*

those establishments licensed under this chapter. These rules shall provide the standards and requirements for storing, preparing, processing, serving, or displaying food in public food service establishments, approving public food service establishment facility plans, conducting necessary public food service establishment inspections, cooperating and coordinating with the Department of Health and Rehabilitative Services in epidemiological investigations, and initiating enforcement actions, and for other such responsibilities deemed necessary by the division.

(e)1. Relating to facility plan approvals, the department may grant variances from construction standards in hardship cases, which variances may be less restrictive than the provisions specified in this section or the rules adopted under this section. A variance may not be granted pursuant to this section until the department is satisfied that:

- a. The variance shall not adversely affect the health of the public.
- b. No reasonable alternative to the required construction exists.
- c. The hardship was not caused intentionally by the action of the applicant.

2. The department's advisory council shall review applications for variances and recommend agency action. The department shall make arrangements to expedite emergency requests for variances, to ensure that such requests are acted upon within 30 days of receipt.

3. The department shall establish, by rule, a fee for the cost of the variance process. Such fee shall not exceed \$150 for routine variance requests and \$300 for emergency variance requests.

(3) ~~SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE EVENTS DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES.~~—The division ~~Department of Health and Rehabilitative Services~~ shall:

(a) Prescribe sanitary standards which shall be enforced in public food service establishments.

(b) Inspect public lodging establishments and public food service establishments whenever necessary to respond to an emergency or epidemiological condition and immediately report to the director any significant findings.

(c) Administer a public notification process for temporary food service events of 4 to 18 days' duration and distribute educational materials that address safe food storage, preparation, and service procedures.

1. ~~Temporary food service event~~ Sponsors or vendors of temporary food service events of 4 to 18 days' duration shall notify the ~~division local county health unit~~ not less than 3 days prior to the scheduled event of the type of food service proposed and the time and location of the event. Notification may be completed orally, by telephone, in person, or in writing. A sponsor or vendor may not use this notification process to circumvent the license requirements of this chapter.

2. The ~~division local county health unit~~ shall keep a record of all notifications received for proposed temporary food service events of 4 to 18 days in duration and shall provide appropriate educational materials to the event sponsors.

3. The following events are exempt from any fee charged for temporary food service events:

- a. Any temporary event sponsored and operated by a public or private school, college, or university such as a fair, carnival, or athletic event.
- b. Any temporary event sponsored and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization such as a fair, carnival, or athletic event.

(d) Send the Governor a written report at the end of each fiscal year, which report shall state, but not be limited to, the total number of inspections conducted by the ~~division department~~ to ensure the enforcement of sanitary standards, the total number of inspections conducted in response to emergency or epidemiological conditions, the number of violations of each sanitary standard, and any recommendations for improved inspection procedures.

Section 23. Effective October 1, 1992, subsection (1) of section 509.036, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

509.036 Public food service inspector standardization.—

(1) Any person performing required inspections of licensed public food service establishments for the division or its agent must:

(a) Be standardized by a food service evaluation officer certified by the federal Food and Drug Administration;

(b) Pass the food protection practices test prescribed by s. 509.039 381.0072(8); and

(c) Pass a written examination to demonstrate knowledge of the laws and rules which regulate public food service establishments.

(5) Any costs incurred as a direct result of the requirements of subsection (1) shall be funded from the Hotel and Restaurant Trust Fund from the amounts deposited from public food service establishment license fees.

Section 24. Effective October 1, 1992, section 509.039, Florida Statutes, is created to read:

509.039 Food service manager certification.—It shall be the duty of the division to adopt, by rule, food safety protection standards for the training and certification of all food service managers who are responsible for the storage, preparation, display, or serving of foods to the public in establishments regulated under this chapter. These standards are to be adopted by the division to ensure that, upon successfully passing a test, a manager of a food service establishment shall have demonstrated a knowledge of basic food protection practices. These standards shall also provide for a certification program which authorizes private or public agencies to conduct an approved test and certify the results of those tests to the division. The fee for the test shall not exceed \$50. All managers employed by a food service establishment shall have passed this test and received a certificate attesting thereto. Managers shall have a period of 90 days after employment to pass the required test. The regulation of food safety protection standards for any required training and testing of food service establishment personnel is hereby preempted to the state. The ranking of food service establishments is also preempted to the state; provided, however, that any local ordinances establishing a ranking system in existence prior to October 1, 1988, may remain in effect. The regulation and inspection of food service establishments licensed by this chapter and regulation of food safety protection standards for required training and testing of food service establishment personnel are preempted to the state.

Section 25. Paragraph (b) of subsection (1) and paragraphs (a) and (c) of subsection (3) of section 509.291, Florida Statutes, are amended to read:

509.291 Advisory council.—

(1) There is created a 17-member advisory council.

(b) The division, the Department of Health and Rehabilitative Services, the Florida Hotel and Motel Association, the Florida Restaurant Association, the Florida Apartment Association, and the Florida Association of Realtors shall each designate one representative to serve as a ~~voting nonvoting~~ member of the council. In addition, one hospitality administration educator from a state university affiliated with the Hospitality Education Program created under s. 509.302 shall serve for a term of 2 years as a voting member of the council. This representative shall be designated on a rotating basis by the state universities affiliated with this program.

(3)(a) The advisory council shall meet once each January, at which time a chairperson and vice chairperson shall be elected from the ~~11~~ voting members. A member may not serve consecutive terms as a chairperson.

(c) The council shall take action only by a majority vote of the ~~voting~~ members in attendance.

Section 26. Effective October 1, 1992, the Department of Health and Rehabilitative Services 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 department's Office of Restaurant Programs from the department to the Division of Hotels and Restaurants of the Department of Business Regulation, pursuant to section 20.06(4), Florida Statutes, provided the Department of Business Regulation shall have the authority to organize, classify, and manage the positions transferred in a manner which will reduce duplication, achieve maximum efficiency, and ensure accountability.

Section 27. There is hereby appropriated 160 FTE positions and \$5,231,250 to the Department of Business Regulation, Division of Hotels and Restaurants, from the Hotel and Restaurant Trust Fund for Fiscal Year 1992-1993. Hiring decisions shall give due consideration to assimilating current personnel employed by the local county public health units who perform the duties of this program into positions restructured by the Department of Business Regulation.

Section 28. Effective October 1, 1992, section 381.297, Florida Statutes, as created by chapter 91-158, Laws of Florida, is hereby repealed.

Section 29. Section 583.09, Florida Statutes, is amended to read:

583.09 Egg dealers and poultry dealers; certificates and permit requirements.—

(1) It is unlawful for any person, as a dealer or broker, to sell, offer for sale, or hold for the purpose of sale any eggs or poultry, unless such person possesses a valid food certificate or permit issued by the department as prescribed by s. 500.12 authorizing such person to engage in the selling of eggs or poultry as a dealer in the state.

(2) Such certificate or permit shall be issued by the department free of charge and is subject to suspension or revocation by the department for cause. Every such certificate or permit shall remain effective until suspended or revoked, unless the department deems it necessary to use something other than permanent certificates or permits.

Section 30. Section 583.022, Florida Statutes, is amended to read:

583.022 Refrigeration of Holding or storing eggs for sale or processing; display of eggs for sale at retail; temperature requirements; unlawful acts.—All egg handlers shall refrigerate eggs after packaging for the ultimate consumer. Eggs shall be maintained under refrigeration from the initial time of refrigeration until sold at retail or until used by any commercial establishment or public institution. Temperature for storage and transportation of eggs shall be no greater than 45° F. ambient, to ensure the safety and wholesomeness of the eggs in accordance with federal and state health standards.

(1) It is unlawful for a producer or dealer to hold or store eggs for sale or processing if their internal temperatures are in excess of 60° F.

(2) A retail store may openly display eggs without refrigeration provided their internal temperatures do not at any time exceed 60° F.

Section 31. Subsection (4) of section 585.002, Florida Statutes, is amended to read:

585.002 Department control; continuance of powers, duties, rules, orders, etc.—

(4) The department shall, by rule, establish a fee schedule to cover all or a portion of the costs associated with carrying out the provisions of this chapter, to include establishment of fees for provision of health forms, required certificates, and grants of inspection, with such individual fees not to exceed \$150. administrative costs associated with carrying out the provisions of this chapter. Unless otherwise designated, These fees shall be deposited in the department's General Inspection Trust Fund.

Section 32. Section 585.21, Florida Statutes, is amended to read:

585.21 Sale of biological products.—

(1) Each person who manufactures for sale or, sells, or offers for sale any biological product in the state intended for diagnostic or therapeutic purposes for animals shall first obtain the written permission of the department division.

(2) Each biological product intended for diagnostic or therapeutic purposes for animals which is manufactured for sale or, sold, or offered for sale in the state shall first be officially approved by the United States Department of Agriculture.

Section 33. Section 585.90, Florida Statutes, is amended to read:

585.90 Inspections Investigations, stop-sale orders, condemnation, and destruction of meat, meat byproducts, meat food products, poultry byproducts, poultry meat, and poultry food products.—For the purpose of carrying out the provisions of this chapter, the department:

(1) The department shall have free access at all reasonable hours to inspect and investigate and determine whether any animal products; product or any establishment used to prepare, store, or sell offer for sale any animal products; product or any vehicle used to transport or hold any animal products to determine product is in compliance with the provisions of this chapter and rules of the department.

(2) When May issue and enforce a stop-sale order for any animal product which the department finds or has reason to believe that any animal product is in violation of any of the provisions of this chapter or rules of the department, it may issue and enforce a stop-sale order. This order gives notice that the product is or is believed to be in violation; has been detained; and warns all persons not to remove, use, or dispose of such product by sale or otherwise by penalty of law until permission for removal, use, or disposal is granted by the department. prohibits the further sale or distribution of the product until the department is satisfied that compliance with this chapter, or rules of the department, has been effected and has issued a written release notice to the owner or custodian of the product.

(3) When an animal product has been detained under the provisions of subsection (2), the department may, within a reasonable period of time, petition the circuit court for an order of condemnation of the product. When the department is satisfied that compliance with this chapter has been effected, it shall issue a written release notice to the owner or custodian of the product. May condemn or destroy any animal product which is misbranded, adulterated, or unwholesome.

(4) If the court finds that the detained animal product is in violation of any of the provisions of this chapter, the product shall, after entry of the decree, be destroyed at the expense of the claimant under the supervision of the department. All court costs, fees, storage, and other proper expenses shall be levied against the claimant of such product or his agent. However, when the violation can be corrected by proper labeling of the product and after costs, fees, and expenses have been paid, the court may order that the product be delivered to the claimant for proper labeling under the supervision of the department. The expense of the supervision shall be paid by the claimant.

(5) The department shall condemn or destroy any animal product which is misbranded, adulterated, or unwholesome.

Section 34. Section 585.902, Florida Statutes, is created to read:

585.902 Causes for seizure and condemnation of meat, meat byproducts, meat food products, poultry byproducts, poultry meat, and poultry food products.—Any animal product that is adulterated, misbranded, or unwholesome under the provisions of this chapter or rules of the department is subject to seizure and condemnation by the department.

Section 35. Section 585.903, Florida Statutes, is created to read:

585.903 Seizure; procedures; prohibition on disposal of meat, meat byproducts, meat food products, poultry byproducts, poultry meat, and poultry food products; penalty.—

(1) Whenever an agent of the department believes that cause exists for the seizure of any animal product as set out in this chapter, the agent shall affix to the product a tag, stamp, or other appropriate marking giving notice that the product has been detained and seized by the department. The agent shall also warn all persons not to remove or dispose of the product by sale or otherwise, until written permission from the department or a court of competent jurisdiction is given.

(2) Any person convicted of a violation of subsection (1) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. In addition, any person who violates any of the provisions of this section is subject to a suspension or revocation of any permit under this chapter. The department may, in lieu of or in addition to the suspension or revocation, impose a fine not to exceed \$1,000 per occurrence on the violator. All fines collected shall be deposited in the General Inspection Trust Fund.

Section 36. Section 585.904, Florida Statutes, is created to read:

585.904 Condemnation and sale; release of seized meat, meat byproducts, meat food products, poultry byproducts, poultry meat, and poultry food products.—

(1) When any animal product is detained or seized under s. 585.903, the department may petition a court for an order of condemnation or

sale, as the court may direct. The proceeds of the sale of the product less the legal costs and charges shall be deposited in the General Inspection Trust Fund.

(2) Upon the payment of the costs incurred in the condemnation proceeding, the department may order that the product be delivered to the owner instead of being condemned or sold.

(3) If the department finds that any animal product seized under the provisions of s. 585.903 was not subject to such seizure, the department shall remove the tag or marking.

Section 37. Section 571.11, Florida Statutes, is amended to read:

571.11 Eggs and poultry; seal of quality violations; administrative penalties.—

(1) The Department of Agriculture and Consumer Services may impose a fine not exceeding \$5,000 against any dealer, as defined under s. 583.01(4), in violation of the guidelines for the Florida seal of quality for eggs or poultry programs. All fines, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund.

(2) Whenever any administrative order has been made and entered by the department imposing a fine pursuant to this section, the order shall specify the amount of fine and time limit for payment thereof, not exceeding 15 days, and, upon failure of the dealer to pay the fine within that time, the ~~certificate or~~ permit of the dealer issued under s. 500.12 ~~583.09~~ shall be subject to suspension.

Section 38. (1) No business which is inspected, licensed, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500, Florida Statutes, or any director, officer, lobbyist, or controlling interest of that business, and no political committee or committee of continuous existence representing the interests of such business shall make or solicit a contribution in excess of \$100, for any election, to or on behalf of any candidate for the office of Commissioner of Agriculture. The provisions of this subsection shall not prevent any candidate for the office of Commissioner of Agriculture or members of that candidate's immediate family from contributing to that candidate's campaign as otherwise permitted by law.

(2) No candidate for the office of Commissioner of Agriculture may solicit or accept a campaign contribution in excess of \$100 from any business or person who is licensed or inspected or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500, or any director, officer, lobbyist, or controlling interest of that person or business, or any political committee or committee of continuous existence that represents that person.

(3) No employee of the Department of Agriculture may solicit a campaign contribution for any candidate for the office of Commissioner of Agriculture from any person or business who is licensed, inspected, or otherwise authorized to do business as a food outlet or convenience store pursuant to chapter 500, Florida Statutes, or any director, officer, lobbyist, or controlling interest of that person, or any political committee or committee of continuous existence that represents that person. For purposes of this section, "employee of the department" means any person employed in the Department of Agriculture holding a position in the Senior Management Services as defined in s. 220.402; any person holding a position in the Select Exempt Service as defined in s. 110.602; any person having authority over food outlet or convenience store regulation, or inspection supervision; or any person, hired on a contractual basis, having the power normally conferred upon such person, by whatever title.

(4) Any person who commits a willful violation of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 39. Except as otherwise provided herein, 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 food safety; amending s. 381.006, F.S.; eliminating specified functions from the environmental health program conducted by the Department of Health and Rehabilitative Services; providing for a specified surcharge; amending and renumbering s. 381.007, F.S.; providing that the Department of Agriculture and Consumer Services shall administer and enforce the provisions of the "Bottled Water

Act"; revising fees; amending and renumbering s. 381.0071, F.S.; providing that the Department of Agriculture and Consumer Services shall administer and enforce the provisions of the "Water Vending Machine Protection Act"; amending s. 381.0072, F.S.; revising duties of the Department of Health and Rehabilitative Services relating to food services regulated under chapter 500 or chapter 509, F.S.; revising definitions; deleting reference to a contract between the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Health and Rehabilitative Services; providing for transfer of a portion of certain food service establishment licensing fees to the Department of Health and Rehabilitative Services; specifying use of funds; removing responsibility for food manager certification from the Department of Health and Rehabilitative Services; abolishing the Food Services Standards Advisory Council; deleting authority to grant variances; transferring the powers, duties, and responsibilities associated with the "Water Vending Machine Protection Act" and the "Bottled Water Act" from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; creating s. 500.509, F.S.; providing a short title; providing legislative intent; providing definitions; providing permitting requirements for packaged ice plant operators and dealers; providing fees; providing operating standards; providing for enforcement by the Department of Agriculture and Consumer Services; providing for penalties and an administrative fine; preempting to the state the regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers; amending s. 381.0061, F.S., relating to administrative fines, to conform; amending s. 500.03, F.S.; revising definitions; defining "convenience store," "food establishment," and "food outlet," "food service establishment," "minor food outlet," and "retail food store"; amending s. 500.04, F.S.; expanding prohibited acts to include alteration, destruction, or removal of specified labeling information; amending s. 500.09, F.S.; expanding and clarifying provisions which require the Department of Agriculture and Consumer Services to adopt rules governing food products; authorizing certain exemptions from labeling requirements; amending s. 500.12, F.S.; requiring food permits; providing exemptions; providing an application fee; providing that the Department of Agriculture and Consumer Services shall be the exclusive permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets; providing legislative intent; creating s. 500.1465, F.S.; authorizing the department to inspect all entities permitted under chapter 500, F.S.; providing inspection requirements and procedures; providing additional positions within the Department of Agriculture and Consumer Services to carry out inspection duties; providing an appropriation; providing for due consideration of personnel affected by the act; amending s. 500.146, F.S.; expanding the department's authority to adopt rules; revising provisions relative to analytical work; creating s. 500.165, F.S.; prohibiting carriers to transport food items in certain vehicles or rail cars; providing for standards by rule; providing an administrative fine; providing a penalty; amending s. 500.167, F.S.; revising provisions which provide exemptions for carriers engaged in interstate commerce; amending ss. 502.091, 502.165, and 502.191, F.S.; clarifying and updating references; amending s. 502.231, F.S.; revising penalty and injunction provisions; providing for administrative fines; providing for suspension or revocation of permit; providing applicability to milk and milk product producers and handlers; amending s. 509.013, F.S.; revising exclusions from the definition of "public food service establishment"; amending s. 509.032, F.S.; deleting authority of the division to contract for inspection of public lodging and food service establishments; revising the schedule of inspections of public food service establishments; providing for adoption and enforcement of sanitation rules by the division; providing for variances from construction standards; providing fees; providing duties of the division relating to emergencies and to temporary food service events; amending s. 509.036, F.S.; providing use of food service establishment license fees to fund examination of inspectors; creating s. 509.039, F.S.; requiring the division to provide for certification of managers of certain food service establishments; amending s. 509.291, F.S.; revising advisory council voting membership; providing for transfer of programs, personnel, and funds from the Office of Restaurant Programs of the Department of Health and Rehabilitative Services to the Division of Hotels and Restaurants of the Department of Business Regulation at a time certain; providing for positions; providing an appropriation; repealing s. 381.297, F.S., relating to the Office of Restaurant Programs of the Department of Health and Rehabilitative Services; amending s. 583.09, F.S.; requiring food permits for egg dealers and poultry dealers; amending s. 583.022, F.S.; providing for the refrigeration of eggs for sale or processing; providing temperature requirements; amending s. 585.002, F.S.; requiring the department to establish a fee schedule for specified costs; amending s. 585.21, F.S.; revising provisions relating to the sale of biological products; amending s.

585.90, F.S., relating to inspection, stop-sale orders, condemnation, and destruction of animal products; creating s. 585.902, F.S.; providing causes for seizure and condemnation of animal products; creating s. 585.903, F.S.; providing procedures with respect to seizure of animal products; providing a penalty; providing for suspension or revocation of permit; providing a fine; creating s. 585.904, F.S.; providing for condemnation, sale, and release of seized animal products; amending s. 571.11, F.S.; correcting a cross reference; limiting campaign contributions; prohibiting solicitation of campaign contributions; providing a penalty; providing effective dates.

WHEREAS, Florida's population is rapidly increasing, making it the fourth largest state in the United States, and

WHEREAS, food consumption is proportionally increasing with special emphasis on safety and healthiness, and

WHEREAS, potential Florida agricultural production land is decreasing due to continued urbanization, and

WHEREAS, importation of food is increasing to meet the demands of Florida consumers, and

WHEREAS, an ever-increasing share of imported food is coming from foreign countries not under Florida regulation, and

WHEREAS, Florida needs one agency to coordinate and protect the food supply, thereby avoiding duplication, and

WHEREAS, the Florida Department of Agriculture and Consumer Services has been the lead agency in food protection and has the ability and scientific expertise to protect our retail food supply, NOW, THEREFORE,

On motion by Senator Gardner, further consideration of **CS for CS for CS for SB 832** with pending **Amendment 1** was deferred.

SB 2224—A bill to be entitled An act relating to taxation; amending s. 212.0596, F.S.; revising provisions which specify those dealers subject to the sales tax on mail order sales; providing that certain printers are not considered a dealer's agent in this state; providing that dealers who own real or tangible personal property in this state are subject to the tax, unless the property is located at the premises of a printer and is associated with a final printed product; amending s. 212.06, F.S.; excluding from the definition of "dealer" for sales tax purposes a person whose only property in this state is such property; providing that it is not intended to levy sales tax on certain sales by a printer to a nonresident print purchaser; amending s. 220.03, F.S.; excluding from the definition of "taxpayer" for corporate income tax purposes certain corporations whose only property in this state is located at the premises of a printer and is associated with a final printed product; providing an effective date.

—was read the second time by title.

Six amendments were adopted to **SB 2224** to conform the bill to **HB 1479**.

Pending further consideration of **SB 2224** as amended, on motions by Senator Burt, by two-thirds vote—

HB 1479—A bill to be entitled An act relating to taxation; amending s. 212.0596, F.S.; revising provisions which specify those dealers subject to the sales tax on mail order sales; providing that certain printers are not considered a dealer's agent in this state; providing that dealers who own real or tangible personal property in this state are subject to the tax, unless the property is located at the premises of a printer and is associated with a final printed product; amending s. 212.06, F.S.; excluding from the definition of "dealer" for sales tax purposes a person whose only property in this state is such property; providing that it is not intended to levy sales tax on certain sales by a printer to a nonresident print purchaser; amending s. 220.03, F.S.; excluding from the definition of "taxpayer" for corporate income tax purposes certain corporations whose only property in this state is located at the premises of a printer and is associated with a final printed product; providing an effective date.

—a companion measure, was substituted for **SB 2224** and by two-thirds vote read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 1479** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28 Nays—None

On motion by Senator Dudley, by two-thirds vote **CS for HB's 147, 1551 and 1967** was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Dudley, by unanimous consent—

CS for HB's 147, 1551 and 1967—A bill to be entitled An act relating to the tourist development tax; amending s. 125.0104, F.S.; allowing revenues from the tax to be used for certain museums by any county that imposes the tax; providing for expiration of the tax upon the retirement of bonds issued to finance such museums; authorizing county tourism promotion agencies to undertake certain research studies and provide certain reservation and booking services; providing an exemption from public records requirements for certain information given to or held by county tourism promotion agencies; providing for future review and repeal; authorizing the governing body of a county that levied a tourist development tax before a certain date, which tax is invalidated because a specified condition precedent to the levy of the tax was not complied with before the ordinance levying the tax was adopted, and that levies another such tax in accordance with general law, which tax is approved by the voters of that county before a certain date, to use the proceeds from the invalidated tax for the purposes authorized in the new levy; providing for the use of the proceeds of such invalidated tax for the purposes authorized in the initial ordinance if the referendum on the new levy is disapproved; providing for the creation of a joint legislative committee to study tourist-related taxes and make recommendations; providing for expiration; providing an effective date.

—was taken up out of order. On motions by Senator Dudley, by two-thirds vote **CS for HB's 147, 1551 and 1967** was read the second time by title, and by two-thirds vote read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31 Nays—1

CS for CS for SB 1788—A bill to be entitled An act relating to allocation of the state volume limitation for private activity bonds; amending ss. 159.803, 159.804, 159.805, 159.806, 159.807, 159.809, F.S., and creating s. 159.8081, F.S.; adding a definition, establishing a statewide set-aside pool for allocation for manufacturing facilities under the state volume limitation for federally tax-exempt private activity bonds issued in this state; providing for the amount of the pool; specifying how allocations from the pool may be obtained; specifying time limits between allocation and issuance of bonds; specifying the disposition of unused allocation capacity at a time certain; providing for review by the Department of Commerce and the Department of Community Affairs; providing a contingency if provisions for manufacturing facility bonds expire under federal law; deleting an obsolete provision; repealing s. 159.808, F.S., relating to the small issuer pool, to conform to another law that repealed that section effective January 1, 1988; providing an effective date.

—was read the second time by title.

Senator Forman moved the following amendments which were adopted:

Amendment 1—On page 12, strike all of lines 17-19 and insert: the regional allocation pool. Unless otherwise agreed to by

Amendment 2—On page 15, strike all of lines 1-3

Amendment 3—On page 15, line 16, after the period (.) insert: In issuing written confirmations of allocations for manufacturing facility projects, the division shall use the manufacturing facility bond pool. If allocation is not available from the manufacturing facility bond pool, the division shall issue written confirmations of allocations for manufacturing facility projects pursuant to s. 159.806 or s. 159.807.

On motion by Senator Forman, by two-thirds vote **CS for CS for SB 1788** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—29 Nays—None

On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 1771** was withdrawn from the Committee on Commerce.

On motions by Senator Diaz-Balart, by two-thirds vote—

CS for HB 1771—A bill to be entitled An act relating to disclosure of doing business with Cuba; requiring an issuer of securities in this state to disclose if it does business with Cuba; providing an exception; providing

requirements relating to filing these disclosures with the Department of Banking and Finance; requiring issuers to report changes in status to the department; providing prohibitions; providing penalties and causes of action; providing for indemnification of brokers, dealers, or agents selling securities of noncomplying issuers under certain circumstances; providing for enforcement actions; providing exclusions; providing an effective date.

—a companion measure, was substituted for **CS for SB 2024** and by two-thirds vote read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 1771** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—31 Nays—None

RECONSIDERATION

On motion by Senator Langley, the Senate reconsidered the vote by which—

CS for SB 288—A bill to be entitled An act relating to local officers; amending s. 145.19, F.S.; deleting provisions requiring an annual adjustment in county officers' salaries; providing for adjustments in those salaries only upon approval of the board of county commissioners; amending s. 230.202, F.S.; providing for adjustments in the salaries of school board members only upon approval of the district school board; prescribing method of calculating cost-of-living increases for certain school board members; validating certain prior salary adjustments for school board members; providing an effective date.

—passed as amended this day.

Pending further consideration of **CS for SB 288** as amended, on motions by Senator Langley, by two-thirds vote—

CS for HB 709, HJR 17, HJR 437 and HB 499—A bill to be entitled An act relating to local officers; amending s. 125.01, F.S.; revising language with respect to the powers and duties of the legislative and governing body of a county; amending s. 145.19, F.S.; maintaining the 1991-1992 annual salaries of all county officers through the 1992-1993 fiscal year; creating a County Officers' Salaries Study Commission consisting of members representing certain groups; providing for the commission to report recommendations concerning the process of setting compensation for county officers provided for in chapters 145 and 230, F.S.; specifying issues to be examined; providing for expiration of the commission; amending ss. 230.202 and 230.303, F.S.; maintaining the 1991-1992 annual salaries of school board members and certain superintendents of schools, respectively, through the 1992-1993 fiscal year; providing an effective date.

—a companion measure, was substituted for **CS for SB 288** and by two-thirds vote read the second time by title.

Senators Walker and Childers offered the following amendments which were moved by Senator Langley and adopted:

Amendment 1—On page 1, strike all of lines 25-31, and on page 2, strike all of lines 1-3 and renumber subsequent sections.

Amendment 2—On page 1, lines 2-5, strike "amending s. 125.01, F.S.; revising language with respect to the powers and duties of the legislative and governing body of a county."

On motion by Senator Langley, by two-thirds vote **CS for HB 709, HJR 17, HJR 437 and HB 499** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

THE PRESIDENT PRESIDING

CS for SB 1850—A bill to be entitled An act relating to environmental education; amending s. 229.8055, F.S.; revising the duties of the Commissioner of Education with respect to the environmental education program; deleting requirements that the Department of Education include environmental education in certain summer camp programs, staff training programs, and assessment instruments; providing duties of the department in administering regional service projects in environmental education; amending s. 229.8056, F.S.; reassigning the Office of Environmental Education from the Office of the Commissioner of Education to the Department of Education; redesignating the position of Coordinator of Environmental Education as the Director of Environmental Educa-

tion; amending s. 229.8058, F.S.; revising the membership of the Advisory Council on Environmental Education; providing additional duties of the council; amending s. 229.8064, F.S.; revising duties of the Department of Natural Resources in recommending projects funded from the Save Our State Environmental Education Trust Fund; providing for review of such projects by the Advisory Council on Environmental Education; directing the Department of Highway Safety and Motor Vehicles to cooperate with the Florida Advisory Council on Environmental Education on redesigning the panther license plate; repealing ss. 229.8061, 229.8062, 229.8063, F.S., relating to environmental education grants, the Governor's Environmental Education Trust Fund, and environmental education programs of nonprofit support corporations; repealing s. 9(2), ch. 91-161, Laws of Florida, abrogating the repeal of ss. 229.8058, 229.8059, F.S., scheduled pursuant to the Sundown Act; providing for future legislative review and repeal of s. 229.8058, F.S.; 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)—Strike everything after the enacting clause and insert:

Section 1. Subsections (4) and (5) of section 229.8055, Florida Statutes, are amended to read:

229.8055 Environmental education.—

(4) There is hereby created an environmental education program. Responsibility for the administration of the environmental education program shall rest with the Commissioner of Education, the school districts, the Board of Regents, and the State Board of Community Colleges. In developing the environmental education program, the commissioner shall have the power of:

(a) Coordinating the efforts of the various disciplines within the educational system and coordinating the activities of the various divisions of the Department of Education.

(b) Assembling, developing, and distributing model instructional materials for use in environmental education, with special concern being given to the ecological system of this state and the ways human beings depend upon and interact with the system.

(c) Developing model programs for inservice and preservice teacher training in environmental education.

(d) Coordinating and soliciting the efforts of private organizations and other governmental agencies that are concerned with conserving Florida's environment.

(e) Integrating environmental education into the general curriculum of public school districts, community colleges, and universities grades.

(5) The Department of Education shall:

(a) Assign appropriate staff to work directly with general curriculum development activities through district and school administrators responsible for general curriculum in order to explicitly integrate appropriate environmental topics into the regular curriculum, where appropriate, through curriculum frameworks and performance standards as required by s. 233.011(3)(a) and (b).

(b) Provide consultation to districts concerning the inclusion of instructional components addressing environmental education in district master inservice plans and teacher education programs.

(c) Include environmental education in the summer camp programs for students authorized by s. 228.087 and the General Appropriations Act, as a part of the science or computer component.

(d) Include components which address the teaching of environmental education in summer inservice institutes for teachers, develop model components for district inservice training and staff development programs in environmental education, and assist districts to provide such training.

(e) Collect, analyze, evaluate, and disseminate to school districts information about environmental curriculum materials, validated projects, and other successful programs, including programs for adults.

(f) ~~Include adequate assessment items in the assessment instruments required by s. 232.2454(1) under the Florida Accountability in Curriculum, Educational Instructional Materials, and Testing Act (FACET) of 1984 related to environmental topics addressed by required curriculum frameworks and student performance standards so as to be able to assess the extent to which students exiting middle grades have developed an understanding of the importance of a healthy environment to the future of this state and its citizens. The results of this assessment shall be reported annually to the State Board of Education.~~

(g) Use current technology, such as the Florida Information Resource Network, to produce and maintain abstracts of environmental education programs and materials available for use by teachers across the state, including their source and availability.

(h) Develop an annual status report on environmental education activities and deliver it to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Advisory Council on Environmental Education at least 90 days prior to the convening of the regular session of the Legislature.

(i) *Assist the Advisory Council on Environmental Education in selecting five regional service projects to serve the public education system. With the cooperation of the Advisory Council on Environmental Education, the Department of Education shall administer the regional service projects, which must provide:*

1. *Information about environmental education resources, materials, teacher training, and grant funding opportunities by means of newsletters and other forms of communications to teachers, school districts, and postsecondary institutions.*

2. *Technical assistance in planning, offering, and evaluating teacher inservice and preservice education.*

3. *Technical assistance in developing comprehensive plans and master plans for district environmental education programs.*

4. *Assistance in coordinating with governmental agencies, local businesses, and community organizations to promote environmental education in the public education system.*

~~(i) Identify, develop, and coordinate five regional service projects to serve all school districts. The regional service projects shall include teacher inservice training in environmental education for each school district in the region, assistance to each school district in the formulation of a district comprehensive plan for environmental education, and cooperation with other governmental agencies and community organizations within the region to promote and implement environmental education.~~

Section 2. Section 229.8056, Florida Statutes, is amended to read:

229.8056 Office of Environmental Education.—

(1) There is hereby created, within the ~~Department Office of the Commissioner of Education~~, the Office of Environmental Education, charged with ~~developing the development of~~ a formal environmental education program to meet the objectives of s. 229.8055(5).

(2) There is hereby created within the Office of Environmental Education the position of ~~Director Coordinator~~ of Environmental Education, which position shall report to the Commissioner of Education or his designee and shall be included in the Selected Exempt Service. Duties of the ~~Director Coordinator~~ of Environmental Education shall specifically include, but not be limited to, maintaining an ~~Environmental Education~~ information resource system on *environmental education*. This system shall include a current documentation, referral, and dissemination program for environmental education materials and information ~~to educators in the state in Florida~~.

Section 3. Section 229.8058, Florida Statutes, is amended to read:

229.8058 Advisory Council on Environmental Education; establishment; responsibilities.—

(1) There is created within the Legislature the Advisory Council on Environmental Education. The council shall have 15 ~~14~~ voting members, including:

(a) Two members of the Senate, appointed by the President of the Senate.;

(b) Two members of the House of Representatives, appointed by the Speaker of the House of Representatives.;

(c) Five members appointed by the Governor.

(d) A representative of the Department of Education.

(e) A representative of the *Department of Environmental Regulation Executive Office of the Governor or of an agency the head of which is appointed by the Governor.*

(f) *A representative of the Department of Natural Resources.*

(g) *A representative of the Game and Fresh Water Fish Commission.*

(h) *A representative of the Executive Office of the Governor.*

(i) *The chair of the Environmental Education Foundation.*

(2) Each member who is a public official shall perform the duties of a member of the council as additional duties required of him in his other official capacity.

(3) Legislative members shall be appointed to terms that correspond to their terms of office. All other members shall be appointed to staggered 4-year terms. All members may be reappointed.

(4) The council shall elect a chairperson from among its legislator members and a vice chairperson and other officers as it finds necessary. The chairperson and vice chairperson shall serve for 1 year and may be reelected.

(5) If a legislator who is a member of the council, or a legislator who appointed a member, ceases to be a member or officer of the unit he was selected to represent, he or the member he appointed shall resign from the council immediately and a vacancy shall exist in the membership. A vacancy shall be filled in the manner of the regular appointment, and the person so appointed shall serve only to the end of the unexpired term or until his successor is appointed and qualified, whichever is later, or as otherwise provided in this subsection.

(6) A member of the council shall not be compensated for his services but shall be entitled to per diem and travel expenses as provided in s. 112.061.

(7) The council shall hold meetings at least semiannually at the call of the chairperson and shall adopt rules for its own government as provided in chapter 120.

(8)(a) The council shall employ and set the compensation of an executive director, who shall serve at its pleasure. Within available funds, the executive director may employ and set the compensation of professional, technical, legal, or clerical staff as needed. With the consent of the council, the executive director may employ consultants and enter into contracts on behalf of the council.

(b) The staff of the council shall be governed by the same rules as are the personnel of the Legislature and shall receive the same rights and benefits, including membership in the Florida Retirement System. The council shall make employer contributions for this purpose.

(c) The Joint Legislative Management Committee shall assist the council in obtaining office space and equipment for council staff.

(9) The council shall:

(a) Advise the Governor and Cabinet and the Legislature on policies and practices needed to provide environmental education to visitors and residents who have little contact with the public education system of this state.

(b) Serve as a forum for the discussion and study of problems that affect the environment and environmental education.

(c) Recommend a priority list for the types of programs to be funded through the Save Our State Environmental Education Trust Fund, review any proposals for grants from the fund, and review any programs implemented through the fund.

(d) *Recommend, with the assistance of the Office of Environmental Education of the Department of Education, five regional service projects to be funded for the purpose of serving the public education system in each of the five regions of the Department of Education. The council shall advise the Office of Environmental Education in administering the regional service projects, in accordance with the objectives of s. 229.8055(5)(f).*

(e)(d) Not less than 90 days prior to the convening of each regular session of the Legislature, prepare an annual report of its findings and recommendations and transmit it to the Governor, each officer of the Cabinet, the President of the Senate, and the Speaker of the House of Representatives. The annual report must state the reasons and supporting data for each recommendation and may include draft legislation or rules as needed to implement such recommendations. In addition to the regular annual report, the council may issue interim or special reports on specific subjects as appropriate.

~~(c) Provide assistance to the Interagency Coordinating Committee for Environmental Education to coordinate the environmental education programs of state agencies.~~

(10) The council may:

(a) To the extent not otherwise provided by law, evaluate the environmental education programs for visitors and residents who do not regularly receive services from the public education system of Florida provided by state, local, and private agencies and organizations and, as appropriate, prepare studies and recommendations to improve the effect of those programs on public support for environmental protection;

(b) Examine proposed and existing programs that affect the environment and recommend statewide policies that will direct a unified, coordinated effort to educate the public about the programs; and

(c) Encourage and, when appropriate, coordinate studies relating to the environment and environmental education conducted by universities, state, local, and federal agencies.

Section 4. Subsection (2) of section 229.8064, Florida Statutes, is amended to read:

229.8064 Priorities for projects and program activities.—

(2) For project activities to be funded from the Aquatic Resources Education Account within the department's Save Our State Environmental Education Trust Fund, the department shall *develop a priority list of review the list provided by the Advisory Council on Environmental Education and shall select* projects that meet the intent and purpose of the aquatic education activities of the department. The department shall submit the list of *approved* projects to the Governor and Cabinet *by the time of the first board meeting in October of each year to fund projects and program activities within available appropriations. Before its submission to the Governor and Cabinet, however, the project list must be provided to the Advisory Council on Environmental Education for review and comment.* The Governor and Cabinet shall act upon the recommended list within 45 days after its submission to them.

Section 5. The Department of Highway Safety and Motor Vehicles is directed to cooperate with the Florida Advisory Council on Environmental Education in developing and implementing a process for the redesign of the panther license plate to increase its attractiveness and marketability. The new design must be approved by the department by March 1, 1993.

Section 6. Sections 229.8059, 229.8061, 229.8062, and 229.8063, Florida Statutes, as amended by sections 4, 5, 7, and 8 of chapter 91-161, Laws of Florida, are repealed.

Section 7. Subsection (2) of section 9 of chapter 91-161, Laws of Florida, is repealed.

Section 8. Section 229.8058, Florida Statutes, is repealed effective October 1, 1997. Before that date, the Legislature shall review the advisory role of the Advisory Council on Environmental Education and assess the benefits of transferring the council to an agency in the executive branch of government which has responsibility for environmental matters.

Section 9. 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 environmental education; amending s. 229.8055, F.S.; revising the duties of the Commissioner of Education with respect to the environmental education program; providing duties of the Department of Education in administering regional service projects in environmental education; amending s. 229.8056, F.S.; reassigning the Office of Environmental Education from the Office of the Commissioner

of Education to the Department of Education; redesignating the position of Coordinator of Environmental Education as the Director of Environmental Education; amending s. 229.8058, F.S.; revising the membership of the Advisory Council on Environmental Education; providing additional duties of the council; deleting provisions respecting when meetings must be held and rulemaking; amending s. 229.8064, F.S.; revising duties of the Department of Natural Resources in recommending projects funded from the Save Our State Environmental Education Trust Fund; providing for review of such projects by the Advisory Council on Environmental Education; directing the Department of Highway Safety and Motor Vehicles to cooperate with the Florida Advisory Council on Environmental Education on redesigning the panther license plate; repealing ss. 229.8059, 229.8061, 229.8062, 229.8063, F.S., relating to the Interagency Coordinating Committee for Environmental Education, environmental education grants, the Governor's Environmental Education Trust Fund, and environmental education programs of nonprofit support corporations; repealing s. 9(2), ch. 91-161, Laws of Florida, which subsection repeals s. 229.8058, F.S., relating to the Advisory Council on Environmental Education, effective October 1, 1992; repealing s. 229.8058, F.S., effective October 1, 1993; providing for legislative review in advance of that date; providing an effective date.

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 1850** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—35 Nays—None

CS for CS for SB 1774—A bill to be entitled An act relating to fee time-share real property; amending s. 192.037, F.S.; revising provisions pertaining to the collection, remittance, and enforcement of taxes and special assessments with respect to fee time-share real property; deleting a provision that the managing entity has a lien on the time-share periods for taxes and special assessments; requiring county property appraisers to submit specified information in budget requests to the Department of Revenue; amending s. 721.06, F.S.; revising disclosure to purchaser; amending s. 721.07, F.S.; modifying the public offering statement requirements; amending s. 721.13, F.S.; providing that failure to timely deliver notices will be deemed a violation of ch. 721, F.S.; providing an effective date.

—was read the second time by title.

On motion by Senator Diaz-Balart, further consideration of **CS for CS for SB 1774** was deferred.

Consideration of **CS for SB 1656** was deferred.

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

CS for HB 283—A bill to be entitled An act relating to citrus canker; amending s. 581.192, F.S.; revising language with respect to the excise tax on citrus nursery stock; revising provisions with respect to disposition of such excise taxes; providing for future repeal; amending s. 581.193, F.S.; conforming language; providing for future repeal; amending s. 601.282, F.S.; decreasing the excise tax on citrus fruit; providing for future repeal; amending s. 602.025, F.S.; revising legislative intent; providing a notification procedure; providing an appropriation; providing for the disposition of unappropriated funds in the Florida Citrus Canker Trust Fund; providing for the disposition of excess taxes; providing for the disposition of excess federal funds; providing for the transfer of certain funds; providing an exception to the reversion of certain appropriations; providing for payment of certain citrus canker programs; providing an effective date.

—a companion measure, was substituted for **CS for SB 2026** and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **CS for HB 283** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—None

On motions by Senator Langley, by two-thirds vote **CS for CS for HB 1151** was withdrawn from the Committees on Education and Appropriations.

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

CS for CS for HB 1151—A bill to be entitled An act relating to educational facilities; creating s. 235.199, F.S.; providing for cooperative funding of vocational educational facilities; providing requirements of a school district prior to submitting a request for funds; requiring estab-

ishment of need; providing for a committee to review and evaluate requests; providing budgeting and funding requirements; providing duties of the Office of Educational Facilities; establishing funding eligibility for certain projects; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for **CS for SB 678** and read the second time by title. On motion by Senator Langley, by two-thirds vote **CS for CS for HB 1151** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—30 Nays—None

CS for SB 2142—A bill to be entitled An act relating to deceptive and unfair trade practices; amending s. 501.205, F.S.; revising provisions with respect to rulemaking power under that act; amending s. 501.207, F.S.; increasing the time period for the institution of actions by the enforcing authority; amending s. 501.2075, F.S.; increasing civil penalties for violations of ch. 501, F.S.; amending s. 501.2101, F.S.; revising provisions with respect to moneys received in certain proceedings; providing an effective date.

—was read the second time by title.

Senator Thurman moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 1, line 16, insert:

Section 1. Section 501.143, Florida Statutes, is created to read:

501.143 Dance Studio Act.—

(1) **SHORT TITLE.**—This section may be cited as the “Dance Studio Act.”

(2) **DEFINITIONS.**—For the purposes of this section, the term:

(a) “Ballroom dance studio” means any person engaged in the sale of ballroom dance studio lessons or services.

(b) “Dance studio lessons” include instruction, training, or assistance in dancing and the use of ballroom dance studio facilities.

(c) “Dance studio services” include membership in any group, club, or association formed by a ballroom dance studio, participation in dance competitions, dance showcases, trips, tours, parties, and other organized events.

(d) “Department” means the Department of Agriculture and Consumer Services.

(e) “Enforcing authority” means the Department of Agriculture and Consumer Services or the Department of Legal Affairs.

(f) “Notice of cancellation” means the mailing or delivering by a pupil or prospective pupil of written notification to cancel the contract or written agreement.

(g) “Reasonable and fair service fee” means no more than 10 percent of the total contract price for contracts of \$1,000 and under. For contracts over \$1,000, “reasonable and fair service fee” shall mean no more than \$100 plus an amount equal to 5 percent of the total contract price over \$1,000 (not to exceed \$250 in total).

(3) **REGISTRATION OF BALLROOM DANCE STUDIOS.**—

(a) Each ballroom dance studio location shall annually register with the department no later than October 1, providing its legal business or trade name, mailing address, and business locations, and the full names, addresses, and telephone numbers of its owners or corporate officers and directors and the Florida agent of the corporation. A copy of all contracts offered to the public shall also be submitted to the department. A certificate evidencing proof of registration shall be issued by the department and must be prominently displayed at the sales or front desk at each business location.

(b) Any person applying for or renewing a local occupational license to engage in business as a ballroom dance studio must exhibit an active registration certificate from the Department of Agriculture and Consumer Services before the local occupational license may be issued or reissued.

(c) Each advertisement or contract of a ballroom dance studio shall include the phrase “. . . (NAME OF FIRM) . . . is registered with the State of Florida as a Ballroom Dance Studio Registration No. . . .”

(d) Registration fees shall be set by department rule in an amount equal to the costs to the department of implementing and enforcing this section. However, such fee shall be based on the number of clients and may not be greater than \$300 per year per registrant. All amounts collected shall be deposited in the Consumer Protection Trust Fund of the Department of Agriculture and Consumer Services for the administration of this section.

(e) No registration shall be valid for any ballroom dance studio transacting business at any place other than that designated in its application, unless the department is first notified in writing in advance of any change of location. A registration issued under this section shall not be assignable, and the ballroom dance studio shall not be permitted to conduct business under more than one name except as registered. A ballroom dance studio desiring to change its registered name or location or designated agent for service of process at a time other than upon renewal of registration shall notify the department of such change.

(f) The department may deny or refuse to renew the registration of any dance studio based upon a determination that the dance studio, or any of its directors, officers, owners, or general partners:

1. Has failed to meet the requirements for initial application or renewal as provided in this section; or

2. Has been convicted of a crime involving fraud, dishonest dealing, or any other act of moral turpitude; or

3. Has not satisfied a civil fine or penalty arising out of any administrative or enforcement action brought by any governmental agency or private person based upon conduct involving fraud, dishonest dealing, or any violation of this section; or

4. Has had a judgment entered against him in any action brought by the Department of Legal Affairs or the Department of Agriculture and Consumer Services pursuant to ss. 501.201-501.213 or this section.

(4) **CONTRACT REQUIREMENTS.**—Every contract for ballroom dance studio services or lessons shall be in writing and shall be subject to this section. All provisions, requirements, and prohibitions which are mandated by this section shall be contained in the written contract before it is signed by the customer. A copy of the signed contract shall be given to the customer at the time the customer signs the contract.

(a) Every contract for ballroom dance studio services or lessons shall set forth the customer’s total payment obligation for services or lessons to be received pursuant to the contract and shall contain a written statement of the hourly or lesson rate charged for each type of lesson for which the customer has contracted.

(b) If the contract includes ballroom dance studio lessons which are sold at different hourly or lesson rates, the contract shall contain separate hourly or lesson rates for each different type of lesson sold.

(c) If the contract for dance studio services or lessons calls for payment in installments, the studio shall comply with all the provisions of the Retail Installment Sales Act, part II of chapter 520.

(d) All charges for dance studio services or lessons for which the customer has contracted which are not capable of an hourly rate shall be set forth in writing in specific terms.

(e) Every ballroom dance studio to which this section applies shall keep a copy of each contract for dance studio services or lessons on file for as long as the contract is in effect and for a period of 2 years thereafter.

(f) Every contract for the sale of future dance studio services or lessons which are paid for in advance or which the buyer agrees to pay for in future installment payments shall be in writing and shall contain in boldface type, under conspicuous caption, contractual provisions to the contrary notwithstanding, the following:

1. A provision for the penalty-free cancellation of the contract within 3 days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to the ballroom dance studio. Written notice may be construed as any written expression of the customer to not be bound by the contract. The ballroom dance studio shall refund upon

such notice all moneys paid under the contract except the amount for ballroom dance studio services or lessons actually rendered or to have been rendered, by contract, during the number of days prior to the cancellation notice. A refund shall be issued within 20 days after receipt of the notice of cancellation made within the 3-day notice.

2. A provision for the cancellation for any reason of the contract after 3 business days of its making and release from further payments upon notice of cancellation. After three business days the studio shall charge only for the dance instruction and dance instruction services actually furnished under the agreement plus a reasonable and fair service fee. The studio shall refund the balance in three equal monthly installments, to be completed within not more than ninety days after receiving notice of cancellation.

(5) **BONDING PROVISIONS.**—Each ballroom dance studio that requires or receives an advance payment from any customer in excess of \$250 or that enters into retail installment contracts for payment by any customer for dance studio services or lessons in installments shall maintain for each separate business location a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be \$25,000, and the bond, when required, shall be obtained before an occupational license may be issued under chapter 205. The bond shall be in favor of the state for the benefit of any person injured as a result of a violation of this statute. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided herein shall in no event exceed the amount of the bond. The original surety bond required by this section shall be filed with the department.

(a) In lieu of the performance bond required in this section, a registrant or applicant for registration may furnish to the department:

1. An irrevocable letter of credit from any foreign or domestic bank in the amount of \$25,000.

2. A guaranty agreement which is secured by a certificate of deposit in the amount of \$25,000.

(b) The original letter of credit or certificate of deposit submitted in lieu of the bond shall be filed with the department. The department shall decide whether the security furnished in lieu of bond by the ballroom dance studio is in compliance with the requirements of this section.

(6) **PROHIBITED PRACTICES.**—It is a violation of this section for any person:

(a) To conduct business as a ballroom dance studio without registering annually with the department.

(b) Knowingly to make any false statement, representation, or certification in any application or registration form required by department rule.

(c) Knowingly to violate or fail to comply with any rule or order adopted or issued by the department pursuant to its lawful authority in carrying out the intent of this section.

(7) **PENALTIES; REMEDIES.**—

(a) The department may suspend or revoke the registration of any ballroom dance studio that has operated or is operating in violation of any of the provisions of this section or the rules of the department. Such ballroom dance studio may not engage in business while the registration is revoked or suspended. The department may proceed by injunction to prevent any ballroom dance studio from doing business subject to the provisions of this section until a performance bond, letter of credit, or certificate of deposit is posted with the department.

(b) The department may employ investigators and conduct investigations of violations of this section.

(c) The Department of Agriculture and Consumer Services or the Department of Legal Affairs may institute a civil action in a court of competent jurisdiction to recover any penalties or damages allowed in this section and for injunctive relief to enforce compliance with this section or any rule or order of the department.

(d) The enforcing authority may seek a civil penalty of up to \$5,000 for each violation of this section and may proceed by administrative proceeding or court action to assess such penalties and to enforce this section.

(e) Any provision in a dance contract, certificate, dance package, or other brochure or material from a dance studio that purports to waive, limit, restrict, or avoid any of the duties, obligations, or prescriptions of the dance studio, as herein provided, is void and unenforceable and against public policy, unless it is necessitated by contractual arrangements with suppliers and fully disclosed.

(f) The remedies provided in this section are in addition to any other remedies available for the same conduct.

(8) **CRIMINAL PENALTIES.**—Any person or business which violates this section or any rule adopted pursuant to this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) **CONSUMER PROTECTION TRUST FUND; PAYMENTS.**—Any moneys recovered by the enforcing authority as a penalty under this section shall be deposited in the Consumer Protection Trust Fund if the action or proceeding was brought by the department, or the Consumer Frauds Trust Fund if the action or proceeding was brought by the Department of Legal Affairs.

(10) **ENFORCEMENT BY CUSTOMER.**—Any customer injured by a fraudulent act or fraudulent omission in violation of this section may bring an action for the recovery of damages. Judgment may be entered for three times the amount at which the actual damages are assessed, plus costs and reasonable attorney's fees.

(11) **EXEMPTIONS.**—This section does not apply to:

(a) Governmental and bona fide tax-exempt not-for-profit entities.

(b) Contracts for ballroom dance studio services or lessons entered into prior to October 1, 1992.

(12) **RULEMAKING AUTHORITY.**—The department shall promulgate such rules as may be necessary to carry out the provisions of this section.

Section 2. Section 570.5441, Florida Statutes, is created to read:

570.5441 Consumer Protection Trust Fund.—

(1) The Consumer Protection Trust Fund is created in the Division of Consumer Services of the Department of Agriculture and Consumer Services.

(2) All administrative fines and penalties collected by or on behalf of the division, and all reimbursement for the costs of any investigation or litigation involving the division shall be deposited in the Consumer Protection Trust Fund unless otherwise provided herein. Other moneys may be deposited in the trust fund as provided by law.

(3) The division is directed to implement guidelines and procedures under which the financial resources of the trust fund may be utilized for consumer protection and consumer services.

And the title is amended as follows:

In title, on page 1, strike all of lines 2 and 3 and insert: An act relating to consumer protection; creating s. 501.143, F.S.; creating the "Dance Studio Act"; providing definitions; providing for the registration of ballroom dance studios with the Department of Agriculture and Consumer Services; providing fees; providing contract requirements; providing bonding requirements; providing for prohibited practices; providing penalties and remedies; providing criminal penalties; providing for payments into the Consumer Protection Trust Fund; providing for enforcement by the customer; providing exemptions; providing for rules; creating s. 570.5441, F.S.; creating the Consumer Protection Trust Fund in the Division of Consumer Services; specifying moneys to be deposited into the fund and its uses;

On motion by Senator Forman, by two-thirds vote **CS for SB 2142** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30 Nays—None

Consideration of **SB 2072** and **CS for SB 2120** was deferred.

CS for SB 2056—A bill to be entitled An act relating to educational facilities; creating s. 240.155, F.S.; requiring the Board of Regents and the board of trustees of each community college district to prepare a campus

master plan for each institution under its jurisdiction; prescribing requirements for such plans; providing for the Board of Regents and the board of trustees of each community college district to enter into campus development agreements with units of local government within which universities or community colleges are located or which are affected by the universities or community colleges; providing for resolution of disputes with respect to campus development; providing for supersession of other comprehensive planning requirements; providing an effective date.

—was read the second time by title.

The Committee on Appropriations recommended the following amendments which were moved by Senator Thomas and adopted:

Amendment 1—On page 3, strike line 24 and insert: development, site design, environmental management, and the preservation of historic and archaeological resources. The

Amendment 2—On page 6, strike all of lines 18-23 and insert: interest involved. If the Administration Commission incorporates in its final order a term or condition that specifically requires a governing body or a local government to amend or modify its plan, a governing body shall have a reasonable period of time to amend or modify its plan and a local government shall initiate the required plan amendment in the next available plan amendment process. Any required amendment to a local government comprehensive plan shall be limited in scope so as to only relate to specific impacts attributable to the campus development. The final order of the

Amendment 3—On page 10, line 16, strike "If" and insert: Once

Amendment 4—On page 12, line 26, before "affected" insert: aggrieved or adversely

Amendment 5—On page 13, between lines 20 and 21 insert:

(24) Until the campus master plan and campus development agreement for an institution have been finalized, any dispute between the governing body and a local government relating to campus development for that institution shall be resolved by the process established in paragraphs (a), (b), and (c) of subsection (8).

Amendment 6—On page 13, between lines 20 and 21, insert:

(25) A governing body shall be liable to any aggrieved or adversely affected party if the terms and conditions of the master plan and development agreement are not complied with and such non-compliance creates adverse impacts which are not mitigated by the governing body.

Senator Gordon moved the following amendment which was adopted:

Amendment 7 (with Title Amendment)—On page 1, between lines 21 and 22, insert:

Section 1. Subsection (4) is added to section 240.117, Florida Statutes, to read:

240.117 College preparatory instruction in community colleges and state universities.—

(4)(a) *The cost of providing college preparatory instruction to a student who enrolls in a degree program at a community college or state university is the responsibility of the school district in which the student attended high school, if the student is under 22 years of age at the time of enrollment and was graduated from a public secondary school in this state with a standard high school diploma after May 1, 1987.*

(b) *The department shall compensate community colleges and state universities for the cost of providing college preparatory instruction to students meeting the criteria established in paragraph (a) as follows:*

1. *The average annual systemwide costs for college preparatory instruction in the community college system and in the state university system shall be calculated.*

2. *The number of community college students and of state university students, by school district, requiring college preparatory instruction who were graduated from public secondary schools in this state shall be determined, using the postsecondary feedback reports required by s. 240.118.*

3. *The total number of community college students and the total number of state university students for a school district determined*

pursuant to subparagraph 2. shall each be multiplied by the appropriate average annual systemwide cost for college preparatory instruction calculated pursuant to subparagraph 1.

4. *The sum of the products determined pursuant to subparagraph 3. shall be deducted from the school district's allocation of Florida Education Finance Program funds, pursuant to s. 236.081.*

5. *From the moneys derived from the deduction in school district Florida Education Finance Program funds provided for under subparagraph 4., the department shall annually remit to the respective community college or state university a lump-sum payment.*

Section 2. Subsection (12) of section 236.081, Florida Statutes, is amended, present subsection (13) of that section is renumbered as subsection (14) and amended, and a new subsection (13) is added to that section, to read:

236.081 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(12) **QUALITY ASSURANCE GUARANTEE.**—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per weighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per weighted FTE student which shall include the adjusted FTE dollars as provided in subsection (14)(13), profoundly handicapped adjustment, quality guarantee funds, and actual nonvoted discretionary local effort from taxes. From the base funding per weighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection (14)(13), profoundly handicapped adjustment, and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per weighted FTE to prior year funds per weighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per weighted FTE student. Should appropriated funds be less than the sum of this calculated amount for all districts, the commissioner shall prorate each district's allocation. This provision shall be implemented to the extent specifically funded.

(13) **COLLEGE PREPARATORY INSTRUCTION ADJUSTMENT.**—*The adjustment for the cost of providing college preparatory instruction to students requiring such instruction who are under 22 years of age at the time of enrollment and who were graduated from public secondary schools in this state with standard high school diplomas after May 1, 1987, shall be determined annually by the department pursuant to s. 240.117(4) and deducted from the district's allocation as provided in subsection (14).*

(14)(13) **TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.**—The total annual state allocation to each district for current operation shall be distributed periodically in the manner prescribed by regulations of the state board and shall be calculated as follows:

(a) The basic amount for current operation as determined in subsection (1), multiplied by the district cost differential factor as determined in subsection (2), plus the amount for the sparsity supplement as determined in subsection (6), the decline in full-time equivalent students as determined in subsection (7), the adult basic skills adjustment as determined in subsection (8), the profoundly handicapped supplement as determined in subsection (9), the extended day supplement as determined in subsection (10), and the quality assurance guarantee as determined in subsection (12), less the required local effort as determined in subsection (4) and the college preparatory instruction adjustment as determined in subsection (13). If the funds appropriated for the purpose of funding the total amount for current operation as provided in this paragraph are not sufficient to pay the state requirement in full, the department shall prorate the available state funds to each district in the following manner:

1. Determine the percentage of proration by dividing the sum of the total amount for current operation, as provided in this paragraph for all districts collectively, and the total district required local effort into the sum of the state funds available for current operation and the total district required local effort.

2. Multiply the percentage so determined by the sum of the total amount for current operation as provided in this paragraph and the required local effort for each individual district.

3. From the product of such multiplication, subtract the required local effort of each district; and the remainder shall be the amount of state funds allocated to the district for current operation.

(b) The amount thus obtained shall be the net annual allocation to each school district. However, if it is determined that any school district received an underallocation or overallocation for any prior year because of an arithmetical error, assessment roll change, full-time equivalent student membership error, or any allocation error revealed in an audit report, the allocation to that district shall be appropriately adjusted. If the Department of Education audit adjustment recommendation is based upon controverted findings of fact, the Commissioner of Education is authorized to establish the amount of the adjustment based on the best interests of the state.

(c) The amount thus obtained shall represent the net annual state allocation to each district; however, notwithstanding any of the provisions herein, each district shall be guaranteed a minimum level of funding in the amount and manner prescribed in the General Appropriations Act.

Section 3. Paragraph (b) of subsection (3) of section 240.359, Florida Statutes, is amended to read:

240.359 Procedure for determining state financial support and annual apportionment of state funds to each community college district.—The procedure for determining state financial support and the annual apportionment to each community college district authorized to operate a community college under the provisions of s. 240.313 shall be as follows:

(3) DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(b) The apportionment to each community college from the Community College Program Fund shall be determined annually in the General Appropriations Act. In determining each college's apportionment, the Legislature shall consider the following components:

1. Base budget, which includes the state appropriation to the Community College Program Fund in the current year plus the related student matriculation and tuition fees assigned in the current General Appropriations Act.

2. The cost-to-continue allocation, which consists of incremental changes to the base budget, including salaries, price levels, and other related costs.

3. Enrollment workload adjustment, which shall be determined as follows:

a. The actual full-time equivalent enrollment for the prior year, as accepted or modified by the Legislature, shall be the assigned enrollment and the basis for allocating appropriated funds for enrollment workload. If the enrollment workload allocation to a college is determined to be less than zero, the reduction in allocation shall be implemented over a 2-year period.

b. The systemwide average direct instructional cost level of each program of study shall be used to calculate the enrollment workload adjustment. This amount, multiplied by a factor of 1.3, for support services shall be multiplied by the change in enrollment as determined in subparagraph a. From this amount, student matriculation and tuition fees generated by the change in assigned enrollment shall be deducted and the remaining amount shall be the state allocation to each college for enrollment workload.

c. Students enrolled in a recreation and leisure program, and students enrolled in a lifelong learning program, and students enrolled in degree programs who receive college preparatory instruction, who are under 22 years of age at the time of enrollment, and who graduated from public secondary schools in this state with standard high school diplomas after May 1, 1987, may not be counted as full-time equivalent enrollments for purposes of enrollment workload adjustments.

4. Operating costs of new facilities adjustments, which shall be provided, from funds available, for each new facility that is owned by the college and is recommended in accordance with s. 235.15.

5. New and improved program enhancements, which shall be determined by the Legislature.

Student fees in the base budget plus student fee revenues generated by increases in fee rates shall be deducted from the sum of the components determined in subparagraphs 1.-5. The amount remaining shall be the net annual state apportionment to each college.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line 2 and insert: An act relating to education; amending s. 240.117, F.S.; requiring school districts to reimburse community colleges and state universities for the cost of providing college preparatory instruction to certain students; providing a method for calculating the amount of such reimbursements; amending s. 236.081, F.S.; providing for the deduction of college preparatory instructional costs from district allocations from the Florida Education Finance Program; amending s. 240.359, F.S.; prohibiting community colleges from counting certain college preparatory students for full-time equivalent enrollment for funding through the State Community College Program Fund;

On motion by Senator Thomas, by two-thirds vote **CS for SB 2056** 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

RECONSIDERATION

On motion by Senator Thomas, the Senate reconsidered the vote by which—

CS for SB 2056—A bill to be entitled An act relating to educational facilities; creating s. 240.155, F.S.; requiring the Board of Regents and the board of trustees of each community college district to prepare a campus master plan for each institution under its jurisdiction; prescribing requirements for such plans; providing for the Board of Regents and the board of trustees of each community college district to enter into campus development agreements with units of local government within which universities or community colleges are located or which are affected by the universities or community colleges; providing for resolution of disputes with respect to campus development; providing for supersession of other comprehensive planning requirements; providing an effective date.

—passed as amended this day.

On motion by Senator Thomas, by two-thirds vote the Senate reconsidered the vote by which **CS for SB 2056** was read the third time.

On motion by Senator Thomas, the Senate reconsidered the vote by which **Amendment 7** was adopted. **Amendment 7** failed.

On motion by Senator Thomas, by two-thirds vote **CS for SB 2056** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—25 Nays—1

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

HB 1901—A bill to be entitled An act relating to trust administration; amending s. 737.402, F.S.; authorizing certain trust administrators to acquire an undivided interest in specified trust assets; providing for specified disclosure to income beneficiaries of a trust under certain circumstances; providing an effective date.

—a companion measure, was substituted for **SB 1356** and by two-thirds vote read the second time by title.

Senator Dudley moved the following amendment:

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

Section 1. Subsection (1) of section 28.2401, Florida Statutes, is amended to read:

28.2401 Service charges in probate matters.—

(1) Except when otherwise provided, the service charges for the following services shall be:

(a) For the opening of any estate of one document or more, including, but not limited to, petitions and orders to approve settlement of minor's claims; to open a safe deposit box; to enter rooms and places; for the determination of heirs, if not formal administration; and for a foreign guardian to manage property of a nonresident; but not to include issuance of letters or order of summary and family administration \$20.00

(b) Caveat..... 15.00

(c) Petition and order to admit foreign wills, authenticated copies, exemplified copies, or transcript to record..... 30.00

(d) For disposition of personal property without administration..... 20.00

(e) Summary administration..... 35.00

(f) Family administration 45.00

(g) Formal administration, guardianship, ancillary, curatorship, or conservatorship proceedings 75.00

(h) Reopening a closed file except where the file has been closed by order of discharge..... 50.00

(i)(h) Guardianship proceedings of person only 25.00

(j)(i) Veterans administration guardianship pursuant to chapter 744..... 25.00

(k)(j) Exemplified certificates..... 4.00

(l)(k) Petition for determination of incapacity incompetency 60.00 25.00

tificate of deposit, in the names of two or more persons, whether minor or adult, payable to or on the order of one or more of them or the surviving account holder or holders, all such persons and each person depositing funds in any such account *must* shall be presumed by the bank to have intended that upon the death of any such person all rights, title, interest, and claim in, to, and in respect of such deposits and account and the additions thereto, and the obligation of the bank created thereby, less all proper setoffs and charges in favor of the bank, shall vest in the surviving account holder or holders, and the bank incurs no liability for distributions or withdrawals made in reliance upon such presumption.

(2) This section does not create a presumption with regard to or between persons, including for this purpose the personal representative of the estate of a deceased account holder, having an interest in such accounts. The presumption herein created may be overcome only by proof of fraud or undue influence or clear and convincing proof of a contrary intent. In the absence of such proof, all rights, title, interest, and claims in, to, and in respect of such deposits and account and the additions thereto, and the obligation of the bank created thereby, less all proper setoffs and charges in favor of the bank against any one or more of such persons, shall, upon the death of any such person, vest in the surviving account holder or holders, notwithstanding the absence of proof of any donative intent or delivery, possession, dominion, control, or acceptance on the part of any person and notwithstanding that the provisions hereof may constitute or cause a vesting or disposition of property or rights or interests therein, testamentary in nature, which, except for the provisions of this section, would or might otherwise be void or voidable.

Section 4. Paragraph (a) of subsection (1) of section 665.063, Florida Statutes, is amended to read:

665.063 Additional accounts.—

(1) ACCOUNTS IN TWO OR MORE NAMES.—

(a) Unless otherwise expressly provided in the signature contract card or other similar instrument delivered to and accepted by the association or the federal association, when an a savings account, other than a convenience account, is held in any association or federal association in the names of two or more persons, whether minor or adult, in a such form that the moneys in the account are payable to either person or the survivor or survivors, then, in the absence of fraud or undue influence, such account and all additions thereto are shall be the property of those such persons as joint tenants. Persons holding accounts other than a convenience account, and each person depositing funds in an account, other than a convenience account, must be presumed by the association or the federal association to have intended that upon the death of any person all right, title, interest, and claim in, the deposits and account and the additions to the account less all proper setoffs and charges in favor of the association or federal association, vest in the survivor, and the association or federal association incurs no liability for distributions or withdrawals made in reliance upon this presumption. This section does not create a presumption between persons, including for this purpose the personal representative of the estate of a deceased account holder, having an interest in these accounts. The opening of the account in such form shall, in the absence of fraud or undue influence, be conclusive evidence in any action or proceeding to which either the association or the survivor or survivors is a party of the intention of all of the parties to the account to vest title to such account and the additions thereto in such survivor or survivors. The association shall not be subject to any liability for fraud or undue influence if it complies with the provisions of this paragraph.

Section 5. Subsection (2) of section 731.110, Florida Statutes, is amended to read:

731.110 Caveat; proceedings.—

(2) No caveat shall be effective unless it contains the decedent's social security number or date of birth, if known, as an identification number, a statement of the interest of the caveator in the estate, the name and specific residence address of the caveator, and, if the caveator, other than a state agency, is a nonresident of the county, the additional name and specific residence address of some person residing in the county, or of a member of The Florida Bar residing in Florida, designated as the agent of the caveator, upon whom service may be made.

Section 6 Paragraph (c) of subsection (2) and subsection (5) of section 731.303, Florida Statutes, are amended to read:

Section 2. Subsections (1) and (2) of section 657.036, Florida Statutes, are amended to read:

657.036 Deposits and accounts in two or more names; presumption by credit union as to vesting on death.—

(1) Unless otherwise expressly provided in the signature contract card or other similar instrument delivered to and accepted by a credit union in connection with the opening or maintenance of an account in the names of two or more persons, whether minor or adult, payable to or on the order of one or more of them or and the survivors or survivor of them, all such persons and each person depositing funds in any such account shall be presumed by the credit union to have intended that upon the death of any such person all rights, title, interest, and claim in, to, and in respect of such deposits and account and the additions thereto, less all proper setoffs and charges in favor of the credit union, shall vest in the survivors or survivor of such person and the credit union shall incur no liability for distributions or withdrawals made in reliance upon such presumption.

(2) This section does not create a presumption with regard to or between persons, including for this purpose the personal representative of the estate of a deceased account holder, having an interest in such accounts. The presumption created in this section may be overcome only by proof of fraud or undue influence or clear and convincing proof of a contrary intent. In the absence of such proof, all rights, title, interest, and claims in, to, and in respect of such deposits and account and the additions thereto, and the obligation of the credit union created thereby, less all proper setoffs and charges in favor of the credit union against any one or more of such persons, shall, upon the death of any such person, vest in the survivors or survivor of such person notwithstanding the absence of proof of any donative intent or delivery, possession, dominion, control, or acceptance on the part of any person and notwithstanding that the provisions hereof may constitute or cause a vesting or disposition of property or rights or interests therein, testamentary in nature, which, except for the provisions of this section, would or might otherwise be void or voidable.

Section 3. Subsections (1) and (2) of section 658.56, Florida Statutes, are amended to read:

658.56 Deposits and accounts in two or more names; presumption by bank as to vesting on death.—

(1) Unless otherwise expressly provided in the signature contract card or other similar instrument delivered to and accepted by a bank in connection with the opening or maintenance of an account, including a cer-

731.303 Representation.—In proceedings involving estates of decedents or trusts, the following apply:

(2) Persons are bound by orders binding others in the following cases:

(c) An unborn or unascertained person, or a minor or any other person under a legal disability, who is not otherwise represented is bound by an order to the extent that his interest is represented by another party having the same or greater quality of interest in the proceeding.

(5) If the court determines that representation of the interest would otherwise be inadequate, the court may, at any time, appoint a guardian ad litem to represent the interests of an incompetent person, an unborn or unascertained person, a minor or any other person otherwise under a legal disability, or a person whose identity or address is unknown. If not precluded by conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

Section 7. Section 732.216, Florida Statutes, is created to read:

732.216 Short title.—Sections 732.216-732.228 may be cited as the "Florida Uniform Disposition of Community Property Rights at Death Act."

Section 8. Section 732.217, Florida Statutes, is created to read:

732.217 Application.—Sections 732.216-732.228 apply to the disposition at death of the following property acquired by a married person:

(1) Personal property, wherever located, which:

(a) Was acquired as, or became and remained, community property under the laws of another jurisdiction;

(b) Was acquired with the rents, issues, or income of, or the proceeds from, or in exchange for, community property; or

(c) Is traceable to that community property.

(2) Real property, except homestead and real property held as tenants by the entirety, which is located in this state, and which:

(a) Was acquired with the rents, issues, or income of, the proceeds from, or in exchange for, property acquired as, or which became and remained, community property under the laws of another jurisdiction; or

(b) Is traceable to that community property.

Section 9. Section 732.218, Florida Statutes, is created to read:

732.218 Rebuttable presumptions.—In determining whether ss. 732.216-732.228 apply to specific property, the following rebuttable presumptions apply:

(1) Property acquired during marriage by a spouse of that marriage while domiciled in a jurisdiction under whose laws property could then be acquired as community property is presumed to have been acquired as, or to have become and remained, property to which these sections apply.

(2) Real property located in this state, other than real property held as tenants by the entirety and homestead, and personal property wherever located acquired by a married person while domiciled in a jurisdiction under whose laws property could not then be acquired as community property and title to which was taken in a form which created rights of survivorship are presumed not to be property to which these sections apply.

Section 10. Section 732.219, Florida Statutes, is created to read:

732.219 Disposition upon death.—Upon the death of a married person, one-half of the property to which ss. 732.216-732.228 apply is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of succession of this state. One-half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this state. The decedent's one-half of the property is not subject to the surviving spouse's right to elect against the will.

Section 11. Section 732.221, Florida Statutes, is created to read:

732.221 Perfection of title of personal representative, heir, or devisee.—If the title to any property to which ss. 732.216-732.228 apply is held by the surviving spouse at the time of the decedent's death, the per-

sonal representative or an heir or devisee of the decedent may institute an action to perfect title to the property. The personal representative has no fiduciary duty to discover whether any property held by the surviving spouse is property to which these sections apply, unless a written demand is made by an heir, devisee, or creditor of the decedent within 6 months after the first publication of the notice of administration.

Section 12. Section 732.222, Florida Statutes, is created to read:

732.222 Purchaser for value or lender.—

(1) If a surviving spouse has apparent title to property to which ss. 732.216-732.228 apply, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the personal representative or an heir or devisee of the decedent.

(2) If a personal representative or an heir or devisee of the decedent has apparent title to property to which ss. 732.216-732.228 apply, a purchaser for value or a lender taking a security interest in the property takes his interest in the property free of any rights of the surviving spouse.

(3) A purchaser for value or a lender need not inquire whether a vendor or borrower acted properly.

(4) The proceeds of a sale or creation of a security interest must be treated as the property transferred to the purchaser for value or a lender.

Section 13. Section 732.223, Florida Statutes, is created to read:

732.223 Perfection of title of surviving spouse.—If the title to any property to which ss. 732.216-732.228 apply was held by the decedent at the time of his death, title of the surviving spouse may be perfected by an order of the probate court or by execution of an instrument by the personal representative or the heirs or devisees of the decedent with the approval of the probate court. The probate court in which the decedent's estate is being administered has no duty to discover whether property held by the decedent is property to which ss. 732.216-732.228 apply. The personal representative has no duty to discover whether property held by the decedent is property to which ss. 732.216-732.228 apply unless a written demand is made by the surviving spouse or the spouse's successor in interest within 6 months after the first publication of the notice of administration.

Section 14. Section 732.224, Florida Statutes, is created to read:

732.224 Creditor's rights.—Sections 732.216-732.228 do not affect rights of creditors with respect to property to which ss. 732.216-732.228 apply.

Section 15. Section 732.225, Florida Statutes, is created to read:

732.225 Acts of married persons.—Sections 732.216-732.228 do not prevent married persons from severing or altering their interests in property to which these sections apply. The reinvestment of any property to which these sections apply in real property located in this state which is or becomes homestead property creates a conclusive presumption that the spouses have agreed to terminate the community property attribute of the property reinvested.

Section 16. Section 732.226, Florida Statutes, is created to read:

732.226 Limitations on testamentary disposition.—Sections 732.216-732.228 do not authorize a person to dispose of property by will if it is held under limitations imposed by law preventing testamentary disposition by that person.

Section 17. Section 732.227, Florida Statutes, is created to read:

732.227 Homestead defined.—For purposes of ss. 732.216-732.228, the term "homestead" refers only to property the descent and devise of which is restricted by Article X, Section 4(c) of the State Constitution.

Section 18. Section 732.228, Florida Statutes, is created to read:

732.228 Uniformity of application and construction.—Sections 732.216-732.228 are to be so applied and construed as to effectuate their general purpose to make uniform the law with respect to the subject of these sections among those states which enact them.

Section 19. Section 732.4015, Florida Statutes, is amended to read:

732.4015 Devise of homestead.—

(1) As provided by the Florida Constitution, the homestead shall not be subject to devise if the owner is survived by a spouse or minor child, except that the homestead may be devised to the owner's spouse if there is no minor child.

(2) For the purposes of subsection (1), the term:

(a) "Owner" includes the settlor of a trust evidenced by a written instrument in existence at the time of the settlor's death pursuant to which the settlor retained the right either alone or in conjunction with any other person to amend or revoke the trust at any time before his death.

(b) "Devise" includes a disposition by trust of that portion of the trust estate which, if titled in the name of the settlor of the trust, would be the settlor's homestead.

Section 20. Section 732.518, Florida Statutes, is created to read:

732.518 Will contests.—An action to contest the validity of a will may not be commenced before the death of the testator.

Section 21. Subsection (1) of section 732.901, Florida Statutes, is amended to read:

732.901 Production of wills.—

(1) The custodian of a will must deposit the will with the clerk of the court having venue of the estate of the decedent within 10 days after receiving information that the testator is dead. *The custodian must supply the testator's date of death or social security number to the clerk upon deposit.* Willful failure to deposit the will with the clerk within the time period specified ~~do so~~ shall render the custodian responsible for all costs and damages sustained by anyone if the court finds that the custodian had no just or reasonable cause for withholding the deposit of the will.

Section 22. Subsection (2) of section 733.202, Florida Statutes, is amended to read:

733.202 Petition.—

(2) The petition for administration shall contain:

(a) A statement of the interest of the petitioner, his name and address, and the name and office address of his attorney.

(b) The name, last known address, *social security number*, and date and place of death of the decedent and the state and county of the decedent's domicile.

(c) So far as is known, the names and addresses of the beneficiaries and the *dates of birth* ages of any who are minors.

(d) A statement showing venue.

(e) The priority under part III of the person whose appointment as the personal representative is sought.

(f) A statement of the approximate value and nature of the assets so the clerk can ascertain the amount of the filing fee and the court can determine the amount of any bond authorized by this code.

Section 23. Section 733.817, Florida Statutes, is amended to read:

733.817 Apportionment of estate taxes.—

(1) Any estate, inheritance, or other death tax levied or assessed under the tax laws of this or any other state, political subdivision, or country or under any United States revenue act concerning any property included in the gross estate under the law, *including the tax levied by s. 4980A of the Internal Revenue Code, but excluding taxes for which sources of payment are provided within ss. 2206, 2207, and 2603 of the Internal Revenue Code*, shall be apportioned in the following manner:

(a) If a part of the estate passed under a will as a ~~specific devise or general~~ devise to be satisfied by reference to a specific property or type of property, fund, sum, or statutory amount or in any other nonresiduary form, exclusive of property over which the decedent had a power of appointment as defined from time to time under the estate tax laws of the United States, the net amount of the tax attributable to it shall be charged to and paid from the residuary estate without requiring contribution from persons receiving the interests, except as otherwise directed by the governing instrument will. In the event the residuary estate is insuffi-

cient to pay the tax attributable to the interests, any balance of the tax shall be equitably apportioned among the recipients of the interests in the proportions that the value of each interest included in the measure of the tax bears to the total of all interests so included, except as otherwise directed by the governing instrument will.

(b) If a part of the estate passed under the will as a residuary interest, exclusive of property over which the decedent had power of appointment, the net amount of tax attributable to it shall be equitably apportioned among the residuary beneficiaries in the proportions that the value of the residuary interest of each included in the measure of the tax bears to the total of all residuary interests so included, except as otherwise directed by the governing instrument will. When a residuary interest is a ~~an interest in income or an estate for years or for life or other~~ temporary interest, the tax attributable to it shall be charged to corpus and not apportioned between temporary and remainder interests.

(c) If a part of the property concerning which the tax is levied or assessed is held under the terms of any trust created inter vivos, then, unless the governing instrument directs otherwise:

1. If any portion of the trust is directed to pass or to be held in further trust by reference to a specific property, or type of property, fund, sum, or statutory amount, or in any other nonresiduary form, the net amount of the tax attributable to that portion must be charged to and paid from the corpus of the residuary share of the trust without requiring contribution from the nonresiduary interest or the persons receiving or benefiting from that interest. If the residuary portion of the trust is insufficient to pay the tax attributable to all nonresiduary interests, any balance of the tax must be equitably apportioned among the recipients of those interests in the proportions that the value of each interest included in the measure of the tax bears to the total of all interest so included.

2. The net amount of the tax directly attributable to the residuary share of the trust, if any, must be charged as follows: the net amount of the tax attributable to each residuary temporary interest must be charged to that portion of residuary principal that supports the temporary interest without apportionment, and the net amount of the tax attributable to the balance of the residuary share must be equitably apportioned among the residuary beneficiaries, by charge to the corpus of their interest in the proportions that the value of the residuary interest of each included in the measure of the tax bears to the total of all residuary interests included. ~~or is subject to a power of appointment, the net amount of the tax attributable to it shall be charged to and paid from the part of the corpus of the trust property or the property subject to the power of appointment included in the measure of the tax, as the case may be, and shall not be apportioned between temporary and remainder interests, except as otherwise directed by the trust instrument concerning the fund established by it or by the will.~~

(d) Real property or mobile home homesteads that are exempt from execution by law shall be exempt from apportionment of taxes. Persons taking an interest in the homesteads shall not be liable for apportionment of taxes on account of the homesteads. The net amount of the tax attributable to homestead property shall be paid from other assets of any trust or the estate subject to administration ~~the probate or intestate estate~~ in the order as directed by the governing instrument will or, absent this direction if not so provided, in the following order:

1. Property not disposed of by the will or trust.
2. Property passing as devised to the residuary estate devisee.
3. Property not specifically or demonstratively devised.
4. Property specifically or demonstratively devised.

(e) The balance of the net amount of the tax, including, but not limited to, any tax imposed concerning ~~gifts in contemplation of death, jointly held properties passing by survivorship, property passing by intestacy, annuities not created under the will or an inter vivos trust, and the tax imposed by s. 4980A of the Internal Revenue Code or insurance~~, shall be equitably apportioned among, and paid by, the recipients and beneficiaries of the properties or interests, in the proportion that the value of the property or interest of each included in the measure of the tax bears to the total value of all the properties and interests included in the measure of the tax, except as otherwise directed by the governing instrument will. ~~With respect to a~~ When a property or interest is an interest in income or an estate for years or for life or other temporary interest not in

trust, the amount charged to the such recipients or beneficiaries shall not be apportioned between temporary and remainder interests estates but shall be charged to and paid out of the corpus of the property or fund, except as otherwise directed by the governing instrument.

(f) Nothing herein contained shall be construed to require the personal representative or other concerned fiduciary to pay any estate, inheritance, or other death taxes levied or assessed by any foreign country, unless specific directions to that effect are contained in the will or other instrument under which the fiduciary is acting.

(2) ~~As used in this section:~~

(a) The net amount of tax attributable to the interests encompassed by any one of paragraphs (1)(a) through (e) shall be the part of the net amount of the tax as finally determined, with interest on it, as the value of interests included in the measure of the tax and included in the paragraph bears to the amount of the net estate, except that, in the case of an inheritance or similar tax, the tax that is imposed on each beneficiary's interest, as determined under the law of the state, country, or political subdivision then under consideration, shall be deemed the tax attributable to the interest.

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

1. "Net estate" ~~means shall mean~~ the gross estate, as defined by the estate, inheritance, or death tax laws of the particular state, country, or political subdivision whose tax is being apportioned, less the deductions, other than the specific exemption, allowed. All proportions based on net estate shall be determined without regard to any diminution in deductions resulting from the charge of any part of the tax to a deductible interest.

2. ~~(c) The term~~ "Included in the measure of the tax" *means each separate tax that an interest may incur and in determining the proportion that each interest bears to the total value of all interests included in the measure of each tax, only interests included in the measure of that particular tax are considered. The term does shall not include any property or interest, whether passing under the will or not, to the extent the property or interest is exempt or is initially deductible from the gross estate, without regard to any subsequent diminution of the deduction by reason of the charge of any part of the tax to the property or interest.*

3. ~~(d) The word~~ "Value" *means shall mean* the pecuniary worth of the interest involved as finally determined for purposes of the estate, death, or inheritance tax then under consideration, without regard to any diminution of it by reason of the charge of any part of tax.

4. "Governing instrument" *means a will, a trust agreement, or any other document controlling the devolution of an asset at the death with respect to which the tax is being levied, but a direction in the will or such other instrument for the payment of tax in a manner different than that provided for herein is effective to allocate and pay tax only from assets the devolution of which is subject to control under that instrument, except that a will direction to pay tax from a trust of which the testator was the grantor and which was revocable by the grantor until the date of the grantor's death, is effective if a contrary direction is not contained in the trust agreement.*

5. "Temporary interest" *means an interest in income or an estate for a specific period of time or for life or for some other period controlled by reference to extrinsic events.*

(c)(e) Except when the will or other governing instrument otherwise provides, in the event a credit is given under the estate tax laws of the United States for any estate, inheritance, or death taxes paid to other countries or political subdivisions, the credit shall be apportioned under this section among the recipients of interests finally charged with the payment of the foreign tax in reduction of any United States estate tax chargeable to the recipients or interests, whether or not the United States estate tax is attributable to the foreign interests. Any excess of the credit shall be applied in reduction of the part of United States estate tax chargeable to residue, and any excess of the credit over the United States estate tax chargeable to residue shall be apportioned ratably among those persons or interests finally charged with the balance of the payment of United States estate tax.

(d) A direction against apportionment under this section may be explicit or implicit from the terms of the governing instrument, but must be clear and unequivocal; provided, however, that an implicit direction against apportionment is not sufficient to avoid the appor-

tionment under state or applicable federal law unless the court also finds that the testator considered and made a deliberate and informed decision about the burden of taxation.

(3) Unless otherwise directed by the governing instrument will, the tax shall be paid by the personal representative out of the estate, or if a personal representative is not acting under appointment, by a person receiving or holding the interests included in the measure of the tax. In all cases in which any property required to be included in the gross estate does not come into the possession of the personal representative, he shall recover:

(a) From the fiduciary in possession of the corpus of the trust or of property subject to the power of appointment in cases in which property of a trust created inter vivos or property subject to a power of appointment is included in the gross estate; and

(b) In all other cases, from the recipient or beneficiaries of property or interests with respect to which the tax is levied or assessed,

the proportionate amount of the tax payable by the fiduciary or persons with which they are chargeable under the provisions of this act, unless relieved of the duty as provided in subsection (6). This subsection shall not authorize the recovery of any taxes from any company issuing insurance included in the gross estate, or from any bank, trust company, savings and loan association, or similar institution with respect to any account in the name of the decedent and any other person that passed by operation of law on the decedent's death. If the fiduciary brings an action to recover a share of tax apportioned to an interest not within his control, the judgment he obtains may include costs and reasonable attorney's fees.

(4) No personal representative or other fiduciary shall be required to transfer any property until the amount of any tax due from the transferee is paid or, if the apportionment of tax has not been determined, until adequate security is furnished for the payment. The fiduciary shall not be required to distribute assets that he reasonably anticipates may be necessary to pay any state or federal taxes.

(5) After the amount of all estate, inheritance, and death taxes is finally determined, the personal representative or other fiduciary shall petition for an order of apportionment and shall give formal notice of the petition and the hearing to all interested persons. The personal representative shall be entitled, and it shall be his duty, except as provided in subsection (6), to attempt to effect apportionment as determined by the order, and the apportionment shall be prima facie correct in proceedings in any court or jurisdiction. The personal representative shall not be required to seek collection of any portion of tax attributable to any interest not within his control until after entry of the order.

(6)(a) A personal representative or other fiduciary who has the duty under this section of collecting the apportioned tax from persons interested in the estate may be relieved of the duty to collect the tax by an order of the court finding:

1. That the estimated court costs and attorney fees in collecting the apportioned tax from a person interested in the estate will approximate the amount of the recovery.

2. That the person interested in the estate is a resident of a foreign country other than Canada and refuses to pay the apportioned tax on demand.

3. That it is impracticable to enforce contribution of the apportioned tax against any person interested in the estate in view of the improbability of obtaining a judgment or the improbability of collection under any judgment that might be obtained, or otherwise.

(b) The fiduciary shall not be liable for failure to attempt to enforce collection if the attempt would in fact have been economically impracticable. Nothing in this section shall limit the right of any person who is charged with more than the amount of the tax apportionable to him to obtain contribution from those who shall not have paid the full amount of the tax apportionable to them, and that right is hereby conferred.

(c) If a fiduciary obtains an order described above, the share of tax to which it refers shall be paid from assets of the estate in the order provided by s. 733.805. Any apportioned tax that is not collected shall also be paid from assets in the same order.

Section 24. Section 737.206, Florida Statutes, is created to read:

737.206 Effect of fraud, duress, mistake, and undue influence.—A trust is void if the execution is procured by fraud, duress, mistake, or undue influence. Any part of the trust is void if so procured, but the remainder of the trust not so procured is valid if it is not invalid for other reasons. An action to contest the validity of all or part of a trust may not be commenced until the trust becomes irrevocable.

Section 25. Paragraph (a) of subsection (4) of section 744.301, Florida Statutes, is amended to read:

744.301 Natural guardians.—

(4)(a) In any case where a minor has a claim for personal injury, property damage, or wrongful death in which the gross settlement for the claim of the minor equals or exceeds \$10,000, the court may, prior to the approval of the settlement of the minor's claim, appoint a guardian ad litem to represent the minor's interests. *In any case in which the gross settlement involving a minor equals or exceeds \$25,000, the court shall, prior to the approval of the settlement of the minor's claim, appoint a guardian ad litem to represent the minor's interests. The appointment of the guardian ad litem must be without the necessity of bond or a notice. The duty of the guardian ad litem is to protect the minor's interests. The procedure for carrying out that duty is as prescribed in the Florida Rules of Probate and Guardianship Procedure. If a legal guardian of the minor has previously been appointed and has no potential adverse interest to the minor, the court may not appoint a guardian ad litem to represent the minor's interests, unless the court determines that the appointment is otherwise necessary.*

Section 26. Section 744.3046, Florida Statutes, is created to read:

744.3046 Preneed guardian for minor.—

(1) Both parents, natural or adoptive, if living, or the surviving parent, may nominate a preneed guardian of the person or property or both of the parent's minor child by making a written declaration that names such guardian to serve if the minor's last surviving parent becomes incapacitated or dies. The declarant or declarants may also name an alternate to the guardian to act if the designated preneed guardian refuses to serve, renounces the appointment, dies, or becomes incapacitated after the death of the last surviving parent of the minor.

(2) The written declaration must reasonably identify the declarant or declarants and the designated preneed guardian and must be signed by the declarant or declarants in the presence of at least two attesting witnesses present at the same time. The written declaration must also provide the following information for each minor child named in such declaration: the full name as it appears on the birth certificate or as ordered by a court, date of birth, and social security number, if any.

(3) The declarant must file the declaration with the clerk of the court. When a petition for incapacity of the last surviving parent or the appointment of a guardian upon the death of the last surviving parent is filed, the clerk shall produce the declaration.

(4) Production of the declaration in a proceeding to determine incapacity of the last surviving parent, or in a proceeding to appoint a guardian upon the death of the last surviving parent, constitutes a rebuttable presumption that the designated preneed guardian is entitled to serve as guardian. The court is not bound to appoint the designated preneed guardian if the designated preneed guardian is found to be unqualified to serve as guardian.

(5) The preneed guardian shall assume the duties of guardian immediately upon an adjudication of incapacity of the last surviving parent or the death of the last surviving parent.

(6) If the preneed guardian refuses to serve, a written declaration appointing an alternate preneed guardian constitutes a rebuttable presumption that the alternate preneed guardian is entitled to serve as guardian. The court is not bound to appoint the alternate preneed guardian if the alternate preneed guardian is found to be unqualified to serve as guardian.

(7) Within 20 days after assumption of duties as guardian, a preneed guardian shall petition for confirmation of appointment. If the court finds the preneed guardian to be qualified to serve as guardian, appointment of the guardian must be confirmed. Each guardian so confirmed shall file an oath in accordance with s. 744.347 and shall file a bond, if the court requires a bond. Letters of guardianship must then be issued in the manner provided in s. 744.345.

(8) The clerk shall maintain all declarations filed pursuant to this section until:

(a) A petition for incapacity of the last surviving parent is filed or petition for the appointment of a guardian upon the death of the last surviving parent is filed as provided in subsection (3); or

(b) All minor children named in the declaration have reached the age of majority.

The clerk may dispose of such written declaration in accordance with law.

Section 27. Subsection (1) of section 744.362, Florida Statutes, is amended to read:

744.362 Initial guardianship report.—

(1) Each guardian shall file with the court an initial guardianship report within 60 days after his appointment as guardian. The initial guardianship report for a guardian of the property must consist of a verified inventory. The initial report for a guardian of the person must consist of an initial guardianship plan. The initial report shall be served on the ward, *unless the ward is a minor under the age of 14 years or is totally incapacitated*, and the attorney for the ward. Either the ward or the ward's attorney may request a hearing concerning the adequacy of the report.

Section 28. Subsections (1) and (2) of section 744.367, Florida Statutes, are amended to read:

744.367 Duty to file annual guardianship report.—

(1) Unless the court requires filing on a calendar-year basis, each guardian of the person shall file with the court an annual guardianship ~~plan report~~ within ~~90~~ 30 days after the last day of the anniversary month ~~the letters of guardianship were signed of the guardian's appointment~~, and the ~~plan report~~ must cover the *coming* fiscal year, ending in such anniversary month. If the court requires calendar-year filing, the guardianship ~~plan report~~ must be filed within ~~90~~ 30 days after the end of the *calendar* year.

(2) Unless the court requires or authorizes filing on a fiscal-year basis, each guardian of the property shall file with the court an annual ~~accounting guardianship report~~ on or before April 1 of each year. The ~~annual accounting report~~ must cover the preceding calendar year. If the court authorizes or directs filing on a fiscal-year basis, the ~~annual accounting report~~ must be filed on or before the first day of the fourth month after the end of the fiscal year.

Section 29. Section 732.518, Florida Statutes, as created by this act, applies to all actions contesting a will pending on and after October 1, 1992.

Section 30. Effective July 1, 1992, paragraph (e) of subsection (2) and subsection (4) of section 737.402, Florida Statutes, are amended to read:

737.402 Powers of trustees conferred by this part.—

(2) Unless otherwise provided in the trust instrument, a trustee has the power:

(e) To acquire an undivided interest in a trust asset, including, but not limited to, a money market mutual fund, mutual fund, or common trust fund, in which asset the trustee holds an undivided interest in any trust capacity, *including any money market or other mutual fund from which the trustee, any co-trustee, or any affiliate or associate of the trustee or co-trustee is entitled to receive reasonable compensation for providing necessary services as an investment advisor, portfolio manager, or servicing agent. A trustee, co-trustee, or affiliate or associate of the trustee or co-trustee may receive compensation for such services in addition to fees received for administering the trust, provided such compensation is fully disclosed in writing to all current income beneficiaries of the trust.*

(4)(a) Due to the inherent conflict of interest that exists between a trustee who is a beneficiary and other beneficiaries of the trust, unless the terms of a trust refer specifically to this subsection and provide expressly to the contrary, any power conferred upon a trustee (other than the settlor of a *revocable or amendable trust* or a decedent's or settlor's spouse who is the trustee of a *testamentary or an inter vivos trust* for which a marital deduction has been allowed):

1. To make discretionary distributions of either principal or income to or for the benefit of such trustee, except to provide for that trustee's health, education, maintenance, or support as described under Internal Revenue Code ss. 2041 and 2514 ~~or 2041~~;

2. To make discretionary allocations of receipts or expenses as between principal and income, unless such trustee acts in a fiduciary capacity whereby such trustee has no power to enlarge or shift any beneficial interest except as an incidental consequence of the discharge of such trustee's fiduciary duties; or

3. To make discretionary distributions of either principal or income to satisfy any legal support obligations of such trustee; or;

4. To exercise any other power, including the right to remove or to replace any trustee, so as to cause the powers enumerated in subparagraph 1., subparagraph 2., or subparagraph 3. to be exercised on behalf of, or for the benefit of, a beneficiary who is also a trustee,

cannot be exercised by such trustee. Any of the foregoing proscribed powers that are conferred upon two or more trustees may be exercised by the trustees who are not so disqualified. If there is no trustee qualified to exercise such power, any party in interest, as defined in paragraph (c), may apply to a court of competent jurisdiction to appoint an independent trustee and such power may be exercised by the independent trustee appointed by the court.

(b) This subsection applies to:

1. Any trust executed after June 30, 1991, unless the terms of the trust refer specifically to this subsection and provide expressly to the contrary;

2. Any testamentary trust created under a will executed after June 30, 1991, unless the terms of the trust refer specifically to this subsection and provide expressly to the contrary; and

3. Any trust created under a document executed before July 1, 1991, unless:

a. If the trust is revocable or amendable, the settlor revokes or amends the trust at any time to provide otherwise; or

b. If the trust is irrevocable, all parties in interest, as defined in paragraph (c), elect affirmatively, in the manner prescribed in paragraph (d), not to be subject to the application of this subsection. Such election must be made on or before the later of July 1, 1994, or 3 years after the date on which the trust becomes irrevocable.

However, the provisions of this subsection neither create a new cause of action nor impair any existing cause of action which, in either case, relates to any power proscribed by paragraph (a) that was exercised before July 1, 1991.

(c) For the purpose of paragraph (a) or paragraph (b):

1. If the trust is revocable or amendable and the settlor is not incapacitated, the party in interest is the settlor.

2. If the trust is revocable or amendable and the settlor is incapacitated, the party in interest is the settlor's legal representative under applicable law or the settlor's donee under a durable power of attorney that is sufficient to grant such authority.

3. If the trust is not revocable or amendable, the parties in interest are:

a. Each trustee then serving;

b. Each income beneficiary then in existence or, if any such beneficiary has not attained majority or is otherwise incapacitated, the beneficiary's legal representative under applicable law or the beneficiary's donee under a durable power of attorney that is sufficient to grant such authority; and

c. Each remainder beneficiary then in existence or, if any such remainder beneficiary has not attained majority or is otherwise incapacitated, the beneficiary's legal representative under applicable law or the beneficiary's donee under a durable power of attorney that is sufficient to grant such authority.

(d) The affirmative election required under paragraph (b) must be made:

1. If the settlor is not incapacitated, and the trust is revocable or amendable, through a revocation of or an amendment to the trust;

2. If the settlor is incapacitated and the trust is revocable or amendable, through a written declaration executed in the manner prescribed for the recordation of deeds in this state and delivered to the trustee; or

3. If the trust is not revocable or amendable, through a written declaration executed in the manner prescribed for the recordation of deeds in this state and delivered to the trustee.

(e) A person who has the right to remove or to replace a trustee does not possess nor may that person be deemed to possess, by virtue of having that right, the powers of the trustee that is subject to removal or to replacement.

Section 31. Except as otherwise provided in this act, this act shall take effect October 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 probate, trusts, and guardianship; amending s. 28.2401, F.S.; increasing the service charges for reopening certain closed files and for petitions for determination of incapacity; amending s. 657.036, F.S.; providing credit union's liability for acting on presumption relating to survivorship rights in credit union deposits held in two or more names; amending s. 658.56, F.S.; providing a bank's liability for acting on presumption relating to survivorship rights in bank accounts held in two or more names; amending s. 665.063, F.S.; providing a presumption and for savings and loan association's liability relating to survivorship rights in savings and loan accounts held in two or more names; amending s. 731.110, F.S.; requiring the decedent's social security number or date of birth, if known, to be included in caveats filed with the court; amending s. 731.303, F.S.; providing that minors and certain other persons are bound by proceedings involving estates of decedents or trusts; creating s. 732.216, F.S.; providing for the Florida Uniform Disposition of Community Property Rights at Death Act; creating s. 732.217, F.S.; providing applicability to prescribed property; creating s. 732.218, F.S.; providing rebuttable presumptions; creating s. 732.219, F.S.; providing for distribution upon death; creating s. 732.221, F.S.; providing for perfection of title of personal representative, heir, or devisee; creating s. 732.222, F.S.; providing for interest of a purchaser for value or a lender; creating s. 732.223, F.S.; providing for perfection of title of surviving spouse; creating s. 732.224, F.S.; providing for nonapplicability of the act to rights of creditors; creating s. 732.225, F.S.; providing that married persons are not prohibited from severing or altering their interest in community property; creating s. 732.226, F.S.; providing limitations on testamentary disposition; creating s. 732.227, F.S.; defining "homestead"; creating s. 732.228, F.S.; providing for uniformity of construction; amending s. 732.4015, F.S.; providing definitions relating to devise of homestead; creating s. 732.518, F.S.; providing a limitation on will contests; amending s. 732.901, F.S.; requiring the testator's date of death or social security number on a will deposited with the clerk; amending s. 733.202, F.S.; requiring that the decedent's social security number be included on a verified petition for administration; requiring the date of birth of beneficiaries who are minors; creating s. 744.3046, F.S.; allowing the parents or the surviving parent of a minor child to make a written declaration appointing a preneed guardian for that child; providing requirements pertaining to the written declaration; providing for a rebuttable presumption that the designated preneed guardian or alternate preneed guardian is entitled to serve; providing discretion to the court; providing requirements relating to a petition for confirmation of appointment; requiring a confirmed guardian to file an oath and, if required, to file a bond; requiring the issuance of letters of guardianship; amending s. 733.817, F.S.; providing for apportionment of estate taxes; providing definitions; creating s. 737.206, F.S.; providing effect of fraud, duress, mistake, or undue influence on a trust; amending s. 744.301, F.S.; providing for appointment of a guardian ad litem in certain cases; amending s. 744.362, F.S.; providing an exemption from service of the initial guardianship report for minors and incapacitated persons; amending s. 744.367, F.S.; extending the time for the filing of annual guardianship plans; providing for the filing of annual accountings; amending s. 737.402, F.S.; authorizing certain trust administrators to acquire an undivided interest in specified trust assets; providing for specified disclosure to income beneficiaries of a trust under certain circumstances; providing that the spouse of the settlor of certain trusts is exempt from disqualification to exercise certain powers; prohibiting trustees from exercising specified powers; providing that a person who has a right to remove or replace a trustee does not possess any powers of that trustee by virtue of that right; providing clarifying language; providing effective dates.

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

Amendment 1A (with Title Amendment)—On page 1, between lines 11 and 12, insert:

Section 1. Paragraph (d) of subsection (15) of section 28.24, Florida Statutes, is amended to read:

28.24 Service charges by clerk of the circuit court.—The clerk of the circuit court shall make the following charges for services rendered by his office in recording documents and instruments and in performing the duties enumerated. However, in those counties where the clerk's office operates as a fiscal unit of the county pursuant to s. 145.022(1), the clerk shall not charge the county for such services.

Charges

(15) For recording, indexing, and filing any instrument not more than 14 inches by 8½ inches, including required notice to property appraiser where applicable:

(d) An additional service charge shall be paid to the clerk of the circuit court to be deposited in the Public Records Modernization Trust Fund for each instrument recorded in the official records:

- 1. First page 1.00
2. Each additional page 0.50

Said fund shall be held in trust by the clerk and used exclusively for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public official records system of the office. On or before December 1, 1993, each clerk of the circuit court shall file a report on the Public Records Modernization Trust Fund with the President of the Senate and the Speaker of the House of Representatives. The report must itemize each expenditure made from the trust fund since its inception and each obligation payable from the trust fund on that date. This paragraph expires July 1, 1994 and the Legislature shall review this paragraph to determine the necessity for the Public Records Modernization Trust Fund prior to the 1994 regular legislative session.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 31, strike line 14 and insert: guardianship; amending s. 28.24, F.S.; providing for the future expiration of the Public Records Modernization Trust Fund; providing for legislative review of the trust fund prior to the expiration; requiring each clerk of the circuit court to file a report with the Legislature on or before a specified date; amending s. 28.2401, F.S.;

Amendment 1B—On page 2, line 13 through page 6, line 2, strike all of said lines and renumber subsequent sections.

Senator Weinstein offered the following amendment which was moved by Senator Dudley and adopted:

Amendment 1C—On page 1, line 12 through page 2, line 12, strike all of said lines

Amendment 1 as amended was adopted.

On motion by Senator Dudley, by two-thirds vote HB 1901 as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

The Senate resumed consideration of—

CS for CS for CS for SB 832—A bill to be entitled An act relating to food and lodging; amending s. 381.006, F.S.; providing for a specified surcharge; specifying contents of the environmental health program; amending s. 381.0072, F.S.; revising duties of the Department of Health and Rehabilitative Services relating to food services regulated under chapter 500, F.S.; revising definitions; deleting reference to a contract between the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Health and Rehabilitative Services; providing for transfer of a portion of certain food service establishment licensing fees to the Department of Health and Rehabilitative Services; specifying use of funds; revising membership on the Food Ser-

vices Standards Advisory Council; creating s. 381.00715, F.S.; providing a short title; providing legislative intent; providing definitions; providing permitting requirements for packaged ice plant operators and dealers; providing fees; providing operating standards; providing for enforcement by the Department of Health and Rehabilitative Services; providing for penalties and an administrative fine; preempting to the state the regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers; creating s. 381.0079, F.S.; providing for a registry of mobile food dispensing vehicles; creating s. 381.00791, F.S.; providing for applicability of certain laws to food service establishments licensed under ch. 381, F.S.; amending s. 381.0061, F.S., relating to administrative fines, to conform; amending s. 500.03, F.S.; revising definitions; defining "convenience store," "food establishment," "food outlet," "food service establishment," "minor food outlet," and "retail food store"; amending s. 500.04, F.S.; expanding prohibited acts to include alteration, destruction, or removal of specified labeling information; amending s. 500.09, F.S.; expanding and clarifying provisions which require the Department of Agriculture and Consumer Services to adopt rules governing food products; authorizing certain exemptions from labeling requirements; amending s. 500.12, F.S.; requiring food permits; providing exemptions; providing an application fee; providing that the Department of Agriculture and Consumer Services shall be the exclusive permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets; providing legislative intent; providing for rules on certification of food managers and inspectional personnel; creating s. 500.1465, F.S.; authorizing the department to inspect all entities permitted under chapter 500, F.S.; providing inspection requirements and procedures; providing additional positions within, and making appropriations to, the Department of Agriculture and Consumer Services to administer the act; providing for due consideration of personnel affected by the act; amending s. 500.146, F.S.; expanding the department's authority to adopt rules; revising provisions relative to analytical work; creating s. 500.165, F.S.; prohibiting carriers from transporting food items in certain vehicles or rail cars; providing for standards by rule; providing an administrative fine; providing a penalty; amending s. 500.167, F.S.; revising provisions which provide exemptions for carriers engaged in interstate commerce; amending ss. 502.091, 502.165, 502.191, F.S.; clarifying and updating references; amending s. 502.231, F.S.; revising penalty and injunction provisions; providing for administrative fines; providing for suspension or revocation of permit; providing applicability to milk and milk product producers and handlers; transferring, renumbering, and amending s. 509.036, F.S.; revising standards for persons who perform food service inspections; amending s. 583.09, F.S.; requiring food permits for egg dealers and poultry dealers; amending s. 583.022, F.S.; providing for the refrigeration of eggs for sale or processing; providing temperature requirements; amending s. 585.002, F.S.; requiring the department to establish a fee schedule for specified costs; amending s. 585.21, F.S.; revising provisions relating to the sale of biological products; amending s. 585.90, F.S., relating to inspection, stop-sale orders, condemnation, and destruction of animal products; creating s. 585.902, F.S.; providing causes for seizure and condemnation of animal products; creating s. 585.903, F.S.; providing procedures with respect to seizure of animal products; providing a penalty; providing for suspension or revocation of permit; providing a fine; creating s. 585.904, F.S.; providing for condemnation, sale, and release of seized animal products; amending s. 571.11, F.S.; conforming a cross-reference; amending s. 20.16, F.S.; redesignating the Division of Hotels and Restaurants of the Department of Business Regulation as the Division of Public Lodging; amending ss. 159.27, 215.20, 404.056, 509.013, 509.032, 509.035, 509.072, 509.091, 509.092, 509.101, 509.141, 509.142, 509.151, 509.162, 509.191, 509.211, 509.2112, 509.215, 509.221, 509.241, 509.242, 509.251, 509.261, 509.281, 509.291, F.S.; requiring certain public lodging establishments to be equipped with sprinkler systems; providing conforming language; amending s. 509.302, F.S., providing conforming language; transferring and renumbering ss. 381.297, 509.213, 509.214, 509.232, 509.292, F.S.; providing conforming language; providing for a transfer of the statutory powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Division of Hotels and Restaurants of the Department of Business Regulation which relate to public food service establishments to the Deputy Secretary of Health of the Department of Health and Rehabilitative Services; repealing s. 509.036, F.S.; providing for public food service inspector standardization; providing effective dates.

—which had been previously considered this day. Pending Amendment 1 by Senator Gardner was adopted. The vote was:

Yeas—24 Nays—13

Pending further consideration of **CS for CS for CS for SB 832** as amended, on motions by Senator Gardner, by two-thirds vote—

CS for CS for HB 721—A bill to be entitled An act relating to food safety; amending s. 381.006, F.S.; eliminating specified functions from the environmental health program conducted by the Department of Health and Rehabilitative Services; providing for a specified surcharge; amending and renumbering s. 381.007, F.S.; providing that the Department of Agriculture and Consumer Services shall administer and enforce the provisions of the "Bottled Water Act"; revising fees; amending and renumbering s. 381.0071, F.S.; providing that the Department of Agriculture and Consumer Services shall administer and enforce the provisions of the "Water Vending Machine Protection Act"; amending s. 381.0072, F.S.; revising duties of the Department of Health and Rehabilitative Services relating to food services regulated under chapter 500 or chapter 509, F.S.; revising definitions; deleting reference to a contract between the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Health and Rehabilitative Services; providing for transfer of a portion of certain food service establishment licensing fees to the Department of Health and Rehabilitative Services; specifying use of funds; removing responsibility for food manager certification from the Department of Health and Rehabilitative Services; abolishing the Food Services Standards Advisory Council; deleting authority to grant variances; transferring the powers, duties, and responsibilities associated with the "Water Vending Machine Protection Act" and the "Bottled Water Act" from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; creating s. 500.509, F.S.; providing a short title; providing legislative intent; providing definitions; providing permitting requirements for packaged ice plant operators and dealers; providing fees; providing operating standards; providing for enforcement by the Department of Agriculture and Consumer Services; providing for penalties and an administrative fine; preempting to the state the regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers; amending s. 381.0061, F.S., relating to administrative fines, to conform; amending s. 500.03, F.S.; revising definitions; defining "convenience store," "food establishment," and "food outlet," "food service establishment," "minor food outlet," and "retail food store"; amending s. 500.04, F.S.; expanding prohibited acts to include alteration, destruction, or removal of specified labeling information; amending s. 500.09, F.S.; expanding and clarifying provisions which require the Department of Agriculture and Consumer Services to adopt rules governing food products; authorizing certain exemptions from labeling requirements; amending s. 500.12, F.S.; requiring food permits; providing exemptions; providing an application fee; providing that the Department of Agriculture and Consumer Services shall be the exclusive permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets; providing legislative intent; creating s. 500.1465, F.S.; authorizing the department to inspect all entities permitted under chapter 500, F.S.; providing inspection requirements and procedures; providing additional positions within the Department of Agriculture and Consumer Services to carry out inspection duties; providing an appropriation; providing for due consideration of personnel affected by the act; amending s. 500.146, F.S.; expanding the department's authority to adopt rules; revising provisions relative to analytical work; creating s. 500.165, F.S.; prohibiting carriers to transport food items in certain vehicles or rail cars; providing for standards by rule; providing an administrative fine; providing a penalty; amending s. 500.167, F.S.; revising provisions which provide exemptions for carriers engaged in interstate commerce; amending ss. 502.091, 502.165, and 502.191, F.S.; clarifying and updating references; amending s. 502.231, F.S.; revising penalty and injunction provisions; providing for administrative fines; providing for suspension or revocation of permit; providing applicability to milk and milk product producers and handlers; amending s. 509.013, F.S.; revising exclusions from the definition of "public food service establishment"; amending s. 509.032, F.S.; deleting authority of the division to contract for inspection of public lodging and food service establishments; revising the schedule of inspections of public food service establishments; providing for adoption and enforcement of sanitation rules by the division; providing for variances from construction standards; providing fees; providing duties of the division relating to emergencies and to temporary food service events; amending s. 509.036, F.S.; providing use of food service establishment license fees to fund examination of inspectors; creating s. 509.039, F.S.; requiring the division to provide for certification of managers of certain food service establishments; amending s. 509.291, F.S.; revising advisory council voting membership; providing for transfer of programs, personnel, and funds from the Office of Restaurant Programs of the Department of Health and Rehabilitative Services to the Division

of Hotels and Restaurants of the Department of Business Regulation at a time certain; providing for positions; providing an appropriation; repealing s. 381.297, F.S., relating to the Office of Restaurant Programs of the Department of Health and Rehabilitative Services; amending s. 583.09, F.S.; requiring food permits for egg dealers and poultry dealers; amending s. 583.022, F.S.; providing for the refrigeration of eggs for sale or processing; providing temperature requirements; amending s. 585.002, F.S.; requiring the department to establish a fee schedule for specified costs; amending s. 585.21, F.S.; revising provisions relating to the sale of biological products; amending s. 585.90, F.S., relating to inspection, stop-sale orders, condemnation, and destruction of animal products; creating s. 585.902, F.S.; providing causes for seizure and condemnation of animal products; creating s. 585.903, F.S.; providing procedures with respect to seizure of animal products; providing a penalty; providing for suspension or revocation of permit; providing a fine; creating s. 585.904, F.S.; providing for condemnation, sale, and release of seized animal products; amending s. 571.11, F.S.; correcting a cross reference; limiting campaign contributions; prohibiting solicitation of campaign contributions; providing a penalty; providing effective dates.

—a companion measure, was substituted for **CS for CS for CS for SB 832** and by two-thirds vote read the second time by title. On motion by Senator Gardner, by two-thirds vote **CS for CS for HB 721** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—32 Nays—4

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

HB 1061—A bill to be entitled An act relating to regional planning; providing for review and repeal of ss. 186.501-186.515, F.S., the Florida Regional Planning Council Act; requiring the Advisory Council on Intergovernmental Relations, in conjunction with the ELMS III Committee, to review the Florida Regional Planning Council Act and submit recommendations to the Legislature by November 1, 1992; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for **SB 1200** and by two-thirds vote read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1061** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—1

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special and Continuing Order Calendar for Wednesday, March 11, 1992: CS for SB 1974, CS for SB 1578, SB 344, SB 1458, CS for CS for CS for SB 12, SB 508 and SB 1310, HB 1851, CS for SB 2416, 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 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 HB 89, CS for HB 601, CS for HB 1011, HB 1065, CS for HB 1111, CS for HB 1419, HB 2203, HB 2219, SB 2224, SB 930, CS for SB 1040, SB 1186, CS for SB 1252, CS for SB 1152, CS for CS for SB 620, SB 826, CS for CS for CS for SB 832, CS for SB 716, SB 1312, CS for CS for SB 1014, SB 1010, CS for SB 288, CS for CS for SB 1788, CS for SB 2024, CS for CS for SB 1774, CS for SB 1656, CS for SB-678, CS for SB 2142, SB 2072, CS for SB 2120, CS for SB 2056, SB 1200, CS for SB 1324, CS for SB's 1342 and 920, CS for SB 822, CS for SB 1018, CS for SB 2, CS for SB 1828, SB 548, CS for CS for SB 940, CS for SB 1490

Respectfully submitted,
Pat Thomas, Chairman

The Committee on Finance, Taxation and Claims recommends the following pass: HB 245, CS for SB 2228 with 1 amendment

The bills were referred to the Committee on Appropriations under the original reference.

The Committee on Finance, Taxation and Claims recommends the following pass: SB 1840

The bill was placed on the calendar.

The Committee on Appropriations recommends a committee substitute for the following: CS for CS for CS for SB 962

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

COMMITTEE SUBSTITUTES

FIRST READING

By the Committees on Appropriations; Finance, Taxation and Claims; Community Affairs; and Natural Resources and Conservation—

CS for CS for CS for CS for SB 962—A bill to be entitled An act relating to solid waste; amending s. 125.01, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 166.021, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 212.055, F.S.; expanding the uses of the local option sales tax to include certain solid waste landfill closures; amending s. 212.08, F.S.; providing for a sales tax exemption prior to purchase for certain recycling equipment and machinery; deleting the expiration date for the exemption; providing exemption for boiler retrofitting services; exempting pelletized paper waste used as a boiler fuel; amending s. 287.045, F.S.; deleting obsolete provisions; requiring the purchase of materials with recycled content under certain conditions; requiring the Division of Purchasing to consider life-cycle costing when evaluating certain bids; requiring the Division of Purchasing to adopt certain rules; providing a price preference for materials or products that contain recycled Florida scrap; amending the definition of the term "recycled content"; requiring state agencies and others to procure products with recycled content; amending ss. 316.003, 377.709, F.S.; conforming cross-references; amending s. 381.006, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 381.0098, F.S.; redesignating biohazardous waste as biomedical waste; providing that biomedical waste does not include disposal of human remains; providing exemptions from registration and fee requirements; amending s. 395.002, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 395.0101, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 403.1834, F.S.; allowing landfill closures to be financed by certain bonds; amending s. 403.4131, F.S.; abolishing the Clean Florida Commission; amending s. 403.4135, F.S.; requiring litter bags in motor vehicles and vessels; amending s. 403.702, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 403.703, F.S.; amending definitions; prohibiting local governments from adopting definitions that are inconsistent with those in this section; amending s. 403.704, F.S.; redesignating biohazardous waste as biomedical waste; allowing certain funds to be used for composting programs; allowing the Department of Environmental Regulation to impose certain conditions on the disposal of waste generated outside this state; amending s. 403.7045, F.S.; redesignating biohazardous waste as biomedical waste; creating s. 403.7046, F.S.; providing for regulation of certain recovered materials; providing for registration; providing for fees; providing for rulemaking; providing for confidentiality for certain information received by the Department of Environmental Regulation; providing for review under the Open Government Sunset Review Act; amending s. 403.7049, F.S.; requiring the disclosure of the funds rebated to the recycling program as a result of fees recovered pursuant to the Advance Disposal Fee Program; amending s. 403.705, F.S.; correcting a cross-reference; changing the date by which certain reports must be prepared by the Department of Environmental Regulation; deleting certain obsolete provisions; amending s. 403.706, F.S.; requiring steel cans to be separated from the waste stream; allowing certain counties to provide an opportunity to recycle; requiring counties to implement a program for the separation and composting of organic materials; specifying that the solid waste goal is a reduction goal; providing that innovation programs for uses of yard trash or wood in construction and demolition debris may qualify as a credit toward waste reduction goal; requiring counties to provide a description of the progress made toward implementing a composting program; authorizing certain local governments to enact certain ordinances; requiring each county to ensure that its solid waste management program is a separate enterprise; providing for certain fees; amending s. 403.7065, F.S.; specifying when state agencies must use products with recycled content; amending the definition of the term "recycled content" to include steel and plastics; amending s. 403.707, F.S.; redesignating clean debris as construction and demolition debris in certain circumstances and redesignating biohazardous waste as biomedical waste; prohibiting open fires, air curtain incinerators, and trench burning, unless permitted by the department; requiring an application for a solid waste management facility permit to contain certain affirmations that the proposed facility is in compliance with local zoning requirements and the local comprehensive plan; amending s. 403.708, F.S.; redesignating biohazardous waste as biomedical waste; describing the triangle that must appear on certain plastics labels;

exempting plastic casings for lead-acid batteries from certain labeling requirements; substituting the term "PETE" for "PET"; prohibiting the regulation of packaging under certain circumstances; amending s. 403.7084, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 403.709, F.S.; providing for certain research and demonstration projects to be funded from the Solid Waste Management Trust Fund; specifying the uses for moneys allocated to the Solid Waste Management Trust Fund from lead-acid battery fees; amending s. 403.7095, F.S.; requiring the Department of Environmental Regulation to consider the progress made by the local government in meeting solid-waste requirements when determining whether to continue, eliminate, or place conditions on certain grants to the local government; requiring a county or municipality to demonstrate on grant application how money will be used regarding recycling at both single-family and multi-family dwellings; requiring that certain information be contained in a grant application regarding the use of the private sector in recycling; deleting certain obsolete provisions; amending s. 403.7125, F.S.; allowing certain revenues to be deposited into the local government general fund under certain conditions; preserving certain obligations of a landfill owner or operator; creating s. 403.7126, F.S.; establishing the Landfill Closure Revolving Loan Trust Fund; providing terms and conditions for loans from such fund; amending s. 403.713, F.S.; providing for ownership and control of certain recovered materials; amending s. 403.714, F.S.; deleting obsolete provisions; allowing the Legislature, state agencies, and the judicial branch to use proceeds from sale of recyclable materials in certain ways; requiring state agencies to use compost products; requiring agencies and others to report certain information regarding compost products; requiring the Department of Agriculture and Consumer Services to develop certain specifications; amending s. 403.717, F.S.; correcting a cross-reference; creating s. 403.7184, F.S.; providing certain requirements for consumers, manufacturers, and sellers of certain batteries; providing penalties; providing for the state to recover reasonable administrative expenses, court costs, and attorneys' fees incurred in an action to enforce this section; amending s. 403.7185, F.S.; providing that proceeds from the lead-acid battery fees be deposited into the battery account within the Solid Waste Management Trust Fund instead of the Water Quality Assurance Trust Fund; amending s. 403.7195, F.S.; increasing the waste disposal fee on newsprint, and credits against such fee, under certain conditions; providing minimum recycled fiber content for newsprint; amending s. 403.7197, F.S.; providing the intent and purpose of the advance disposal fee; providing definitions; requiring the Department of Environmental Regulation to conduct certain studies and designate certain materials subject to such fee; requiring recyclable packaging materials; revising the recycling rate that triggers the fee; specifying the containers subject to the fee; creating the Container Recycling Advisory Council; providing that fee collections and charges be made at certain retail establishments; providing for the remittance of fees on a basis other than retail sales; providing for certain refunds from the Department of Revenue; authorizing the Department of Environmental Regulation to establish certain exemption criteria and redemption rates; providing that reimbursement of fees to redemption centers shall not be made prior to July 1, 1993; providing for private buyback businesses; providing for rebates to certain households; providing for consolidated returns; specifying that the advance disposal fee applies to vending machine sales; requiring a bond for certain redemption centers; requiring certain identification from persons redeeming materials for the advance disposal fee; providing confidentiality for certain taxpayer records; specifying uses for moneys in the Solid Waste Management Trust Fund; subjecting certain fast-food products to the fee; providing for fee revenues to be deposited into the Litter Prevention Trust Fund, which is created; providing for the remittance of fees on a basis other than retail collections on individual transactions; allowing retail business operators to retain a certain amount for direct expenditures for litter prevention or control; providing for a biannual litter survey; providing for uses of moneys in the fund; amending s. 403.727, F.S.; redesignating biohazardous waste as biomedical waste; amending s. 483.615, F.S.; redesignating biohazardous waste as biomedical waste; providing for use of the term "biohazardous waste" under certain circumstances; requiring hospitals to conduct a study and report to the Department of Environmental Regulation; providing for the recycling of mercury-containing devices; providing for demonstration projects; requiring a report to the Legislature; providing an appropriation; prohibiting the use of certain toxic materials in packaging; prohibiting the use of certain packaging material; prohibiting certain environmental representations on consumer products; requiring recycling receptacles in certain locations; amending s. 576.011, F.S.; providing that certain compost is an exception to the definition of the term "commercial fertilizer"; amending s. 72.011, F.S.; providing that a taxpayer may contest the

assessment of the fee and penalties and interest assessed pursuant to s. 403.7197, F.S., the advance disposal fee; amending s. 213.05, F.S.; authorizing the Department of Revenue to collect the advance disposal fee; amending s. 213.053, F.S.; providing for confidentiality of certain information obtained by the Department of Revenue pursuant to the advance disposal fee collection; creating s. 288.18, F.S.; creating the Recycled Materials Markets Development Board in the Department of Commerce; providing membership; providing powers, duties, and functions; providing for an annual report; providing for repeal; creating s. 288.1181, F.S.; creating the Recycling Markets Trust Fund; specifying uses of fund moneys; creating s. 288.1182, F.S.; authorizing the Recycling Materials Markets Development Board to enter into certain contracts to finance certain programs; providing for certain legislative review; creating s. 403.7199, F.S.; creating the Florida Packaging Waste Reduction Council; providing membership, purposes, and duties; providing requirements for review of new incinerator capacity by the Department of Environmental Regulation; providing a more stringent review process, for a limited period of time, for certain incinerator facilities; providing appropriations; providing for legislative review; repealing s. 403.7145, F.S., relating to the Capitol Recycling Demonstration Area; repealing s. 403.7198, F.S., relating to container deposits; 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 or the Department of Environmental Regulation is not repealed; providing certain responsibilities for Keep Florida Beautiful, Inc.; providing an effective date.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 932, which he approved March 11, 1992.

The Governor advised that he had filed with the Secretary of State Senate Bills 1218, 1740 and 2424, which become law without his signature on March 12, 1992.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed HB 3, HB 31, CS for HB 55, HB 173, CS for HB 241, CS for HB 317, CS for CS for HB 337, CS for HB 389, CS for CS for HB 447, CS for HB 501, CS for HB 671, CS for HB 997, CS for HB 1069, HB 1301, HB 1337, CS for HB 1361, CS for HB 1545, HB 1563, CS for HB 1665, HB 1829, CS for HB's 1853 and 2099, CS for HB 1863, CS for HB 2085, HB 2191, HB 2453, HB 2537; has passed as amended HB 19, CS for HB 75, CS for HB's 125 and 871, CS for HB's 147, 1551 and 1967, CS for HB 283, CS for HB 289, CS for HB 297, CS for HB 397, CS for HB 553, CS for HB 709, HJR 17, HJR 437 and HB 499; CS for CS for HB 721, CS for HB 789, HB 827, CS for HB 861, CS for HB 1017, HB 1041, HB 1061, CS for HB 1287, CS for HB 1299, CS for HB 1401, CS for HB 1441, HB 1479, CS for HB 1771, HB 1815, HB 1901, CS for HB 1903, CS for HB 1911, HB 2263, CS for HB 2331, HB 2337, HB 2341, CS for HB 2363, CS for HB 2375, CS for HB 2377, CS for HB 2379, CS for CS for HB 2473 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Jennings and others—

HB 3—A bill to be entitled An act relating to displaying the American flag; prohibiting restrictions against the display of the American flag in certain circumstances; providing penalties; declaring certain contracts and other agreements void and unenforceable; providing for damages, punitive damages, attorney's fees, and costs; providing an effective date.

—was referred to the Committee on Judiciary.

By Representative Mortham and others—

HB 31—A bill to be entitled An act relating to personnel of the school system; creating s. 231.66, F.S.; providing tuition-free courses for instructional personnel and teacher aides at area vocational-technical centers, community colleges, and state universities; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Ethics and Elections; and Representative Laurent—

CS for HB 55—A bill to be entitled An act relating to the district school system; creating s. 230.101, F.S.; providing procedures for increasing the number of school board members; providing contents of a proposition submitted to the electors; providing manner of submitting a proposition; providing requirements for petitions; providing wording of various propositions; providing for application and implementation; providing an effective date.

—was referred to the Committees on Education; and Executive Business, Ethics and Elections.

By Representative Langton and others—

HB 173—A bill to be entitled An act relating to death sentence proceedings; amending s. 921.141, F.S.; adding as an aggravating circumstance that the victim was a minor under 12 years of age; providing an effective date.

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

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

CS for HB 241—A bill to be entitled An act relating to state retirement systems; amending s. 122.08, F.S.; providing for retirement after 30 years of service for members of the State and County Officers and Employees Retirement System; conforming cross references; amending s. 122.35, F.S.; providing for increased contributions to be paid by the employer; amending s. 238.07, F.S.; providing that a member of the Teachers' Retirement System of Florida may take normal retirement at any age upon completion of 30 years of service; conforming a cross reference; amending s. 238.11, F.S.; providing for increased contributions to be paid by the employer; providing an effective date.

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

By the Committee on Governmental Operations and Representative Hawkins—

CS for HB 317—A bill to be entitled An act relating to the Treasurer; amending s. 18.10, F.S.; providing for the investment of certain moneys in money market mutual funds; providing that it shall be the responsibility of the Treasurer to supervise and approve all banking relationships as the cash management officer for the state; amending s. 18.103, F.S.; revising language with respect to the safekeeping services of the Treasurer; amending s. 18.104, F.S.; conforming cross references; amending s. 18.125, F.S.; providing for an annual assessment against certain moneys; amending s. 255.052, F.S.; providing for the substitution of securities for amounts retained on public contracts; providing for the application of the section; providing an effective date.

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

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

CS for CS for HB 337—A bill to be entitled An act relating to jurors; amending s. 40.013, F.S.; revising language with respect to exemptions for prior juror service; amending s. 40.24, F.S.; providing for a juror compensation and reimbursement policy; providing for certain employers to compensate employees summoned to jury duty; providing for compensation for certain jurors; amending s. 40.41, F.S.; revising language with respect to the length of service of petit jurors; amending s. 905.37, F.S.; eliminating a statutory cross reference; providing effective dates.

—was referred to the Committees on Judiciary, Community Affairs and Appropriations.

By the Committee on Health and Rehabilitative Services; and Representatives Sanderson and Hanson—

CS for HB 389—A bill to be entitled An act relating to dependency proceedings; amending s. 39.408, F.S.; clarifying that certain court hearings that are closed and confidential may be attended by a member of the public for community education purposes and restricting client identifying information, and reenacting s. 39.01(3), F.S., relating to definitions, to incorporate said amendment in a reference thereto; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committees on Appropriations and Criminal Justice and Representatives McEwan and Valdes—

CS for CS for HB 447—A bill to be entitled An act relating to theft; creating s. 812.15, F.S.; providing that it is unlawful to obtain property or equipment by trick or false pretenses, to hire or lease property with intent to defraud, or to fail to return hired or leased property; providing penalties; providing prima facie evidence of fraudulent intent; providing an exception; providing an effective date.

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

By the Committee on Public Schools and Representative Hawkes and others—

CS for HB 501—A bill to be entitled An act relating to education; creating the “Blind Students’ Literacy Rights and Education Act”; providing definitions; providing for assessment of blind students and development of individualized education programs; providing requirements for an individualized education program; providing teacher certification requirements; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Health and Rehabilitative Services; and Representative Brennan—

CS for HB 671—A bill to be entitled An act relating to housing assistance; amending s. 420.627, F.S.; revising the form of payments under the emergency financial assistance program; providing for certain eligibility determinations by rule of the Department of Health and Rehabilitative Services; specifying conditions for denial of eligibility; authorizing contracts with local service providers for administration of the program, upon approval of a federal waiver; providing an effective date.

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

By the Committee on Transportation and Representative Starks and others—

CS for HB 997—A bill to be entitled An act relating to motor vehicle license plates; amending s. 320.089, F.S.; providing for the issuance of Purple Heart license plates to recipients of the Purple Heart medal; providing for taxes and fees; providing for a limited fee and deposit of the fee into the Motor Vehicle License Plate Replacement Trust Fund; providing for deauthorization of the plate; providing an effective date.

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

By the Committee on Employee and Management Relations; and Representatives Brown and Hargrett—

CS for HB 1069—A bill to be entitled An act relating to police and fire pension plans; amending ss. 175.121, 185.10, F.S.; providing for electronic transfer of premium tax moneys to municipalities upon request; providing an effective date.

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

By Representatives Ritchie and Harden—

HB 1301—A bill to be entitled An act relating to firefighters’ pension trust funds; amending s. 175.021, F.S.; providing that it is the legislative intent that firefighters employed by special fire control districts should be entitled to the same retirement benefits as municipal firefighters; amending ss. 121.021, 175.032, 175.041, 175.061, 175.071, 175.081, 175.091, 175.101, 175.111, 175.122, 175.131, 175.141, 175.152, 175.162, 175.191, 175.201, 175.211, 175.251, 175.261, 175.291, 175.301, 175.311, 175.321, 175.351, and 175.361, F.S.; providing for pension funds and retirement benefits for firefighters employed by special fire control districts, which funds and benefits are subject to the same statutory requirements as pension funds and retirement benefits for municipal firefighters; amending s. 175.121, F.S.; clarifying that undistributed funds are annually transferred to support the firefighters’ supplemental compensation program; providing for redistribution of certain funds to specified cities and special districts; amending s. 624.520, F.S., to conform; amending s. 633.382, F.S.; providing for curing of deficits; providing for redistribution of certain funds; providing an effective date.

(Substituted for **SB 1312** on the Special Order Calendar this day.)

By Representatives Feeney and Corr—

HB 1337—A bill to be entitled An act relating to local government; creating s. 218.80, F.S.; creating the “Public Bid Disclosure Act”; providing legislative intent; requiring local governments to include certain provisions in all bidding documents or other request for proposal; prohibiting local governments from collecting undisclosed fees or halting construction under certain circumstances; providing an effective date.

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

By the Committee on Governmental Operations and Representative Guber—

CS for HB 1361—A bill to be entitled An act relating to records of the Department of Highway Safety and Motor Vehicles; amending s. 319.25, F.S.; providing requirements with respect to the furnishing of motor vehicle and mobile home title information; authorizing certain entities to obtain such information by telecommunication and providing requirements with respect thereto; amending s. 320.05, F.S.; revising requirements with respect to the furnishing of motor vehicle and mobile home registration information; authorizing additional entities to obtain such information by telecommunication and providing requirements with respect thereto; amending s. 322.20, F.S.; providing requirements with respect to the furnishing of driver license information; authorizing certain entities to obtain such information by telecommunication and providing requirements with respect thereto; authorizing the department to determine additional entities authorized to obtain information by telecommunication; providing for review and repeal; providing an effective date.

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

By the Committee on Community Affairs and Representative Ostrau—

CS for HB 1545—A bill to be entitled An act relating to the State Minimum Building Codes; amending s. 553.73, F.S.; providing that a model building code may be updated or revised by certain local governments, subject to certain limitations; providing authority and a procedure for certain local governments to update or revise a model code with certain limitations; revising cross-references; deleting obsolete provisions; improving grammar; amending s. 553.79, F.S., relating to permits, standards, and inspections; revising cross-references to conform to renumbering; deleting an obsolete provision; improving grammar; providing an effective date.

—was referred to the Committees on Community Affairs and Governmental Operations.

By Representative Graber—

HB 1563—A bill to be entitled An act relating to law enforcement personnel; amending s. 394.875, F.S.; providing for the licensure of certain residential treatment facilities exclusively for the treatment of law enforcement personnel and their families who are suffering from nonacute stress-related mental health problems, including drug and alcohol abuse; specifying criteria for licensure; providing an effective date.

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

By the Committee on Transportation and Representative Hargrett—

CS for HB 1665—A bill to be entitled An act relating to motor vehicle licensing; creating s. 320.525, F.S.; providing a definition; exempting port vehicles and equipment from registration, license tax, and display requirements; providing for the application of the exemption; providing an effective date.

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

By Representative De Grandy—

HB 1829—A bill to be entitled An act relating to the offense of witness tampering; amending s. 914.22, F.S.; prohibiting causing or inducing a person to testify untruthfully in an official investigation or proceeding, for which criminal penalties are provided by law, and reenacting ss. 914.24(1)(a) and (2)(a), 772.102(1)(a)29., and 895.02(1)(a)33., F.S., relat-

ing to civil actions to restrain harassment of a victim or witness, civil remedies for criminal practices, and racketeering offenses, to incorporate said amendment in references thereto; providing an effective date.

—was referred to the Committee on Criminal Justice.

By the Committee on Agriculture and Representative Viscusi and others—

CS for HB's 1853 and 2099—A bill to be entitled An act relating to dance studio services or lessons; creating s. 501.143, F.S.; creating the "Dance Studio Act"; providing definitions; providing for the registration of ballroom dance studios with the Department of Agriculture and Consumer Services; providing fees; providing contract requirements; providing bonding requirements; providing for prohibited practices; providing penalties and remedies; providing criminal penalties; providing for payments into the Consumer Protection Trust Fund; providing for enforcement by the customer; providing exemptions; providing for rules; providing an effective date.

—was referred to the Committees on Professional Regulation and Appropriations.

By the Committee on Natural Resources and Representatives Guber and Stone—

CS for HB 1863—A bill to be entitled An act relating to the Water Quality Assurance Trust Fund; amending s. 376.307, F.S.; providing for an additional use of trust fund moneys; transferring funds from the Florida Coastal Protection Trust Fund to the Water Quality Assurance Trust Fund; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Regulated Services and Technology; and Representative Jennings—

CS for HB 2085—A bill to be entitled An act relating to the Florida Emergency Telephone Act; amending s. 365.171, F.S.; providing that a provider of pay telephone services shall not be subject to "911" fees; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Starks—

HB 2191—A bill to be entitled An act relating to ad valorem taxation; amending s. 194.034, F.S.; providing that when the value adjustment board considers comparable assessments when reviewing a petition, such assessments alone shall not establish the just value of the property; amending s. 200.069, F.S.; revising the form of the notice of proposed property taxes; directing the Department of Revenue to prepare a pamphlet explaining value adjustment board procedures for distribution to taxpayers; providing an effective date.

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

By the Committee on Public Schools and Representative Jamerson and others—

HB 2453—A bill to be entitled An act relating to education; amending s. 229.592, F.S., relating to implementation of the state system of school improvement and education accountability; providing additional statutes that shall be held in abeyance; authorizing waiver of the requirements of specified statutes for district school boards under certain circumstances; providing requirements relating to the written request for waiver; deleting requirement for written notice from the Commissioner of Education relating to requested waiver; repealing s. 230.23115, F.S., relating to the Florida Innovations in Elementary Schools Program; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Governmental Operations and Representative Figg—

HB 2537—A bill to be entitled An act relating to certain Department of Corrections records; amending s. 922.10, F.S., relating to the execution of a death sentence; providing an exemption from public records requirements for information which, if released, would identify the executioner; providing for future review and repeal; repealing s. 945.25, F.S., relating

to certain Department of Corrections records; repealing the department's authority to adopt rules regulating privacy or privilege of information contained in such records; providing effective dates.

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

By Representative Bloom and others—

HB 19—A bill to be entitled An act relating to the Florida Clean Indoor Air Act; amending s. 386.201, F.S.; revising a reference; amending s. 386.202, F.S.; providing additional legislative intent; amending s. 386.203, F.S.; modifying definitions; amending s. 386.204, F.S.; modifying the prohibition against smoking in a public place; amending s. 386.205, F.S.; providing additional places that may not be designated as smoking areas; modifying requirements for designating a patient's room as a smoking area; eliminating exceptions to the square footage limitation for smoking areas in certain public places; amending s. 386.206, F.S.; modifying authorization for certain discretionary signs; amending s. 386.208, F.S.; providing jurisdiction of county courts for purposes of the act; amending s. 386.209, F.S.; revising a reference; creating s. 386.211, F.S.; requiring public announcements in certain public transportation terminals that smoking is allowed only in designated areas; providing an effective date.

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

By the Committee on Governmental Operations and Representative Mortham and others—

CS for HB 75—A bill to be entitled An act relating to taxation; creating s. 213.015, F.S.; providing requirements with respect to the rights, safeguards, and protections afforded taxpayers during tax assessment, collection, and enforcement processes; creating s. 213.018, F.S.; providing for a taxpayer problem resolution program; providing for a taxpayers' rights advocate with authority to issue taxpayer assistance orders; amending s. 213.21, F.S.; providing a taxpayer's right to have representation and record informal conferences; creating s. 213.025, F.S.; requiring the Department of Revenue to conduct its audits, inspections, and interviews at reasonable times and places, with exceptions; amending s. 213.34, F.S.; directing the department to offset overpayments against deficiencies; creating s. 213.731, F.S.; requiring notice before collection action is taken; providing a taxpayer's right to protest and seek a review; creating s. 213.732, F.S.; providing procedural requirements, taxpayers' rights, and venue for certain legal actions with respect to jeopardy findings and assessments; creating s. 213.733, F.S.; providing for cancellation, amendment, or modification of warrants; amending ss. 199.262, 206.075, 211.125, 211.33, 212.14, 212.15, 220.719, and 220.815, F.S.; specifying procedures applicable if jeopardy to the revenue exists and is asserted in or with an assessment; repealing s. 220.719(4), F.S., relating to taxpayer protest regarding a jeopardy assessment lien; amending s. 20.21, F.S.; creating within the department the position of taxpayers' rights advocate and providing his responsibilities; amending s. 72.011, F.S.; prohibiting certain legal actions when an action has been initiated under s. 120.575, F.S.; amending s. 95.091, F.S.; requiring the department to commence an audit within a specified period of time after it issues a notice of intent to conduct an audit; amending s. 120.575, F.S., which provides procedures and requirements applicable when a taxpayer contests specified taxes, interest, penalties, or denials of refund; removing provisions which specify requirements applicable to proceedings involving tax on the sale or use of services; specifying conditions under which collection and enforcement of contested amounts is stayed; providing for recovery of legal costs, including attorney's fees; amending ss. 57.111 and 120.57, F.S., to conform; repealing s. 120.65(5), F.S., which provides for hearing officer panels for proceedings involving tax on the sale or use of services; providing an effective date.

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

By the Committee on Transportation and Representative Bloom and others—

CS for HB's 125 and 871—A bill to be entitled An act relating to motor vehicle title certificates and license plates; amending s. 319.14, F.S.; revising language with respect to lease use designation on certificates; amending s. 320.06, F.S.; revising language with respect to registration license plates to remove reference to the word "lease" on the bottom of the plate; amending s. 320.131, F.S.; providing for the issuance of certain temporary permits; providing for the application of this act to unexpired registration license plates; providing an effective date.

—was referred to the Committee on Transportation.

By the Committee on Tourism, Hospitality and Economic Development; and Representative Reddick and others—

CS for HB's 147, 1551 and 1967—A bill to be entitled An act relating to the tourist development tax; amending s. 125.0104, F.S.; allowing revenues from the tax to be used for certain museums by any county that imposes the tax; providing for expiration of the tax upon the retirement of bonds issued to finance such museums; authorizing county tourism promotion agencies to undertake certain research studies and provide certain reservation and booking services; providing an exemption from public records requirements for certain information given to or held by county tourism promotion agencies; providing for future review and repeal; authorizing the governing body of a county that levied a tourist development tax before a certain date, which tax is invalidated because a specified condition precedent to the levy of the tax was not complied with before the ordinance levying the tax was adopted, and that levies another such tax in accordance with general law, which tax is approved by the voters of that county before a certain date, to use the proceeds from the invalidated tax for the purposes authorized in the new levy; providing for the use of the proceeds of such invalidated tax for the purposes authorized in the initial ordinance if the referendum on the new levy is disapproved; providing for the creation of a joint legislative committee to study tourist-related taxes and make recommendations; providing for expiration; providing an effective date.

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

By the Committee on Agriculture and Representative Harris—

CS for HB 283—A bill to be entitled An act relating to citrus canker; amending s. 581.192, F.S.; revising language with respect to the excise tax on citrus nursery stock; revising provisions with respect to disposition of such excise taxes; providing for future repeal; amending s. 581.193, F.S.; conforming language; providing for future repeal; amending s. 601.282, F.S.; decreasing the excise tax on citrus fruit; providing for future repeal; amending s. 602.025, F.S.; revising legislative intent; providing a notification procedure; providing an appropriation; providing for the disposition of unappropriated funds in the Florida Citrus Canker Trust Fund; providing for the disposition of excess taxes; providing for the disposition of excess federal funds; providing for the transfer of certain funds; providing an exception to the reversion of certain appropriations; providing for payment of certain citrus canker programs; providing an effective date.

(Substituted for **CS for SB 2026** on the Special Order Calendar this day.)

By the Committee on Regulated Industries and Representatives Morse and Gutman—

CS for HB 289—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; redefining the term "licensed premises" with respect to the beverage law to include sidewalks and other outside areas under certain circumstances; providing for disposition of the license fee; amending s. 561.19, F.S.; increasing the fee for licenses; providing for the disposition of the fee; amending s. 561.20, F.S.; revising the formula for the issuance of quota alcoholic beverage licenses; providing for the application of the act; amending s. 562.11, F.S.; providing for the use of certain identification cards issued by another state; amending s. 562.13, F.S.; providing exceptions from the prohibition of the employment of minors by certain vendors; amending paragraphs (b)-(f) of subsection (1) of section 563.02, F.S., deleting references to state or federal census; amending paragraphs (b)-(f) of subsection (1) of section 564.02, F.S., deleting references to state or federal census; amending s. 565.02, F.S.; increasing license fees; providing an effective date.

—was referred to the Committee on Commerce.

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

CS for HB 297—A bill to be entitled An act relating to whistle-blowers; amending s. 112.3187, F.S.; amending the short title of the Whistle-blower's Act of 1986; providing a definition; specifying persons and entities to whom information must be disclosed; amending the list of employees and persons protected by that act; providing remedies; increasing the time period within which a civil action may be brought; requiring specified types of relief; allowing the employer to receive an award of reasonable costs, including attorney's fees; providing for temporary reinstatement to employment; providing for defenses; providing that this section does not diminish existing rights; creating s. 112.3189, F.S.;

providing investigative procedures upon receipt of whistle-blower information; providing applicability; providing for a whistle-blower's hotline; requiring the Chief Inspector General or other appropriate official to review information disclosed by the whistle-blower and make a preliminary determination; requiring, in specified circumstances, that the Chief Inspector General or another official conduct an investigation and submit written preliminary findings to the complainant; requiring an agency head, in specified circumstances, to conduct an investigation and submit a written report to the Chief Inspector General; specifying the contents of and deadline for that report; providing duties of the Chief Inspector General; providing for confidentiality of the whistle-blower's identity, with exceptions; providing for confidentiality of information pertaining to an active investigation or inquiry; providing penalties for violations; providing for review of that exemption under the Open Government Sunset Review Act; creating s. 112.31895, F.S.; providing for administrative procedures in response to prohibited actions; establishing certain responsibilities in the Department of Legal Affairs; providing responsibilities of the Office of the Public Counsel; providing procedures for fact finding, reporting, investigations, and corrective action; providing prerequisites to a complainant's seeking corrective action from agencies other than the Public Counsel; providing for appropriate relief to be granted; providing for judicial review; providing for reporting suspected criminal violations to the Department of Law Enforcement; authorizing the Public Counsel to review fact-finding reports but providing an exception; providing for reporting certain suspected violations to an agency head; providing an effective date.

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

By the Committee on Criminal Justice and Representative Stafford and others—

CS for HB 397—A bill to be entitled An act relating to contraband forfeiture; amending s. 932.701, F.S.; providing definitions; amending s. 932.702, F.S.; revising language with respect to the transportation, concealment, or possession of contraband articles; amending s. 932.703, F.S.; revising language with respect to forfeiture; prohibiting use of seized property until perfected; providing exceptions; providing for reasonable maintenance; providing for the seizure of real property; providing for notice of adversarial hearing; providing for least restrictive means; providing for forfeiture of other property; providing a burden of proof to protect interests; providing for the protection of husband and wife interests; amending s. 932.704, F.S.; providing a policy statement; providing exceptions for rented or leased vehicles; providing procedures; providing for jury trial; providing for notice to owners; providing for lis pendens; providing for responsive pleadings; providing for settlements; providing burden of proof for forfeiture; providing for forfeiture; providing for release of property; prohibiting assessment of costs; providing for approval; providing for court costs and attorney fees; creating s. 932.705; providing for disposition of liens and forfeited property; providing for sale of property; providing for disbursement of proceeds; providing for local trust funds; providing expenditures from trust fund; limiting use of trust funds; requiring certain expenditures from trust fund; providing exceptions; providing for state agency trust funds; providing for issuance of titles; providing for reports; prohibiting anticipating forfeiture proceeds; creating s. 932.706, F.S.; providing for training; creating s. 932.707, F.S.; providing penalty for noncompliance with reporting; providing a civil fine; amending s. 895.09, F.S.; clarifying the formula for distributing funds obtained pursuant to forfeiture proceedings under the act; repealing s. 6, ch. 89-102, Laws of Florida; abrogating the repeal of s. 895.09(2), F.S., relating to such distribution formula; amending s. 328.07, F.S.; providing for hull identification numbers; providing exceptions; providing for documentation; providing prohibitions from forfeiture; providing for replacing hull numbers and plates; providing prohibitions from altering and replacing hull numbers; providing an effective date.

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

By the Committee on Health Care and Representative Bloom and others—

CS for HB 553—A bill to be entitled An act relating to midwifery; amending s. 467.002, F.S.; modifying legislative intent; amending s. 467.003, F.S.; revising definitions of terms to conform to the act; transferring regulatory authority from the Department of Health and Rehabilitative Services to the Department of Professional Regulation; revising the minimum age requirement; providing an experience requirement for pre-

ceptors; amending s. 467.004, F.S.; redesignating the Advisory Council of Lay Midwifery as the Council of Licensed Midwifery; revising council membership; deleting obsolete language; providing duties of the council; providing for reimbursement of per diem and travel expenses of members of the council; amending s. 467.006, F.S.; repealing provisions that restricted eligibility for a license to practice midwifery to nurses; repealing obsolete provisions; providing for continued practice of specified persons; providing restrictions; amending s. 467.009, F.S.; providing for midwifery educational programs; providing criteria for acceptance into an approved midwifery program; requiring publicly funded hospitals and birthing centers to allow observation by student midwives of certain obstetrical procedures; requiring the Department of Education to adopt curricular frameworks; requiring accreditation and licensure of nonpublic educational institutions conducting midwifery programs; amending s. 467.011, F.S.; revising specifications for licensure examinations; providing for testing in core competencies; requiring the department to issue a license to an applicant who has graduated from an approved midwifery program and passed the examination, upon payment of the licensure fee; creating s. 467.0125, F.S.; providing for licensure by endorsement; providing for issuance of a temporary certificate to practice midwifery under certain circumstances; providing requirements and restrictions; providing a fee; providing for revocation of the certificate; amending s. 467.013, F.S.; revising requirements for reactivation of an inactive license; providing for automatic expiration; requiring prior notice; providing for rules; creating s. 467.0135, F.S.; providing fees for examination, licensure, license renewal, licensure by endorsement, and inactive license status; providing for disposition of fees; providing for financial responsibility; amending s. 467.015, F.S.; revising the responsibilities of midwives; requiring the department to develop guidelines to identify high-risk pregnancies; allowing midwives to administer certain medicinal drugs pursuant to a prescription; amending s. 467.017, F.S.; providing immunity from liability for certain emergency care provided by a physician, nurse midwife, or hospital; amending s. 467.201, F.S.; increasing criminal penalties for specified violations of chapter 467, F.S.; amending s. 467.205, F.S.; providing for department approval of midwifery programs; amending s. 467.209, F.S.; providing that the reenactment of chapter 467 does not affect pending judicial or administrative proceedings, providing a saving clause for current licensees; providing for effect on existing rules; transferring powers, duties, records, personnel, and property relating to the administration of midwifery provisions from the Department of Health and Rehabilitative Services to the Department of Professional Regulation; amending s. 409.908, F.S.; providing for Medicaid reimbursement to licensed midwives; providing a restriction; amending s. 627.351, F.S.; including licensed midwives within the definition of the term "health care provider" for the purpose of medical malpractice risk apportionment; saving provisions of chapter 467, F.S., from repeal scheduled pursuant to the Regulatory Sunset Act and the Sundown Act; providing for future repeal and legislative review of chapter 467, F.S.; repealing s. 467.202, F.S., relating to injunctions; providing an appropriation; providing an effective date.

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

By the Committee on Community Affairs and Representative Ritchie and others—

CS for HB 709, HJR 17, HJR 437 and HB 499—A bill to be entitled An act relating to local officers; amending s. 125.01, F.S.; revising language with respect to the powers and duties of the legislative and governing body of a county; amending s. 145.19, F.S.; maintaining the 1991-1992 annual salaries of all county officers through the 1992-1993 fiscal year; creating a County Officers' Salaries Study Commission consisting of members representing certain groups; providing for the commission to report recommendations concerning the process of setting compensation for county officers provided for in chapters 145 and 230, F.S.; specifying issues to be examined; providing for expiration of the commission; amending ss. 230.202 and 230.303, F.S.; maintaining the 1991-1992 annual salaries of school board members and certain superintendents of schools, respectively, through the 1992-1993 fiscal year; providing an effective date.

(Substituted for **CS for SB 288** on the Special Order Calendar this day.)

By the Committee on Agriculture and Representative Bronson and others—

CS for CS for HB 721—A bill to be entitled An act relating to food safety; amending s. 381.006, F.S.; eliminating specified functions from the environmental health program conducted by the Department of Health and Rehabilitative Services; providing for a specified surcharge; amending and renumbering s. 381.007, F.S.; providing that the Department of Agriculture and Consumer Services shall administer and enforce the provisions of the "Bottled Water Act"; revising fees; amending and renumbering s. 381.0071, F.S.; providing that the Department of Agriculture and Consumer Services shall administer and enforce the provisions of the "Water Vending Machine Protection Act"; amending s. 381.0072, F.S.; revising duties of the Department of Health and Rehabilitative Services relating to food services regulated under chapter 500 or chapter 509, F.S.; revising definitions; deleting reference to a contract between the Division of Hotels and Restaurants of the Department of Business Regulation and the Department of Health and Rehabilitative Services; providing for transfer of a portion of certain food service establishment licensing fees to the Department of Health and Rehabilitative Services; specifying use of funds; removing responsibility for food manager certification from the Department of Health and Rehabilitative Services; abolishing the Food Services Standards Advisory Council; deleting authority to grant variances; transferring the powers, duties, and responsibilities associated with the "Water Vending Machine Protection Act" and the "Bottled Water Act" from the Department of Health and Rehabilitative Services to the Department of Agriculture and Consumer Services; creating s. 500.509, F.S.; providing a short title; providing legislative intent; providing definitions; providing permitting requirements for packaged ice plant operators and dealers; providing fees; providing operating standards; providing for enforcement by the Department of Agriculture and Consumer Services; providing for penalties and an administrative fine; preempting to the state the regulation of packaged ice plants, packaged ice plant operators, and packaged ice dealers; amending s. 381.0061, F.S., relating to administrative fines, to conform; amending s. 500.03, F.S.; revising definitions; defining "convenience store," "food establishment," and "food outlet," "food service establishment," "minor food outlet," and "retail food store"; amending s. 500.04, F.S.; expanding prohibited acts to include alteration, destruction, or removal of specified labeling information; amending s. 500.09, F.S.; expanding and clarifying provisions which require the Department of Agriculture and Consumer Services to adopt rules governing food products; authorizing certain exemptions from labeling requirements; amending s. 500.12, F.S.; requiring food permits; providing exemptions; providing an application fee; providing that the Department of Agriculture and Consumer Services shall be the exclusive permitting authority for all food outlets, retail food stores, food establishments, and minor food outlets; providing legislative intent; creating s. 500.1465, F.S.; authorizing the department to inspect all entities permitted under chapter 500, F.S.; providing inspection requirements and procedures; providing additional positions within the Department of Agriculture and Consumer Services to carry out inspection duties; providing an appropriation; providing for due consideration of personnel affected by the act; amending s. 500.146, F.S.; expanding the department's authority to adopt rules; revising provisions relative to analytical work; creating s. 500.165, F.S.; prohibiting carriers to transport food items in certain vehicles or rail cars; providing for standards by rule; providing an administrative fine; providing a penalty; amending s. 500.167, F.S.; revising provisions which provide exemptions for carriers engaged in interstate commerce; amending ss. 502.091, 502.165, and 502.191, F.S.; clarifying and updating references; amending s. 502.231, F.S.; revising penalty and injunction provisions; providing for administrative fines; providing for suspension or revocation of permit; providing applicability to milk and milk product producers and handlers; amending s. 509.013, F.S.; revising exclusions from the definition of "public food service establishment"; amending s. 509.032, F.S.; deleting authority of the division to contract for inspection of public lodging and food service establishments; revising the schedule of inspections of public food service establishments; providing for adoption and enforcement of sanitation rules by the division; providing for variances from construction standards; providing fees; providing duties of the division relating to emergencies and to temporary food service events; amending s. 509.036, F.S.; providing use of food service establishment license fees to fund examination of inspectors; creating s. 509.039, F.S.; requiring the division to provide for certification of managers of certain food service establishments; amending s. 509.291, F.S.; revising advisory council voting membership; providing for transfer of programs, personnel, and funds from the Office of Restaurant Programs of the Department of Health and Rehabilitative Services to the Division

of Hotels and Restaurants of the Department of Business Regulation at a time certain; providing for positions; providing an appropriation; repealing s. 381.297, F.S., relating to the Office of Restaurant Programs of the Department of Health and Rehabilitative Services; amending s. 583.09, F.S.; requiring food permits for egg dealers and poultry dealers; amending s. 583.022, F.S.; providing for the refrigeration of eggs for sale or processing; providing temperature requirements; amending s. 585.002, F.S.; requiring the department to establish a fee schedule for specified costs; amending s. 585.21, F.S.; revising provisions relating to the sale of biological products; amending s. 585.90, F.S., relating to inspection, stop-sale orders, condemnation, and destruction of animal products; creating s. 585.902, F.S.; providing causes for seizure and condemnation of animal products; creating s. 585.903, F.S.; providing procedures with respect to seizure of animal products; providing a penalty; providing for suspension or revocation of permit; providing a fine; creating s. 585.904, F.S.; providing for condemnation, sale, and release of seized animal products; amending s. 571.11, F.S.; correcting a cross reference; limiting campaign contributions; prohibiting solicitation of campaign contributions; providing a penalty; providing effective dates.

(Substituted for CS for CS for CS for SB 832 on the Special Order Calendar this day.)

By the Committee on Criminal Justice and Representative Sander-son—

CS for HB 789—A bill to be entitled An act relating to the Florida Vessel Registration and Safety Law; amending s. 327.22, F.S.; providing that any county or municipality may adopt ordinances for enforcement of noncriminal violations of s. 327.33, F.S.; providing for applicability; amending s. 327.50, F.S.; requiring persons under 6 years of age to wear personal flotation devices while on board certain vessels while such vessels are underway; providing an effective date.

(Substituted for SB 874 on the Special Order Calendar this day.)

By Representative Sindler and others—

HB 827—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.08, F.S.; removing the requirement that the exemption for butane, propane, and other liquefied petroleum gases used for agricultural purposes inure to the taxpayer only through refund; providing an exemption for qualified nonprofit corporations operated for the purpose of maintaining community cemeteries; amending s. 212.0515, F.S., relating to the tax on sales from vending machines; revising calculation of the tax for certain beverages; revising the reporting requirement for persons who sell food or beverages for resale; removing a requirement that dealers purchasing food or beverages for resale provide certain information to the dealer from whom such items are purchased; requiring operators to furnish certain information to the Department of Revenue; providing penalties for filing or providing false information; providing an effective date.

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

By the Committee on Regulated Industries and Representative Frankel—

CS for HB 861—A bill to be entitled An act relating to alcoholic beverages; amending s. 561.01, F.S.; defining the term "performing arts center"; amending s. 561.20, F.S.; authorizing the Division of Alcoholic Beverages and Tobacco to issue special licenses to performing arts centers; providing a limitation on the license; providing a limitation on fees for such licenses; providing an effective date.

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

By the Committee on Regulated Services and Technology; and Representative Safley—

CS for HB 1017—A bill to be entitled An act relating to the Florida Public Service Commission; amending s. 350.031, F.S.; changing the deadlines for action by the Florida Public Service Commission Nominating Council and Governor; amending s. 350.04, F.S.; providing for the qualifications of commissioners; amending s. 350.042, F.S.; restricting commission employees from conveying certain communications to commissioners; creating s. 350.0425, F.S.; providing for employee standards of conduct; amending s. 350.0605, F.S.; prohibiting former commission members from accepting employment or compensation from certain enti-

ties for a period of 2 years following termination of service; providing for application; providing an effective date.

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

By Representative Garcia and others—

HB 1041—A bill to be entitled An act relating to educational facilities; amending s. 235.196, F.S.; revising conditions with respect to requests for funds to construct a community educational facility; requiring the Office of Educational Facilities through an independent appraiser to determine the value of existing sites for purposes of developing community education facilities; repealing s. 235.195(4), F.S., relating to limitations on funding for a joint-use facility; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By Representatives Pruitt and Holland—

HB 1061—A bill to be entitled An act relating to regional planning; providing for review and repeal of ss. 186.501-186.515, F.S., the Florida Regional Planning Council Act; requiring the Advisory Council on Intergovernmental Relations, in conjunction with the ELMS III Committee, to review the Florida Regional Planning Council Act and submit recommendations to the Legislature by November 1, 1992; providing for review and repeal; providing an effective date.

(Substituted for SB 1200 on the Special Order Calendar this day.)

By the Committee on Natural Resources and Representative Arnold and others—

CS for HB 1287—A bill to be entitled An act relating to environmental protection; ratifying certain agency rules relating to the Econlockhatchee River; amending s. 376.031, F.S.; providing definitions; amending s. 376.121, F.S.; providing a schedule of payments for compensating the state for damage to natural resources; designating the Department of Natural Resources as the responsible agency for conducting natural resource damage assessments; providing for disposition of moneys collected for damage to natural resources; providing intent that there be no double recovery for damages resulting from a discharge; amending s. 212.08, F.S.; providing a sales tax exemption for sales of machinery and equipment for nonprofit marine discharge response corporations; amending ss. 376.011, 376.051, 376.065, 376.07, 376.0705, 376.071, 376.163, F.S.; changing the term "spill" to the term "discharge"; providing an appropriation; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Finance, Taxation and Claims; and Appropriations.

By the Committee on Natural Resources and Representatives Thomas and Reddick—

CS for HB 1299—A bill to be entitled An act relating to marine animals; amending s. 370.081, F.S.; permitting a zoological park and aquarium to import sea snakes for exhibition purposes under certain circumstances; amending s. 370.142, F.S., relating to the spiny lobster trap certificate program; delaying dates for implementation of various aspects of the program; revising provisions relating to trap tags, including applicable fees; providing penalties for certain subsequent violations; providing for deposit of the proceeds of certain fines; providing for interim appointments to the Trap Certificate Technical Advisory and Appeals Board; revising provisions relating to actions of the board; increasing the number of certificates that the board may allot; providing an appropriation; amending s. 370.06, F.S.; providing for the issuance of a restricted species endorsement under certain circumstances; providing effective dates.

—was referred to the Committees on Natural Resources and Conservation; and Community Affairs.

By the Committee on Public Schools and Representative Rayson and others—

CS for HB 1401—A bill to be entitled An act relating to public school crossing guards; creating s. 234.302, F.S.; requiring certain local governmental entities to provide training programs for crossing guards; requiring adoption of training guidelines; requiring successful completion of program; providing exemptions; amending s. 316.660, F.S.; authorizing a surcharge for funding school crossing guard programs; providing for a trust fund; amending s. 318.21, F.S.; providing for the funding of crossing guard training programs from civil penalties for certain traffic infractions; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Transportation and Representative Diaz-Balart—

CS for HB 1441—A bill to be entitled An act relating to traffic infractions; amending s. 318.14, F.S.; providing for a reduction in civil penalty for electing to attend a driver improvement course; correcting a cross-reference; amending s. 318.1451, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to license and regulate driving schools; authorizing the department to test the effectiveness of such schools; amending s. 318.21, F.S.; providing for use of funds deposited into the Grants and Donations Trust Fund in the Department of Health and Rehabilitative Services; amending s. 322.291, F.S.; requiring attendance at an advanced driver improvement course for a person whose driver's license has been suspended or revoked for certain specified offenses; repealing s. 6, ch. 91-200, Laws of Florida, abrogating the repeal of ss. 318.14(9), 318.1451, 322.291, F.S.; providing an effective date.

(Substituted for CS for CS for SB 936 on the Special Order Calendar this day.)

By Representatives Graham and Grindle—

HB 1479—A bill to be entitled An act relating to taxation; amending s. 212.0596, F.S.; revising provisions which specify those dealers subject to the sales tax on mail order sales; providing that certain printers are not considered a dealer's agent in this state; providing that dealers who own real or tangible personal property in this state are subject to the tax, unless the property is located at the premises of a printer and is associated with a final printed product; amending s. 212.06, F.S.; excluding from the definition of "dealer" for sales tax purposes a person whose only property in this state is such property; providing that it is not intended to levy sales tax on certain sales by a printer to a nonresident print purchaser; amending s. 220.03, F.S.; excluding from the definition of "taxpayer" for corporate income tax purposes certain corporations whose only property in this state is located at the premises of a printer and is associated with a final printed product; providing an effective date.

(Substituted for SB 2224 on the Special Order Calendar this day.)

By the Committee on Commerce and Representative Diaz-Balart and others—

CS for HB 1771—A bill to be entitled An act relating to disclosure of doing business with Cuba; requiring an issuer of securities in this state to disclose if it does business with Cuba; providing an exception; providing requirements relating to filing these disclosures with the Department of Banking and Finance; requiring issuers to report changes in status to the department; providing prohibitions; providing penalties and causes of action; providing for indemnification of brokers, dealers, or agents selling securities of noncomplying issuers under certain circumstances; providing for enforcement actions; providing exclusions; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Bo Johnson and others—

HB 1815—A bill to be entitled An act relating to business and environmental coordination; creating s. 403.0612, F.S.; creating the Partners for a Better Florida Advisory Council; providing findings; providing for the appointment of members and for nonvoting members; providing powers and duties; requiring recommendations; providing an appropriation; providing for future repeal; creating s. 288.02, F.S.; requiring certain agencies to designate economic development liaisons; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; International Trade, Economic Development and Tourism; and Appropriations.

By Representative Daryl Jones—

HB 1901—A bill to be entitled An act relating to trust administration; amending s. 737.402, F.S.; authorizing certain trust administrators to acquire an undivided interest in specified trust assets; providing for specified disclosure to income beneficiaries of a trust under certain circumstances; providing an effective date.

(Substituted for SB 1356 on the Special Order Calendar this day.)

By the Committee on Agriculture and Representative Harris—

CS for HB 1903—A bill to be entitled An act relating to plant industry; amending s. 369.25, F.S., relating to aquatic plant permits under the Department of Natural Resources; providing for regulation of nonnursery cultivation of aquatic plants; amending s. 581.011, F.S.; defining "aquatic plant" and "noxious aquatic plant"; modifying definition of "nursery"; amending s. 581.031, F.S.; providing additional powers and duties of the Department of Agriculture and Consumer Services; creating s. 581.035, F.S.; preempting to the Department of Agriculture and Consumer Services regulatory authority over nurseries; amending s. 581.131, F.S.; providing for notice of plant nursery registration renewal; providing a penalty; creating s. 581.145, F.S.; providing for aquatic plant nursery registration; requiring special permits for activities involving prohibited aquatic plants; providing restrictions; reenacting s. 581.211, F.S., relating to penalties for violations of chapter 581, F.S., to incorporate a reference; amending s. 586.045, F.S., relating to beekeeping; providing registration, renewal, and late renewal fees; providing an effective date.

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

By the Committee on Commerce and Representative Logan and others—

CS for HB 1911—A bill to be entitled An act relating to small and minority business enterprise programs; amending ss. 235.31 and 287.093, F.S.; authorizing certain local government entities to set aside certain allocated funds for contracts with small businesses; providing for the use of such set-asides; providing for review of the set-aside program; amending s. 287.042, F.S., relating to architectural and engineering contracts with the Division of Purchasing of the Department of General Services; amending s. 287.055, F.S., relating to acquisition of professional architectural and engineering services by state agencies; creating a study commission; requiring a report; amending s. 287.094, F.S.; revising and clarifying provisions relating to false representation; providing additional penalties; providing for conspiracy to falsely represent; amending s. 287.0945, F.S., to conform; amending s. 288.704, F.S.; providing duty of the Small and Minority Business Advocate Office to investigate and take specified actions on violations of provisions relating to small and minority business procurement; amending s. 287.0943, F.S.; relating to procurement of personal property and services; creating s. 287.0593, F.S.; requiring state agencies in need of private legal services to actively seek out and use the services of minority lawyers and minority-owned law firms; requiring dissemination to such lawyers and law firms of information on agency legal needs; providing for joint-venture arrangements with majority-owned law firms under certain circumstances; requiring an annual report to the Attorney General; requiring certain certification by majority-owned law firms; providing definitions; amending s. 287.059, F.S., relating to procurement of private legal services, to conform; deleting requirement that local governments accept certain minority business enterprises as certified for their minority business enterprise programs; providing an effective date.

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

By the Committee on Regulated Services and Technology; and Representative C. Smith and others—

HB 2263—A bill to be entitled An act relating to energy efficiency; amending s. 366.02, F.S.; redefining the term "public utility"; defining the terms "demand-side management," "energy-efficiency measure," and "shared-savings loan"; amending ss. 366.125 and 368.021, F.S.; providing that the Florida Public Service Commission has no jurisdiction to regulate compressed natural gas used for certain purposes; amending s. 368.061, F.S.; raising the civil penalties for violation of the Gas Safety Law of 1967; amending s. 366.81, F.S.; revising legislative findings and intent with respect to policies and procedures of the commission relating to the implementation and evaluation of conservation and demand-side management; requiring the commission to establish and maintain an assessment of the potential energy savings reasonably achievable through demand-side management; amending s. 366.82, F.S.; requiring the commission to adopt numerical energy-efficiency goals for each utility; providing for periodic review and reestablishment of the goals; providing utility and commission responsibilities relating to demand-side management programs; amending s. 366.84, F.S.; providing that funds from the Florida Energy Trust Fund may be used to support research and studies related to increasing energy efficiency and conservation and to determin-

ing related cost savings; requiring the commission, in consultation with electric utilities and the Office of the Public Counsel, to conduct a study and submit a report to the Governor and specified legislative leaders relating to the appropriate methodology for measuring energy savings achieved by demand-side management programs; providing an effective date.

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

By the Committees on Governmental Operations and Agriculture and Representative K. Smith and others—

CS for HB 2331—A bill to be entitled An act relating to governmental reorganization; amending ss. 20.14, 20.16, and 570.29, F.S.; revising the administrative structure of the Department of Agriculture and Consumer Services and renaming it the Department of Agriculture; limiting campaign contributions by certain persons; prohibiting solicitation of campaign contributions from such persons; providing a penalty; amending ss. 570.02 and 570.242, F.S.; modifying definitions; amending s. 570.07, F.S.; modifying department powers and duties; creating s. 570.072, F.S.; authorizing establishment of an Office of Agricultural Law Enforcement within the department; providing duties and authority of officers; creating s. 570.091, F.S.; providing for deputy commissioners of agriculture; creating s. 570.092, F.S.; providing for an inspector general and providing duties; amending s. 570.30, F.S.; transferring certain responsibilities relating to public fairs and expositions from the Division of Administration to the Division of Standards and the Division of Marketing and Development; amending s. 570.33, F.S.; deleting qualifications for director of the Division of Plant Industry; amending s. 570.37, F.S.; revising qualifications for director of the Division of Animal Industry; amending s. 570.41, F.S.; deleting qualifications for director of the Division of Dairy Industry; amending s. 570.44, F.S.; renaming the Division of Inspections as the Division of Agricultural Environmental Services; transferring various duties to the Division of Food Safety, the Division of Dairy Industry, and the Office of Agricultural Law Enforcement; providing additional duties relating to soil and water conservation; transferring responsibilities for analysis of fertilizers, pesticides, commercial feed, and seed to the Division of Agricultural Environmental Services from the Division of Chemistry; amending s. 570.45, F.S.; revising duties of division director; amending s. 570.46, F.S.; transferring responsibility for testing certain samples for conformity with state specifications to the Division of Standards from the Division of Chemistry; amending s. 570.47, F.S.; deleting qualifications for division director; amending s. 570.48, F.S.; renaming the Division of Fruit and Vegetable Inspection as the Division of Fruit and Vegetables; amending s. 570.50, F.S.; renaming the Division of Chemistry as the Division of Food Safety; providing additional duties relating to inspection of meat and poultry, and food and food products; amending s. 570.51, F.S.; deleting qualifications for division director; amending s. 570.53, F.S.; renaming the Division of Marketing as the Division of Marketing and Development; providing additional responsibilities relating to public fairs and expositions; transferring s. 550.02, F.S., to ch. 570, and amending said section; transferring the Division of Pari-mutuel Wagering and the Florida Pari-mutuel Commission to the department from the Department of Business Regulation; creating s. 570.5475, F.S.; providing for a division director; amending s. 570.549, F.S.; deleting qualifications for director of the Division of Forestry; amending s. 570.55, F.S.; transferring from the Division of Inspection to the Office of Agricultural Law Enforcement enforcement duties relating to sale of avocados, mangoes, and limes; revising definitions; amending ss. 585.001, 585.002, and 585.01, F.S.; conforming provisions relating to the Division of Animal Industry; creating s. 585.715, F.S.; providing that the Division of Food Safety enforce part II of chapter 585, F.S.; amending ss. 616.001, 616.21, and 616.28, F.S.; deleting references to the Bureau of Public Fairs and Expositions; creating s. 932.706, F.S.; creating the Law Enforcement Trust Fund within the department; providing for deposit therein of revenues from certain criminal or forfeiture proceedings; amending ss. 235.014, 468.382, 550.06, and 550.37, F.S.; correcting cross references; amending ss. 487.159, 526.3135, 550.096, 550.13, 551.061, 570.09, 570.23, 570.244, 570.248, 570.31, 570.34, 570.38, 570.42, 570.49, 570.531, 570.54, 570.541, 571.23, 573.111, 574.01, 574.03, 601.28, 601.58, 601.66, and 817.415, F.S.; conforming terminology; repealing ss. 534.081(3), 570.36(6), and 590.02(4), F.S., relating to enforcement of agricultural provisions by law enforcement officers, special officers, the Division of Animal Industry, and special officers of the Division of Forestry; transferring ss. 570.542, 570.543, 570.544, and 570.545, F.S., to ch. 501, F.S., and amending said sections; transferring the Division of Consumer Services and the Florida Consumers' Council from the Department of

Agriculture and Consumer Services to the Department of Business Regulation; providing intent regarding transfers; providing directives to the Statutory Revision Division; providing an effective date.

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

By the Committee on Community Affairs and Representative Irvine—

HB 2337—A bill to be entitled An act relating to hazardous materials; amending ss. 252.81, 252.82, 252.83, 252.85, 252.86, 252.87, 252.88, and 252.90, F.S.; correcting references to federal law; clarifying definitions; requiring the Department of Community Affairs to use the emergency planning capabilities of local governments under certain circumstances; imposing an annual reporting fee; requiring interdepartmental cooperation; providing for legislative review and repeal; requiring the State Hazardous Materials Emergency Response Commission to establish an efficiency task force; providing duties of the task force; requiring a report; creating s. 252.91, F.S.; providing for repayment of certain start-up costs; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; Community Affairs; and Appropriations.

By the Committee on Regulatory Reform and Representative Tobin—

HB 2341—A bill to be entitled An act relating to pest control; revising chapter 482, F.S., relating to the licensing and regulation of pest control, pursuant to review under the Regulatory Sunset Act; amending s. 482.011, F.S.; renaming the Pest Control Act as the Structural Pest Control Act; amending s. 482.021, F.S.; rearranging, modifying, adding, and deleting definitions applicable to the chapter; amending s. 482.032, F.S., relating to enforcement; authorizing the Department of Health and Rehabilitative Services or agent thereof to enter upon public or private premises or carriers during regular business hours in the performance of departmental duties relating to pesticides and related records; amending s. 482.051, F.S., relating to rules; providing technical changes; amending s. 482.061, F.S.; providing for the appointment of inspectors, including setting the criteria therefor by rule; providing for waiver of examination and certificate issuance and renewal fees; amending s. 482.071, F.S., relating to licenses; revising license issuance and renewal fees; providing for expediting the processing of a license application, including payment of a special fee therefor; prohibiting a licensee that is going out of business or selling its business from being relicensed for a specified period if the licensee does not cover its existing contract responsibilities; authorizing specified combined single-limit coverage as meeting the minimum financial responsibility for bodily injury and property damage; providing that licensure under the chapter is a prerequisite to issuance of a local occupational license; transferring and amending s. 482.081, F.S., relating to issuance of local occupational licenses, to conform; creating s. 205.065, F.S.; providing an exemption for nonresident persons regulated by the Department of Professional Regulation who have paid an occupational license tax in the county or municipality where their permanent business location is maintained; amending s. 482.091, F.S.; revising requirements for the issuance and use of employee identification cards, including the fee therefor; amending s. 482.111, F.S.; revising requirements for issuance and use of pest control operators' certificates; limiting the scope of such certificates to defined categories; revising certificate issuance and renewal fees; revising continuing education requirements; amending s. 482.121, F.S., relating to misuse of a certificate; providing technical changes; amending s. 482.132, F.S.; revising qualifications for examination and certification; amending s. 482.141, F.S., relating to examinations; revising examination fees; amending s. 482.151, F.S.; revising requirements for issuance and use of special identification cards; restricting such cards to the performance of fumigation; revising examination and card issuance and renewal fees; revising the expiration date; revising renewal requirements; amending s. 482.152, F.S., relating to the duties of a certified operator in charge of pest control activities of a licensee; providing technical changes; creating ss. 482.155 and 482.156, F.S.; providing for limited certification for certain governmental, private property, and commercial uses; requiring examinations, examination and recertification fees, and certain continuing education; requiring commercial landscape maintenance certificateholders to furnish proof of required minimum financial responsibility for bodily injury and property damage and to maintain certain records; amending s. 482.161, F.S., relating to disciplinary grounds and actions; providing applicability to limited certificateholders; providing a ground for failure to pay an administrative fine; revising the administrative fine and the factors in consideration thereof; providing that certified operators in charge are responsible for the actions of their

employees and may be disciplined therefor; providing applicability to licensees; amending s. 482.165, F.S., relating to the unlicensed practice of pest control; providing technical changes; creating s. 482.1821, F.S.; prohibiting a licensee from closing its pest control business and opening a new pest control business under a different name without satisfying outstanding contracts and liabilities; providing certain mitigating circumstances; amending s. 482.183, F.S., relating to limitations on violations of the chapter; providing technical changes; amending s. 482.191, F.S., relating to violation and penalty; providing technical changes; amending s. 482.201, F.S., relating to liens for furnishing pest control services; providing technical changes; amending s. 482.211, F.S.; providing exemptions from the regulatory control of the chapter; authorizing the department to prescribe other exemptions by rule; amending s. 482.226, F.S.; revising requirements for wood-destroying organism inspections and reports; revising minimum financial responsibility requirements; amending s. 482.2265, F.S.; revising consumer information and application notice requirements; providing for a pest control notification registry of pesticide-sensitive persons; providing for registration of such persons, including initial and annual renewal fees; providing for waiver of fees due to financial inability; providing for notice to such persons prior to any pesticide application within specified areas determined by the department; providing for expansion of such areas by the department, within certain limits; requiring such persons to notify the department of the properties and residences within their areas of sensitivity as set by the department; amending s. 482.227, F.S., relating to guarantees and warranties; providing technical changes; amending s. 482.231, F.S., relating to the use of fogging machines; providing technical changes; creating s. 482.2401, F.S.; providing for disposition and use of revenues from fees and fines assessed under the chapter; amending s. 482.241, F.S., relating to liberal interpretation of the chapter; providing technical changes; amending s. 482.242, F.S.; preempting to the state all regulation of pest control, except for the issuance of local occupational licenses; repealing ss. 482.182 and 482.25, F.S., relating to offenses committed prior to the original act and to the application of the original act; repealing s. 15, ch. 82-229, s. 18, ch. 89-180, and s. 2, ch. 89-198, Laws of Florida, relating to Sunset repeal of various sections of chapter 482, F.S.; saving chapter 482, F.S., from Sunset repeal; providing for future review and repeal; providing an appropriation and the creation of positions within the department for the purposes of this act; providing an effective date.

(Substituted for **CS for CS for SB 78** on the Special Order Calendar this day.)

By the Committees on Appropriations and Agriculture and Representative K. Smith and others—

CS for HB 2363—A bill to be entitled An act relating to agricultural promotion and protection; amending s. 450.021, F.S.; expanding circumstances in which minors may be employed in domestic or farm work; providing a definition; limiting civil liability for certain farmers who gratuitously allow certain persons to enter upon their land to remove crops remaining in the fields following harvesting; providing an exception; amending s. 535.01, F.S., relating to licensing for the public sale of thoroughbred horses; amending s. 535.02, F.S.; providing for minimum requirements; amending s. 535.05, F.S., relating to license fees; amending s. 550.267, F.S., relating to the Florida-bred stallion award program; providing eligibility requirements; providing duties of the Department of Agriculture and Consumer Services; increasing registration fees; changing the name of an advisory council; amending s. 561.221, F.S.; providing that certified Florida Farm Wineries may apply for permits to conduct tastings and bottle sales of Florida products; amending s. 570.07, F.S., relating to regulatory and inspection services; clarifying duties of the department; providing authority to accept grants, gifts, and donations; authorizing appointment of advisory committees; requiring an annual report to the Legislature; providing for reimbursement of expenses; creating s. 570.481, F.S.; providing for fees for fruit and vegetable inspection; providing for termination of inspection services for nonpayment of fees; creating s. 570.901, F.S.; establishing the Florida Agricultural Museum; creating s. 570.902, F.S.; providing definitions; creating s. 570.903, F.S.; providing for a direct-support organization; providing for archival procedures; creating s. 570.904, F.S.; providing for the disposal or restoration of objects; providing for the disposition of funds; providing for contracts and fundraising; providing for audits; providing an exemption from public records requirements and providing for review; creating s. 570.905, F.S.; providing for contract agreements and insurance for collections; creating s. 570.906, F.S.; providing prohibited acts by a trustee or employee; creating s. 570.91, F.S.; establishing the Florida agriculture in the classroom program; creating s. 570.911, F.S.; providing definitions; creating s.

570.912, F.S.; providing for a direct-support organization; creating s. 570.913, F.S.; providing for ownership of property; providing for contracts; providing for disposition of funds; providing for audits; providing an exemption from public records requirements; providing for review; creating s. 570.914, F.S.; providing for insurance; providing liability; creating s. 570.915, F.S.; providing prohibitions; amending s. 573.118, F.S.; providing for deposit of marketing order assessments in the General Inspection Trust Fund; creating s. 590.61, F.S.; establishing the forestry arson alert program; creating s. 590.611, F.S.; providing definitions; creating s. 590.612, F.S.; providing for a direct-support organization; creating s. 590.613, F.S.; providing for ownership of property; providing for contracts; providing for disposition of funds; providing for audits; providing an exemption from public records requirements; providing for review; creating s. 590.614, F.S.; providing for insurance; providing liability; creating s. 590.615, F.S.; providing prohibitions; creating s. 599.004, F.S.; establishing the Florida Farm Winery Program; providing qualification and registration requirements; designating certified Florida Farm Wineries as tourist attractions; providing for logo signs on certain roads and highways; providing for costs and fees; amending s. 601.29, F.S.; revising provisions relating to the department's survey authority under the Florida Citrus Code; limiting liability of property owners; amending s. 604.19, F.S.; providing for automatic expiration of an agricultural products dealer's license if the bond or certificate of deposit is canceled; amending s. 604.25, F.S.; providing additional grounds for refusing to grant or for suspending or revoking an agricultural products dealer's license; providing severability; amending ss. 327.28 and 370.07, F.S.; revising funds deposited into the Florida Saltwater Products Promotion Trust Fund; transferring administration of the trust fund from the Department of Natural Resources to the Department of Agriculture and Consumer Services; specifying use of funds; providing for a joint recommendation relating to collected funds; transferring powers, duties, functions, and funding of the Bureau of Marketing and Extension Services of the Division of Marine Resources of the Department of Natural Resources to the Division of Marketing of the Department of Agriculture and Consumer Services; providing for effect on pending judicial and administrative proceedings; providing for effect of subsequent legislative enactments; repealing ss. 573.50, 573.51, 573.52, 573.53, 573.54, 573.55, 573.56, 573.57, 573.58, 573.59, 573.60, 573.61, 573.62, 573.63, 573.64, 573.65, 573.66, 573.67, 573.68, 573.69, 573.70, 573.71, 573.72, 573.73, 573.74, 573.75, and 573.76, F.S., the Florida Foliage Plant Marketing Law; repealing ss. 573.801, 573.802, 573.803, 573.804, 573.805, 573.806, 573.807, 573.808, 573.809, 573.810, 573.811, 573.812, 573.813, 573.814, 573.815, 573.816, 573.817, 573.818, 573.819, 573.820, 573.821, 573.822, 573.823, 573.824, 573.825, 573.826, and 573.827, F.S., the Florida Watermelon Marketing Law; repealing ss. 573.830, 573.831, 573.832, 573.833, 573.834, 573.835, 573.836, 573.837, 573.838, 573.839, 573.840, 573.841, 573.842, 573.843, 573.844, 573.845, 573.846, 573.847, 573.848, 573.849, 573.850, 573.851, 573.852, 573.853, 573.854, 573.855, and 573.856, F.S., the Florida Soybean Marketing Law; repealing ss. 573.857, 573.858, 573.859, 573.860, 573.861, 573.862, 573.863, 573.864, 573.865, 573.866, 573.867, 573.868, 573.869, 573.870, 573.871, 573.872, 573.873, 573.874, 573.875, 573.876, 573.877, 573.878, 573.879, 573.880, 573.881, and 573.882, F.S., the Florida Flue-cured Tobacco Marketing Law; repealing ss. 573.883, 573.884, 573.885, 573.886, 573.887, 573.888, 573.889, 573.89, 573.891, 573.892, 573.893, 573.894, 573.895, 573.896, 573.897, 573.898, 573.899, 573.90, 573.901, 573.902, 573.903, 573.904, 573.905, 573.906, 573.907, and 573.908, F.S., the Florida Peanut Marketing Law; providing an effective date.

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

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

CS for HB 2375—A bill to be entitled An act relating to children's access to tobacco; creating the Florida Sale of Tobacco Products to Children Control Act; redesignating chapter 210, F.S., as Tobacco Products, Taxation and Control; amending s. 210.01, F.S.; redefining the term "retail dealer" with respect to the tax on cigarettes; amending s. 210.04, F.S.; conforming to the act; creating s. 210.171, F.S.; providing for retail tobacco dealer permits; providing fees; providing penalties; providing for the powers and duties of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; creating s. 210.1715, F.S.; restricting the sale of tobacco products through vending machines; providing an exception; prohibiting free samples to persons under age 18; prohibiting the sale of single or loose cigarettes; authorizing dealers to require picture ID; providing that wholesale dealers shall not deliver tobacco products to retail dealers who have had their permits revoked;

providing penalties; amending s. 561.025, F.S.; providing a cross reference in conformance to the act; amending s. 859.06, F.S., relating to the sale of tobacco products to persons under 18 years of age; revising language with respect to the penalty for such a sale; providing a defense against civil actions resulting from use of false identification; amending s. 859.061, F.S., relating to the posting of a sign with respect to the prohibition of the sale of tobacco products to persons under 18 years of age; revising a penalty; creating s. 210.1716, F.S.; providing for responsible retail tobacco dealers; providing legislative intent; providing definitions; providing qualifications; creating s. 210.1717, F.S.; providing for oversight committees; providing an appropriation; providing for the use of revenues by the Department of Education for tobacco prevention and education activities and for research and evaluation; providing an effective date.

—was referred to the Committees on Commerce, Education and Appropriations.

By the Committees on Governmental Operations; Health and Rehabilitative Services; and Representative Frankel and others—

CS for HB 2377—A bill to be entitled An act relating to elderly affairs; amending s. 20.41, F.S.; establishing administrative structure of the Department of Elderly Affairs; providing for headquarters, service facilities, and planning and service areas; providing that the department is the state unit on aging; providing for area agencies on aging; providing mission; specifying organization and responsibilities; providing conditions for certain department actions against an area agency on aging; deleting obsolete language; amending ss. 402.165, 402.166, and 402.167, F.S.; providing for appointments and functions of the statewide and district human rights advocacy committees with respect to the department; amending and renumbering s. 410.011, F.S.; transferring administration of federal aging programs to the department from the Department of Health and Rehabilitative Services; creating s. 430.105, F.S.; providing confidentiality for persons receiving services; providing a public records exemption; providing for review; amending and renumbering ss. 410.021 and 410.023, F.S., and renumbering s. 410.022, F.S.; transferring to the department responsibility for the Community Care for the Elderly Act; revising definitions; deleting references to core services; amending and renumbering ss. 410.024, 410.0241, 410.026, and 410.0295, F.S.; providing for community care service systems under the area agencies on aging; authorizing certain contracts; providing for assessment of fees; deleting obsolete language; amending and renumbering ss. 410.201, 410.2015, and 410.202, F.S.; providing for administration of the older volunteers service credit program by the department; amending and renumbering s. 410.401, F.S.; expanding membership of the Alzheimer's Disease Advisory Committee; authorizing subcommittees; providing for support, assistance, and per diem and travel expenses; amending and renumbering ss. 410.402 and 410.403, F.S.; transferring to the department provisions relating to memory disorder clinics; providing applicability; amending ss. 430.02 and 430.03, F.S.; conforming legislative intent and purpose; amending s. 430.04, F.S.; providing duties of the department; amending s. 430.06, F.S.; providing for updates of the plan for improving social services and long-term care for elderly persons; amending s. 430.07, F.S.; providing responsibilities of the Division of Volunteer Community Service of the department; providing for transfer to the department of specified aging and adult services programs and resources; providing for elimination of unfunded positions; amending s. 20.41, F.S., as amended; specifying future responsibilities of the department; amending ss. 410.031, 410.032, 410.033, 410.035, and 410.037, F.S., and creating ss. 430.601-430.607, F.S.; providing for future separate administration and allocations for provisions relating to home care for disabled adults and the elderly; providing for transfer of provisions relating to the elderly; providing for the provision of goods and services; amending and renumbering s. 410.502, F.S.; providing for future transfer of provisions relating to housing and living arrangements which meet the special needs of the elderly; renumbering s. 410.504, F.S., relating to multidisciplinary centers on elderly living environments; providing for legislative review of department organizational structure; providing for a report and recommendations; repealing s. 410.016, F.S., relating to responsibilities of the Department of Health and Rehabilitative Services for the elderly; repealing s. 410.029, F.S., relating to multiyear plans; amending ss. 110.501, 395.01465, 400.462, and 402.33, F.S.; conforming language and cross references; providing for outcome evaluation and program effectiveness; requiring reports; continuing and transferring certain rules; providing for effect of the act on pending judicial and administrative proceedings; providing effective dates.

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

By the Committees on Governmental Operations; Health and Rehabilitative Services; and Representative Frankel and others—

CS for HB 2379—A bill to be entitled An act relating to governmental operation and reorganization; amending s. 20.19, F.S.; creating the "Health and Rehabilitative Services Reorganization Act of 1992"; expanding purposes of the department; expanding powers and duties of the department and department administrators; deleting authority of the secretary to create a fund by assessing budget entities; providing for the issuance of health advisories by the State Health Officer; providing for an Assistant Secretary for Delinquency Services and a Delinquency Services Program Office, and providing powers and duties; renaming the Children, Youth, and Families Program Office and removing delinquency services therefrom; establishing a Medicaid Program Office; requiring advisory boards to civil mental health and developmental services institutions; reorganizing service districts; creating district health and human services boards and providing membership, powers, and duties; requiring reports; abolishing alcohol, drug abuse and mental health planning councils; creating district nominee qualifications review committees and providing for membership, powers, and duties; providing for a district administrator and providing powers and duties; creating a statewide health and human services board; revising departmental budget provisions, including fiscal year phase-in requirements for program office unit cost data-based budgeting, and adding an Information Resource Management budget entity; revising provisions relating to information systems; requiring functional organization of the services delivery system, and requiring development and submission of a plan; providing for purchase-of-services contracts between the department and for-profit and not-for-profit corporations; authorizing establishment of innovation zones and providing procedure; limiting the number of such zones; clarifying language; amending s. 39.025, F.S.; revising provisions relating to juvenile delinquency and gang prevention councils; requiring councils to coordinate activities with district administrators; establishing duties and responsibilities for gang prevention councils; authorizing gang prevention councils to obtain funding and to hold public hearings; amending ss. 39.056, 393.11, and 409.146, F.S., relating to early delinquency intervention programs, involuntary admission to residential developmental services programs, and client and management information systems; requiring provision of information and services for purposes of provision of delinquency services; amending s. 402.165, F.S.; revising membership of the Statewide Human Rights Advocacy Committee; amending ss. 381.702, 394.67, 396.1818, 397.217, 410.023, 410.603, 415.602, and 420.621, F.S., relating to health services, juvenile substance abuse prevention and early intervention councils, mental health, community care services, health maintenance services, domestic violence services, and social services, to conform; creating s. 409.152, F.S.; providing definitions; requiring family-centered services integration plans at statewide and district levels and requiring submission of such plans prior to implementation; creating s. 415.525, F.S.; authorizing the establishment of family support and family preservation programs; repealing s. 394.715, F.S., relating to alcohol, drug abuse and mental health planning councils; requiring budget entity designations to conform with the six distinct budget entities of the department; requiring the establishment of an electronic benefit transfer program; amending s. 316.1938, F.S.; transferring duties related to the certification of ignition interlock devices; amending s. 409.029, F.S.; authorizing the department to contract for services required by the Florida Employment Opportunity Act; establishing a Study Commission on Employment Opportunities and Self-Sufficiency and providing for membership and duties; requiring submission of findings and recommendations as to comprehensive welfare reform; providing for transfer of the department's Office of Disability Determinations to the Department of Labor and Employment Security; amending s. 240.512, F.S.; adding physicians to the representation on the council of scientific advisors for the center director; allowing council member to be reappointed; amending and renumbering s. 385.201, F.S.; providing for transfer of the Florida Cancer Control and Research Advisory Council from the department to the H. Lee Moffitt Cancer Center and Research Institute; adding a member to the council; providing for physical location of the council; providing legislative intent to preserve the mission of the council; repealing ss. 119.07(7)(d), 415.107(3), and 415.51(3), F.S.; removing exemptions from public records requirements for reports of abuse, neglect, or exploitation of aged persons or disabled adults and of child abuse or neglect which are the subject of an active criminal investigation, and for quality assurance reports promulgated by the Department of Health and Rehabilitative Services; amending ss. 110.1127, 119.07, 400.414, 415.107, and 415.51, F.S.; correcting references; establishing a State Agency Evaluation and Review Committee and providing membership, powers, and duties; providing for staffing; providing

for procedure; requiring reports and recommendations; providing certain exceptions from the act relating to health care system management for District 3 and District 13; requiring the development of a child protection system strategic plan; providing legislative findings and intent; providing criteria; requiring a report; providing a directive to the Division of Statutory Revision; amending ss. 483.021, 483.031, 483.051, 483.172, and 483.23, F.S.; deleting provisions relating to the licensing and regulation of clinical laboratory personnel by the Department of Health and Rehabilitative Services; creating part IV of chapter 483, F.S.; providing for regulation of clinical laboratory personnel by the Board of Clinical Laboratory Personnel in the Department of Professional Regulation; providing purpose, exemptions, and definitions; creating the board; providing for fees, licensing, approval of laboratory personnel training programs, inactive license status, demonstration of competency, grounds for disciplinary action, and penalties; amending s. 395.1015, F.S.; conforming a cross reference; providing saving clauses; amending s. 20.30, F.S.; including the Board of Clinical Laboratory Personnel under the Department of Professional Regulation; providing for transfer of funds and programs; repealing ss. 483.041(2) and (4), 483.053, 483.071, 483.141, 483.151, 483.152, 483.153, 483.154, 483.161, and 483.21, F.S., relating to clinical laboratory personnel and an advisory council; providing for review and repeal of part IV of chapter 483, F.S.; amending s. 39.453, F.S.; revising provisions relating to the use of citizen review panels in reviewing the status of a child; revising provisions relating to information provided to a panel; amending s. 39.4531, F.S.; revising provisions relating to citizen review panels; providing for the establishment, composition, and administration of such panels; providing duties of independent not-for-profit agencies administering such panels; amending ss. 316.1932, 316.1933, 316.1934, 322.63, F.S., relating to alcohol and drug testing; transferring the duties and functions of the Department of Health and Rehabilitative Services in approving methods and tests to determine the presence of alcohol and controlled substances and in issuing permits authorizing persons to conduct such tests to the Department of Law Enforcement; providing an appropriation; amending s. 420.627, F.S.; revising the form of payments under the emergency financial assistance program; providing for certain eligibility determinations by rule of the Department of Health and Rehabilitative Services; specifying conditions for denial of eligibility; authorizing contracts with local service providers for administration of the program, upon approval of a federal waiver; providing effective dates.

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

By the Committees on Appropriations; Finance and Taxation; Natural Resources; and Representative Rudd and others—

CS for CS for HB 2473—A bill to be entitled An act relating to solid waste management; amending ss. 125.01, 166.021, 381.0098, 395.002, 395.0101, 403.702, 403.704, 403.7084, 403.727, and 483.615, F.S.; redesignating "biohazardous waste" as "biomedical waste"; prohibiting state agencies from requiring certain labels; excluding certain human remains from the terms "biomedical waste" and "biological waste"; amending s. 212.055, F.S.; providing additional uses for the local government infrastructure surtax; amending s. 287.045, F.S.; providing for purchase of materials with recycled content by agencies that use state contracts; authorizing the Department of Environmental Regulation to allow an additional price preference to bidders using certain materials; providing limitations on renewing certain contracts; providing an exception; requiring agencies to use certain contracts; requiring agencies to consider the life-cycle of products in making purchases; requiring the department to adopt rules; creating s. 288.118, F.S.; creating the Recycled Materials Market Development Board; providing purposes; providing for membership; providing duties and responsibilities; authorizing the board to adopt rules; providing for future repeal; creating s. 288.1181, F.S.; creating the Recycling Markets Trust Fund; providing for deposit of certain moneys into the fund; providing for uses of the fund; creating s. 288.1182, F.S.; authorizing the board to enter into certain contracts with the Florida First Capital Finance Corporation to establish certain finance programs; specifying certain financing vehicles to fund such programs; amending s. 403.703, F.S.; revising certain definitions; providing additional definitions; creating s. 403.7031, F.S.; limiting the content of certain ordinances; amending s. 403.7045, F.S.; deleting provisions providing for regulation of recovered materials; creating s. 403.7046, F.S.; providing for regulation of recovered materials; authorizing the department to adopt rules; authorizing the department to appoint a technical advisory committee; providing for membership; providing for the duties and responsibilities of the committee; providing for an exception; providing confidentiality for certain trade secrets; prohibiting local governments from

imposing certain registration or reporting requirements; excepting certain recovered materials processing facilities from regulation under certain circumstances; providing an exception; amending s. 403.7049, F.S.; providing for counties and municipalities to charge certain fees; providing for grants to such local governments under certain circumstances; amending s. 403.705, F.S.; changing the date for preparation of a report on solid waste management efforts; amending s. 403.706, F.S.; revising certain local government solid waste responsibilities; including composting plans under such responsibilities; authorizing certain counties to provide for alternate recycling; requiring counties to include in certain reports progress on composting programs; providing credits against the county waste reduction goal; authorizing local governments to enact ordinances to require separation of recyclable materials; amending s. 403.7065, F.S.; providing additional criteria for procurement of products or materials with recycled content; amending s. 403.707, F.S.; changing a reference from "clean debris" to "construction and demolition debris"; exempting certain composting operations from certain permit requirements; prohibiting the department from permitting expansions of certain landfills; amending s. 403.708, F.S.; specifying a label design for certain plastic bottles and containers; amending s. 403.709, F.S.; prescribing research projects for which waste tire fee moneys may be used; authorizing the secretary of the department to reserve certain portions of appropriations to fund certain solid waste projects; amending s. 403.7095, F.S.; providing requirements to be considered in continuing grants to local governments; revising the criteria for certain grants; amending s. 403.7125, F.S.; requiring audit of landfill escrow accounts by independent certified public accountants; amending s. 403.713, F.S.; excluding recovered materials from local government authority to regulate the flow of solid waste across certain boundaries; specifying restrictions on local government regulation of recovered materials; specifying ownership rights of certain recovered materials; amending s. 403.714, F.S.; requiring state institutions to participate in certain recycling programs; requiring the Department of Agriculture and Consumer Services to coordinate the development of specifications for use of compost by the state; requiring certain entities and persons to report to the department on expenditures and use of compost; requiring the department to report compost use summaries to the Governor and the Legislature; authorizing the Legislature, each state agency, the judicial branch, and the State University System to use the proceeds from state recycling programs for employee benefits and to offset the costs of recycling programs; repealing s. 403.7145, F.S., relating to the Capitol recycling demonstration area; amending s. 403.716, F.S.; providing for training of operators of waste-to-energy facilities, biohazardous waste incinerators, and mobile soil thermal treatment units or facilities; creating s. 403.7191, F.S.; regulating the use of certain materials in packaging; prohibiting the use of certain elements in packaging; providing exemptions; requiring certificates of compliance; prohibiting certain activities; providing a penalty; providing for review and a report; providing rulemaking authority; creating s. 403.7192, F.S.; regulating the manufacture and disposition of certain batteries; prohibiting the sale or distribution of certain batteries; providing criteria for selling or distributing products containing rechargeable batteries; providing a penalty; providing rulemaking authority; creating s. 403.7193, F.S.; requiring the department to adopt rules governing the use of recycling emblems; providing definitions; providing criteria; creating s. 403.7199, F.S.; creating the Florida Packaging Waste Reduction Council; providing duties; amending s. 403.7195, F.S.; providing for minimum recycled content for newsprint; specifying certain content by certain dates; providing criteria for such newsprint; amending s. 403.7197, F.S.; revising provisions of the advance disposal fee program; providing definitions; requiring the department to consider certain proposals for designation of additional containers; requiring the department to determine the recycling rates and marketability of container types; providing criteria for an advance disposal fee; authorizing a collection allowance; excluding the advance disposal fee from estimated tax payments; authorizing the Department of Revenue to recover administrative costs, penalties, and interest; authorizing the department to adopt emergency rules; requiring the Department of Environmental Regulation to adopt certain rules; providing for confidentiality of certain taxpayer information; revising allocations of moneys in the Container Recycling Trust Fund; requiring the department to develop a grant program for recycling and litter prevention; providing requirements of the program; providing legislative intent with respect to uses of the advance disposal fee; specifying uses; requiring the department to evaluate establishing certain advance disposal fees; requiring a report; repealing subsection (8) of section 72 of chapter 88-130, Laws of Florida, relating to repeal of ss. 403.7197-7198, F.S.; providing legislative intent with respect to mercury contamination of fish and wildlife; amending s. 376.307, F.S.; providing for the transfer of moneys from the Water Qual-

ity Assurance Trust Fund to the Board of Trustees of the Internal Improvement Trust Fund under certain conditions; creating a Water Quality Assurance Trust Fund Study Commission; providing for appointment of members; requiring a report; providing for administrative placement under the Joint Legislative Management Committee; requiring the department to organize and coordinate a demonstration project related to collecting and recycling electrical devices containing mercury; requiring a report to the Legislature; authorizing the designation of regions of the state to exempt certain devices from the solid waste stream; providing an appropriation; providing for suspension of permitting of certain solid waste incinerators; prohibiting the department from issuing permits for certain incinerators; requiring the department to initiate a program to study the need for additional incinerator capacity of the state; providing appropriations; creating s. 403.4133, F.S.; creating the Adopt-a-Shore Program; providing purposes; providing a finding of important state interest; providing legislative findings and intent relative to mercury; providing definitions; prohibiting the release of mercury into the environment inconsistent with state laws and rules; prohibiting the incineration and the disposal in a landfill of products designated by the Department of Environmental Regulation as proven to release mercury into the environment after a certain date; creating the Mercury Recycling Trust Fund and providing for use of the moneys therein; providing rulemaking authority; providing for dissemination of public service information relating to mercury recycling and for the posting of warning signs relating to the dangers of mercury poisoning; providing civil and criminal penalties; providing for voluntary deposit and collection of mercury-releasing products; providing effective dates.

—was referred to the Committees on Natural Resources and Conservation; Community Affairs; Finance, Taxation and Claims; 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 amendments SB 280 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 280—A bill to be entitled An act relating to cultural organizations; requiring the Division of Cultural Affairs of the Department of State to develop and conduct a support program for cultural organizations; requiring the division to adopt rules; providing for the funding of specified programs to be maintained; repealing s. 265.286(7), F.S., relating to the Vital Local Cultural Organization Program; amending s. 265.26, F.S.; providing that the identity of prospective donors to the John and Mable Ringling Museum of Art is exempt from the inspection requirements of the public records law; amending s. 265.289, F.S.; providing that the identity of prospective donors to contract organizations is exempt from the inspection requirements of the public records law; amending s. 265.605, F.S.; providing that information identifying prospective donors to local sponsoring organizations is exempt from the inspection requirements of the public records law; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 2, line 16, through page 4, line 8, strike all of said lines and insert:

Section 2. Paragraph (b) of subsection (7) of section 265.26, Florida Statutes, is amended to read:

265.26 Trustees of Ringling Museum of Art.—

(7)

(b) The direct-support organization shall cause an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules adopted by the Board of Trustees of the John and Mable Ringling Museum of Art. The annual audit report shall be submitted to the Auditor General and to the board of trustees for review. The Auditor General and the board of trustees are each authorized to require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of such organization. *Information which, if released, would identify the identity of donors who desire to remain anonymous is shall be confidential and exempt from the provisions of s. 119.07(1). Information which, if released, would identify prospective donors is confidential and exempt from the provisions of s. 119.07(1) when the direct-support organization has identified the prospective*

donor itself and has not obtained the name of the prospective donor by copying, purchasing, or borrowing names from another organization or source. Identities of such donors and prospective donors shall not be revealed, and that anonymity shall be maintained in the auditor's report. These exemptions are This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 3. Subsection (3) of section 265.289, Florida Statutes, is amended to read:

265.289 Contract organizations; contract; audit; admission fees.—

(3) ANNUAL AUDIT.—Each contract organization shall cause an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules to be adopted by the department. The annual audit report shall be submitted to the Auditor General and the department for review. The Auditor General and the department are each authorized to require and receive from the contract organization, or from its independent auditor, any detail or supplemental data relative to the operation of such organization. *Information which, if released, would identify the identity of donors who desire to remain anonymous is shall be confidential and exempt from the provisions of s. 119.07(1). Information which, if released, would identify prospective donors is confidential and exempt from the provisions of s. 119.07(1) when a contract organization has identified the prospective donor itself and has not obtained the name of the prospective donor by copying, purchasing, or borrowing names from another organization or source. Identities of such donors and prospective donors shall not be revealed, and the anonymity shall be maintained in the auditor's report. These exemptions are This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

Section 4. Paragraph (c) of subsection (2) of section 265.605, Florida Statutes, is amended to read:

265.605 Fine Arts Endowment Trust Fund; creation; administration; rulemaking.—

(2)

(c) *Information which, if released, would identify donors The names, addresses, and amounts contributed by donors to the trust fund, or to the local organization's matching fund, is are, at the request of the donor, confidential and exempt from the provisions of s. 119.07(1). Information which, if released, would identify prospective donors is confidential and exempt from the provisions of s. 119.07(1) when the department or the local organization has identified the prospective donor itself and has not obtained the name of the prospective donor by copying, purchasing, or borrowing names from another organization or source. These exemptions are This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.*

And the title is amended as follows:

On page 1, lines 10 through 22, strike all of said lines and insert: Organization Program; amending s. 265.26, F.S.; providing that the identity of certain prospective donors to the John and Mable Ringling Museum of Art is exempt from public records requirements; amending s. 265.289, F.S.; providing that the identity of certain prospective donors to state theater contract organizations is exempt from public records requirements; amending s. 265.605, F.S.; providing that the identity of certain prospective donors to the Fine Arts Endowment Trust Fund or local matching funds is exempt from public records requirements; providing for future review and repeal;

House Amendment 2 (with Title Amendment)—On page 4, line 9, strike all of said line and insert:

Section 5. Effective upon becoming law, section 943.1728, Florida Statutes, is created to read:

943.1728 Basic skills training relating to the protection of archaeological sites.—The commission shall establish standards for instruction of law enforcement officers in the subject of skills relating to the protection of archaeological sites and artifacts. In developing such standards and skills, the commission shall consult with representatives of the following agencies: the Division of Historical Resources of the Department of State, the Game and Fresh Water Fish Commission, and the Department of Natural Resources. The commission shall develop the standards, for implementation by July 1, 1993, for training in any of the following: basic recruit courses, advanced and specialized courses, or other appropriate training courses as determined by the commission.

Section 6. Effective upon becoming law, the Department of Law Enforcement is directed to work in conjunction with the Division of Historical Resources of the Department of State, the Game and Fresh Water Fish Commission, and the Department of Natural Resources to determine measures which may be taken to better enforce laws, or to improve laws, to protect archaeological sites from destruction and theft. The Department of Law Enforcement is directed to report to the Legislature its findings in this regard no later than December 1, 1992.

Section 7. Effective upon becoming law, the Department of State, as the state agency charged with administering the Florida Historical Preservation Act, is directed to make certain recommendations to the Legislature regarding the state's historic preservation laws. The department is directed to recommend whether revisions to state law are needed to improve the state's management of historic shipwrecks submerged in the state's sovereign waters. In consultation with the departments of Community Affairs and Insurance, the Department of State is further directed to recommend to the Legislature whether revisions to state laws which establish building and firesafety code requirements are necessary to support the use of effective compliance alternatives to such codes for historic structures. The Department of State is further requested to make any other recommendations, as appropriate, regarding measures which should be considered by the Legislature to improve the state's historic preservation policies and the establishment of a vocational education type program to teach those craftsmanship skills specifically related to the restoration and preservation of historic buildings or structures. The Departments of Labor and Employment Security, Community Affairs, and Education are instructed to consult with the Department of State in the development of the craftsmanship program. The department is to report to the Legislature in this regard no later than December 1, 1992.

Section 8. Except as otherwise provided, this act shall take effect October 1, 1992.

And the title is amended as follows:

On page 1, line 2, after "cultural" through line 23, strike all of said lines and insert: resources; requiring the Division of Cultural Affairs of the Department of State to develop and conduct a support program for cultural organizations; requiring the division to adopt rules; providing for the funding of specified programs to be maintained; repealing s. 265.286(7), F.S., relating to the Vital Local Cultural Organization Program; amending s. 265.26, F.S.; providing that the identity of certain prospective donors to the John and Mable Ringling Museum of Art is exempt from public records requirements; amending s. 265.289, F.S.; providing that the identity of certain prospective donors to state theater contract organizations is exempt from public records requirements; amending s. 265.605, F.S.; providing that the identity of certain prospective donors to the Fine Arts Endowment Trust Fund or local matching funds is exempt from public records requirements; providing for future review and repeal; creating s. 943.1728, F.S.; requiring the Criminal Justice Standards and Training Commission to develop standards for instruction relating to the protection of archaeological sites; requiring such standards to be implemented by July 1, 1993; requiring the Department of Law Enforcement to make recommendations to the Legislature regarding the protection of archaeological sites; directing the Department of State to make recommendations to the Legislature regarding the protection of historical resources; providing effective dates.

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

SB 280 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—30 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 650 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 650—A bill to be entitled An act relating to records of the Department of Business Regulation; reenacting and amending s. 561.19, F.S.; reaffirming and providing limitations on the exemption from the public records provisions of s. 119.07(1), F.S., of the results of drawings to determine the recipients of new beverage licenses; providing for the eventual

public release of such records; amending s. 561.67, F.S.; providing that provisions relating to department records on reclamation by the distributor of beverages not paid for by licensed vendors are not exemptions to open meetings or public records laws; providing an effective date.

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

Section 1. Notwithstanding the October 1, 1992, repeal specified in section 119.14(3)(a), Florida Statutes, paragraph (b) of subsection (2) of section 561.19, Florida Statutes, is reenacted and amended to read:

561.19 License issuance upon approval of division.—

(2)

(b) *Any portion of the All drawing results of a particular county which reveals the rank order of persons not receiving notice of selection is confidential and shall be exempt from the provisions of s. 119.07(1), until such time as all of the licenses from that county's drawing have been issued except that the persons selected in the drawing are to be disclosed to the public. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. Additionally, the results of any drawing may be reviewed by the Office of the Auditor General at any time to ensure the integrity of the drawings, and all information concerning these drawings shall be disclosed pursuant to legislative subpoena.*

Section 2. Notwithstanding the October 1, 1992, repeal specified in section 119.14(3)(a), Florida Statutes, subsection (1) of section 561.67, Florida Statutes, is reenacted and amended to read:

561.67 Reclamation by distributor of beverages not paid for by licensed vendors.—

(1) The division shall issue to the distributor a written statement of reclamation, upon written request by such licensed distributor of spirituous, vinous, or malt beverages, to authorize reclamation by the distributor of such beverages delivered to and in possession of a licensed vendor pursuant to unpaid invoices. *This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. At the time the division issues a written statement of reclamation to the distributor, the division shall mail a copy of the statement to any financial institution or third party which has, according to the records of the Secretary of State, a perfected security interest in the spirituous, vinous, or malt beverages inventory of the licensed vendor. Reclamation by the distributor is authorized when such transaction is the cause of an unpaid account, for which the vendor has been notified pursuant to the Beverage Law, and the excise tax has been paid or is due and payable by the distributor.*

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

And the title is amended as follows:

Strike the title and insert: A bill to be entitled An act relating to the confidentiality of information obtained by the Department of Business Regulation; amending s. 561.19, F.S., which provide an exemption from public records requirements for information relating to the drawing results for alcoholic beverage licenses; saving such exemption from repeal; amending s. 561.67, F.S., which provides an exemption from public records requirements by requiring alcoholic beverage distributors to request reclamation authorization in writing; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

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

SB 650 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—33 Nays—None

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 900 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 900—A bill to be entitled An act relating to business opportunities; amending s. 559.801, F.S.; including advertisements of certain products in the definition of “business opportunities”; providing that ss. 559.80-559.815, F.S.; apply to advertisers of business opportunities; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 12, strike everything after the enacting clause and insert:

Section 1. Section 559.801, Florida Statutes, is amended to read:

559.801 Definitions.—For the purpose of ss. 559.80-559.815:

(1) “Business opportunity” means the sale or lease of any products, equipment, supplies, or services which are sold to a purchaser to enable the purchaser to start a business for which the purchaser is required to pay an initial fee or sum of money which exceeds \$500 to the seller, and in which the seller represents:

(a) That the seller or person or entity affiliated with or referred by the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices or currency-operated amusement machines or devices on premises neither owned nor leased by the purchaser or seller;

(b) That, if applicable the seller will purchase any or all products made, produced, fabricated, grown, bred, or modified by the purchaser using in whole or in part the supplies, services, or chattels sold to the purchaser;

(c) That the seller guarantees in writing that the purchaser will derive income from the business opportunity which exceeds the price paid for the business opportunity or that the seller will refund all or part of the price paid for the business opportunity or repurchase any of the products, equipment, supplies, or chattels supplied by the seller if the purchaser is unsatisfied with the business opportunity; or

(d) That the seller will provide a sales program or marketing program which will enable the purchaser to derive income from the business opportunity, except that this paragraph shall not apply to the sale of a marketing program made in conjunction with the licensing of a registered trademark or service mark.

(2) “Business opportunity” does not include the sale of ongoing businesses when the owner of those businesses sells and intends to sell only those business opportunities so long as those business opportunities to be sold are no more than five in number; nor does it include the not-for-profit sale of sales demonstration equipment, materials, or samples for a total price of \$500 or any sales training course offered by the seller the cost of which does not exceed \$500; nor does it include the sale or lease of laundry and dry cleaning equipment.

(3) All advertisers of business opportunities are subject to all provisions of this part as business opportunity sellers.

(4)(2) “Division” means the Division of Consumer Services of the Department of Agriculture and Consumer Services.

Section 2. This act shall take effect upon becoming a law.

And the title is amended as follows:

On page 1, lines 2-8, strike all of said lines and insert: An act relating to business opportunities; amending s. 559.801, F.S.; providing that provisions relating to business opportunity sellers apply to advertisers of business opportunities; providing an effective date.

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

CS for SB 900 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—28 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives requests the return of CS for HB 225.

John B. Phelps, Clerk

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

CS for HB 225—A bill to be entitled An act relating to substance abuse impairment; creating ss. 397.301, 397.305, 397.311, 397.321, 397.401, 397.403, 397.405, 397.406, 397.407, 397.409, 397.411, 397.415, 397.419, 397.427, 397.431, 397.451, 397.461, 397.471, 397.481, 397.501, 397.581, 397.601, 397.675, 397.6751, 397.6752, 397.6758, 397.6759, 397.677, 397.6771, 397.6772, 397.6773, 397.6774, 397.6775, 397.679, 397.6791, 397.6793, 397.6795, 397.6797, 397.6798, 397.6799, 397.681, 397.6811, 397.6814, 397.6815, 397.6818, 397.6819, 397.6821, 397.6822, 397.693, 397.695, 397.6951, 397.6955, 397.6957, 397.697, 397.6971, 397.6975, 397.6977, 397.701, 397.702, 397.705, 397.706, 397.752, 397.753, 397.754, 397.801, 397.811, 397.821, and 397.901, F.S.; creating the “Hal S. Marchman Alcohol and Other Drug Services Act of 1992”; providing legislative findings, intent, and purpose; providing definitions; providing duties of the Department of Health and Rehabilitative Services; providing licensure requirements, including applications, fees, and exemptions, and providing criminal penalties and injunctive relief for violations; providing for joint regulation of certain state-operated programs; providing for rules waivers for alternative services; providing for the issuance and renewal of probationary, interim, and regular licenses for service providers and licensable service components; authorizing the department to enter and inspect premises and records; providing for denial, suspension, and revocation of licenses and for other remedies, including an administrative fine; requiring service providers to maintain quality assurance programs; providing for confidentiality of service provider records; providing for review and appeal; providing for need determinations and selection of medication treatment providers and injunctions against unlawful operation; providing client responsibility for cost of services and requiring certain providers to establish sliding scale fee systems; providing immunity from civil and criminal liability; requiring background checks of service provider personnel in direct contact with unmarried minor clients or developmentally disabled clients, and providing certain exemptions and certain disqualification from receiving state funds; providing criminal penalties for unlawful activities relating to personnel; requiring fingerprinting and providing exceptions; providing for confidentiality of personnel information; providing for review and appeal; establishing service provider owner, director, personnel, and facility standards; providing applicability of Community Alcohol, Drug Abuse, and Mental Health Services Act; establishing the rights of clients, including the rights to judicial petition and habeas corpus and to counsel; providing for confidentiality of client records and providing exceptions; providing for review and appeal; providing for voluntary admission for substance abuse impairment services; forbidding local ordinances affecting substance abuse impairment and providing a limited exception and petition for detention and treatment in secure facilities of habitual abusers; providing for involuntary admissions for substance abuse services, including protective custody, emergency admission, and other involuntary admissions for purposes of assessment, stabilization, and treatment; providing for involuntary admission hearings; requiring certain parental participation; authorizing refusal under certain circumstances to admit clients ordered to involuntary admission; providing criminal penalties for unlawful activities relating to client assessment and treatment; providing for the referral of substance abuse law offenders to service providers; providing for inmate substance abuse services and providing definitions and duties of the Department of Corrections; requiring coordination of substance abuse services delivery and establishing the positions of statewide and departmental coordinators; providing for specialized substance abuse services coordination for juveniles, including prevention and early intervention councils and emergency assessment and treatment services; authorizing substance abuse impairment training and continuing education programs; reenacting and amending ss. 39.01(64), 39.046(1), (2), and (5), 39.047(4)(b), 39.063, 90.503(1)(a), 231.1713, 393.0657, 394.4572, 401.445(3), 402.22(3), 402.24(1), 402.3057, 409.1757, 490.014(2)(a), 491.014, (4)(a), 744.3215(4)(a), 766.101(1)(a), 790.06(2)(f) and (10)(e), 877.111(4), 893.15, 895.09(2)(a), (d), and (e), 945.12(1) and (2), and 951.23(2)(b) and (e), F.S., relating to juvenile justice, evidence, school personnel, developmental disability and mental health personnel, medical transportation, health and rehabilitative services, social assistance, psychological services, counseling services, guardianship, medical review committees, weapons and firearms, chemical substances, controlled substances, forfeiture proceedings, and state and county prisoners, to conform; amending s. 394.90, F.S.; authorizing the department to accept accreditation for mental health providers in lieu of department inspection; repealing ss. 396.012, 396.022, 396.0429, 396.062, 396.072, 396.082, 396.092, 396.102, 396.105, 396.106, 396.112, 396.122, 396.131, 396.141,

396.151, 396.1515, 396.161, 396.173, 396.174, 396.175, 396.176, 396.177, 396.178, 396.179, 396.1815, 396.182, 396.052, 396.172, 396.1725, 396.032, 396.042, 396.0427, 396.181, 396.0425, 396.0815, 396.125, 396.1819, 396.1816, 396.1817, and 396.1818, F.S., relating to alcoholism; repealing ss. 397.011, 397.021, 397.031, 397.041, 397.051, 397.0515, 397.0516, 397.0517, 397.0518, 397.052, 397.0525, 397.053, 397.054, 397.055, 397.056, 397.057, 397.061, 397.071, 397.0715, 397.0716, 397.0719, 397.081, 397.082, 397.091, 397.092, 397.093, 397.094, 397.095, 397.0961, 397.098, 397.099, 397.10, 397.12, 397.13, 397.14, 397.15, 397.16, 397.17, 397.18, 397.19, 397.20, 397.21, 397.215, 397.216, 397.217, 397.218, and 397.22, relating to the treatment and rehabilitation of drug dependents; repealing sections 28 and 29 of ch. 83-245, Laws of Florida, and section 27 of ch. 88-398, Laws of Florida; providing an effective date.

On motion by Senator Weinstock, **CS for HB 225** was returned to the House as requested.

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives requests the return of CS for HB 2375.

John B. Phelps, Clerk

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

CS for HB 2375—A bill to be entitled An act relating to children's access to tobacco; creating the Florida Sale of Tobacco Products to Children Control Act; redesignating chapter 210, F.S., as Tobacco Products, Taxation and Control; amending s. 210.01, F.S.; redefining the term "retail dealer" with respect to the tax on cigarettes; amending s. 210.04, F.S.; conforming to the act; creating s. 210.171, F.S.; providing for retail tobacco dealer permits; providing fees; providing penalties; providing for the powers and duties of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation; creating s. 210.1715, F.S.; restricting the sale of tobacco products through vending machines; providing an exception; prohibiting free samples to persons under age 18; prohibiting the sale of single or loose cigarettes; authorizing dealers to require picture ID; providing that wholesale dealers shall not deliver tobacco products to retail dealers who have had their permits revoked; providing penalties; amending s. 561.025, F.S.; providing a cross reference in conformance to the act; amending s. 859.06, F.S., relating to the sale of tobacco products to persons under 18 years of age; revising language with respect to the penalty for such a sale; providing a defense against civil actions resulting from use of false identification; amending s. 859.061, F.S., relating to the posting of a sign with respect to the prohibition of the sale of tobacco products to persons under 18 years of age; revising a penalty; creating s. 210.1716, F.S.; providing for responsible retail tobacco dealers; providing legislative intent; providing definitions; providing qualifications; creating s. 210.1717, F.S.; providing for oversight committees; providing an appropriation; providing for the use of revenues by the Department of Education for tobacco prevention and education activities and for research and evaluation; providing an effective date.

On motion by Senator Thomas, **CS for HB 2375** was returned to the House as requested.

RETURNING MESSAGES—FINAL ACTION

The Honorable Gwen Margolis, President

I am directed to inform the Senate that the House of Representatives has passed SB 112, CS for SB 120, CS for SB 166, SB 594, CS for SB 674, SB 848, CS for SB 916, SB 1038, CS for CS for SB 1062, SB 1076, CS for SB 1104, CS for SB 1164, CS for SB 1266, SB 1278, SB 1294, CS for SB 1484, SB 1732, SB 1902 and CS for SB 2308.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

ROLL CALLS ON SENATE BILLS

CS for CS for CS for SB 12, SB 508 and SB 1310

Yeas—28

Madam President	Forman	Kurth	Souto
Beard	Gardner	Langley	Thomas
Casas	Girardeau	Malchon	Walker
Childers	Gordon	McKay	Weinstein
Crenshaw	Grant	Meek	Weinstock
Davis	Grizzle	Myers	Wexler
Diaz-Balart	Kirkpatrick	Plummer	Yancey

Nays—6

Bankhead	Burt	Dudley
Bruner	Dantzler	Johnson

Vote after roll call:

Yea—Crotty, Jenne, Jennings

SB 50

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 280

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Childers, Jenne, Kirkpatrick

CS for SB 288

Yeas—33

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

Nays—None

SB 344

Yeas—26

Madam President	Diaz-Balart	Kurth
Beard	Dudley	Malchon
Casas	Forman	McKay
Childers	Girardeau	Meek
Crenshaw	Johnson	Plummer
Crotty	Kirkpatrick	Scott
Davis	Kiser	Souto

Nays—10

Bankhead	Dantzler	Grant
Bruner	Gardner	Grizzle
Burt	Gordon	Langley

Vote after roll call:

Yea—Jenne, Jennings, Myers

CS for SB 452

Yeas—38

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

Nays—None

Vote after roll call:

Yea—Yancey

CS for SB 586

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

SB 590

Yeas—39

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

Nays—None

SB 650

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Jenne, Kirkpatrick

SB 680

Yeas—36

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

Nays—None

CS for CS for SB 684

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Childers

CS for SB 716

Yeas—30

Bankhead	Dudley	Kurth	Souto
Beard	Gardner	Langley	Thomas
Bruner	Gordon	Malchon	Weinstein
Burt	Grant	McKay	Weinstock
Casas	Grizzle	Meek	Wexler
Childers	Jennings	Myers	Yancey
Crotty	Johnson	Plummer	
Dantzler	Kiser	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman

CS for CS for SB 756

Yeas—38

Madam President	Burt	Crotty	Forman
Bankhead	Casas	Davis	Gardner
Beard	Childers	Diaz-Balart	Girardeau
Bruner	Crenshaw	Dudley	Gordon

Grant	Kurth	Plummer	Weinstein
Grizzle	Langley	Scott	Weinstock
Jennings	Malchon	Souto	Wexler
Johnson	McKay	Thomas	Yancey
Kirkpatrick	Meek	Thurman	
Kiser	Myers	Walker	

CS for SB 1040

Yeas—34

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

Nays—None

SB 826

Yeas—28

Madam President	Diaz-Balart	Jenne	Souto
Burt	Forman	Johnson	Thomas
Casas	Gardner	Kurth	Thurman
Childers	Girardeau	Malchon	Weinstein
Crenshaw	Gordon	Meek	Weinstock
Dantzler	Grant	Myers	Wexler
Davis	Grizzle	Plummer	Yancey

Nays—6

Bankhead	Bruner	Langley
Beard	Crotty	McKay

CS for CS for CS for SB 832—Amendment 1

Yeas—24

Madam President	Childers	Gardner	Kiser
Bankhead	Crotty	Girardeau	Kurth
Beard	Dantzler	Gordon	Plummer
Bruner	Davis	Grant	Scott
Burt	Diaz-Balart	Jennings	Souto
Casas	Dudley	Kirkpatrick	Weinstein

Nays—13

Crenshaw	Johnson	Meek	Yancey
Forman	Langley	Myers	
Grizzle	Malchon	Weinstock	
Jenne	McKay	Wexler	

SB 874

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Beard, Kurth

CS for SB 900

Yeas—28

Madam President	Dantzler	Grant	Malchon
Bankhead	Diaz-Balart	Grizzle	McKay
Beard	Dudley	Jennings	Myers
Bruner	Forman	Johnson	Plummer
Burt	Gardner	Kiser	Scott
Casas	Girardeau	Kurth	Walker
Crotty	Gordon	Langley	Weinstein

Nays—None

Vote after roll call:

Yea—Childers, Jenne, Kirkpatrick, Thurman

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for SB 1152

Yeas—36

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman, Weinstock

CS for SB's 1368 and 72

Yeas—38

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

Nays—None

CS for SB's 1368 and 72—After Reconsideration

Yeas—36

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

Nays—None

SB 1458

Yeas—36

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

Nays—1

Burt

CS for SB 1736

Yeas—34

Madam President	Davis	Jennings
Bankhead	Diaz-Balart	Johnson
Beard	Forman	Kiser
Bruner	Gardner	Kurth
Casas	Girardeau	Langley
Childers	Gordon	Malchon
Crenshaw	Grant	McKay
Crotty	Grizzle	Meek
Dantzler	Jenne	Myers

Nays—2

Burt Souto

Vote after roll call:

Yea—Thomas

CS for CS for SB 1788

Yeas—29

Bankhead	Diaz-Balart	Kurth
Beard	Dudley	Langley
Casas	Forman	Malchon
Childers	Gordon	McKay
Crenshaw	Grant	Meek
Crotty	Grizzle	Myers
Dantzler	Johnson	Plummer
Davis	Kirkpatrick	Souto

Nays—None

Vote after roll call:

Yea—Girardeau, Jennings

CS for SB 1850

Yeas—35

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

Nays—None

CS for SB 2056

Yeas—34

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

Nays—None

CS for SB 2056—After Reconsideration

Yeas—25

Madam President	Casas	Dantzler	Dudley
Beard	Childers	Davis	Gardner
Bruner	Crotty	Diaz-Balart	Grant

Grizzle
Johnson
Kurth
Malchon

McKay
Myers
Plummer
Scott

Souto
Thomas
Thurman
Wexler

Yancey

Nays—1

Gordon

CS for SB 2142

Yeas—30

Beard
Bruner
Burt
Casas
Childers
Crenshaw
Crotty
Dantzler

Davis
Diaz-Balart
Dudley
Forman
Gardner
Girardeau
Gordon
Grant

Grizzle
Jennings
Johnson
Kurth
Langley
Malchon
McKay
Meek

Myers
Plummer
Souto
Thomas
Thurman
Yancey

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SB 2178

Yeas—33

Bankhead
Beard
Bruner
Burt
Casas
Childers
Crenshaw
Dantzler
Davis

Diaz-Balart
Dudley
Forman
Gardner
Gordon
Grant
Grizzle
Jennings
Johnson

Kirkpatrick
Kurth
Langley
Malchon
McKay
Meek
Myers
Plummer
Scott

Souto
Thomas
Thurman
Weinstein
Weinstock
Yancey

Nays—None

CS for SB 2416

Yeas—29

Madam President
Bankhead
Beard
Bruner
Burt
Casas
Childers
Crenshaw

Crotty
Dantzler
Davis
Diaz-Balart
Forman
Gardner
Grant
Grizzle

Jennings
Johnson
Kirkpatrick
Kiser
Langley
Meek
Myers
Plummer

Souto
Thurman
Weinstein
Weinstock
Yancey

Nays—None

Vote after roll call:

Yea—Girardeau, Kurth

ROLL CALLS ON HOUSE BILLS

CS for HB 89

Yeas—33

Madam President
Bankhead
Beard
Bruner
Burt
Casas
Childers
Crenshaw
Crotty

Dantzler
Davis
Diaz-Balart
Dudley
Forman
Gardner
Girardeau
Grant
Grizzle

Jennings
Johnson
Kurth
Langley
McKay
Meek
Myers
Plummer
Scott

Souto
Thomas
Weinstein
Weinstock
Wexler
Yancey

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman

CS for HB's 147, 1551 and 1967

Yeas—31

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

Nays—1

Souto

CS for HB 283

Yeas—32

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

Nays—None

CS for HB 465

Yeas—34

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

Nays—None

Vote after roll call:

Yea—Childers, Kirkpatrick, Thurman

CS for HB 601

Yeas—30

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

Nays—1

Dudley

Vote after roll call:

Yea—Souto

CS for HB 709, HJR 17, HJR 437 and HB 499

Yeas—30

Bankhead	Diaz-Balart	Kirkpatrick	Scott
Beard	Dudley	Kiser	Souto
Casas	Forman	Kurth	Thurman
Childers	Gardner	Langley	Weinstein
Crenshaw	Gordon	Malchon	Weinstock
Crotty	Grant	McKay	Yancey
Dantzler	Jennings	Myers	
Davis	Johnson	Plummer	

Nays—None

Vote after roll call:

Yea—Girardeau

CS for CS for HB 721

Yeas—32

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

Nays—4

Grizzle	Malchon	Meek	Weinstock
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CS for HB 729

Yeas—36

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

Nays—None

CS for HB 789

Yeas—35

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick

HB 827

Yeas—31

Beard	Davis	Jennings	Souto
Bruner	Diaz-Balart	Kiser	Thomas
Burt	Dudley	Langley	Thurman
Casas	Forman	Malchon	Weinstein
Childers	Gardner	McKay	Weinstock
Crenshaw	Gordon	Meek	Wexler
Crotty	Grant	Myers	Yancey
Dantzler	Grizzle	Scott	

Nays—None

HB 935

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick

CS for HB 1011

Yeas—26

Madam President	Crenshaw	Johnson
Bankhead	Dantzler	Langley
Beard	Diaz-Balart	Malchon
Bruner	Forman	McKay
Burt	Gardner	Myers
Casas	Girardeau	Plummer
Childers	Grant	Scott

Nays—1

Dudley

HB 1061

Yeas—35

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

Nays—1

Weinstock

HB 1065

Yeas—28

Madam President	Davis	Grizzle	Scott
Bankhead	Diaz-Balart	Johnson	Souto
Beard	Dudley	Kurth	Thomas
Burt	Forman	Malchon	Weinstein
Childers	Gardner	McKay	Weinstock
Crenshaw	Girardeau	Meek	Wexler
Crotty	Grant	Myers	Yancey

Nays—4

Bruner Dantzler Langley Plummer

CS for HB 1111

Yeas—32

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

Nays—3

Bruner Dudley Langley

CS for CS for HB 1151

Yeas—30

Madam President	Davis	Johnson	Souto
Bankhead	Diaz-Balart	Kirkpatrick	Thomas
Beard	Dudley	Kurth	Thurman
Bruner	Forman	Langley	Weinstein
Casas	Gardner	Malchon	Wexler
Crenshaw	Gordon	Meek	Yancey
Crotty	Grant	Myers	
Dantzler	Grizzle	Plummer	

Nays—None

Vote after roll call:

Yea—Childers

HB 1301

Yeas—30

Bankhead	Diaz-Balart	Kiser	Souto
Beard	Dudley	Kurth	Thomas
Bruner	Forman	Langley	Weinstein
Burt	Gardner	Malchon	Weinstock
Casas	Gordon	McKay	Wexler
Childers	Grizzle	Meek	Yancey
Crotty	Jennings	Myers	
Dantzler	Johnson	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman

CS for HB 1419

Yeas—30

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

Nays—None

Vote after roll call:

Yea—Childers, Jennings, Kirkpatrick

CS for HB 1441

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Thurman

HB 1479

Yeas—28

Bankhead	Dantzler	Grizzle	McKay
Beard	Davis	Jennings	Meek
Burt	Diaz-Balart	Johnson	Myers
Casas	Forman	Kiser	Plummer
Childers	Girardeau	Kurth	Scott
Crenshaw	Gordon	Langley	Thomas
Crotty	Grant	Malchon	Weinstock

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Souto, Thurman, Weinstein

CS for HB 1771

Yeas—31

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

Nays—None

HB 1851

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Thurman, Weinstock

HB 1901

Yeas—35

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

Nays—None

HB 2203

Yeas—32

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

Nays—None

Vote after roll call:

Yea—Childers, Jennings, Kirkpatrick

HB 2219

Yeas—26

Madam President	Dudley	Jennings	Souto
Burt	Forman	Johnson	Thurman
Casas	Gardner	Kiser	Weinstein
Childers	Girardeau	Kurth	Wexler
Crotty	Gordon	Malchon	Yancey
Davis	Grizzle	Meek	
Diaz-Balart	Jenne	Scott	

Nays—9

Bankhead	Dantzler	McKay
Beard	Grant	Myers
Bruner	Langley	Plummer

HB 2341

Yeas—33

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

Nays—None

Vote after roll call:

Yea—Childers, Souto

CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 10 was corrected and approved.

CO-SPONSORS

Senator Thomas—SB 764; Senator Forman—CS for SB 2184; Senator Grant—CS for SB 2390

RECESS

On motion by Senator Thomas, the Senate recessed at 6:27 p.m. to reconvene at 9:00 a.m., Thursday, March 12.