Journal of the Senate

Number 20 **Thursday, April 1, 1993**

CALL TO ORDER

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

Mr. President	Dudley	Jennings	Siegel
Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Gutman	Kurth	Weinstein
Casas	Harden	McKay	Williams
Crist	Hargrett	Meadows	
Dantzler	Holzendorf	Myers	
Diaz-Balart	Jenne	Scott	

Excused: Senator Childers until 5:15 p.m.; Senator Grogan until 2:00 p.m.

PRAYER

The following prayer was offered by Dr. Len Turner, Pastor, East Hill Baptist Church, Tallahassee:

Heavenly Father, here we stand at the beginning of another new day. Already our minds are racing like we are running the Daytona 500. Our spirits want to soar like the space shuttle, except we feel like we have already experienced a shut-down. Lord, if we feel like this at ten o'clock in the morning what will we feel like at ten in the evening?

Yes, Father, we know this is the next to the last day of the regular session. Yes, we know that there is no budget agreement yet. Yes, we know that half of our constituency would like to strap us to the electric chair in Starke. The other half wouldn't know us if they ran over us on Alligator Alley.

How much do we get paid for doing this job? Frankly, it's not near enough except for. . .except for the fact that we have family members who understand and encourage us; except for the fact that we have a loyal, hard working staff who labors tirelessly; except for the fact that we have been elected by neighbors to represent them; except for the fact that someone else could do this job, but they would never be more concerned than we are; except for the fact that scores of individuals are praying for this group today. Some things are worth much more than money!

Heavenly Father, we recognize this day to be a trust—a trust from you, a trust from our families, a trust from our constituency and a trust from our colleagues. When ten o'clock tonight comes may each Senator and staff member have that sense of your speaking to them and saying, "Well done, good and faithful servant." Amen.

PLEDGE

Senate Page, Tricia McKay, of Bradenton led the Senate in the pledge of allegiance to the flag of the United States of America.

CONSIDERATION OF RESOLUTIONS

On motion by Senator Meadows, by two-thirds vote **SR 346** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Meadows—

SR 346—A resolution commending the National Black Nurses Association for its contributions to African-American nurses and to health care for African-Americans and other minorities.

WHEREAS, a group of nurses who gathered in Miami, Florida, envisioned an organization that would establish communication among African-American nurses for the purpose of identifying and serving the health-care needs of African-Americans, and, on December 18 and 19, 1971, met at the home of Dr. Mary Harper in Cleveland, Ohio, and formed the National Black Nurses Association, and

WHEREAS, the philosophy and purpose of the National Black Nurses Association was and is to provide a forum for collective action by African-American nurses to investigate, define, and determine the health-care needs of African-Americans and to implement changes that will make health-care service to African-Americans and other minorities commensurate with service to the majority population, and

WHEREAS, since its establishment, the association has contributed immeasurably to health-care service to African-Americans and other minorities by networking, providing direction for improving health-care service, recruiting, counseling, and assisting the African-American nursing community, establishing a sense of unified caring among African-American nurses, and seeking and soliciting the assistance and cooperation of legislators in furtherance of the goal of improving health-care service to African-Americans and other minorities, and

WHEREAS, the National Black Nurses Association will be honoring the State of Florida by celebrating more than 21 years of existence during its convention in the summer of 1993 in Orlando, Florida, NOW, THEREFORE,

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

That the Senate welcomes the National Black Nurses Association to the State of Florida and commends the association for its contributions to the nursing profession and to health care and, more specifically, for its dedication to the improvement of health-care service to African-Americans.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the National Black Nurses Association as a tangible token of the sentiments of the Florida Senate.

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

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

By Senator Scott—

SR 2426—A resolution expressing support for federal impact aid for immigrant and refugee students enrolling in Florida public schools.

WHEREAS, the State of Florida is the nation's fourth largest state, serving 2.1 million public school students, including more than 94,000 immigrant students, and

WHEREAS, the annual student enrollment growth of more than 79,000 includes over 50,000 students who are immigrants or who have been given refugee status by the Federal Government, and

WHEREAS, Florida's 67 school districts are facing a major shortage of classroom space, a problem which is being fueled by the increasing enrollment of immigrant and refugee students, and many of these students are of middle school age or older and are academically behind because they have had little or no schooling, and

WHEREAS, these students often need remedial academic programs in addition to the regular programs, and they need social services to assist them in dealing with the new culture in which they are presently living, and

WHEREAS, the influx of immigrant children requires the school system to provide special personnel to assess their academic levels, register them, provide them with certain social services, and work with their parents to help them understand the requirements of their children's educational programs, and

WHEREAS, decisions regarding the admission of legal immigrants and those with refugee status rest solely with the Federal Government, and

WHEREAS, the Federal Government has not been willing to provide adequate funding to compensate school districts for the additional costs of serving these immigrant students, leaving the financial burden on local and state taxpayers, NOW, THEREFORE,

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

That the Florida Senate expresses its support for federal impact aid to local school boards to fully compensate them for the additional costs of providing classroom space, educational programs, and social services for immigrant students.

On motion by Senator Scott, **SR 2426** was read by title and was read the second time in full and adopted.

On motion by Senator Myers, by two-thirds vote **SR 2054** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Myers—

SR 2054—A resolution recognizing Pneumonia Prevention Week and encouraging pneumonia immunizations.

WHEREAS, pneumonia is one of the leading causes of death in the United States, and

WHEREAS, approximately 500,000 cases of pneumococcal pneumonia occur annually, causing 54,000 deaths each year, and

WHEREAS, persons over 65 years of age or persons who have chronic conditions, such as heart disease, diabetes, alcoholism, or lung disease are particularly vulnerable to pneumonia, and

WHEREAS, there are nearly 2.4 million persons in this state over the age of 65, representing 20 percent of the state's population, who are at risk for contracting this preventable disease, and

WHEREAS, protection against pneumonia is supported by the American Academy of Family Physicians and the American College of Physicians, and

WHEREAS, the pneumococcal pneumonia vaccine that protects against the most common form of pneumonia is effective against 90 percent of the types of bacteria that cause this disease, but it is only used by 10 percent of the target population, NOW, THEREFORE,

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

That the Florida Senate recognizes the week of September 12-18, 1993, as Pneumonia Prevention Week.

BE IT FURTHER RESOLVED that those persons in this state who are particularly vulnerable to pneumococcal pneumonia are encouraged to consult their health care providers about immunization against this disease.

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

On motion by Senator Turner, by two-thirds vote **SR 2368** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Turner—

SR 2368—A resolution honoring Jackelin Chapman for outstanding accomplishments.

WHEREAS, Jackelin Chapman has displayed excellent leadership and has demonstrated outstanding achievements working with the International Longshoreman's Union, and

WHEREAS, the major focus of Jackelin Chapman's administration has been working with educational, social, political, and religious projects that have enhanced the community, and

WHEREAS, Jackelin Chapman has served as a role model for the organization and the community, NOW, THEREFORE,

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

That Jackelin Chapman is commended for many outstanding accomplishments with the International Longshoreman's Union.

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

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

On motion by Senator Turner, by two-thirds vote **SR 2370** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Turner—

SR 2370—A resolution honoring Nathaniel May, Jr., for outstanding accomplishments.

WHEREAS, Nathaniel May, Jr., has displayed excellent leadership and has demonstrated outstanding achievements working with the International Longshoreman's Union, and

WHEREAS, the major focus of Nathaniel May, Jr.'s administration has been working with educational, social, political, and religious projects that have enhanced the community, and

WHEREAS, Nathaniel May, Jr., has served as a ro;e model for the organization and the community, NOW, THEREFORE,

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

That Nathaniel May, Jr., is commended for many outstanding accomplishments with the International Longshoreman's Union.

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

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

On motion by Senator Turner, by two-thirds vote **SR 2372** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Turner—

SR 2372—A resolution honoring Clarence Pittman for outstanding accomplishments.

WHEREAS, Clarence Pittman has displayed excellent leadership and has demonstrated outstanding achievements working with the International Longshoreman's Union, and

WHEREAS, the major focus of Clarence Pittman's administration has been working with educational, social, political, and religious projects that have enhanced the community, and

WHEREAS, Clarence Pittman has served as a role model for the organization and the community, NOW THEREFORE,

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

That Clarence Pittman is commended for many outstanding accomplishments with the International Longshoreman's Union.

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

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

On motion by Senator Turner, by two-thirds vote **SR 2374** was withdrawn from the Committee on Rules and Calendar.

On motion by Senator Turner—

SR 2374—A resolution honoring Willie J. Hunter for outstanding accomplishments.

WHEREAS, Willie J. Hunter has displayed excellent leadership and has demonstrated outstanding achievements working with the International Longshoreman's Union, and

WHEREAS, the major focus of Willie J. Hunter's administration has been working with educational, social, political, and religious projects that have enhanced the community, and

WHEREAS, Willie J. Hunter has served as a role model for the organization and the community, NOW THEREFORE,

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

That Willie J. Hunter is commended for many outstanding accomplishments with the International Longshoreman's Union.

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

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

MOTIONS RELATING TO COMMITTEE REFERENCE

On motions by Senator Jennings, by two-thirds vote **SB 2406** and **CS for HB 477** were removed from the calendar and recommitted to the Committee on Finance, Taxation and Claims.

On motions by Senator Jennings, by two-thirds vote **SB 270** was withdrawn from the Committee on Appropriations; **CS for SB 1000, Senate Bills 2392, 2394** and **360** were withdrawn from the Committee on Community Affairs; **SB 1830** was withdrawn from the Committees on Commerce, Governmental Operations and Appropriations; **SB 982** and **CS for SB 1612** were withdrawn from the Committee on Judiciary; **CS for CS for SB 1550** and **CS for SB 2102** were withdrawn from the Committee on Governmental Operations; **CS for SB 2218** was withdrawn from the Committee on Education; and **HCR 119** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Scott, by two-thirds vote **Senate Bills 360, 128, CS for SB 1272** and **CS for CS for SB 1550** were withdrawn from the Committee on Appropriations.

On motions by Senator Kiser, by two-thirds vote **CS for SB 1846** and **CS for CS for SB 396** were withdrawn from the Committee on Finance, Taxation and Claims.

On motions by Senator Jennings, by two-thirds vote **HB 2161** was withdrawn from the Committee on Education; **SJR 1370** and **SJR 486** were withdrawn from the Committee on Rules and Calendar; and **SB 2376** was withdrawn from the Committee on Community Affairs.

On motions by Senator Scott, by two-thirds vote **Senate Bills 174, 1846, 1008, CS for SB 968, CS for SB 1502, CS for SB 1618, CS for SB 1698** and **CS for SB 2136** were withdrawn from the Committee on Appropriations.

On motions by Senator Jennings, by two-thirds vote **CS for SB 1590** was withdrawn from the Committees on Health Care and Commerce; and **CS for HJR 1579** was withdrawn from the Committee on Rules and Calendar.

MOTIONS

On motions by Senator Jennings, the rules were waived and by two-thirds vote **CS for CS for HB 497, CS for HJR 1579, CS for SB 1590, CS for SB 1246, SB 1702, SB 1992, CS for CS for SB 1550, SB 1762, SB 174** and **CS for HB 565** were placed on the Special Order Calendar; and all bills remaining on the Special Order Calendar and bills which were deferred or placed on third reading will be retained on the Special Order Calendar for Friday, April 2.

SPECIAL ORDER

The Senate resumed consideration of—

CS for SB 1666—A bill to be entitled An act relating to elections; amending s. 99.095, F.S.; providing limitations to use of alternative method of qualifying; amending s. 99.0955, F.S.; providing primary ballot access to independent candidates; providing dates for obtaining forms; providing for voting by all qualified electors in first primary to nominate an independent candidate when more than one independent candidate qualifies for an office; providing that the name of the independent candidate who gets the most votes in the primary election will be placed on the general election ballot; providing for grouping the names of independent candidates on the first primary ballot; amending s. 101.5606; to conform; amending s. 106.011, F.S.; redefining the term "independent expenditure"; exempting land trusts from definitions of "political committee" and "person"; amending s. 106.03, F.S.; requiring additional information required in political committee statements of organization; amending s. 106.04, F.S.; deleting an assessment on contributions which has been declared unconstitutional; increasing the fine for late filing of reports by committees of continuous existence; amending s. 106.07, F.S.; expanding campaign reporting requirements; deleting an assessment on contributions which has been declared unconstitutional; revising filing deadline requirements; increasing fines for late filing; providing penalties; amending s. 106.071, F.S.; expanding disclosure requirements on independent expenditures; providing penalties; amending s. 106.08, F.S.; prohibiting contributions by landtrusts; creating s. 106.083, F.S.; prohibiting legislators from soliciting or accepting campaign contributions during any regular session; providing certain additional campaign contribution reporting requirements covering special sessions and the period from qualifying to the general election; providing penalties; amending s. 106.141, F.S.; eliminating the disposition of campaign funds to the candidate's political party; amending s. 106.19, F.S.; providing penalties applicable to receipt of unlawful campaign contributions; reenacting s. 106.18(1), F.S., relating to omitting a candidate's name from the ballot, to incorporate the amendment to s. 106.19, F.S., in a reference thereto; amending s. 106.21, F.S.; revising cross-references to conform; amending s. 106.265, F.S.; increasing the civil penalty for violations of campaign financing law; amending s. 106.29, F.S.; deleting an assessment on contributions which has been declared unconstitutional; prohibiting national executive committees of political parties from using or expending for an election contributions received within a specified period prior to that election; repealing s. 106.32(3), F.S., relating to deposit into the Election Campaign Financing Trust Fund of the proceeds of certain assessments on contributions which have been declared unconstitutional; providing severability; providing an effective date.

—with pending **Amendment 2** by Senator Dudley, which was deferred on a point of order by Senator Holzendorf on March 31. **Amendment 2** was withdrawn.

Senator Dudley moved the following amendments which were adopted:

Amendment 3—On page 12, between lines 23 and 24, insert:

(m) A sworn statement that the political committee is not filing its statement of organization for the purpose of exceeding the contribution limits of s. 106.08 and will not organize as a committee of continuous existence for the purpose of exceeding the contribution limits of s. 106.08. Any political committee formed to exceed the contribution limits of s. 106.08 is subject to a $5,000 civil penalty in addition to any other penalties imposed by law. The sworn statement shall be in substantially the following form:

I (chairman of political committee) certify that (name of committee) is not filing this statement of organization for the purpose of exceeding the contribution limits in s. 106.08, F.S. I also certify that (name of committee) will not organize as a committee of continuous existence for the purpose of exceeding the contribution limits of s. 106.08, F.S.

(Signature of committee chairman)

Sworn and subscribed before me this ( ) day of 19 .

(Signature of notary)

(Name typed or printed)

(Notary stamp and seal including commission number)

Amendment 4—On page 12, strike all of lines 24-26 and insert:

Section 6. Subsection (3) is added and present subsections (4) and (8) of section 106.04, Florida Statutes, are amended to read:

Amendment 5 (with Title Amendment)—On page 12, between lines 27 and 28, insert:

(3) A committee of continuous existence must provide a sworn statement that the committee of continuous existence is not organizing for the purpose of exceeding the contribution limits of s. 106.08 and will not organize as political committee for the purposes of exceeding the contribution limits of s. 106.08. Any committee of continuous existence formed for the purpose of exceeding the contribution limits of 106.08 shall be subject to a $5,000 civil penalty in addition to any other penalties imposed by law. The sworn statement shall be in substantially the following form.

I (chairman of committee of continuous existence) certify that (name of committee) is not filing this statement of organization for the purpose of exceeding the contribution limits in s. 106.08, F.S. I also certify that (name of committee) will not organize as a political committee for the purpose of exceeding the contribution limits of s. 106.08, F.S.

(Signature of committee chairman)

Sworn and subscribed before me this ( ) day of 19 .

(Signature of notary)

(Name typed or printed)

(Notary stamp and seal including commission number)

And the title is amended as follows:

In title, on page 1, line 23, after the semicolon (;) insert: requiring additional information required of persons organizing as a committee of continuous existence;

Senator Kiser moved the following amendment which was adopted:

Amendment 6 (with Title Amendment)—On page 32, strike all of lines 12-14 and insert:

Section 11. Subsection (1) and paragraph (a) of subsection (4) of section 106.141, Florida Statutes, is amended to read:

106.141 Disposition of surplus funds by candidates.—

(1) Each candidate who withdraws his candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his campaign account and file a report reflecting the disposition of all remaining funds. Such candidate shall not accept any contributions, nor shall any person accept contributions on behalf of such candidate, after the candidate withdraws his candidacy, becomes unopposed, or is eliminated or elected. *However, a candidate who expects to receive or receives a refund or other funds, not otherwise in violation of this section, after the final report is to be filed and the account closed, may keep the account open until receipt and disposal of such funds. Upon receipt, such funds shall be disposed of in the manner provided by this section. The candidate shall state in the report that he is keeping the account open and the reason for doing so and, upon receiving the refund or funds, shall file an amended report reflecting the receipt and disposition of such funds. A candidate who unexpectedly receives a refund or other funds after his account has been closed shall dispose of such funds in the manner provided by this section and shall file an amended report reflecting the receipt and disposition of such funds.*

And the title is amended as follows:

In title, on page 2, between lines 13 and 14, insert: providing for disposition of surplus funds received after filing of the final report; requiring amended reports;

Senator Burt moved the following amendment which was adopted:

Amendment 7 (with Title Amendment)—On page 38, strike all of lines 13-15 and insert:

Section 17. Section 106.32, Florida Statutes, is amended to read:

106.32 Election Campaign Financing Trust Fund.—

(1) There is ~~hereby~~ established in the State Treasury an Election Campaign Financing Trust Fund to be *used* ~~utilized~~ by the Department of State as provided in ss. 106.30-106.36. ~~If necessary,~~ Each year in which a general election is to be held for the election of the Governor and Cabinet, additional funds shall be transferred to the Election Campaign Financing Trust Fund from general revenue, *if funding is provided in the General Appropriations Act,* in an amount sufficient to fund qualifying candidates *under* ~~pursuant to the provisions of~~ ss. 106.30-106.36. *If appropriated moneys are insufficient to fully fund qualifying candidates, available funds shall be distributed proportionally from total available funds.*

(2) Proceeds from filing fees *under* ~~pursuant to~~ ss. 99.092, 99.093, and 105.031 shall be deposited into the Election Campaign Financing Trust Fund as designated in those sections.

~~(3) Proceeds from assessments pursuant to ss. 106.04, 106.07, and 106.29 shall be deposited into the Election Campaign Financing Trust Fund as designated in those sections.~~

And the title is amended as follows:

In title, on page 2, line 31 and on page 3, lines 1-5, strike all of said lines and insert: period prior to the election; amending s. 106.32, F.S.; making the transfer of moneys from the General Revenue Fund to the Election Campaign Financing Trust Fund dependent upon legislative appropriation; providing for distribution of such revenues in specified instances; deleting language relating to the deposit of certain assessments on contributions which have been declared unconstituional; providing severability;

Senator Forman moved the following amendment which was adopted:

Amendment 8 (with Title Amendment)—On page 38, between lines 21 and 22, insert:

Section 19. Subsection (2) of section 98.211, Florida Statutes, 1992 Supplement, is amended to read:

98.211 County registers open to inspection; copies.—

(2) The information provided pursuant to this section shall be furnished only to:

(a) The courts for the purpose of jury selection;

(b) Municipalities;

(c) Other governmental agencies;

(d) Candidates, to further their candidacy;

(e) Registered political committees, registered committees of continuous existence, and political parties or officials thereof, for political purposes only; and

(f) Incumbent officeholders, to report to their constituents.

~~Such information shall not be used for commercial purposes.~~ No person to whom a list of registered voters is made available pursuant to this section, and no person who acquires such a list, shall use any information contained therein for purposes which are not related to elections, political or governmental activities, voter registration, law enforcement, or jury selection.

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 3, line 5, after "unconstitutional;" insert: amending s. 98.211, F.S.; deleting the requirement that information in county register not be used for commercial purposes;

Senator Harden moved the following amendment which was adopted:

Amendment 9 (with Title Amendment)—On page 38, between lines 12 and 13, insert:

Section 17. Subsection (1) of section 106.143, Florida Statutes, is amended to read:

106.143 Political advertisements circulated prior to election; requirements.—

(1) Any political advertisement and any campaign literature published, displayed, or circulated prior to, or on the day of, any election shall:

(a) Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."

(b) Identify the persons or organizations sponsoring the advertisement.

(c)1.a. State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement; or

b. State who provided or paid for the advertisement and cost of production, if different from the source of sponsorship.

2. This paragraph shall not apply if the source of the sponsorship is patently clear from the content or format of the political advertisement or campaign literature.

(d) State, when such advertisement is provided by or paid for by the candidate's political party, that the advertisement was "reviewed and approved by (name of candidate)."

This subsection does not apply to campaign messages used by a candidate and his supporters which messages are designed to be worn by a person.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 31, after the semicolon (;) insert: amending s. 106.143, F.S.; providing a requirement for political advertisements circulated prior to an election;

Senator Harden moved the following amendment which failed:

Amendment 10 (with Title Amendment)—On page 4, line 12 through page 9, line 16, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 1, strike all of lines 2-17 and insert: An act relating to elections; amending s. 106.011, F.S.; redefining

Senators Forman and Jenne offered the following amendment which was moved by Senator Jenne and adopted:

Amendment 11 (with Title Amendment)—On page 9, between lines 4 and 5, insert:

Section 3. Subsection (6) of section 101.015, Florida Statutes, is amended to read:

101.015 Standards for voting systems.—

(6) All electronic and electromechanical voting systems purchased on or after January 1, 1990, must meet the minimum standards established under subsection (1). All electronic and electromechanical voting systems in use on or after July 1, *1995* ~~1993~~, must meet the minimum standards established under subsection (1) or subsection (5).

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, line 16, after "ballot;" insert: amending s. 101.015, F.S.; changing electronic and electromechanical voting systems minimum standards effective date;

Senator Dudley moved the following amendment which was adopted:

Amendment 12—On page 31, between lines 28 and 29, insert:

(2)(a) A candidate may not accept contributions from national, state, and county executive committees of a political party, which contributions in the aggregate exceed $50,000, no more than $25,000 of which may be accepted *within* ~~prior to~~ the 28-day period immediately preceding the date of the general election.

(b) For the purposes of this subsection:

1. Print, broadcast, cable, and mailing advertisements are contributions in an amount equal to their fair market value and shall be counted toward the contribution limits of this subsection.

2. Polling services, research services, technical assistance, and voter mobilization efforts are not contributions to be counted toward the contribution limits of this subsection.

On motion by Senator Johnson, by two-thirds vote **CS for SB 1666** 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

The Senate resumed consideration of—

CS for SB 1668—A bill to be entitled An act relating to ethics; amending s. 11.045, F.S.; expanding and modifying registration and disclosure requirements for legislative lobbyists; providing definitions; providing penalties; creating s. 11.063, F.S.; prohibiting legislative lobbyists from contracting for or accepting any contingency fee; providing penalties; creating s. 11.064, F.S.; requiring legislative lobbyists and principals to retain records for a specified period; providing penalties; amending s. 112.3215, F.S., and creating ss. 112.3216 and 112.3217, F.S., to apply the registration and reporting requirements, contingency fee restrictions, record retention requirements, and penalties applicable to legislative lobbyists and principals pursuant to this act to executive branch lobbyists and principals; amending s. 112.324, F.S; requiring that persons filing complaints with the Commission on Ethics have personal knowledge of the matters set forth in the complaint; providing severability; providing an effective date.

—which had been considered March 31. Pending **Amendment 1** by Senators Johnson and Harden was withdrawn.

Senator Wexler moved the following amendment which was adopted:

Amendment 2—On page 4, strike all of lines 20 and 21 and insert: *Legislature who has an employment relationship, direct business association or partnership with the lobbyist*

Senator McKay moved the following amendment which was adopted:

Amendment 3 (with Title Amendment)—On page 8, between lines 27 and 28, insert:

Section 2. Section 11.062, Florida Statutes, is amended to read:

11.062 Use of state funds for lobbying prohibited; penalty.—

(1) No funds, exclusive of salaries, travel expenses, and per diem, appropriated to, or otherwise available for use by, any executive, judicial, or quasi-judicial department shall be used by any state employee or other person for lobbying purposes, which shall include the cost for publication and distribution of each publication used in lobbying; other printing; media; advertising, including production costs; postage; entertainment; and telephone and telegraph. Any state employee of any executive, judicial, or quasi-judicial department who violates the provisions of this section shall have deducted from his salary the amount of state moneys spent in violation of this section.

(2)(a) A department of the executive branch, a state university, a community college, or a water management district may not use public funds to retain a lobbyist to represent it before the legislative or executive branch. However, the general counsel or a full-time employee of a department of the executive branch, a state university, a community college, or a water management district may register as a lobbyist and represent that employer before the legislative or executive branch. Except as a full-time employee, or general counsel, a person may not accept any public funds from a department of the executive branch, a state university, a community college, or a water management district for lobbying.

(b) A department of the executive branch, a state university, a community college, or a water management district that violates this subsection may be prohibited from lobbying the legislative or executive branch for a period not exceeding 2 years.

(c) A person who accepts public funds as compensation for lobbying in violation of this subsection may be prohibited from registering to lobby before the legislative or executive branch for a period not exceeding 2 years.

(d) A person may file a written complaint with the Commission on Ethics alleging a violation of this subsection. The commission shall investigate and report its finding to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet. Based upon the report of the Commission on Ethics or upon its own finding that a violation of this subsection has occurred, a house of the Legislature may discipline the violator according to its rules, and the Governor or the Governor and Cabinet, as applicable, may prohibit the violator from lobbying before the executive branch for a period not exceeding 2 years after the date of the formal determination of a violation. The Commission on Ethics shall adopt rules necessary to conduct investigations under this paragraph.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 1, strike line line 6 and insert: penalties; amending s. 11.062, F.S.; prohibiting departments of the executive branch, state universities, community colleges, and water management districts from using public funds to retain lobbyists to represent them before the legislative or executive branch; exempting full-time employees of these entities; prohibiting lobbyists from accepting compensation derived from public funds; providing penalties; authorizing complaints to be filed with and investigated by the Commission on Ethics; authorizing the commission to adopt rules; creating s. 11.063, F.S.;

Senator Holzendorf moved the following amendment which was adopted:

Amendment 4—On page 19, strike all of lines 3 and 4 and insert: affirmation by any person, *and alleging that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact,* the commission

Senator Dantzler moved the following amendment which failed:

Amendment 5—On page 4, strike all of lines 26 and 27 and renumber subsequent sections.

Senator Harden moved the following amendment which was adopted:

Amendment 6 (with Title Amendment)—On page 18, line 29 through page 20, line 21, strike all of said lines

On motion by Senator Johnson, by two-thirds vote **CS for SB 1668** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32 Nays—2

CS for SB 640—A bill to be entitled An act relating to elections; amending s. 99.021, F.S.; requiring candidates for statewide or legislative office to sign a fair campaign practices pledge; amending ss. 99.095, 99.0955, 99.096, and 112.312, F.S., to conform; amending s. 104.271, F.S.; clarifying existing law; amending s. 106.143, F.S.; providing additional requirements for political advertisements that endorse a candidate running for public office; providing penalties; amending s. 106.08, F.S.; limiting to $25,000 the amount of contributions a candidate may accept from a political party within 28 days before an election; amending s. 106.29, F.S., relating to reports by political parties; requiring such reports to be filed on the same days as are reports filed by candidates; requiring such reports to itemize expenditures made on behalf of candidates for statewide or legislative office; requiring the Division of Elections to audit such reports in a timely manner and to file complaints arising therefrom with the Florida Elections Commission; increasing the fines for late reporting and for knowingly filing an incorrect, false, or incomplete report; providing a penalty for political parties contributing funds to a candidate in excess of the limit the candidate is allowed to accept; eliminating a provision providing for an assessment on contributions which has been declared unconstitutional; amending s. 106.141, F.S.; providing a cap on the amount of surplus funds that may be disposed of by giving the funds to the candidate's political party; providing penalties; amending ss. 106.04 and 106.07, F.S., and repealing s. 106.32(3), F.S.; eliminating provisions providing for an assessment on contributions which has been declared unconstitutional; repealing s. 100.091, F.S., relating to the second primary election; repealing s. 100.096, F.S., relating to special local elections to be held at the second primary election; amending s. 100.061, F.S.; providing for a single primary election, including the date for holding that election; providing that candidates receiving the highest number of votes in the primary election be declared nominated; providing a method for deciding tie votes; eliminating the second primary; amending ss. 10.1008, 97.021, 98.051, 98.081, 99.061, 99.095, 99.103, 100.071, 100.081, 100.111, 100.141, 101.141, 101.251, 101.252, 101.62, 102.012, 103.021, 103.022, 103.091, 105.031, 105.041, 105.051, 106.07, and 106.08, F.S.; conforming language; modifying provisions relating to ballots sent to absent qualified electors overseas; amending s. 102.031, F.S.; expanding the area at each polling place within which solicitation of voters is prohibited on election day; creating s. 99.013, F.S., relating to the residency requirement of law for candidates for public office and elected and appointed public officers; defining "residence," "residency requirement," and "resident"; requiring that certain candidates or public officers have only one declared residence; providing factors to be considered; requiring candidates for certain offices to meet the residency requirement at the time of qualifying for office and certain appointed public officers to meet the residency requirement at the time of appointment; providing for investigation of violations by the Florida Elections Commission; amending s. 106.18, F.S.; requiring omission from the ballot of the name of any candidate found in violation of the residency requirement; amending s. 106.25, F.S.; granting the Florida Elections Commission authority to investigate, consider, and determine such violations; providing procedure; amending s. 106.26, F.S.; providing procedure upon a determination that such a violation has occurred or has not occurred; providing an effective date.

—was read the second time by title.

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

Amendment 1 (with Title Amendment)—On pages 21 through 42, lines 1 through 31 and on page 43, lines 1-14, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

In title, on page 2, strike all of lines 10-28 and insert: declared unconstitutional; amending s.

Amendment 2 (with Title Amendment)—On pages 43-45, strike all of Section 40. and renumber subsequent sections.

And the title is amended as follows:

In title, on page 2, strike all of lines 28-31 and insert: qualified electors overseas; creating

Amendment 3 (with Title Amendment)—On pages 48 and 49, strike all of Section 44. and renumber subsequent sections.

And the title is amended as follows:

In title, on page 3, strike all of lines 18-21 and insert: amending s. 106.26, F.S.;

Senator Harden moved the following amendment which was adopted:

Amendment 4 (with Title Amendment)—On page 12, strike all of lines 6-12 and insert:

(a) Any political advertisement, other than one paid for by independent expenditure, must be approved by the candidate prior to being published, displayed, or circulated and must, upon being published, displayed, or circulated, contain the written or spoken statement "personally authorized by . . . (name of candidate . . .)".

And the title is amended as follows:

In title, on page 1, strike all of lines 10-11 and insert: advertisements; providing penalties

On motion by Senator Crist, by two-thirds vote **CS for SB 640** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32 Nays—5

CS for SB 1582—A bill to be entitled An act relating to education; amending s. 229.591, F.S.; revising a goal of Florida's system of school improvement and education accountability; amending s. 229.592, F.S., relating to implementation of the system of school improvement and education accountability; providing for annual school reports; requiring related administrative rules; providing for waiver of additional statutes for district school boards; providing method for meeting graduation requirements; providing duties of the Commissioner of Education; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 5, between lines 11 and 12, insert:

Section 3. Subsection (38) is added to section 228.041, Florida Statutes, 1992 Supplement, to read:

228.041 Definitions.—Specific definitions shall be as follows, and wherever such defined words or terms are used in the Florida School Code, they shall be used as follows:

(38) YEAR-ROUND SCHOOL.—The term "year-round school" means a school where each student receives at least 180 days of instruction as provided for in subsection (16); however, rather than attending school for 8 or 9 consecutive months with consecutive months for vacation or beyond 180-day school year instructional periods, students are offered educational opportunities over an 11-month or 12-month period, with shorter, staggered vacation periods or beyond 180-day school year instructional periods throughout the year.

Section 4. Paragraph (m) of subsection (4) of section 230.23, Florida Statutes, 1992 Supplement, is amended to read:

230.23 Powers and duties of school board.—The school board, acting as a board, shall exercise all powers and perform all duties listed below:

(4) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS.—Adopt and provide for the execution of plans for the establishment, organization, and operation of the schools of the district, as follows:

(m) Exceptional students.—Provide for an appropriate program of special instruction, facilities, and services for exceptional students as prescribed by the state board as acceptable, including provisions that:

1. The school board provide the necessary professional services for diagnosis and evaluation of exceptional students.

2. The school board provide the special instruction, classes, and services, either within the district school system, in cooperation with other district school systems, or through contractual arrangements with approved nonpublic schools or community facilities which meet standards established by the state board.

3. The school board annually provide information describing the Florida School for the Deaf and the Blind and all other programs and methods of instruction available to the parent or guardian of a sensory-impaired student.

4. The school board submit annually to the department its proposed procedures for the provision of special instruction and services for exceptional students.

5. No student be given special instruction or services as an exceptional student until after he has been properly evaluated, classified, and placed in the manner prescribed by rules of the state board. The parent or guardian of an exceptional student evaluated and placed or denied placement in a program of special education shall be notified of each such evaluation and placement or denial. Such notice shall contain a statement informing the parent or guardian that he is entitled to a due process hearing on the identification, evaluation, and placement, or lack thereof. Such hearings shall be exempt from the provisions of ss. 120.57 and 286.011, and any records created as a result of such hearings shall be confidential and exempt from the provisions of s. 119.07(1), to the extent that the state board adopts rules establishing other procedures. These exemptions from ss. 119.07(1) and 286.011 are subject to the Open Government Sunset Review Act in accordance with s. 119.14. The hearing shall be conducted by a hearing officer from the Division of Administrative Hearings of the Department of Management Services. The decision of the hearing officer shall be final, except that any party aggrieved by the finding and decision rendered by the hearing officer shall have the right to bring a civil action in the circuit court. In such an action, the court shall receive the records of the administrative hearing and shall hear additional evidence at the request of either party. In the alternative, any party aggrieved by the finding and decision rendered by the hearing officer shall have the right to request an impartial review of the hearing officer's order by the district court of appeal as provided by s. 120.68. Notwithstanding any law to the contrary, during the pendency of any proceeding conducted pursuant to this section, unless the district school board and the parents or guardian otherwise agree, the child shall remain in his then-current educational assignment or, if applying for initial admission to a public school, shall be assigned, with the consent of the parents or guardian, in the public school program until all such proceedings have been completed.

6. In providing for the education of exceptional students, the superintendent, principals, and teachers shall utilize the regular school facilities and adapt them to the needs of exceptional students *to the maximum extent appropriate. Segregation of exceptional students shall occur only if the nature or severity of the exceptionality is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.* ~~whenever this is possible. No student shall be segregated and taught apart from normal students until a careful study of the student's case has been made and evidence has been obtained which indicates that segregation would be for the student's benefit or is necessary because of difficulties involved in teaching the student in a regular class.~~

7. The principal of the school in which the student is taught shall keep a written record of the case history of each exceptional student showing the reason for the student's withdrawal from the regular class in the public school and his enrollment in or withdrawal from a special class for exceptional students. This record shall be available for inspection by school officials at any time.

8. The district school board shall establish the amount to be paid by the district school board for each individual exceptional student contract with a nonpublic school.

Section 5. Paragraph (e) of subsection (1) of section 232.01, Florida Statutes, is amended to read:

232.01 Regular school attendance required between ages of 6 and 16; permitted at age of 5; exceptions.—

(1)

(e) Beginning with the 1991-1992 school year and consistent with rules adopted by the state board, ~~handicapped~~ children *with disabilities* who have attained the age of 3 years shall be eligible for admission to public special education programs and for related services under rules adopted by the school board. Exceptional children who are hearing impaired, visually impaired, dual sensory impaired, severely physically handicapped, trainable mentally handicapped, or profoundly handicapped, or who have established conditions, ~~of~~ or exhibit developmental delays, below age 3 may be eligible for special programs; or, if enrolled in other prekindergarten or day care programs, they may be eligible for supplemental instruction. Rules for the identification of established conditions *and* ~~of developmental delays or~~ developmental delays for children birth through *5* ~~2~~ years of age shall be promulgated by the State Board of Education.

Section 6. Paragraph (f) is added to subsection (1) of section 234.01, Florida Statutes, to read:

234.01 Purpose; transportation; when provided.—

(1) School boards, after considering recommendations of the superintendent:

(f) May provide transportation for other persons to events or activities in which the school district or school has agreed to participate or cosponsor. The school district shall adopt a policy to address liability for trips pursuant to this paragraph.

Section 7. Paragraphs (a) and (r) of subsection (1) of section 236.081, Florida Statutes, 1992 Supplement, are amended 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:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(a) Determination of full-time equivalent membership.—During each of several school weeks, *including scheduled intersessions of a year-round school program* during the fiscal year, a program membership survey of each school shall be made by each district by aggregating the full-time equivalent student membership of each program by school and by district. The department shall establish the number and interval of membership calculations, except that for basic and special programs such calculations shall not exceed nine for any fiscal year. The district's full-time equivalent membership shall be computed and currently maintained in accordance with regulations of the state board.

(r) Year-round-school programs.—The Commissioner of Education is authorized to adjust student eligibility definitions, funding criteria, and reporting requirements of statutes and rules ~~in 1990-1991 and 1991-1992~~ in order that year-round-school programs may achieve equivalent application of funding requirements with non-year-round-school programs. ~~The commissioner shall develop and submit for consideration in the 1992 legislative session appropriate proposed amendments to statutes to implement equivalent funding for year-round school programs. A "year-round school" means a school where each student receives at least 180 days of instruction as provided for in s. 228.041(16); however, rather than attending school for 8 or 9 consecutive months with consecutive months for vacation or beyond 180-day school year instructional periods, students are offered educational opportunities over an 11-month or 12-month period, with shorter, staggered vacation periods or beyond 180-day school year instructional periods throughout the year.~~

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 1, line 14, after the semicolon (;) insert: amending s. 228.041, F.S.; defining the term "year-round school"; amending s. 230.23, F.S.; revising provisions relating to school board provision of special instruction and services for exceptional students; amending s. 232.01, F.S.; revising provisions relating to mandatory school attendance for children with disabilities; amending s. 234.01, F.S.; authorizing school boards to provide transportaion for other persons under certain circumstances; amending s. 236.081, F.S.; revising provisions relating to determination of full-time equivalent membership; deleting a definition;

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 1582** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

MOTION

On motion by Senator Jennings, the rules were waived and time of recess was extended until final action on **CS for SB 772**.

CS for SB 1814—A bill to be entitled An act relating to education; providing legislative intent; creating the Enterprise Florida Jobs and Training Partnership; providing for a system of enhancement to applied technology education; requiring strategies; providing for employment of consultants; providing for designation of institutes of applied technology; creating enhancement grants and challenge grants for school district vocational technical centers; providing for funding of, administration of, eligibility for, and allocation of grants; amending s. 20.15, F.S.; changing the name of the Division of Vocational, Adult, and Community Education; amending s. 228.041, F.S.; redefining the term "vocational education"; amending s. 230.23, F.S.; requiring school boards to conduct certain occupational and professional programs; amending s. 231.0861, F.S.; conforming provisions; amending s. 231.614, F.S.; conforming terminology; amending s. 235.15, F.S.; conforming terminology; amending s. 235.435, F.S.; conforming terminology; amending s. 236.02, F.S.; providing minimum requirements of the Occupational and Professional Fund; amending s. 236.081, F.S.; deleting certain vocational education programs from the Florida Education Finance Program; providing a method of calculating students in dual enrollment instruction; amending s. 237.34, F.S.; providing for cost accounting and reporting relating to the Occupational and Professional Fund; amending s. 239.101, F.S.; conforming terminology; amending s. 239.105, F.S.; defining and redefining terms; amending s. 239.109, F.S.; conforming terminology; amending s. 239.113, F.S.; conforming terminology; creating s. 239.115, F.S.; creating the Occupational and Professional Fund; providing legislative intent; providing that the fund must be limited to state or federal moneys; authorizing certain programs to be eligible for receipt of moneys from the fund; providing maximum expenditures from the fund; providing for funding dually enrolled high school students in certain community college programs; creating a formula for determining funding for programs; requiring the Department of Education to plan program incentives; providing due dates and methodology for program incentives; providing fund adjustments for declining attendance; authorizing the State Board for Vocational Education to adopt rules; amending s. 239.117, F.S., providing for calculation of post-secondary student fees; amending ss. 239.201, 239.205, 239.213, 239.229, F.S.; conforming terminology; amending s. 239.233, F.S.; conforming terminology; revising minimum performance standards and reports required for certain vocational education programs; amending ss. 239.237, 239.245, 239.301, F.S.; conforming terminology; amending s. 239.509, F.S.; providing for incentive grants to community colleges for the startup or expansion of programs of occupational training; amending s. 240.233, F.S.; requiring the Board of Regents to analyze certain high school courses and to assist the Department of Education in making them equivalent to courses required for university admission; amending ss. 240.301, 240.35, F.S.; conforming terminology; amending s. 240.359, F.S.; requiring certain programs at community colleges to participate in the Occupational and Professional Fund; amending ss. 240.4093, 446.011, 446.041, 446.052, 616.21, F.S.; conforming terminology; repealing s. 239.517, F.S.; relating to the Industry Services Training Program; providing effective dates.

—was read the second time by title.

Senator Kirkpatrick moved the following amendments which were adopted:

Amendment 1—On page 11, lines 24 and 25, strike "If an eligible school district raises $60,000, the state shall provide a 40 percent match" and insert: The maximum state funds available for a vocational technical center's allocation shall be $40,000 when matched by $100,000 in increments of $25,000

Amendment 2—On page 12, line 2, strike the period (.) and insert: , including vocational technical centers that have already earned $40,000 in state matching funds. The remaining funds shall be distributed in $10,000 increments until they are depleted.

Senator Turner offered the following amendment which was moved by Senator Meadows and adopted:

Amendment 3 (with Title Amendment)—On page 99, between lines 8 and 9, insert:

Section 40. Subsection (2) of section 450.061, Florida Statutes, is amended to read:

450.061 Hazardous occupations prohibited.—

(2) *With the exception of students enrolled in cooperative education, preapprenticeship, or apprenticeship programs conducted within public schools, area vocational-technical centers, or community colleges, no* ~~No~~ minor under 18 years of age, whether such person's disabilities of nonage have been removed, shall be employed or permitted or suffered to work in any of the following places of employment or in any of the following occupations:

(a) In or around explosive or radioactive materials.

(b) On any scaffolding, roof, superstructure, residential or nonresidential building construction, or ladder above 6 feet.

(c) In or around toxic substances or corrosives, including pesticides or herbicides, unless proper field entry time allowances have been followed.

(d) Any mining occupation.

(e) In the operation of power-driven woodworking machines.

(f) In the operation of power-driven hoisting apparatus.

(g) In the operation of power-driven metal forming, punching, or shearing machines.

(h) Slaughtering, meat packing, processing, or rendering, except as provided in 29 C.F.R. Part 570.61(c).

(i) In the operation of power-driven bakery machinery.

(j) In the operation of power-driven paper products and printing machines.

(k) Manufacturing brick, tile, and like products.

(l) Wrecking or demolition.

(m) Excavation operations.

(n) Logging or sawmilling.

(o) Working on electric apparatus or wiring.

(p) Firefighting.

(q) Operating or assisting to operate, including starting, stopping, connecting or disconnecting, feeding, or any other activity involving physical contact associated with operating, a tractor over 20 PTO horsepower, any trencher or earthmoving equipment, fork lift, or any harvesting, planting, or plowing machinery, or any moving machinery.

And the title is amended as follows:

In title, on page 3, line 16, after "terminology;" insert: amending s. 450.061, F.S., authorizing minors in certain education programs to participate in hazardous occupations;

Senators Kirkpatrick, Burt and Bankhead offered the following amendment which was moved by Senator Kirkpatrick and adopted:

Amendment 4—On page 54, line 9, after the period (.) insert: An equivalent formula may be developed if necessary for degree-granting occupational and professional instruction.

Senator Hargrett moved the following amendment which failed:

Amendment 5 (with Title Amendment)—On page 4, line 13 through page 5, line 25, strike all of said lines

And the title is amended as follows:

In title, on page 1, line 3, after the semicolon (;) through the semicolon (;) on line 6, strike all of said lines

On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 1814** 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—3

Consideration of **CS for SB's 2078 and 1608** and **CS for SB 772** was deferred.

RECONSIDERATION

On motion by Senator Johnson, the Senate reconsidered the vote by which—

CS for SB 1666—A bill to be entitled An act relating to elections; amending s. 99.095, F.S.; providing limitations to use of alternative method of qualifying; amending s. 99.0955, F.S.; providing primary ballot access to independent candidates; providing dates for obtaining forms; providing for voting by all qualified electors in first primary to nominate an independent candidate when more than one independent candidate qualifies for an office; providing that the name of the independent candidate who gets the most votes in the primary election will be placed on the general election ballot; providing for grouping the names of independent candidates on the first primary ballot; amending s. 101.5606; to conform; amending s. 106.011, F.S.; redefining the term "independent expenditure"; exempting land trusts from definitions of "political committee" and "person"; amending s. 106.03, F.S.; requiring additional information required in political committee statements of organization; amending s. 106.04, F.S.; deleting an assessment on contributions which has been declared unconstitutional; increasing the fine for late filing of reports by committees of continuous existence; amending s. 106.07, F.S.; expanding campaign reporting requirements; deleting an assessment on contributions which has been declared unconstitutional; revising filing deadline requirements; increasing fines for late filing; providing penalties; amending s. 106.071, F.S.; expanding disclosure requirements on independent expenditures; providing penalties; amending s. 106.08, F.S.; prohibiting contributions by landtrusts; creating s. 106.083, F.S.; prohibiting legislators from soliciting or accepting campaign contributions during any regular session; providing certain additional campaign contribution reporting requirements covering special sessions and the period from qualifying to the general election; providing penalties; amending s. 106.141, F.S.; eliminating the disposition of campaign funds to the candidate's political party; amending s. 106.19, F.S.; providing penalties applicable to receipt of unlawful campaign contributions; reenacting s. 106.18(1), F.S., relating to omitting a candidate's name from the ballot, to incorporate the amendment to s. 106.19, F.S., in a reference thereto; amending s. 106.21, F.S.; revising cross-references to conform; amending s. 106.265, F.S.; increasing the civil penalty for violations of campaign financing law; amending s. 106.29, F.S.; deleting an assessment on contributions which has been declared unconstitutional; prohibiting national executive committees of political parties from using or expending for an election contributions received within a specified period prior to that election; repealing s. 106.32(3), F.S., relating to deposit into the Election Campaign Financing Trust Fund of the proceeds of certain assessments on contributions which have been declared unconstitutional; providing severability; providing an effective date.

—passed as amended this day.

Further consideration of **CS for SB 1666** was deferred.

RECESS

On motion by Senator Jennings, the Senate recessed at 12:32 p.m. to reconvene at 2:00 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 2:28 p.m. A quorum present—38:

Mr. President	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB 1666—A bill to be entitled An act relating to elections; amending s. 99.095, F.S.; providing limitations to use of alternative method of qualifying; amending s. 99.0955, F.S.; providing primary ballot access to independent candidates; providing dates for obtaining forms; providing for voting by all qualified electors in first primary to nominate an independent candidate when more than one independent candidate qualifies for an office; providing that the name of the independent candidate who gets the most votes in the primary election will be placed on the general election ballot; providing for grouping the names of independent candidates on the first primary ballot; amending s. 101.5606; to conform; amending s. 106.011, F.S.; redefining the term "independent expenditure"; exempting land trusts from definitions of "political committee" and "person"; amending s. 106.03, F.S.; requiring additional information required in political committee statements of organization; amending s. 106.04, F.S.; deleting an assessment on contributions which has been declared unconstitutional; increasing the fine for late filing of reports by committees of continuous existence; amending s. 106.07, F.S.; expanding campaign reporting requirements; deleting an assessment on contributions which has been declared unconstitutional; revising filing deadline requirements; increasing fines for late filing; providing penalties; amending s. 106.071, F.S.; expanding disclosure requirements on independent expenditures; providing penalties; amending s. 106.08, F.S.; prohibiting

contributions by landtrusts; creating s. 106.083, F.S.; prohibiting legislators from soliciting or accepting campaign contributions during any regular session; providing certain additional campaign contribution reporting requirements covering special sessions and the period from qualifying to the general election; providing penalties; amending s. 106.141, F.S.; eliminating the disposition of campaign funds to the candidate's political party; amending s. 106.19, F.S.; providing penalties applicable to receipt of unlawful campaign contributions; reenacting s. 106.18(1), F.S., relating to omitting a candidate's name from the ballot, to incorporate the amendment to s. 106.19, F.S., in a reference thereto; amending s. 106.21, F.S.; revising cross-references to conform; amending s. 106.265, F.S.; increasing the civil penalty for violations of campaign financing law; amending s. 106.29, F.S.; deleting an assessment on contributions which has been declared unconstitutional; prohibiting national executive committees of political parties from using or expending for an election contributions received within a specified period prior to that election; repealing s. 106.32(3), F.S., relating to deposit into the Election Campaign Financing Trust Fund of the proceeds of certain assessments on contributions which have been declared unconstitutional; providing severability; providing an effective date.

—which had been previously reconsidered this day.

On motion by Senator Johnson, by two-thirds vote the Senate reconsidered the vote by which **CS for SB 1666** was read the third time.

On motion by Senator Dudley, the Senate reconsidered the vote by which **Amendment 12** was adopted. **Amendment 12** was withdrawn.

Senator Dudley moved the following amendment which was adopted:

Amendment 13 (with Title Amendment)—On page 31, between lines 28 and 29, insert:

(2)(a) A candidate may not accept contributions from national, state, and county executive committees of a political party, which contributions in the aggregate exceed $50,000, no more than $25,000 of which may be accepted *during* ~~prior to~~ the 28-day period immediately preceding the date of the general election.

And the title is amended as follows:

In title, on page 2, strike line 6 and insert: contributions by land trusts; limiting to $25,000 the amount of contributions a candidate may accept from a political party within 28 days before an election; creating s.

On motion by Senator Johnson, by two-thirds vote **CS for SB 1666** 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

Reconsideration

On motion by Senator Johnson, the Senate reconsidered the vote by which—

CS for SB 1666—A bill to be entitled An act relating to elections; amending s. 99.095, F.S.; providing limitations to use of alternative method of qualifying; amending s. 99.0955, F.S.; providing primary ballot access to independent candidates; providing dates for obtaining forms; providing for voting by all qualified electors in first primary to nominate an independent candidate when more than one independent candidate qualifies for an office; providing that the name of the independent candidate who gets the most votes in the primary election will be placed on the general election ballot; providing for grouping the names of independent candidates on the first primary ballot; amending s. 101.5606; to conform; amending s. 106.011, F.S.; redefining the term "independent expenditure"; exempting land trusts from definitions of "political committee" and "person"; amending s. 106.03, F.S.; requiring additional information required in political committee statements of organization; amending s. 106.04, F.S.; deleting an assessment on contributions which has been declared unconstitutional; increasing the fine for late filing of reports by committees of continuous existence; amending s. 106.07, F.S.; expanding campaign reporting requirements; deleting an assessment on contributions which has been declared unconstitutional; revising filing deadline requirements; increasing fines for late filing; providing penalties; amending s. 106.071, F.S.; expanding disclosure requirements on independent expenditures; providing penalties; amending s. 106.08, F.S.; prohibiting contributions by landtrusts; creating s. 106.083, F.S.; prohibiting legislators from soliciting or accepting campaign contributions during any regular session; providing certain additional campaign contribution reporting requirements covering special sessions and the period from qualifying to the general election; providing penalties; amending s. 106.141, F.S.; eliminating the disposition of campaign funds to the candidate's political party; amending s. 106.19, F.S.; providing penalties applicable to receipt of unlawful campaign contributions; reenacting s. 106.18(1), F.S., relating to omitting a candidate's name from the ballot, to incorporate the amendment to s. 106.19, F.S., in a reference thereto; amending s. 106.21, F.S.; revising cross-references to conform; amending s. 106.265, F.S.; increasing the civil penalty for violations of campaign financing law; amending s. 106.29, F.S.; deleting an assessment on contributions which has been declared unconstitutional; prohibiting national executive committees of political parties from using or expending for an election contributions received within a specified period prior to that election; repealing s. 106.32(3), F.S., relating to deposit into the Election Campaign Financing Trust Fund of the proceeds of certain assessments on contributions which have been declared unconstitutional; providing severability; providing an effective date.

—passed as amended this day.

On motion by Senator Johnson, by two-thirds vote the Senate reconsidered the vote by which **CS for SB 1666** was read the third time.

Senator Dudley moved the following amendment which was adopted:

Amendment 14—On page 30, strike line 12 and insert:

Section 9. Subsection (1) and paragraph (a) of subsection (2) of section 106.08, Florida

On motion by Senator Johnson, by two-thirds vote **CS for SB 1666** 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

LOCAL BILLS

SB 2376—A bill to be entitled An act relating to Alachua County; amending s. 3, ch. 90-496, Laws of Florida, as amended; prescribing the effect of other laws on the annexation and contraction methods provided in the Alachua County Boundary Adjustment Act; amending s. 8, ch. 90-496, Laws of Florida; requiring a referendum in an area proposed to be annexed; changing the time within which a referendum may be held; providing that, on a tie vote in the referendum, the area is not annexed; amending s. 10, ch. 90-496, Laws of Florida, as amended; providing that a municipality need not give itself notice when it is the owner or prospective owner of property being voluntarily annexed; prescribing additional requirements with respect to ordinances of voluntary annexation; amending s. 11, ch. 90-496, Laws of Florida; providing procedures for appeals of annexation or contraction ordinances; prescribing remedies; providing for attorney's fees; amending s. 14, ch. 90-496, Laws of Florida; providing that, on a tie vote in a deannexation referendum, an area proposed for deannexation is not deannexed; providing severability; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment:

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

Section 1. Section 8 of chapter 90-496, Laws of Florida, is amended to read:

Section 8. Annexation procedures.—Any municipality may annex contiguous, compact, unincorporated territory within its reserve area in the following manner:

(1) An ordinance proposing to annex a contiguous, compact, unincorporated portion of the reserve area shall be adopted by the governing body of the annexing municipality pursuant to the procedure for the adoption of a nonemergency ordinance established by s. 166.041, Florida Statutes. Each such ordinance shall propose only one reasonably compact area to be annexed. ~~Unless a referendum is required according to subsection (2), the ordinance of annexation shall provide that it shall become effective no sooner than 120 days and no later than 1 year after adoption of the ordinance.~~

(2) *Before the annexation becomes effective,* ~~If, within 90 days following the final adoption of the ordinance of annexation by the governing body of the annexing municipality, 20 percent of the electors of the area proposed to be annexed petition for a referendum, then~~ the ordinance shall be submitted to a vote of the registered electors of the area proposed to be annexed. The referendum on annexation shall be called and conducted and the expense thereof paid by the governing body of the annexing municipality.

(a) The referendum on annexation shall be held at the next regularly scheduled election following the final adoption of the ordinance of annexation by the governing body of the annexing municipality or at a special election called for the purpose of holding the referendum. However, the referendum, whether held at a regularly scheduled election or at a special election, shall not be held sooner than *90* ~~120~~ days or later than 180 days following the final adoption of the ordinance by the governing body of the annexing municipality.

(b) The governing body of the annexing municipality shall publish notice of the referendum on annexation at least once a week for the 2 consecutive weeks immediately preceding the date of the referendum in a newspaper of general circulation in the area in which the referendum is to be held. The notice shall give the ordinance number, the time and places for the referendum, and a brief, general description of the area proposed to be annexed. The description shall include a map clearly showing the area, including major street names as a means of identifying the area, and a statement that the complete legal description by metes and bounds and the ordinance can be obtained from the office of the city clerk.

(c) On the day of the referendum on annexation there shall be prominently displayed at each polling place a copy of the ordinance of annexation and a description of the property proposed to be annexed. The description shall include a map clearly showing *the* ~~such~~ area, including major street names as a means of identifying the area.

(d) Ballots or mechanical voting devices used in the referendum on annexation shall offer the choice "For annexation of property described in ordinance number . . . . of the City of . . . . " and "Against annexation of property described in ordinance number . . . . of the City of . . . . ", in that order.

(e) If there is a majority vote for annexation in the area proposed to be annexed, the ordinance of annexation shall become effective on the effective date specified therein, *but not more than 1 year after the date of the referendum.* If there is a *tie vote or a* majority vote against annexation in the area proposed to be annexed, the ordinance shall not become effective, and the area proposed to be annexed shall not be the subject of an annexation ordinance by the annexing municipality for a period of 2 years from the date of the referendum on annexation.

(3) Any improved parcel of land which is owned by one individual, corporation, or legal entity, or owned collectively by one or more individuals, corporations, or legal entities, proposed to be annexed under the provisions of this act shall not be severed, separated, divided, or partitioned by the provisions of *the* ~~said~~ ordinance, but shall, if intended to be annexed, or if annexed, under the provisions of this act, be annexed in its entirety and as a whole. However, this subsection does not apply to any parcel of property which lies only partially within the reserve area of a single municipality. The owner of *the* ~~such~~ property may waive the requirements of this subsection if *the* ~~such~~ owner does not desire all of his tract or parcel included in said annexation.

Section 2. Subsection (10) of section 14 of chapter 90-496, Laws of Florida, is amended to read:

Section 14. Contraction procedures.—Any municipality may initiate the contraction of municipal boundaries in the following manner:

(10) A *tie vote or a* majority vote "Against deannexation" shall prevent any part of the area proposed for exclusion from being the subject of a contraction ordinance for a period of 2 years from the date of the referendum election.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

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 Alachua County; amending s. 8, ch. 90-496, Laws of Florida; requiring a referendum in an area proposed to be annexed; changing the time within which a referendum may be held; providing that, on a tie vote in the referendum, the area is not annexed; amending s. 14, ch. 90-496, Laws of Florida; providing that, on a tie vote in a deannexation referendum, an area proposed for deannexation is not deannexed; providing severability; providing an effective date.

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

Amendment 1A—On page 3, strike all of lines 13-16 and insert: become effective, and the area proposed to be annexed, *or portions of the area proposed to be annexed,* shall not be the subject of an annexation ordinance by the annexing municipality for a period of 2 years from the date of the referendum on annexation. *This provision shall not affect voluntary annexation.*

Amendment 1 as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **SB 2376** 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 2392—A bill to be entitled An act relating to the Englewood Water District in Charlotte County and Sarasota County; amending ss. 2(f), 4(c) and (d), 5, 10, and 22 of ch. 59-931, Laws of Florida, as amended; deleting the district's authority to issue general obligation bonds to be paid for by ad valorem taxes; deleting the district's authority to levy ad valorem taxes to retire bonded indebtedness; providing for payment of principal and interest on general obligation bonds from the proceeds of rates, fees, and charges for water and sewer services and from special assessments; prescribing referendum requirements for issuance of bonds; providing an effective date.

—was read the second time by title. On motion by Senator Boczar, by two-thirds vote **SB 2392** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

SB 2394—A bill to be entitled An act relating to the Englewood Water District in Charlotte County and Sarasota County; amending s. 3(A), ch. 59-931, Laws of Florida, as amended, relating to the board of supervisors of the district; reducing the numbers of members on the board, each of whom resides in the election district from which elected; requiring the board to adopt revised election districts following notice and hearing; providing for periodic revision of the election districts by the board; providing requirements for implementing the reduction in membership of the board; providing for staggered terms of office; providing for the appointment of a person from the appropriate election district to fill a vacancy on the board; providing an effective date.

—was read the second time by title. On motion by Senator Boczar, by two-thirds vote **SB 2394** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

HB 861—A bill to be entitled An act relating to the South Broward Drainage District, Broward County; amending ss. 7(9)(h), 7(10)(g), and 7(10)(j), ch. 92-244, Laws of Florida; correcting scrivener's error in legal descriptions of road rights-of-way transferred to Broward County; amending s. 8, ch. 67-904, Laws of Florida, as amended; correcting scrivener's error in legal description of boundaries of South Broward Drainage District as provided by s. 12, ch. 92-244, Laws of Florida; amending s. 10(2), ch. 67-904, Laws of Florida, as amended; correcting scrivener's error in number of members of the District's Board as provided by s. 13, ch. 92-244, Laws of Florida; amending s. 19, ch. 67-904, Laws of Florida, as amended; revising the date that the Secretary or Manager of the District shall prepare a proposed budget to be submitted to the District's

Board for their approval to be compatible with general law; providing that this act shall take precedence over any conflicting law to the extent of such conflict; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 861** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

HB 867—A bill to be entitled An act relating to Broward Performing Arts Center Authority; amending chapter 84-396, Laws of Florida, as amended; increasing the membership of the authority from 9 to 13 members; changing the appointing governmental entity for certain members; providing for an executive committee and its composition and power; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 867** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for HB 1007—A bill to be entitled An act relating to the Cities of Lauderhill and Plantation, Broward County; placing five parcels of land within the corporate limits of the City of Plantation into the City of Lauderhill and placing one parcel of land presently within the City of Lauderhill into the City of Plantation, to redefine such cities' common boundaries; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB 1007** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

HB 1067—A bill to be entitled An act relating to the South Lake Worth Inlet District, Palm Beach County; amending section 5 of chapter 7080, Laws of Florida, 1915, as amended, deleting moot provision for damage or injury occurring as a result of the construction and opening of the inlet completed in 1927; providing for effect and severability; providing for prospective application only; providing an effective date.

—was read the second time by title. On motion by Senator Foley, by two-thirds vote **HB 1067** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

HB 1791—A bill to be entitled An act relating to Alachua County; repealing Chapter 73-401, Laws of Florida; abolishing the Alachua County Public Facilities Authority; providing for transfer of the records, property, assets, and obligations of the authority to Alachua County; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 1791** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

HB 747—A bill to be entitled An act relating to Collier County; amending ch. 78-494, Laws of Florida, relating to the Immokalee Water and Sewer District; providing for a change in the qualifications of board members; requiring board members to be registered voters and residents of the district; requiring a quorum of four members to transact business; authorizing the district director to hire, discipline, and terminate employees, and to raise the salary of district employees subject to the review and approval of the board; providing an effective date.

—was read the second time by title. On motion by Senator Foley, by two-thirds vote **HB 747** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

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

HB 869—A bill to be entitled An act relating to the Pine Tree Water Control District, Broward County; amending chapter 85-391, Laws of Florida; providing that the Pine Tree Water Control District is an independent district as defined in chapter 189, Florida Statutes, 1992; providing that voters shall be landowners; providing that a member of the board shall be appointed by the City of Coral Springs City Commission, in lieu of appointment by the Broward County Commission; providing that the board shall be required to hold monthly meetings; providing that the board members shall be paid an amount not to exceed $100 a month; providing that an ad valorem tax shall not be levied and assessed in excess of 5 mills; providing an effective date.

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

Yeas—38 Nays—None

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

HB 991—A bill to be entitled An act relating to Bay County; adding section 10 to chapter 23183, Laws of Florida, 1945; providing for the appointment of the Board of Trustees of Bay Medical Center; providing an effective date.

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

Yeas—38 Nays—None

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

HB 993—A bill to be entitled An act relating to Brevard County; authorizing the enactment of ordinances prohibiting the taking of fish from any residential, manmade saltwater canal with certain exceptions; providing an effective date.

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

Yeas—38 Nays—None

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

HB 1061—A bill to be entitled An act relating to Collier County; amending ch. 90-465, Laws of Florida, as amended, which prohibits the taking of saltwater fish, except by hook and line, handheld cast nets, and with no more than five (5) crab traps, in the residential manmade saltwater canals in the unincorporated area of Collier County, to define those manmade saltwater canals within Collier County subject to the jurisdiction of the act; providing an effective date.

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

Yeas—38 Nays—None

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

HB 1339—A bill to be entitled An act relating to Orange County, the West Orange Memorial Tax District; amending chapter 26066, Laws of Florida, 1949, as amended, substituting the name "West Orange Healthcare District" for the name "West Orange Memorial Hospital Tax District"; providing an effective date.

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

Yeas—38 Nays—None

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

HB 1465—A bill to be entitled An act relating to Pinellas County; amending chapter 73-595, Laws of Florida, as amended, relating to the Pinellas County Construction Licensing Board; amending the definition of "contractor" to include specified specialty contractors; authorizing the board to issue and serve subpoenas and to compel attendance of witnesses and the production of evidence; eliminating a $5 cap for annual renewal fee on inactive status; expanding the board's disciplinary power to include the power to require restitution and impose reasonable costs; providing an effective date.

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

Yeas—38 Nays—None

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

HB 1929—A bill to be entitled An act relating to Escambia County; amending ch. 83-405, Laws of Florida, as amended; revising percentages used to calculate an appropriation for the operating budget of the Civil Service Board; providing for certain discretionary action by the board; providing an effective date.

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

Yeas—38 Nays—None

SPECIAL ORDER, continued

On motion by Senator Siegel, by unanimous consent—

CS for SB's 904, 1882 and 650—A bill to be entitled An act relating to corrections; amending s. 775.084, F.S.; deleting the exemption from consideration for parole and control release provided for persons sentenced as habitual felony offenders; amending s. 893.13, F.S.; revising certain prohibited acts with respect to possessing controlled substances in the vicinity of a school; deleting the exemption from consideration for parole and control release provided for persons convicted of such a crime; amending s. 947.146, F.S.; providing that an inmate may not receive control release award allotments before he is statutorily eligible for control release or before the date his advanceable control release date is established; providing for certain persons convicted of drug trafficking offenses and sentenced to less than a specified term of imprisonment to be eligible for control release; providing for certain persons sentenced as habitual felony offenders to be eligible for control release; excluding certain persons from control release consideration; providing for future abrogation of certain amendments to s. 947.146, F.S.; increasing the threshold capacity of the correctional system above which inmates will be given control release; providing that certain offenders who are eligible for control release may be released into supervision; providing for critical depletion transfers of certain offenders; providing for the expiration of such provisions; providing for the emergency release of prisoners; increasing the threshold capacity of the correctional system above which inmates will be granted emergency release; providing emergency control release dates for certain parole ineligible inmates; requiring the Control Release Authority to develop uniform procedures for awarding control release to certain habitual offenders; creating s. 921.0017, F.S.; requiring the court to order credit for time served without considering gain-time earned for certain recommitted offenders; repealing s. 944.277, F.S., relating to provisional release credits; repealing s. 944.598, F.S., relating to the emergency release of inmates; providing effective dates.

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

Three amendments were adopted to **CS for SB's 904, 1882 and 650** to conform the bill to **HB 1835**.

Pending further consideration of **CS for SB's 904, 1882 and 650** as amended, on motions by Senator Siegel, by two-thirds vote **HB 1835** was withdrawn from the Committees on Corrections, Probation and Parole; and Appropriations.

On motion by Senator Siegel—

HB 1835—A bill to be entitled An act relating to the Control Release Authority; amending s. 947.146, F.S., relating to determination of eligibility for release; providing exceptions; authorizing release of certain offenders into drug offender probation; providing for critical depletion transfers of certain offenders; providing a repeal date; providing an effective date.

—a companion measure, was substituted for **CS for SB's 904, 1882 and 650** and read the second time by title.

Senators Siegel and Jones offered the following amendment which was moved by Senator Siegel:

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

Section 1. Section 775.084, Florida Statutes, is amended to read:

775.084 Habitual felony offenders and habitual violent felony offenders; extended terms; definitions; procedure; penalties.—

(1) As used in this act:

(a) "Habitual felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in this section, if it finds that:

1. The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses;

2. The felony for which the defendant is to be sentenced was committed within 5 years of the date of the conviction of the last prior felony or other qualified offense of which he was convicted, or within 5 years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later;

3. The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this section; and

4. A conviction of a felony or other qualified offense necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(b) "Habitual violent felony offender" means a defendant for whom the court may impose an extended term of imprisonment, as provided in this section, if it finds that:

1. The defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

a. Arson,

b. Sexual battery,

c. Robbery,

d. Kidnapping,

e. Aggravated child abuse,

f. Aggravated assault,

g. Murder,

h. Manslaughter,

i. Unlawful throwing, placing, or discharging of a destructive device or bomb,

j. Armed burglary, or

k. Aggravated battery;

2. The felony for which the defendant is to be sentenced was committed within 5 years of the date of the conviction of the last prior enumerated felony or within 5 years of the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for an enumerated felony, whichever is later;

3. The defendant has not received a pardon on the ground of innocence for any crime that is necessary for the operation of this section; and

4. A conviction of a crime necessary to the operation of this section has not been set aside in any post-conviction proceeding.

(c) "Qualified offense" means any offense, substantially similar in elements and penalties to an offense in this state, which is in violation of a law of any other jurisdiction, whether that of another state, the District of Columbia, the United States or any possession or territory thereof, or any foreign jurisdiction, that was punishable under the law of such jurisdiction at the time of its commission by the defendant by death or imprisonment exceeding 1 year.

(2) For the purposes of this section, the placing of a person on probation without an adjudication of guilt shall be treated as a prior conviction if the subsequent offense for which he is to be sentenced was committed during such probationary period.

(3) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

(a) The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

(b) Written notice shall be served on the defendant and his attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence so as to allow the preparation of a submission on behalf of the defendant.

(c) Except as provided in paragraph (a), all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

(d) Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

(e) For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

(4)(a) The court, in conformity with the procedure established in subsection (3), shall sentence the habitual felony offender as follows:

1. In the case of a felony of the first degree, for life.

2. In the case of a felony of the second degree, for a term of years not exceeding 30.

3. In the case of a felony of the third degree, for a term of years not exceeding 10.

(b) The court, in conformity with the procedure established in subsection (3), may sentence the habitual violent felony offender as follows:

1. In the case of a felony of the first degree, for life, and such offender shall not be eligible for release for 15 years.

2. In the case of a felony of the second degree, for a term of years not exceeding 30, and such offender shall not be eligible for release for 10 years.

3. In the case of a felony of the third degree, for a term of years not exceeding 10, and such offender shall not be eligible for release for 5 years.

(c) If the court decides that imposition of sentence under this section is not necessary for the protection of the public, sentence shall be imposed without regard to this section. At any time when it appears to the court that the defendant is a habitual felony offender or a habitual violent felony offender, the court shall make that determination as provided in subsection (3).

(d) A sentence imposed under this section shall not be increased after such imposition.

(e) A sentence imposed under this section *is* ~~shall~~ not ~~be~~ subject to ~~the provisions of~~ s. 921.001. The provisions of *s. 947.146* ~~Chapter 947~~ shall ~~not~~ be applied to such person, *except a person sentenced as a habitual violent felony offender under paragraph (1)(b)*. A defendant sentenced under this section *is* ~~shall~~ not ~~be~~ eligible for gain-time granted by the Department of Corrections, except that the department may grant up to 20 days of incentive gain-time each month as provided ~~for~~ in s. 944.275(4)(b).

Section 2. Paragraphs (e) and (i) of subsection (1) of section 893.13, Florida Statutes, are amended to read:

893.13 Prohibited acts; penalties.—

(1)

(e) Except as authorized by this chapter, it is unlawful for any person to sell, ~~purchase,~~ manufacture, or deliver~~, or to possess with the intent to sell, purchase, manufacture, or deliver,~~ a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 and *must* ~~shall~~ be sentenced to a minimum term of imprisonment of 3 calendar years and *is* ~~shall~~ not ~~be~~ eligible for ~~parole or release under the Control Release Authority pursuant to s. 947.146 or~~ statutory gain-time under s. 944.275 *before* ~~prior to~~ serving such minimum sentence.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, purchased, manufactured, delivered, or possessed, *must* ~~shall~~ be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(i) Except as authorized by this chapter, it is unlawful for any person to sell, purchase, manufacture, or deliver, or to possess with the intent to sell, purchase, manufacture, or deliver, a controlled substance in, on, or within 200 feet of the real property comprising a public housing facility, within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution, or within 200 feet of any public park. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 and *is* ~~shall~~ not ~~be~~ eligible for ~~parole or release under the Control Release Authority pursuant to s. 947.146 or~~ statutory gain-time under s. 944.275.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, purchased, manufactured, delivered, or possessed, *must* ~~shall~~ be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

Section 3. Section 947.146, Florida Statutes, 1992 Supplement, is amended to read:

947.146 Control Release Authority.—

(1) There is created a Control Release Authority which shall be composed of the members of the Parole Commission and which shall have the same chairman as the commission. The authority shall utilize such commission staff as it determines is necessary to carry out its purposes.

(2) The authority *has* ~~shall have~~ as its primary purpose the implementation of a system of uniform criteria for the determination of the number and type of inmates who must be released into the community under control release in order to maintain the state prison system below *98* ~~97.5~~ percent of its lawful capacity as defined in s. 944.096. No inmate has a right to control release. Control release is an administrative function solely used to manage the state prison population within lawful capacity. *An inmate may not receive an advancement of his control release date by an award of control release award allotments for any period of time before the date the inmate becomes statutorily eligible for control release or before the subsequent date of establishment of his advanceable control release date.*

~~(3) There shall be no award of provisional credits by the secretary of the department pursuant to s. 944.277 unless either:~~

~~(a) The chairman of the Control Release Authority certifies in writing to the secretary of the department that the authority is unable to maintain the state prison system below 97.5 percent of its lawful capacity; or~~

~~(b) Based upon the failure of the authority to act, the state prison system reaches 98 percent of its lawful capacity as provided in s. 944.277.~~

(3)~~(4)~~ A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department and incarcerated within the state, within 90 days following notification by the department of receipt of the inmate, except an inmate who:

(a) Is serving a sentence *that* ~~which~~ includes a mandatory minimum provision for a capital offense, or *a mandatory minimum term of imprisonment of more than 5 years for a* drug trafficking offense, and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2);

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Is sentenced, has previously been sentenced, or has been sentenced at any time under *s. 775.084(1)(b) for a crime committed on or after October 1, 1988* ~~s. 775.084~~, or has been sentenced at any time in another jurisdiction as a *violent* habitual offender;

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Article V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; ~~or~~

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or has ever been convicted of any degree of murder in another jurisdiction,~~.~~

(j) Is convicted, or has been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and is sentenced, or has been sentenced at any time, under s. 775.084 for such offense, or has been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k) Is serving a sentence for an offense committed on or after January 1, 1994, for drug trafficking for a level-9 offense, and the subtotal is fully multiplied pursuant to s. 921.0014;

(l) Is serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823 (2), (3), (4), or (5), and the subtotal is multiplied pursuant to s. 921.0014;

(m) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm or destructive device in which additional points are added to the offender's subtotal sentence points pursuant to s. 921.0014; or

(n) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a semiautomatic weapon, and additional points are added to the offender's subtotal sentence points pursuant to s. 921.0014.

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense. *The 90-day requirement for the establishment of a control release date for all eligible inmates for control release consideration does not apply to a person sentenced under s. 775.084(1)(a).*

(4)~~(5)~~ Control release dates shall be based upon a system of uniform criteria which shall include, but not be limited to, present offenses for which the person is committed, past criminal conduct, length of cumulative sentences, and age of the offender at the time of commitment, together with any aggravating or mitigating circumstances.

(5)~~(6)~~ For purpose of determining eligibility for control release, the mandatory minimum portion of a concurrent sentence will begin on the date the sentence begins to run as provided in s. 921.161. The mandatory minimum portions of consecutive sentences shall be served at the beginning of the maximum sentence as established by the Department of Corrections. With respect to offenders who have more than one sentence with a mandatory minimum portion, each mandatory minimum portion of consecutive sentences shall be served consecutively; provided, that in no case shall a sentence begin to run before the date of imposition of that sentence.

(6)~~(7)~~ The authority has the power and duty to:

(a) Extend or advance the control release date of any inmate for whom a date has been established, based upon one or more of the following:

1. Recently discovered information of:

a. Past criminal conduct;

b. Verified threats by inmates provided by victims, law enforcement, or the department;

c. History of abuse or addiction to a chemical substance verified by a presentence or postsentence investigation report;

d. The inmate's ties to organized crime;

e. A change in the inmate's sentence structure;

f. Cooperation with law enforcement;

g. Strong community support; and

h. A documented mental condition as a factor for future criminal behavior.

2. The recommendation of the department regarding:

a. A medical or mental health-related condition; or

b. Institutional adjustment of the inmate, which may include refusal by the inmate to sign the agreement to the conditions of the release plan.

3. Lawful capacity of the state prison system.

(b) Determine the terms, conditions, and period of time of control release for persons released pursuant to this section.

(c) Determine violations of control release and what actions shall be taken with reference thereto.

(d) Provide for victim input into the decisionmaking process for placing persons on control release.

(e) Make such investigations as may be necessary for the purposes of establishing, modifying, or revoking a control release date.

(f) Contract with a public defender or private counsel for representation of indigent persons charged with violating the terms of control release.

(g) Create a periodic review process for inmates whose original control release dates are established at the maximum category.

(h) Adopt such rules as the authority deems necessary for implementation of the provisions of this section.

(7) If the population of the state correctional system, as defined in s. 944.02, exceeds 99 percent of lawful capacity, the Secretary of Corrections shall notify the chairman of the Parole Commission and certify to the chairman the lawful capacity of the state correctional system and the current population. Upon receiving such certification, the chairman of the Parole Commission shall advise the Governor that a state of emergency exists. When the Governor verifies the state of emergency to the Control Release Authority by letter, the Control Release Authority shall establish emergency control release dates for inmates who are ineligible for parole, who are excluded from control release under paragraphs (3)(a), (b), (g), or (h), and who the authority determines are the most suitable for release. Under no circumstances shall an inmate convicted of a capital felony be eligible for emergency control release.

(a) The authority shall extend or advance emergency control release dates pursuant to subsection (6) and subsection (9)-(12).

(b) The authority shall maintain the inmate population below 100 percent of lawful capacity by releasing inmates on emergency control release as well as control release as otherwise provided in this section.

(c) A state of emergency ceases to exist when the inmate population drops below 98 percent of lawful capacity and remains below that level for 30 consecutive days without requiring the release of inmates through the establishment of additional emergency control release dates.

(d) Nothing in this subsection prohibits the establishment of a control release date under other provisions of this section or creates any right to an early release for any inmate. An inmate has no right to be reviewed for the establishment of an emergency control release date. The establishment of emergency control release dates under this subsection is solely an administrative function used to manage the prison population within lawful capacity.

(e) When a state of emergency ceases to exist pursuant to paragraph (c), all emergency control release dates must be suspended and no inmate is eligible for release under any previously established emergency control release date.

(8) The Department of Corrections shall select and contract with public or private organizations for the provision of basic support services for inmates whose term of control release supervision does not exceed *180* ~~90~~ days. Basic support services shall include, but not be limited to, substance abuse counseling, temporary housing, family counseling, and employment support programs.

(9) The authority shall examine such records as it deems necessary of the department, the Department of Health and Rehabilitative Services, the Department of Law Enforcement, and any other such agency for the purpose of either establishing, modifying, or revoking a control release date. The victim impact statement shall be included in such records for examination. Such agencies shall provide the information requested by the authority for the purposes of fulfilling the requirements of this section.

(10) The authority shall determine the appropriate terms, conditions, and lengths of supervision, if any, for persons placed on control release, except that such lengths of supervision shall be determined as provided in s. 947.24 and shall not exceed the maximum period for which the person has been sentenced. If the person's conviction was for a controlled substance violation, the conditions shall include a requirement that the person submit to random substance abuse testing intermittently throughout the term of supervision, *and, when warranted, a requirement that the person participate in substance abuse assessment and substance abuse treatment services* upon the direction of the correctional probation officer as defined in s. 943.10(3). In the event any inmate placed on control release supervision is also subject to probation or community control, the department shall supervise such person according to the conditions imposed by the court, and the authority shall defer to such supervision. If the term of control release supervision exceeds that of the probation or community control, then supervision shall revert to the authority's conditions upon expiration of the probation or community control.

(11) When the authority has reasonable grounds to believe that an offender released under this section has violated the terms and conditions of control release, such offender shall be subject to the provisions of s. 947.141 and shall be subject to forfeiture of gain-time pursuant to s. 944.28(1).

(12) If it is discovered that any control releasee was placed on control release by error or while statutorily ineligible for such release, his order of control release may be vacated and the Control Release Authority may cause a warrant to be issued for the arrest and return of the control releasee to the custody of the Department of Corrections for service of the unserved portion of his sentence or combined sentences.

Section 4. Effective June 1, 1995, section 947.146, Florida Statutes, as amended by this act, is amended to read:

947.146 Control Release Authority.—

(1) There is created a Control Release Authority which shall be composed of the members of the Parole Commission and which shall have the same chairman as the commission. The authority shall utilize such commission staff as it determines is necessary to carry out its purposes.

(2) The authority has as its primary purpose the implementation of a system of uniform criteria for the determination of the number and type of inmates who must be released into the community under control release in order to maintain the state prison system below 98 percent of its lawful capacity as defined in s. 944.096. No inmate has a right to control release. Control release is an administrative function solely used to manage the state prison population within lawful capacity. An inmate may not receive an advancement of his control release date by an award of control release award allotments for any period of time before the date the inmate becomes statutorily eligible for control release or before the subsequent date of establishment of his advanceable control release date.

(3) A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department and incarcerated within the state, within 90 days following notification by the department of receipt of the inmate, except an inmate who:

(a) Is serving a sentence that includes a mandatory minimum provision for a capital offense~~,~~ or ~~a mandatory minimum term of imprisonment of more than 5 years for~~ a drug trafficking offense~~,~~ and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2);

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Is sentenced, has previously been sentenced, or has been sentenced at any time under *s. 775.084* ~~s. 775.084(1)(b) for a crime committed on or after October 1, 1988~~, or has been sentenced at any time in another jurisdiction as a ~~violent~~ habitual offender;

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Article V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction;

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or has ever been convicted of any degree of murder in another jurisdiction;

(j) Is convicted, or has been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and is sentenced, or has been sentenced at any time, under s. 775.084 for such offense, or has been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k) Is serving a sentence for an offense committed on or after January 1, 1994, for drug trafficking for a level-9 offense, and the subtotal is fully multiplied pursuant to s. 921.0014;

(l) Is serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823 (2), (3), (4), or (5), and the subtotal is multiplied pursuant to s. 921.0014;

(m) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm or destructive device in which additional points are added to the offender's subtotal sentence points pursuant to s. 921.0014; or

(n) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a semiautomatic weapon, and additional points are added to the offender's subtotal sentence points pursuant to s. 921.0014.

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense. ~~The 90-day requirement for the establishment of a control release date for all eligible inmates for control release consideration does not apply to a person sentenced under s. 775.084(1)(a).~~

(4) Control release dates shall be based upon a system of uniform criteria which shall include, but not be limited to, present offenses for which the person is committed, past criminal conduct, length of cumulative sentences, and age of the offender at the time of commitment, together with any aggravating or mitigating circumstances.

(5) For purpose of determining eligibility for control release, the mandatory minimum portion of a concurrent sentence will begin on the date the sentence begins to run as provided in s. 921.161. The mandatory minimum portions of consecutive sentences shall be served at the beginning of the maximum sentence as established by the Department of Corrections. With respect to offenders who have more than one sentence with a mandatory minimum portion, each mandatory minimum portion of consecutive sentences shall be served consecutively; provided, that in no case shall a sentence begin to run before the date of imposition of that sentence.

(6) The authority has the power and duty to:

(a) Extend or advance the control release date of any inmate for whom a date has been established, based upon one or more of the following:

1. Recently discovered information of:

a. Past criminal conduct;

b. Verified threats by inmates provided by victims, law enforcement, or the department;

c. History of abuse or addiction to a chemical substance verified by a presentence or postsentence investigation report;

d. The inmate's ties to organized crime;

e. A change in the inmate's sentence structure;

f. Cooperation with law enforcement;

g. Strong community support; and

h. A documented mental condition as a factor for future criminal behavior.

2. The recommendation of the department regarding:

a. A medical or mental health-related condition; or

b. Institutional adjustment of the inmate, which may include refusal by the inmate to sign the agreement to the conditions of the release plan.

3. Lawful capacity of the state prison system.

(b) Determine the terms, conditions, and period of time of control release for persons released pursuant to this section.

(c) Determine violations of control release and what actions shall be taken with reference thereto.

(d) Provide for victim input into the decisionmaking process for placing persons on control release.

(e) Make such investigations as may be necessary for the purposes of establishing, modifying, or revoking a control release date.

(f) Contract with a public defender or private counsel for representation of indigent persons charged with violating the terms of control release.

(g) Create a periodic review process for inmates whose original control release dates are established at the maximum category.

(h) Adopt such rules as the authority deems necessary for implementation of the provisions of this section.

(7) If the population of the state correctional system, as defined in s. 944.02, exceeds 99 percent of lawful capacity, the Secretary of Corrections shall notify the chairman of the Parole Commission and certify to the chairman the lawful capacity of the state correctional system and the current population. Upon receiving such certification, the chairman of the Parole Commission shall advise the Governor that a state of emergency exists. When the Governor verifies the state of emergency to the Control Release Authority by letter, the Control Release Authority shall establish emergency control release dates for inmates ineligible for parole, who are excluded from control release under paragraphs (3)(a), (b), (g), or (h), and who the authority determines are the most suitable for release. Under no circumstances shall an inmate convicted of a capital felony be eligible for emergency control release.

(a) The authority shall extend or advance emergency control release dates pursuant to subsection (6) and subsections (9)-(12).

(b) The authority shall maintain the inmate population below 100 percent of lawful capacity by releasing inmates on emergency control release as well as control release as otherwise provided in this section.

(c) A state of emergency ceases to exist when the inmate population drops below 98 percent of lawful capacity and remains below that level for 30 consecutive days without requiring the release of inmates through the establishment of additional emergency control release dates.

(d) Nothing in this subsection prohibits the establishment of a control release date under other provisions of this section or creates any right to an early release for any inmate. An inmate has no right to be reviewed for the establishment of an emergency control release date. The establishment of emergency control release dates under this subsection is solely an administrative function used to manage the prison population within lawful capacity.

(e) When a state of emergency ceases to exist pursuant to paragraph (c), all emergency control release dates must be suspended and no inmate is eligible for release under any previously established emergency control release date.

(8) The Department of Corrections shall select and contract with public or private organizations for the provision of basic support services for inmates whose term of control release supervision does not exceed 180 days. Basic support services shall include, but not be limited to, substance abuse counseling, temporary housing, family counseling, and employment support programs.

(9) The authority shall examine such records as it deems necessary of the department, the Department of Health and Rehabilitative Services, the Department of Law Enforcement, and any other such agency for the purpose of either establishing, modifying, or revoking a control release date. The victim impact statement shall be included in such records for examination. Such agencies shall provide the information requested by the authority for the purposes of fulfilling the requirements of this section.

(10) The authority shall determine the appropriate terms, conditions, and lengths of supervision, if any, for persons placed on control release, except that such lengths of supervision shall be determined as provided in s. 947.24 and shall not exceed the maximum period for which the person has been sentenced. If the person's conviction was for a controlled

substance violation, the conditions shall include a requirement that the person submit to random substance abuse testing intermittently throughout the term of supervision, and, when warranted, a requirement that the person participate in substance abuse assessment and substance abuse treatment services upon the direction of the correctional probation officer as defined in s. 943.10(3). In the event any inmate placed on control release supervision is also subject to probation or community control, the department shall supervise such person according to the conditions imposed by the court, and the authority shall defer to such supervision. If the term of control release supervision exceeds that of the probation or community control, then supervision shall revert to the authority's conditions upon expiration of the probation or community control.

(11) When the authority has reasonable grounds to believe that an offender released under this section has violated the terms and conditions of control release, such offender shall be subject to the provisions of s. 947.141 and shall be subject to forfeiture of gain-time pursuant to s. 944.28(1).

(12) If it is discovered that any control releasee was placed on control release by error or while statutorily ineligible for such release, his order of control release may be vacated and the Control Release Authority may cause a warrant to be issued for the arrest and return of the control releasee to the custody of the Department of Corrections for service of the unserved portion of his sentence or combined sentences.

Section 5. (1) An offender designated for early release by the Control Release Authority who is serving:

(a) A mandatory minimum sentence of 5 years or less for a drug trafficking offense under section 893.135, Florida Statutes;

(b) A sentence for a controlled substance offense under section 893.13(1)(e) or (i), Florida Statutes; or

(c) A sentence, or has previously served a sentence, as an habitual offender under section 775.084(1)(a), Florida Statutes, for a primary offense involving drug possession, purchase, sale, manufacture, delivery, or trafficking,

shall be released into supervision under section 948.001(3), Florida Statutes. Supervision may include a requirement that a substance-abuse assessment be conducted and, when warranted, appropriate substance-abuse treatment services shall be provided.

(2) This section expires June 1, 1995.

Section 6. (1) Any inmate who is sentenced under section 775.084(1)(a), Florida Statutes, and whose primary offense at conviction is for burglary as provided in section 810.02, Florida Statutes, shall only be placed in an advanceable category as the result of a critical depletion transfer.

(2) A critical depletion transfer occurs whenever the release of eligible inmates under control release depletes the total number of eligible inmates with advanceable control release dates to less than 4,000, and inmates in the nonadvanceable subdivision Maximum A category are transferred to the advanceable category with the control release date established at the tentative release date in compliance with the following specifications and criteria:

(a) The number transferred shall be equal to the minimum number needed to return the pool of inmates with control release dates established at tentative release dates or earlier to 4,020.

(b) Those inmates who are closest to their tentative release dates or provisional release dates shall be eligible for transfer.

(c) Inmates shall be ineligible for transfer if subject to disciplinary proceedings during the 60 days prior to the transfer action.

(d) Inmates selected for transfer shall have their control release dates reestablished at their current tentative release date or provisional release date, whichever is earlier.

(3) This section expires June 1, 1995.

Section 7. Before the release under section 947.146, Florida Statutes, of any inmate sentenced as a habitual felony offender pursuant to this act, the Control Release Authority shall develop a uniform procedure for the award of control release dates to inmates sentenced under section 775.084(1)(a), Florida Statutes. The procedure must give priority consideration for early release to habitualized offenders who have been in the state prison system on their current commitment for the longest period of time. It is the intent of the Legislature that the habitual felony offender serve at least a significant portion of the court-imposed sentence before release.

Section 8. Section 944.277, Florida Statutes, as amended by section 12 of chapter 92-310, Laws of Florida, and section 944.598, Florida Statutes, as amended by section 10 of chapter 92-47, Laws of Florida, are repealed.

Section 9. Section 921.0017, Florida Statutes, is created to read:

921.0017 Credit upon recommitment of offender serving split sentence.—Effective for offenses committed on or after October 1, 1993, if an offender's probation or community control is revoked and the offender is serving a split sentence pursuant to s. 948.01, upon recommitment to the Department of Corrections, the court shall order credit for time served only, without considering any type of gain-time earned before release to supervision, nor any type of sentence reduction granted to avoid prison overcrowing, including, but not limited to, any sentence reduction resulting from administrative gain-time, provisional credits, or control release. The court shall determine the amount of jail-time credit to be awarded for time served between the date of arrest as a violator and the date of recommitment, and shall direct the Department of Corrections to compute and apply credit for all other time served previously on the prior sentence for the offense for which the offender is being recommitted. This section does not affect or limit the department's authority to forfeit gain-time pursuant to s. 944.28(1).

Section 10. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

And the title is amended as follows:

In title, strike everything before the enacting clause and insert: A bill to be entitled An act relating to corrections; amending s. 775.084, F.S.; deleting the exemption from consideration for parole and control release provided for persons sentenced as habitual felony offenders; amending s. 893.13, F.S.; revising certain prohibited acts with respect to possessing controlled substances in the vicinity of a school; deleting the exemption from consideration for parole and control release provided for persons convicted of such a crime; amending s. 947.146, F.S.; providing that an inmate may not receive control release award allotments before he is statutorily eligible for control release or before the date his advanceable control release date is established; providing for certain persons convicted of drug trafficking offenses and sentenced to less than a specified term of imprisonment to be eligible for control release; providing for certain persons sentenced as habitual felony offenders to be eligible for control release; excluding certain persons from control release consideration; providing for future abrogation of certain amendments to s. 947.146, F.S.; increasing the threshold capacity of the correctional system above which inmates will be given control release; providing that certain offenders who are eligible for control release may be released into supervision; providing for critical depletion transfers of certain offenders; providing for the expiration of such provisions; providing for the emergency release of prisoners; increasing the threshold capacity of the correctional system above which inmates will be granted emergency release; providing emergency control release dates for certain parole ineligible inmates; requiring the Control Release Authority to develop uniform procedures for awarding control release to certain habitual offenders; creating s. 921.0017, F.S.; requiring the court to order credit for time served without considering gain-time earned for certain recommitted offenders; repealing s. 944.277, F.S., relating to provisional release credits; repealing s. 944.598, F.S., relating to the emergency release of inmates; providing effective dates.

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

Amendment 1A—On page 5, strike all of lines 14-17 and insert: ~~be~~ subject to ~~the provisions of~~ s. 921.001. ~~The provisions of chapter 947 shall not be applied to such person.~~ A defendant sentenced under

Amendment 1B—On page 10, line 10 through page 11, line 2, strike all of said lines and insert: jurisdiction~~,~~ *or*

(j) Is convicted, or has been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and is sentenced, or has been sentenced at any time, under s. 775.084 for such offense, or has been sentenced at any time in another jurisdiction as a habitual offender for such offense.

Amendment 1C—On page 18, line 25 through page 19, line 17, strike all of said lines and insert: jurisdiction; or

(j) Is convicted, or has been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and is sentenced, or has been sentenced at any time, under s. 775.084 for such offense, or has been sentenced at any time in another jurisdiction as a habitual offender for such offense.

Amendment 1 as amended was adopted.

On motion by Senator Siegel, by two-thirds vote **HB 1835** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—29 Nays—7

On motions by Senator Grant, by two-thirds vote **CS for HB 881** was withdrawn from the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

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

CS for HB 881—A bill to be entitled An act relating to the State University System; amending s. 240.1201, F.S.; classifying certain persons as Florida residents for tuition purposes; amending s. 240.209, F.S.; revising the master planning process for the State University System; amending s. 240.2111, F.S.; revising provisions of the employee recognition program; deleting a reporting requirement; amending s. 240.2112, F.S.; revising provisions of the incentive efficiency program; amending s. 240.225, F.S.; deleting provisions relating to the requirement for approval of award of certain procurements; amending s. 240.227, F.S.; requiring the establishment of continuing education fees; amending s. 240.235, F.S.; revising provisions relating to tuition and fees for members of the Florida National Guard; providing for an intern participation program; amending s. 240.272, F.S.; revising provisions relating to the carryforward of unexpended funds; providing an effective date.

—a companion measure, was substituted for **CS for SB 1450** and by two-thirds vote read the second time by title.

Senator Grant moved the following amendment which was adopted:

Amendment 1 (with Title Amendment)—On page 6, strike all of lines 5-20 and insert:

Section 7. Subsection (8) of section 240.235, Florida Statutes, is amended to read:

240.235 Fees.—

(8) The Board of Regents shall *exempt one-half of all* ~~provide~~ tuition and *course-related fees* ~~fee waivers~~ for certain members of the active Florida National Guard pursuant to the provisions of s. 250.10(6).

And the title is amended as follows:

In title, on page 1, strike line 19

On motion by Senator Grant, by two-thirds vote **CS for HB 881** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1710—A bill to be entitled An act relating to nonpublic postsecondary institutions; amending s. 246.203, F.S.; revising a definition relating to independent postsecondary vocational, technical, trade, and business schools; amending s. 246.207, F.S.; providing additional duties of the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; providing additional requirements for a student financial program; providing for assessment of fees; amending s. 246.220, F.S.; requiring surety bonds or insurance for certain purposes; creating s. 246.222, F.S.; providing for school administrator training and qualification; creating s. 246.2235, F.S.; providing requirements for closing of schools; providing penalties; providing for denial of application for a school license; repealing s. 246.217(6), F.S., relating to the conveying of records; requiring the Postsecondary Education Commission to review the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools; providing effective dates.

—was read the second time by title.

Senator Weinstein moved the following amendments which were adopted:

Amendment 1—On page 3, line 8 through page 4, line 11, strike all of said lines and insert:

(g) Establish *and administer* a *statewide, fee-supported* financial program through which funds will be available to complete the training of *a student* ~~students~~ who *enrolls* ~~enroll~~ in *a* nonpublic *school* ~~schools~~ that *terminates a program or ceases* ~~cease~~ operation before the student has completed his program of study *or for repayment of a loan made under the federal Family Educational Loan Program. The financial program is named the Student Protection Fund.* The board *is* ~~shall be~~ authorized to assess a fee from the institutions within its jurisdiction for such purpose. *The board shall assess a licensed school an additional fee for its eligibility for the Student Protection Fund. Any school that participates in the federal Family Educational Loan Program is eligible and must pay the additional fee. If a licensed school terminates a program before all students complete it, the board shall also assess that school a fee adequate to pay the full cost to the Student Protection Fund of repaying the federal loans of its students. The fund shall consist entirely of fees assessed to licensed schools and shall not be funded under any circumstances by public funds, nor shall the board make payments or be obligated to make payments in excess of the assessments actually received from licensed schools and deposited in the Institutional Assessment Trust Fund to the credit of the Student Protection Fund. The board shall identify students who may be eligible for repayment of their loans and notify them in writing of the availability of the Student Protection Fund. At each board meeting, the board shall consider the need for and shall make required assessments, shall review the collection status of unpaid assessments and take all necessary steps to collect them, and shall review all moneys in the fund and expenses incurred since the last reporting period. This review must include administrative expenses, moneys received, and payments made to students or to lending institutions. Staff of the board must immediately inform the board upon learning of the closing of a licensed school or the termination of a program which could expose the fund to liability. The Student Protection Fund must be actuarily sound, periodically audited, and reviewed to determine if additional fees must be charged to schools eligible to participate in the fund. The board may authorize pro rata payments from the fund directly to the lender. The pro rata refund shall be computed as outlined in the Higher Education Act of 1965.*

Amendment 2—On page 6, line 30, after "records" through "seek" on page 7, line 2, strike all of said lines and insert: is subject to the board's seeking

On motion by Senator Weinstein, by two-thirds vote **CS for SB 1710** 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 SB 152, CS for CS for SB 164, CS for SB 510** and **HB 1993** was deferred.

SENATOR SCOTT PRESIDING

SB 270—A bill to be entitled An act relating to the Marine Fisheries Commission; amending ss. 370.025, 370.027, F.S.; deleting the requirement that the Governor and Cabinet approve rules of the commission; amending s. 370.026, F.S.; revising the expiration dates of commission members' terms of office; amending s. 370.0608, F.S.; revising the distribution of funds from the saltwater fishing license fees that are used for marine research; repealing s. 5, ch. 83-134, Laws of Florida; abrogating the repeal of ss. 370.025-370.029, F.S., under the Sundown Act; 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 Dantzler and failed:

Amendment 1 (with Title Amendment)—On page 1, line 17, strike everything after the enacting clause and insert:

Section 1. Section 253.68, Florida Statutes, is amended to read:

253.68 Authority to lease submerged land and water column.—To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. Such leases may authorize use of the submerged land and water column for either commercial or experimental purposes. However, *except for a lease for growing oysters or clams,* no lease shall be granted by the board when there is filed with it a resolution of objection adopted by a majority of the county commission of a county within whose boundaries, if the same were extended to the extent of the interest of the state, the proposed leased area would lie. *The* ~~Said~~ resolution *must* ~~shall~~ be filed with the board of trustees within 30 days *after* ~~of~~ the date of the first publication of notice as required by s. 253.70. *Before* ~~Prior to the~~ granting ~~of~~ any such leases, the board *must* ~~shall~~ establish and publish a list of guidelines to be followed when considering applications for lease. *The* ~~Such~~ guidelines *must* ~~shall~~ be designed to protect the public's interest in submerged lands and the publicly owned water column.

Section 2. Subsections (1) and (2) of section 370.026, Florida Statutes, are amended to read:

370.026 Marine Fisheries Commission.—

(1)*(a)* There is created within the Department of Natural Resources a Marine Fisheries Commission, *to* ~~which shall~~ be composed of *eleven* ~~seven~~ members who have resided in the state for at least 5 years. *The Commissioner of Agriculture, the Secretary of Commerce, the Secretary of Community Affairs, and the Executive Director of the Department of Natural Resources, or their respective designees, are permanent members of the commission.* The *Governor shall appoint the remaining* seven members ~~shall be appointed by the Governor~~, subject to confirmation by the Senate. *Such appointments shall reflect the gender and racial diversity of the state. These appointed members are*~~, and shall be~~ exempt from the Career Service System. *Three of the members appointed by the Governor must be representatives of the commercial fishing industry, three must be representatives of conservation or recreational fishing interests, and one must be an elected official of a coastal county who does not benefit economically from the commercial or recreational fishing industries. Of the three representatives of the commercial fishing industry, one member must reside in the coastal area extending from the western boundary of the state bordering Alabama to 26° north latitude on this state's west coast, one member must reside in the coastal area extending from 26° north latitude on this state's west coast to 27° north latitude off Florida's east coast, and one member must reside in the coastal area extending from 27° north latitude on this state's east coast to the northern boundary of the state bordering Georgia.*

(b) The terms of office of all members serving on the commission on the effective date of this paragraph expire July 30, 1993. ~~The Governor shall consider affected interests when making appointments to the commission. No single interest group shall dominate the membership of the commission.~~

(c) As soon as practicable after *July 30, 1993* ~~this act becomes a law~~, *the Governor shall appoint* two members ~~shall be appointed~~ for terms ending August 1, *1995* ~~1985~~; three members ~~shall be appointed~~ for terms ending August 1, *1996* ~~1986~~; and the remaining members ~~shall be appointed~~ for terms ending August 1, *1997* ~~1987~~. Thereafter, all appointments *by the Governor are* ~~shall be~~ for 4-year terms. If a vacancy occurs, *the Governor shall appoint* a member ~~shall be appointed by the Governor~~ for the unexpired *portion of the* term. A commission member whose term has expired shall continue sitting on the commission with full rights until he *is* ~~has been~~ replaced.

(2) Immediately upon being appointed, the commission *may* ~~is authorized to~~ employ a director, *an assistant director, and additional staff necessary to carry out the duties of the commission. Staff must include persons with expertise in vertebrate and invertebrate biology, economics, sociology, and fishing gear. Except for the executive director, assistant executive director, and attorneys, all staff are members of the Career Service System* ~~and three additional persons all of whom shall be exempt from the Career Service System~~. Within a reasonable time after being appointed, the commission shall schedule meetings to carry out the purposes of ss. 1-9 of chapter 83-134, Laws of Florida.

Section 3. Section 370.0608, Florida Statutes, is amended to read:

370.0608 Deposit of license fees.—All license fees collected *under* ~~pursuant to~~ s. 370.0605 *must* ~~shall~~ be deposited as follows:

(1) Not more than 2.5 percent of the total fees collected *must* ~~shall~~ be deposited into the Marine Fisheries Commission Trust Fund to be used for the purposes set forth in s. 370.029.

(2) Not less than 2.5 percent of the total fees collected *must* ~~shall~~ be deposited in the Aquatic Resources Education Account within the Save Our State Environmental Education Trust Fund ~~hereby~~ created in the Department of Natural Resources, to be used for aquatic education purposes.

(3) Not less than 15 percent of the total fees collected must be deposited in the Marine Fisheries Commission Trust Fund, to be used at the direction of the commission to award funds to marine research institutions and universities in this state to provide marine research to the commission. The commission must give priority to funding research projects that will increase the survival and viability of fishes, including juvenile fishery independent monitoring. Priority must also be given to funding research into genetic fitness, growth, and reproductive ecology.

(4)~~(3)~~(a) The remainder of such fees *must* ~~shall~~ be deposited into the Marine Resources Conservation Trust Fund ~~which is hereby~~ created within the Department of Natural Resources, to be used by the department for the following program functions:

1. Not more than 5 percent of the total fees collected, for administration of the licensing program and for information and education.

2. Not more than 30 percent of the total fees collected, for law enforcement.

3. Not less than *15* ~~30~~ percent of the total fees collected, for marine research.

4. Not less than 30 percent of the total fees collected, for fishery enhancement, including, but not limited to, fishery statistics development, artificial reefs, and fish hatcheries.

(b) The Legislature shall annually appropriate to the Department of Natural Resources from the General Revenue Fund for the activities and programs specified in paragraph (a) at least the same amount of money as was appropriated to the department from the General Revenue Fund for such activities and programs for fiscal year 1988-1989, and the amounts appropriated to the department for such activities and programs from the Marine Resources Conservation Trust Fund *must* ~~shall~~ be in addition to the amount appropriated to the department for such activities and programs from the General Revenue Fund. The proceeds from saltwater fishing license fees paid by fishermen *may* ~~shall only~~ be appropriated *only* to the Department of Natural Resources.

(c) The Department of Natural Resources and the Game and Fresh Water Fish Commission shall develop and maintain a memorandum of understanding to provide for the equitable allocation of federal aid available to Florida pursuant to the Sport Fish Restoration Administration Funds. Funds available from the Wallop-Breaux Aquatic Resources Trust Fund *must* ~~shall~~ be distributed between the department and the commission in proportion to the numbers of resident fresh and saltwater anglers as determined by the most current data on license sales. Unless otherwise provided by federal law, the department and the commission, at a minimum, shall provide *that* ~~the following~~:

1. Not less than 5 percent or more than 10 percent of the funds allocated to each agency ~~shall~~ be expended for an aquatic resources education program; and

2. Not less than 10 percent of the funds allocated to each agency ~~shall~~ be expended for acquisition, development, renovation, or improvement of boating facilities.

(5)~~(4)~~ The Game and Fresh Water Fish Commission *is* ~~shall be~~ the issuing agent for all 5-year licenses and all replacement 5-year licenses, and is authorized to collect the fees therefor.

(a) Proceeds from the sale of 5-year licenses and replacement 5-year licenses as provided in this chapter *must* ~~shall~~ be deposited into the Marine Resources Conservation Trust Fund. One-fifth of the total proceeds derived from the sale of 5-year licenses and replacement licenses, and all interest derived therefrom, *must* ~~shall~~ be available for appropriation annually.

(b) All license fees collected *under* ~~pursuant to~~ s. 370.0605 for the sale of or replacement of 5-year saltwater licenses *must* ~~shall~~ be transferred to the Marine Resources Conservation Trust Fund within 30 days following the last day of the month in which the license fees were received by the commission.

Section 4. Section 5 of chapter 83-134, Laws of Florida, is repealed.

Section 5. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike all of lines 2-14 and insert: An act relating to marine resource management; amending s. 253.68, F.S.; limiting the ability of a county commission to prevent the issuance of a lease for certain aquaculture activities; amending s. 370.026, F.S.; expanding the membership of the Marine Fisheries Commission; providing criteria for the appointment of commissioners; providing for terms of office and limiting terms of current members; specifying qualifications and employment status of commission personnel; amending s. 370.0608, F.S.; revising the distribution of funds from the saltwater fishing license fees that are used for marine research; providing uses for the funds; repealing s. 5, ch. 83-134, Laws of Florida; abrogating the repeal of ss. 370.025-370.029, F.S., relating to the Marine Fisheries Commission, scheduled under the Sundown Act; providing an effective date.

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

Amendment 2 (with Title Amendment)—On page 1, line 18, strike everything after the enacting clause and insert:

Section 1. Notwithstanding the provisions of section 11.611, Florida Statutes, the Sundown Act, or section 5 of chapter 83-134, Laws of Florida, sections 370.025, 370.026, 370.027, 370.028, and 370.029, Florida Statutes, shall not stand repealed on October 1, 1993, as scheduled by such laws, but those sections are revived and readopted.

Section 2. Section 5 of chapter 83-134, Laws of Florida, is repealed.

Section 3. Sections 370.025-370.029, F.S., are repealed October 1, 1995, and shall be reviewed by the Legislature prior to that date.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

In title, on page 1, strike all of lines 3-14 and insert: Commission; repealing s. 5, ch. 83-134, Laws of Florida; abrogating the repeal of ss. 370.025-370.029, F.S., under the Sundown Act; providing for future repeal of ss. 370.025-370.029, F.S.; providing for legislative review prior to that date; providing an effective date.

Senator Gutman moved the following amendment to **Amendment 2** which failed:

Amendment 2A—On page 1, line 21, strike "1995" and insert: 1994

The question recurred on **Amendment 2** which was adopted.

On motion by Senator Dantzler, further consideration of **SB 270** as amended was deferred.

Consideration of **CS for SB 1500** was deferred.

SB 1830—A bill to be entitled An act relating to governmental reorganization; abolishing the Department of Business Regulation and the Department of Professional Regulation and transferring their duties to the Department of Business and Professional Regulation; creating s. 20.165, F.S.; creating the Department of Business and Professional Regulation; amending ss. 455.02, 561.01, F.S.; correcting cross references and terminology, to conform; authorizing certain advancement of funds to the boards of professions formerly regulated by the Department of Professional Regulation and requiring semiannual reporting thereon and repayment thereof; requiring an interdepartmental agreement for such advancement of funds; requiring submission of a reorganization plan to the Department of Management Services for recommendations and for subsequent submission to the Executive Office of the Governor for approval, in consultation with the legislative appropriations committees; amending ss. 11.62, 20.42, 24.108, 83.49, 110.205, 120.57, 154.04, 190.009, 192.037, 205.065, 205.194, 210.01, 210.021, 210.151, 210.20, 210.25, 210.31, 210.405, 210.75, 212.08, 213.053, 215.37, 216.0165, 229.8075, 231.262, 240.4075, 253.025, 255.565, 282.1095, 288.509, 309.01, 310.002, 310.011, 326.002, 337.162, 370.07, 381.0036, 381.0039, 381.004, 381.0072, 386.203, 394.907, 395.3025, 396.181, 397.0961, 399.01, 400.211, 402.48, 403.0877, 403.708, 409.905, 415.107, 415.51, 440.02, 455.01, 455.11, 455.201, 455.203, 455.205, 455.208, 455.209, 455.211, 455.217, 455.2175, 455.218, 455.219, 455.221, 455.2224, 455.223, 455.224, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.236, 455.241, 455.243, 455.245, 455.26, 455.303, 455.304, 455.306, 455.307, 455.309, 457.102, 457.103, 458.305, 458.307, 458.3125, 458.320, 458.347, 459.003, 459.004, 459.0085, 459.022, 460.403, 460.404, 460.4104, 461.003, 461.004, 462.01, 463.002, 463.003, 464.003, 464.004, 465.003, 465.004, 465.017, 466.003, 466.004, 467.003, 467.004, 468.1125, 468.1135, 468.1315, 468.1655, 468.1665, 468.352, 468.382, 468.384, 468.385, 468.392, 468.401, 468.413, 468.431, 468.453, 468.503, 468.520, 468.521, 468.530, 468.542, 470.002, 470.003, 470.021, 470.025, 471.005, 471.007, 472.005, 472.007, 473.302, 473.303, 474.202, 474.204, 475.01, 475.02, 475.045, 475.455, 475.611, 476.034, 476.054, 477.013, 477.015, 478.42, 480.033, 480.035, 481.203, 481.205, 481.303, 481.305, 483.803, 483.805, 484.002, 484.003, 484.041, 484.042, 486.021, 486.023, 487.0437, 489.105, 489.107, 489.113, 489.505, 489.507, 489.516, 490.003, 490.004, 491.003, 491.004, 492.101, 492.102, 492.103, 498.005, 499.028, 499.051, 500.10, 500.12, 509.013, 509.2112, 509.291, 548.003, 550.002, 550.0251, 550.135, 559.79, 559.791, 559.927, 561.02, 561.025, 561.111, 561.17, 561.29, 561.42, 561.68, 561.703, 562.44, 565.02, 569.002, 616.265, 626.989, 627.7842, 627.912, 633.70, 641.55, 676.102, 718.111, 718.1255, 718.501, 718.5019, 718.508, 719.104, 719.1255, 719.501, 719.508, 721.05, 721.13, 723.003, 765.110, 766.101, 766.106, 766.1115, 766.308, 766.314, 828.055, 832.06, 849.094, 859.061, 865.09, 877.04, 877.06, 893.035, F.S., to conform to the provisions of this act; repealing ss. 20.16, 20.30, F.S., relating to the Departments of Business Regulation and Professional Regulation, to conform; providing an effective date.

—was read the second time by title. On motion by Senator Jenne, by two-thirds vote **SB 1830** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

Consideration of **CS for SB 1000, CS for SB 1600** and **CS for SB 1906** was deferred.

CS for SB 2022—A bill to be entitled An act relating to local governments; amending s. 171.0413, F.S.; revising provisions relating to annexation; amending procedures relating to a referendum on annexation; amending s. 171.062, F.S.; amending provisions specifying the continuing applicability of county regulations to an area annexed by a municipality; providing an effective date.

—was read the second time by title.

One amendment was adopted to **CS for SB 2022** to conform the bill to **CS for HB 891**.

Pending further consideration of **CS for SB 2022** as amended, on motions by Senator Dyer, by two-thirds vote **CS for HB 891** was withdrawn from the Committees on Community Affairs and Judiciary.

On motion by Senator Dyer—

CS for HB 891—A bill to be entitled An act relating to local government; amending s. 171.0413, F.S.; revising referendum requirements for municipal annexation; amending s. 171.062, F.S.; revising provisions which specify the effect of annexation upon an area that was subject to a county land use plan and zoning or subdivision regulations; providing an effective date.

—a companion measure, was substituted for **CS for SB 2022** and read the second time by title. On motion by Senator Dyer, by two-thirds vote **CS for HB 891** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—1

SB 1906—A bill to be entitled An act relating to emergency telephone number fees; amending s. 365.171, F.S.; exempting pay telephones from "911" surcharges; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **SB 1906** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Forman, by two-thirds vote **HB 1991** was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motions by Senator Forman, the rules were waived and by two-thirds vote—

HB 1991—A bill to be entitled An act relating to taxation on jai alai games; creating s. 550.09511, F.S.; providing for taxes on jai alai; providing for an abandoned interest in a permit for nonpayment of taxes; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for **CS for SB 510** and read the second time by title.

On motion by Senator Forman, further consideration of **HB 1991** was deferred.

HB 1993—A bill to be entitled An act relating to taxation on harness horse live races; creating s. 550.09512, F.S.; providing for harness horse taxes; providing for an abandoned interest in a permit for nonpayment of taxes; providing an effective date.

—was read the second time by title.

On motion by Senator Forman, further consideration of **HB 1993** was deferred.

BILLS ON THIRD READING

Pursuant to Article III, Section 19(d) of the Constitution and Joint Rule 2.1(4), and the constitutional 72-hour review period having elapsed, the Senate resumed consideration of—

HB 1805—A bill to be entitled An act making supplemental appropriations; providing moneys for the annual period beginning July 1, 1992, and ending June 30, 1993, to pay salaries, other expenses, capital outlay - buildings and improvements, and for other specified purposes of the various agencies of state government; supplementing or adjusting specific appropriations as provided in Chapter 92-293, Laws of Florida; providing an effective date.

—which was taken up pending roll call, having been amended and read the third time on March 29. **HB 1805** was read by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SPECIAL ORDER, continued

On motions by Senator Myers, by two-thirds vote **CS for SB 1000** was withdrawn from the Committees on Finance, Taxation and Claims; and Appropriations.

CS for SB 1000—A bill to be entitled An act relating to private property rights; requiring the Advisory Council on Intergovernmental Relations to study the economic effects that government regulation has upon private property; requiring the council to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by a specified date; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment:

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

Section 1. (1) There is hereby created the 1993 Florida Property Rights Study Commission for the purpose of reviewing and reporting on the following:

(a) The changes in the law since the 1975 Property Rights Study Commission report to the Florida Legislature, including laws of other states and interpretations of the United States Constitution.

(b) The impacts of Chapter 78-85, Laws of Florida, on property rights laws in Florida.

(c) The impacts of imposing a percentage of loss of fair market value as a standard for regulatory takings.

(d) The impacts of regulations, or the removal of regulations, that protect the property rights of land owners who do not intend to develop or speculate on the value of their property.

(e) The impact of government regulations and infrastructure construction that increase property values and the need to consider those increases in determining whether a taking has occurred or the monetary amount of a taking.

(2) The commission shall be composed of 11 members to be appointed as follows: The Speaker of the House of Representatives shall appoint 3 members, 2 of whom shall be members of the House; the Senate President shall appoint 3 members, 2 of whom shall be members of the Senate; and the Governor shall appoint 5 members, including the chair. The committee shall elect a vice-chair from among its members, including the chair. Each member shall have substantial expertise and knowledge in the field of property rights and the membership shall be fairly balanced between those whose primary financial interest is to develop or speculate on the value of property and those whose primary interest is to preserve lands in their present state. For administrative purposes, the Commission is placed in the Executive Office of the Governor, who shall also provide administrative staff for the commission.

(3) Members of the commission shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses while engaged in commission duties, as provided in s. 112.061, Florida Statutes.

(4) Before December 1, 1993, the commission shall conduct no fewer than five public hearings in various geographic regions of the state to take public testimony on areas of review specified herein.

(5) No later than January 1, 1994, the commission shall submit a report of its findings and recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives.

Section 2. The sum of $50,000 is appropriated from the General Revenue Fund to the Office of the Governor for operation of the 1993 Property Rights Study Commission.

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

And the title is amended as follows:

In title, strike all of lines 3-9 and insert: providing for the Florida Property Rights Study Commission; providing for review and reporting requirements; providing for the appointment of 11 members; providing for per diem and travel expenses; providing for reports by specified dates;

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

Amendment 1A (with Title Amendment)—On page 1, line 1 through page 3, line 20, strike all of said lines and insert:

Section 1. (1) There is hereby created the Study Commission on Inverse Condemnation Law, for the purpose of studying the procedures for inverse condemnation, the effect of chapter 78-85, Laws of Florida, and the law of this state and other jurisdictions relating to the taking of private property by inverse condemnation. The commission shall:

(a) Review the effectiveness and adequacy of existing statutory and common law remedies available to citizens whose properties have been impacted by governmental regulation and make recommendations for the creation of a statutory cause of action for inverse condemnation which would include a procedural framework providing that evidentiary matters could be determined by a jury upon request;

(b) Research and report on the potential effects of legislatively formulating a percentage of economic value diminution that would presumptively establish that a governmental regulatory program has taken private property by severely limiting its practical use, thereby requiring payment of full and just compensation; and

(c) Analyze the potential fiscal impact that could result from legislative formulation of a percentage value diminution threshold, and recommend a source of funding for any state or local government regulatory action that is judicially determined to be a taking of private property. To accomplish these tasks the commission shall examine federal and state constitutional provisions and case law relating to the protection of private property from governmental intrusion, restriction and regulation; statutory and common law of inverse condemnation in this state; and case law applying or construing the judicial remedy provided by chapter 78-85, Laws of Florida.

(2) The commission shall further analyze and recommend:

(a) Statutory standards and criteria that governmental decision-makers must consider in the implementation of existing or proposed regulatory programs to avoid or reduce unreasonable financial burdens imposed on persons whose properties are directly or indirectly affected by otherwise lawful governmental actions; and

(b) Statutory criteria that courts in this state must balance to determine whether, and the extent to which, a property owner should be compensated for a regulatory taking, which includes governmental actions that limit the use of private property and thereby diminish its economic value.

(3) The commission shall consist of 19 members. The Governor shall appoint two members of The Florida Bar who are also members of the Environmental and Land Use Law Section, one of whom has substantial expertise representing governmental entities or environmental interest, and one of whom has substantial expertise representing private property owners; one person representing the environmental community; one person who is an elected municipal officer of a municipality of less than 50,000 population or an attorney who represents one or more such municipalities; one elected county officer of a county of less than 100,000 population or an attorney who represents one or more such counties. The President of the Senate shall appoint one member of the Senate; one member of The Florida Bar who is also a member of the Eminent Domain Committee, who has substantial expertise representing governmental entities or environmental interests; two property owners, one of whom owns non-residential property of a size less than 100 acres of a value less than $200,000; and a certified real estate appraiser with experience assessing vacant and developed property. The Speaker of the House of Representatives shall appoint one member of the House of Representatives; one member of The Florida Bar who is also a member of the Eminent Domain Committee who has substantial expertise representing private property owners; two property owners, one of whom owns non-residential property of a size less than 100 acres of a value less than $200,000; and a retired member of the judiciary with expertise in property rights issues and regulatory takings in this state. The commission shall also include, as non-voting members, the Attorney General or his designate; the Secretary of the Department of Transportation or his designate; the Secretary of the Department of Environmental Regulation or his designate; the Secretary of the Department of Community Affairs or his designate. The members of the commission shall elect a chairman. The Advisory Council on Intergovernmental Relations shall provide staff for the commission. All appointments to the commission must be made by June 1, 1993.

(4) Members of the commission shall receive no compensation for their services, but shall be reimbursed for per diem and travel expenses while engaged in commission duties, as provided in s. 112.061, Florida Statutes.

(5) Before November 1, 1993, the commission shall conduct at least five public hearings in the various geographic areas of the state to consider the impacts of state regulatory laws on private property.

(6) By December 1, 1993, the commission shall submit a report on the testimony received at such public hearings detailing the commission's recommendations with respect to the law of inverse condemnation in this state and any other related issues, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, after which the commission is thereby abolished.

Section 2. For administrative purposes, the commission is placed in the Advisory Council on Intergovernmental Relations. The sum of $50,000 is appropriated from the General Revenue Fund for the operation of the commission.

Section 3. This act shall take effect upon becoming law and will expire on December 1, 1993.

And the title is amended as follows:

On page 1, strike the entire title and insert:

Creating the Study Commission on Inverse Condemnation Law for the purpose of studying the procedures for inverse condemnation; providing for commission membership; providing for reimbursement of expenses; requiring public hearings; providing a report; providing an appropriation; providing effective date.

WHEREAS, Florida's citizens have voiced concerns that governmental regulatory activities may be excessively impacting constitutionally protected private property rights, and

WHEREAS, government is empowered to protect public health, safety and welfare without imposing inequitable economic burdens on some to create benefits for the enjoyment of all, and

WHEREAS, the State Comprehensive Plan enacted in 1985 recognized the existence of competent public and private interests in land use decisions and other governmental regulations, and directed the state to protect private property rights by providing compensation or other relief for any governmental action that is judicially determined to be a taking of private property, NOW, THEREFORE,

Amendment 1 as amended was adopted.

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

Yeas—33 Nays—3

Consideration of **SB 1306** was deferred.

CS for SB 1312—A bill to be entitled An act relating to persons with disabilities; establishing the Commission for Persons with Disabilities in the Department of Legal Affairs; providing duties relating to the federal Americans with Disabilities Act; providing for development of a statewide long-range plan; providing for appointment and removal of members; providing for terms, and for officers, providing for meetings, an executive director, staff, a budget, funding, per diem and travel expenses, and committees; requiring an annual report; amending ss. 316.193, 327.35, F.S.; imposing additional fines under these sections; providing that the proceeds from these fines must be deposited into the Impaired Drivers and Speeders Trust Fund, to be expended for spinal cord injury care and head injury care; amending s. 413.613, F.S.; providing a continuing appropriation to fund the Commission for Persons with Disabilities; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **CS for SB 1312** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

CS for SB 1420—A bill to be entitled An act relating to mortgage foreclosure; amending s. 45.031, F.S.; changing the time for sale of property by the clerk of the court; creating s. 45.0315, F.S.; providing for right of redemption; providing for limitations upon such rights; amending s. 48.193, F.S.; expanding the jurisdiction of courts of the state to persons holding a mortgage or lien on certain property; amending s. 48.194, F.S.; providing for alternative service of process in foreclosure proceedings; amending s. 48.23, F.S.; providing for exceptions to the application of lis pendens; amending s. 49.021, F.S.; providing for a cross reference; amending s. 49.09, F.S.; revising provisions with respect to the return day notice of action; providing a time period; amending s. 49.10, F.S.; reducing the number of publications of notice in foreclosure proceedings; amending s. 55.01, F.S.; providing for the social security number to be included on

judgments; amending s. 55.10, F.S.; providing for the address of the person holding a lien to be recorded; providing for application; amending s. 55.505, F.S.; providing for inclusion of the social security number in notice of recording; amending s. 697 07, F.S.; providing for rents to be assigned to a mortgagee; providing a process for rents to be deposited; providing for distribution of the rents; creating s. 702.10, F.S.; providing for an order to show cause in foreclosure proceedings; providing for entry of final judgment of foreclosure; providing for payment during foreclosure; amending s. 701.04, F.S.; requiring delivery of an estoppel letter; providing severability; providing an effective date.

—was read the second time by title.

Senator McKay moved the following amendment which failed:

Amendment 1 (with Title Amendment)—On page 20, between lines 18 and 19, insert:

Section 16. This act applies only to a mortgage foreclosure that arises as a result of a contract, a loan, a transaction, a purchase, a sale, or a transfer occurring on or after October 1, 1993.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 5, following the second semicolon (;) insert: providing for applicability of the act;

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

Amendment 2 (with Title Amendment)—On page 20, between lines 18 and 19, insert:

Section 16. This act does not apply to mortgage foreclosure proceedings on homestead property.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 2, line 5, after "letter;" insert: providing that the act does not apply to mortgage foreclosure proceedings on homestead property;

The vote was:

Yeas—19 Nays—17

On motion by Senator Silver, further consideration of **CS for SB 1420** as amended was deferred.

CS for SB 1600—A bill to be entitled An act relating to postsecondary education programs and institutions; amending s. 240.512, F.S., relating to the H. Lee Moffitt Cancer Center and Research Institute; providing for creation of subsidiaries with approval of Board of Regents; providing duties; providing for annual post audit report; providing an exemption from public records requirements and providing for review and repeal of such exemption; providing for equal employment opportunity; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **CS for SB 1600** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motions by Senator Siegel, by two-thirds vote **CS for HB 105** was withdrawn from the Committees on Community Affairs; Finance, Taxation and Claims; and Appropriations.

CS for HB 105—A bill to be entitled An act relating to the municipal public service tax; amending s. 166.231, F.S.; authorizing municipalities to exempt the purchase of metered or bottled gas or fuel oil for agricultural purposes, and purchases by certain nonprofit corporations or cooperatives that provide water utility services, from the tax; providing an effective date.

—was read the second time by title. On motion by Senator Siegel, by two-thirds vote **CS for HB 105** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Holzendorf, by two-thirds vote **CS for HB 647** was withdrawn from the Committees on Education and Appropriations.

CS for HB 647—A bill to be entitled An act relating to postsecondary education; creating s. 240.1162, F.S.; requiring establishment of an articulation accountability process; amending s. 240.117, F.S.; requiring a common placement test for postsecondary education; amending s. 240.118, F.S.; revising provisions relating to postsecondary feedback of information; requiring strategies to improve student readiness for postsecondary education; amending s. 240.321, F.S.; conforming language; providing an effective date.

—was read the second time by title. On motion by Senator Holzendorf, by two-thirds vote **CS for HB 647** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

SB 1306—A bill to be entitled An act relating to taxation; amending s. 212.054, F.S.; providing for discretionary sales surtaxes to apply to services that are subject to sales tax; requiring a discretionary sales surtax to be imposed at the rate in effect in the county where the property or service that is subject to the tax is delivered or performed; providing a formula for distributing surtax proceeds that are collected by dealers located in a county in which the surtax is not imposed; providing requirements for the Department of Revenue in distributing proceeds of the surtax; amending s. 212.055, F.S.; deleting a limitation on the period during which the governing authority of a county may impose a local government infrastructure surtax; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 1306** to conform the bill to **CS for HB 729**.

Pending further consideration of **SB 1306** as amended, on motions by Senator Dyer, by two-thirds vote—

CS for HB 729—A bill to be entitled An act relating to taxation; amending s. 212.0515, F.S.; revising the method for calculating the amount of sales tax to be paid on certain beverages sold in vending machines; amending s. 212.054, F.S.; revising provisions which specify requirements for the administration and collection of discretionary sales surtaxes; providing for application of such surtaxes to the sale of services; providing that the exemption for sales amounts above $5,000 does not apply to the sale of services; revising the conditions under which a transaction is deemed to occur in a county imposing the surtax; specifying when a surtax applies to dealers outside the county; providing for distribution of the proceeds of such surtaxes collected by a dealer located in a county that does not impose a surtax; specifying consequences if a county does not provide timely information to the Department of Revenue; amending s. 212.055, F.S.; removing the limitations on the length of time the local government infrastructure surtax may be levied, subject to an exception; removing the limitation on the period during which a referendum levying the surtax may be held; authorizing additional uses for surtax revenues; ratifying such uses of surtax revenues prior to July 1, 1993; providing effective dates.

—a companion measure, was substituted for **SB 1306** and by two-thirds vote read the second time by title. On motion by Senator Dyer, 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—31 Nays—6

On motions by Senator Grant, by two-thirds vote **CS for HB 749** was withdrawn from the Committees on Professional Regulation and Commerce.

CS for HB 749—A bill to be entitled An act relating to the Self-storage Facility Act; amending s. 83.803, F.S.; defining the term "self-contained storage unit"; amending ss. 83.805, 83 8055, and 83.806, F.S.; providing for the application of the act to self-contained storage units; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **CS for HB 749** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—None

On motion by Senator Burt, by two-thirds vote **HB 785** was withdrawn from the Committee on Professional Regulation.

HB 785—A bill to be entitled An act relating to contracting; amending ss. 489.119 and 489.521, F.S.; requiring the certification or registration number of each contractor to appear in each advertisement, regardless of medium, used by that contractor; excepting certain advertising items; providing penalties for failure of a contractor to provide the contractor's registration or certification number when submitting an advertisement for publication, broadcast, or printing and for advertising as a registered or certified contractor without holding a valid state certification or registration; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 785** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

On motion by Senator Burt, by two-thirds vote **CS for HB 1259** was withdrawn from the Committee on Natural Resources and Conservation.

CS for HB 1259—A bill to be entitled An act relating to vessels; amending s. 370.12, F.S.; providing that certain violations with respect to manatees shall be charged on uniform boating citations; providing that the violation of certain manatee-related speed limits be a noncriminal infraction; providing a penalty for refusal to accept and sign a uniform boating citation; amending s. 327.73, F.S.; revising language; providing a civil penalty for violation of certain speed limits; providing a penalty for failure to appear or otherwise respond to a uniform boating citation; increasing a civil penalty; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **CS for HB 1259** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

MOTION

On motion by Senator Jennings, the rules were waived and time of recess was extended until 9:00 p.m.

On motion by Senator Turner, by two-thirds vote **CS for HB 1269** was withdrawn from the Committee on Judiciary.

CS for HB 1269—A bill to be entitled An act relating to the Florida Residential Landlord and Tenant Act; amending s. 83.46, F.S.; revising language with respect to duration of tenancies; amending s. 83.49, F.S.; revising language with respect to deposit money or advance rent; providing for the effect of compliance; amending s. 83.51, F.S.; revising language with respect to the landlord's obligation to maintain the premises; amending s. 83.53, F.S.; defining the term "reasonable notice" with respect to the landlord's access to the dwelling unit; amending s. 83.535, F.S.; requiring tenants to carry flotation insurance under certain circumstances; amending s. 83.56, F.S.; revising language with respect to termination of the rental agreement; providing an exception; amending s. 83.60, F.S.; revising language with respect to notice concerning defenses to an action for rent or possession; providing an exception; creating s. 83.681, F.S.; providing for orders to enjoin violations of the Florida Residential Landlord and Tenant Act; amending s. 34.011, F.S.; authorizing county courts to issue injunctions with respect to the act; providing an effective date.

—was read the second time by title.

Senator Turner moved the following amendment which was adopted:

Amendment 1—On page 5, line 31 and on page 6, line 1, strike all of said lines and insert: *shall comply with the provisions in s. 83.60(2). This subsection does not apply to that portion of*

On motion by Senator Turner, by two-thirds vote **CS for HB 1269** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

On motion by Senator Grant, by two-thirds vote **HB 2041** was withdrawn from the Committee on Commerce.

HB 2041—A bill to be entitled An act relating to public records concerning insurance; amending ss. 627.091 and 627.111, F.S.; correcting references; amending s. 627.101, F.S., relating to review and approval or disapproval by the Department of Insurance of workers' compensation and employer's liability insurance rate filings; removing provisions relating to a public inspection period; removing erroneous language; amending s. 627.371, F.S.; removing an exemption from public records requirements for notices of noncompliance to entities engaging in joint underwriting or joint reinsurance; amending ss. 627.4106, 627.912, 627.9122, and 627.9126, F.S., which provide exemptions from public records requirements for small employer carriers' information, reports regarding professional and officers' and directors' liability claims, and liability insurers' annual reports; amending s. 627.351, F.S., which provides an exemption from public records requirements for Joint Underwriting Association claim files; revising the exemption; amending s. 627.736, F.S., which provides an exemption from public records requirements for reports regarding personal injury protection policies received by the Department of Highway Safety and Motor Vehicles; revising the exemption; saving these exemptions from repeal; providing for future review and repeal; repealing s. 629.401(6)(b)13., F.S., which provides for confidentiality of insurance exchange examination or investigation reports; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 2041** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Kirkpatrick, by two-thirds vote **CS for HB 565** was withdrawn from the Committees on Natural Resources and Conservation; and Governmental Operations.

On motion by Senator Kirkpatrick—

CS for HB 565—A bill to be entitled An act relating to state lands; amending s. 253.002, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to delegate certain duties or obligations to the Division of State Lands of the Department of Natural Resources; amending s. 253.025, F.S.; clarifying procedures and duties related to acquiring state lands; authorizing reimbursement of certain costs related to the purchase of lands by the state; amending s. 259.101, F.S.; providing for disposition or alternate use of certain public lands; prohibiting disposition of such lands under certain circumstances; authorizing the Department of Community Affairs to conduct a pilot project; authorizing the Department of Community Affairs and Walton County to enter into a contract with a non-profit organization; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 146** and read the second time by title.

On motion by Senator Kirkpatrick, further consideration of **CS for HB 565** was deferred.

On motions by Senator Foley, by two-thirds vote **HB 1977** was withdrawn from the Committees on Agriculture; Finance, Taxation and Claims; and Appropriations.

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

HB 1977—A bill to be entitled An act relating to the Citrus Canker Eradication Program; amending s. 602.025, F.S.; stating legislative findings; clarifying language; directing the Auditor General to make certain audits; amending s. 602.055, F.S.; establishing a deadline for filing a

release; providing for carrying forward certain funds; providing an appropriation from the Citrus Canker Eradication Trust Fund; providing for collection of due and unpaid excise taxes; providing for adjustment if moneys were not paid according to legislative intent; providing an appropriation from the Citrus Compensation Trust Fund; providing an effective date.

—a companion measure, was substituted for **CS for SB 2000** and by two-thirds vote read the second time by title. On motion by Senator Foley, by two-thirds vote **HB 1977** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

Consideration of **CS for SB 2224** was deferred.

On motions by Senator Kurth, by two-thirds vote **CS for HB 215** was withdrawn from the Committees on Transportation; Finance, Taxation and Claims; and Appropriations.

CS for HB 215—A bill to be entitled An act relating to license fees for motorcycles, motor-driven cycles, and mopeds; amending s. 320.08, F.S.; restricting the use of safety education fees derived from the registration of motorcycles, motor-driven cycles, and mopeds to funding a motorcycle driver improvement program or the Florida Motorcycle Safety Education Program; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **CS for HB 215** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

THE PRESIDENT PRESIDING

CS for SB 790—A bill to be entitled An act relating to postsecondary education; amending s. 240.2605, F.S., relating to the Trust Fund for Major Gifts; providing that funds shall be expended for programs designed to increase minority student enrollment in certain graduate and professional programs; directing the Board of Regents to encumber state matching funds for pledged contributions to the trust fund; amending s. 240.257, F.S.; directing the Board of Regents to encumber state matching funds for private contributions to the trust fund; amending s. 240.2601, F.S.; deleting a provision prohibiting the use of PECO moneys as state matching funds; changing the date for annually transmitting to the Legislature a list of projects eligible for the Capital Facilities Matching Trust Fund; amending s. 30(12) of ch. 92-207, Laws of Florida, deleting the expiration of the College Reach-Out Program; providing for a review and report by Postsecondary Education Planning Commission; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 6, between lines 14 and 15, insert:

Section 5. Section 43 of CS for CS for SB 1166, 1st Engrossed, is amended such that subsections (23) and (24) of section 240.155, Florida Statutes, is amended to read:

240.155 Campus master plans and campus development agreements.—

~~(23) Up to 3 percent of the funds appropriated by the Legislature for a campus construction project may be used for meeting concurrency requirements. Notwithstanding contrary provisions of chapter 216 relating to reversion of funds, when less than 3 percent of the funds appropriated for a project are needed for concurrency management related to that project, the difference between 3 percent of the appropriated funds and the amount actually needed may be retained and used to supplement the concurrency management funds provided for other campus construction projects.~~

(23) ~~(24)~~ Until the campus master plan and campus development agreement for an institution have been finalized, any dispute between the Board of Regents and a local government relating to campus development for that institution shall be resolved by the process established in subsection (8).

(Renumber subsequent sections.)

Senator Jenne moved the following amendment which was adopted:

Amendment 2—In title, on page 1, line 19, strike "ch. 92-207," and insert: ch. 89-207,

On motion by Senator Jenne, by two-thirds vote **CS for SB 790** 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

The Senate resumed consideration of—

CS for SB 1420—A bill to be entitled An act relating to mortgage foreclosure; amending s. 45.031, F.S.; changing the time for sale of property by the clerk of the court; creating s. 45.0315, F.S.; providing for right of redemption; providing for limitations upon such rights; amending s. 48.193, F.S.; expanding the jurisdiction of courts of the state to persons holding a mortgage or lien on certain property; amending s. 48.194, F.S.; providing for alternative service of process in foreclosure proceedings; amending s. 48.23, F.S.; providing for exceptions to the application of lis pendens; amending s. 49.021, F.S.; providing for a cross reference; amending s. 49.09, F.S.; revising provisions with respect to the return day notice of action; providing a time period; amending s. 49.10, F.S.; reducing the number of publications of notice in foreclosure proceedings; amending s. 55.01, F.S.; providing for the social security number to be included on judgments; amending s. 55.10, F.S.; providing for the address of the person holding a lien to be recorded; providing for application; amending s. 55.505, F.S.; providing for inclusion of the social security number in notice of recording; amending s. 697.07, F.S.; providing for rents to be assigned to a mortgagee; providing a process for rents to be deposited; providing for distribution of the rents; creating s. 702.10, F.S.; providing for an order to show cause in foreclosure proceedings; providing for entry of final judgment of foreclosure; providing for payment during foreclosure; amending s. 701.04, F.S.; requiring delivery of an estoppel letter; providing severability; providing an effective date.

—which had been previously considered and amended this day.

Reconsideration of Amendment

Senator Gutman moved that the Senate reconsider the vote by which **Amendment 2** was adopted. The motion was adopted. The vote was:

Yeas—20 Nays—16

Amendment 2 failed.

On motion by Senator Silver, by two-thirds vote **CS for HB 1159** was withdrawn from the Committee on Judiciary.

On motion by Senator Silver—

CS for HB 1159—A bill to be entitled An act relating to mortgage foreclosure; amending s. 45.031, F.S.; changing the time for sale of property by the clerk of the court; creating s. 45.0315, F.S.; providing for right of redemption; providing for limitations upon such rights; amending s. 48.193, F.S.; expanding the jurisdiction of courts of the state to persons holding a mortgage or lien on certain property; amending s. 48.194, F.S.; providing for alternative service of process in foreclosure proceedings; amending s. 48.23, F.S.; providing for exceptions to the application of lis pendens; amending s. 49.021, F.S.; providing for a cross reference; amending s. 49.09, F.S.; revising language with respect to the return day notice of action; providing a time period; amending s. 49.10, F.S.; reducing the number of publications of notice in foreclosure proceedings; amending s. 55.01, F.S.; providing for the social security number to be included on judgments; amending s. 55.10, F.S.; providing for the address of the person holding a lien to be recorded; providing for application; amending s. 55.505, F.S.; providing for inclusion of the social security number in notice of recording; amending s. 697.07, F.S.; providing for rents to be assigned to a mortgagee; providing a process for rents to be deposited; providing for distribution of said rents; creating s. 702.10, F.S.; providing for an order to show cause in foreclosure proceedings; providing for entry of final judgment of foreclosure; providing for payment during foreclosure; amending s. 701.04, F.S.; requiring delivery of an estoppel letter; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 1420** and read the second time by title. On motion by Senator Silver, by two-thirds vote **CS for HB 1159** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—7

The Senate resumed consideration of—

CS for CS for SB 1694—A bill to be entitled An act relating to DUI programs; amending s. 316.193, F.S.; providing for attendance at a substance abuse course licensed by the department; revising reporting requirements; amending s. 322.095, F.S., requiring instructor certification and monitoring by the department; authorizing driver improvement schools to offer the traffic law and substance abuse education courses; requiring an independent evaluation of course effectiveness to the Legislature by October 1, 2000; requiring financial audits of providers at their expense; amending s. 322.271, F.S., providing for additional duties of the department relating to regulation of DUI programs; creating s. 322.292, F.S., providing for the regulation of DUI programs by the department; providing powers and duties; authorizing existing DUI programs until relicensure by the department; creating s. 322.293, F.S., transferring the DUI Programs Coordination Office; providing for an assessment against persons enrolled in DUI programs; providing for disposition of fees; repealing s. 25.387, F.S., which creates the DUI Programs Coordination Trust Fund and provides for assessments and for disposition of proceeds; providing an effective date.

—which had been considered and amended March 31.

Pending further consideration of **CS for CS for SB 1694** as amended, on motions by Senator Diaz-Balart, by two-thirds vote **CS for HB 989** was withdrawn from the Committees on Transportation; Criminal Justice; Governmental Operations; Rules and Calendar; and Appropriations.

On motions by Senator Diaz-Balart, by two-thirds vote—

CS for HB 989—A bill to be entitled An act relating to DUI programs; creating s. 322.292, F.S.; describing the responsibility of the Department of Highway Safety and Motor Vehicles in the supervision of DUI programs; creating s. 322.293, F.S.; transferring the DUI Programs Coordination Office and the DUI Programs Coordination Trust Fund to the Department of Highway Safety and Motor Vehicles; providing for assessments against DUI offenders to be deposited in the DUI Programs Coordination Trust Fund; amending s. 316.193, F.S.; placing supervision of DUI programs under the department; requiring licensed substance abuse treatment providers; amending s. 322.095, F.S.; deleting reference to Traffic Court Review Committee; requiring certified instructors and an independent evaluation; amending s. 322.271, F.S.; transferring certain supervisory authority over persons under license revocation to the department; requiring specified supervision activities; requiring adoption of rules; repealing s. 25.387, F.S., relating to the DUI Programs Coordination Trust Fund; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1694** and by two-thirds vote read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 989** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

On motions by Senator Dudley, by two-thirds vote **HB 1943** was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motions by Senator Dudley, the rules were waived and by two-thirds vote—

HB 1943—A bill to be entitled An act relating to limited liability companies; amending ss. 473.309, 473.3101, and 473.321, F.S.; applying provisions related to practicing public accountancy to limited liability companies; providing requirements; prohibiting limited liability companies from practicing public accountancy under certain circumstances; revising chapter 608, F.S.; amending s. 608.401, F.S.; providing a short title; amending s. 608.402, F.S.; providing definitions; amending s. 608.404, F.S.; specifying the powers of limited liability companies; amending s. 608.405, F.S.; providing for formation of limited liability companies; amending s. 608.406, F.S.; providing requirements for names of limited liability companies; creating s. 608.4061, F.S.; providing for reservation of the name of a foreign limited liability company; creating s. 608.4062, F.S.; providing for registration of the name of a foreign limited liability company; amending s. 608.407, F.S.; specifying content of articles of organization; amending s. 608.408, F.S.; providing for execution of certificates or statements; creating s. 608.4081, F.S.; providing filing requirements; creating s. 608.4082, F.S.; providing duties of the Department of State; amending s. 608.409, F.S.; specifying effect of issuance of certificate of organization; creating s. 608.4101, F.S.; requiring maintenance of certain records; amending s. 608.411, F.S.; providing for amendment to articles of organization; creating s. 608.412, F.S.; requiring filing of supplemental affidavit of capital contributions in specified circumstances; amending s. 608.415, F.S., requiring limited liability companies to maintain registered office and registered agent; amending s. 608.416, F.S.; providing for change of registered office and change or resignation of registered agent; amending s. 608.4211, F.S.; specifying allowable contributions to capital and liability therefor, amending s. 608.422, F.S.; providing for management; creating s. 608.4225, F.S.; providing general standards for managers or managing members, amending s. 608.423, F.S.; providing for adoption of regulations; creating s. 608.4231, F.S.; providing for voting by members and managers; creating s. 608.4232, F.S.; providing for additional members; amending s. 608.424, F.S.; limiting ability to contract debt; amending s. 608.425, F.S.; providing for ownership of company property; amending s. 608.426, F.S.; providing circumstances for distribution of property; creating s. 608.4261, F.S.; providing for sharing of profits and losses; amending s. 608.427, F.S.; providing for withdrawal or reduction of members' contributions to capital; creating s. 608.428, F.S.; specifying liability upon return of contribution; amending s. 608.432, F.S.; providing for transfer of members' interests; creating s. 608.433, F.S.; providing circumstances under which an assignee may become a member; creating s. 608.434, F.S.; specifying powers of the estate of a deceased or incompetent member; amending s. 608.436, F.S.; specifying liability of members and managers to creditors; creating s. 608.4362, F.S.; specifying liability of managers and managing members; creating s. 608.4363, F.S.; providing for indemnification; amending s. 608.441, F.S.; providing for dissolution; creating s. 608.4411, F.S.; providing for revocation of dissolution; creating s. 608.4421, F.S.; providing for disposition of claims against dissolved company; creating s. 608.4431, F.S.; specifying effect of dissolution; amending s. 608.444, F.S.; providing for distribution of assets upon dissolution; amending s. 608.445, F.S.; specifying content of articles of dissolution; amending s. 608.446, F.S.; providing for filing of articles of dissolution; amending s. 608.448, F.S.; specifying grounds for administrative dissolution; creating s. 608.4481, F.S.; providing procedures for and effects of administrative dissolution; creating s. 608.4482, F.S.; providing for reinstatement; creating s. 608.4483, F.S.; providing for appeal from denial of reinstatement; amending s. 608.449, F.S.; providing grounds for judicial dissolution; creating s. 608.4491, F.S.; providing procedure for judicial dissolution; creating s. 608.4492, F.S.; providing for receivership or custodianship; creating s. 608.4493, F.S.; providing for decree of dissolution; creating s. 608.4494, F.S.; requiring deposit of assets of dissolved company with the Department of Banking and Finance; creating s. 608.4511, F.S.; requiring filing of annual reports with the Department of State; amending s. 608.452, F.S.; specifying fees of the Department of State; amending s. 608.455, F.S.; providing for waiver of certain required notices; amending s. 608.471, F.S.; providing for determination of tax under chapter 220, F.S.; creating s. 608.501, F.S.; requiring a foreign limited liability company to obtain a certificate of authority prior to transacting business; creating s. 608.502, F.S.; specifying consequences of transacting business without authority; creating s. 608.503, F.S.; providing for application for certificate of authority; creating s. 608.504, F.S.; providing for amendment of certificate of authority; creating s. 608.505, F.S.; specifying effect of certificate of authority; creating s. 608.506, F.S.; providing requirements for name of foreign limited liability company; creating s. 608.507, F.S.; requiring registered office and registered agent; creating s. 608.508, F.S.; providing for change of registered office and registered agent; creating s. 608.509, F.S.; providing for resignation of registered agent; creating s. 608.5101, F.S.; providing for service of process; creating s. 608.511, F.S.; providing for withdrawal of foreign limited liability company; creating s. 608.512, F.S.; specifying grounds for revocation of authority to transact business; creating s. 608.513, F.S.; specifying procedure for and effect of revocation of authority; creating s. 608.5135, F.S.; providing for revocation and reinstatement of certificates of authority; creating s. 608.514, F.S.; providing for appeal from revocation; amending ss. 621.01, 621.02, 621.03, 621.04, 621.05, 621.06, 621.07, 621.08, 621.09, 621.10, 621.11, 621.12, 621.13, and 621.14, F.S.; broadening the scope of the Professional Service Corporation Act to include professional limited liability companies; providing intent; providing a short title; providing definitions; providing exemptions; providing for organization of corporations or limited liability companies to provide professional services; limiting rendition of professional services; specifying liability of officers, agents, employees, shareholders, and members; limiting business transactions and issuance and transfer of ownership interests; providing

for administrative dissolution; restricting alienation of shares and ownership interests; requiring use of certain terms in the corporation's or company's name; specifying applicability of chapters 607 and 608, F.S.; providing a rule of construction; creating s. 621.051, F.S.; providing for organization of limited liability companies; repealing ss. 608.435, 608.442, 608.443, 608.451, 608.453, and 621.15, F.S., relating to liabilities of members, filing of statement of intent to dissolve, effect of statement of intent to dissolve, filings by the Department of State, miscellaneous charges, and applicability of ch. 67-590, Laws of Florida; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 402** and by two-thirds vote read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 1943** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—None

On motions by Senator Dudley, by two-thirds vote **HB 1825** was withdrawn from the Committees on Commerce; Finance, Taxation and Claims; and Appropriations.

On motion by Senator Dudley, the rules were waived and by two-thirds vote—

HB 1825—A bill to be entitled An act relating to corporations; amending s. 15.16, F.S.; authorizing the Department of State to receive certain records electronically; amending s. 607.0120, F.S.; revising filing requirements; amending s. 607.0123, F.S.; revising language with respect to the effective time and date of certain documents; amending s. 607.0124, F.S.; revising language with respect to correcting a filed document; amending s. 607.0202, F.S.; deleting certain required information in the articles of incorporation; amending s. 607.0301, F.S.; revising language with respect to the purposes and application of the Florida Business Corporation Act; amending s. 607.0401, F.S.; revising language with respect to the corporate name; amending s. 607.0501, F.S.; eliminating a required report filed by a registered agent; amending s. 607.0502, F.S.; revising language with respect to the resignation of a registered agent; amending s. 607.0601, F.S.; revising language with respect to authorized shares; providing requirements with respect to classes of shares; amending s. 607.0603, F.S.; revising language with respect to outstanding shares; amending s. 607.0620, F.S.; revising language with respect to subscribers who default; amending s. 607.0703, F.S.; revising language with respect to court ordered meetings; amending s. 607.0704, F.S.; revising language with respect to actions by shareholders without a meeting; amending s. 607.0720, F.S.; revising language with respect to shareholders' list for meeting; amending s. 607.0725, F.S.; providing additional requirements with respect to quorum and voting requirements; repealing s. 607.0727, F.S., relating to shareholder quorum and voting and greater or lesser voting requirements; amending s. 607.0730, F.S.; revising language with respect to voting trusts; amending s. 607.0731, F.S., and repealing subsection (3); deleting a provision making certain shareholder agreements invalid; creating s. 607.0732, F.S.; specifying the contents and procedures for shareholder agreements; amending s. 607.0801, F.S.; deleting a provision relating to dispensing with a board of directors for certain corporations; amending s. 607.0804, F.S.; revising language with respect to the election of directors by certain voting groups; amending s. 607.0806, F.S.; revising language with respect to staggered terms for directors; amending s. 607.0831, F.S.; deleting a provision with respect to certain quorums; deleting a provision relating to the liability of directors which provided for application to nonprofit corporations; amending s. 607.0832, F.S.; revising language with respect to director conflicts of interest; amending s. 607.0901, F.S., revising language with respect to affiliated transactions; amending s. 607.0902, F.S.; revising language with respect to control-share transactions; amending s. 607.1002, F.S.; deleting a provision relating to changing shares of outstanding classes under certain circumstances; providing that the board of directors may adopt an amendment to the articles of incorporation, without shareholder action, to change the par value for a class or series of shares; creating s. 605.10025, F.S.; providing for share divisions and combinations; providing criteria and procedures; amending s. 607.1006, F.S.; revising language with respect to articles of amendment; amending s. 607.1007, F.S.; revising language with respect to restated articles of incorporation; amending s. 607.1103, F.S.; deleting language which provides that action by the shareholders of a surviving corporation is not required with respect to action on a plan under certain circumstances; amending s. 607.1104, F.S.; revising language with respect to the merger of a subsidiary corporation; amending s. 607.1105, F.S.; revising language with respect to mergers; amending s. 607.1320, F.S.; revising language with respect to the procedure for exercise of dissenters' rights; amending s. 607.1405, F.S.; permitting immediate assumption or use of corporate name under certain circumstances; amending s. 607.1406, F.S.; revising language with respect to claims against a dissolved corporation; amending s. 607.1433, F.S.; revising language with respect to judgment of dissolution; amending s. 607.1506, F.S.; revising language with respect to the use of a fictitious or alternate name; amending s. 607.1507, F.S.; requiring a filed written statement by certain registered agents; amending s. 607.1508, F.S.; revising language with respect to a registered agent's change of address; amending s. 607.1509, F.S.; revising language with respect to the termination of an agency appointment; amending s. 607.193, F.S.; deleting an exemption from the supplemental corporate fee for certain nonprofit corporations; amending s. 617.01201, F.S.; providing that certain documents filed by corporations not for profit must be legible; amending s. 617.0122, F.S.; providing fees for filing documents; providing a fee exemption for certain nonprofit organizations; creating s. 617.01225, F.S.; imposing a supplemental corporate fee on not-for-profit corporations; providing an exemption; providing for payment of the fee; providing for a late charge; authorizing the Department of State to adopt rules; providing for deposit of the fee and late charge into the General Revenue Fund; amending s. 617.0123, F.S.; revising language with respect to the effective date of a document; amending s. 617.0124, F.S.; revising language with respect to correcting filed documents; amending s. 617.01301, F.S.; specifying documents which the Department of State is not required to file; authorizing the Department of State to bring certain court actions and certify to the Department of Legal Affairs for further action; amending s. 617.0202, F.S.; providing additional required information to be set forth in the articles of incorporation; amending s. 617.0401, F.S.; revising language with respect to the corporate name; amending s. 617.0501, F.S.; revising language with respect to a registered agent; amending s. 617.0502, F.S.; revising language with respect to the resignation of a registered agent; creating s. 617.0503, F.S.; providing for duties of registered agents; creating 617.0604, F.S.; providing for liability of corporation members; amending s. 617.0808, F.S.; revising language with respect to removal of directors; amending s. 617.0833, F.S., relating to loans to directors or officers; amending s. 617.1001, F.S.; providing for amendments to the articles of incorporation; amending s. 617.1002, F.S.; revising language with respect to the procedure for amendments to the articles of incorporation; amending s. 617.1007, F.S.; revising language with respect to restated articles of incorporation; amending s. 617.1401, F.S.; providing that articles of dissolution must be executed in a certain manner; amending s. 617.1433, F.S.; providing for judgment of dissolution; amending s. 617.1502, F.S.; authorizing the Department of State rather than the Department of Legal Affairs to collect penalties from foreign corporations; amending s. 617.1504, F.S.; providing an additional set of circumstances requiring an amended certificate of authority; amending s. 617.1506, F.S.; revising language with respect to the corporate name of a foreign corporation; amending s. 617.1507, F.S.; revising language with respect to the registered office and registered agent of a foreign corporation; amending s. 617.1508, F.S.; revising language with respect to change of address of a registered agent; amending s. 617.1509, F.S.; providing for the termination of agency appointments for foreign corporations; amending s. 617.1601, F.S.; revising language with respect to corporate records; creating s. 617.1602, F.S.; providing for inspection of records by members; creating s. 617.1603, F.S.; providing for the scope of the inspection right; creating s. 617.1604, F.S.; providing for court ordered inspection; creating s. 617.1605, F.S.; providing for financial reports for members; amending s. 617.1622, F.S.; providing for additional information in an annual report; amending s. 617.1623, F.S.; revising language with respect to corporate information available to the public; amending s. 617.1908, F.S.; providing for the applicability of the Florida Business Corporation Act; creating s. 617.2102, F.S.; providing for fines and penalties against members; creating s. 617.2103, F.S.; providing exemptions for certain corporations; amending s. 620.103, F.S.; revising language with respect to the name of a limited partnership; amending ss. 620.108, 620.109, 620.123, and 620.177, F.S.; providing requirements for general partners under certain circumstances; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 402** and read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 1825** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SB 698—A bill to be entitled An act relating to interstate extradition; repealing s. 941.10(3), F.S., under which a prisoner admitted to bail while awaiting an extradition proceeding is considered in the custody of the arresting agent or agents; amending s. 941.26, F.S.; providing for extradition of certain prisoners without a governor's warrant; providing an effective date.

—was read the second time by title.

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

Amendment 1—On page 1, lines 29-31 and on page 2, lines 1 and 2, strike all of said lines and insert:

(b) The law enforcement agency holding the person has received a copy of the prior waiver of extradition signed by the person and confirmed by the demanding agency, as well as photographs or fingerprints or other evidence properly identifying the person as the person who signed the waiver.

On motion by Senator Silver, by two-thirds vote **SB 698** 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

Consideration of **CS for SB 1018, SB 974, SB 978** and **CS for SB 1844** was deferred.

On motions by Senator Diaz-Balart, by two-thirds vote **CS for HB 411** was withdrawn from the Committees on Commerce and Appropriations.

On motions by Senator Diaz-Balart, by two-thirds vote—

CS for HB 411—A bill to be entitled An act relating to the Florida Uniform Land Sales Practices Law; amending s. 498.011, F.S.; revising provisions with respect to payment of per diem, mileage, and other expenses to employees of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation; amending s. 498.022, F.S.; providing additional unlawful acts under the Florida Uniform Land Sales Practices Law; amending s. 498.025, F.S.; revising provisions with respect to exemptions, conditions for exemption from the act, and additional exemptions from registration reporting provisions; providing for burden of proof with respect to exemptions; amending s. 498.027, F.S.; revising provisions with respect to applications for registration of subdivided lands; creating s. 498.028, F.S.; providing requirements with respect to contracts and conveyance instruments; amending s. 498.033, F.S.; revising provisions with respect to the registration of subdivided lands; providing for review and repeal; providing an effective date.

—a companion measure, was substituted for **SB 974** and by two-thirds vote read the second time by title. On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 411** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

CS for SB 1018—A bill to be entitled An act relating to rural health care; amending s. 240.4067, F.S., relating to the medical education reimbursement and loan repayment program; providing for penalties for noncompliance; deleting a 3-year limit on payment period; amending s. 240.4075, F.S.; adding birth centers to the list of eligible employing institutions for the nursing student loan forgiveness program; amending s. 381.0302, F.S.; providing additional membership in the Florida Health Services Corps; authorizing the Department of Health and Rehabilitative Services to provide certain financial assistance to primary care medical residents, physician assistants, and nurse practitioners; requiring membership in the corps for persons who receive specified educational expense assistance; requiring corps members to enroll in Medicaid; authorizing use of certain appropriated funds as federal matching funds; creating s. 381.0406, F.S., relating to rural health networks; providing legislative findings and intent; providing definitions; providing for organization, administration, and nonprofit corporate status; specifying services to be provided; requiring participation of certain trauma agencies; providing for public and private financing; providing for phased-in implementation; specifying responsibilities of the agency and the State Health Office relating to establishment and certification of rural health networks; providing for rules; amending s. 395.1055, F.S.; providing for separate standards for statutory rural hospitals; creating s. 395.606, F.S., relating to rural health network cooperative agreements; providing legislative intent with respect to antitrust laws; specifying conditions under which health care providers who are members of rural health networks may consolidate services or enter into cooperative agreements; requiring approval and oversight by the Agency for Health Care Administration; providing for administrative and judicial review; amending s. 408.036, F.S.; providing an exemption from certificate-of-need review; amending s. 408.043, F.S.; providing a preference in the award of certificate of need for members of certified rural health networks; amending s. 409.905, F.S.; providing for Medicaid nursing facility services for recipients in rural hospitals; creating s. 409.9116, F.S.; creating a disproportionate share program for rural hospitals; establishing a funding formula; providing for creation of a rural hospital financial assistance program under certain circumstances; specifying requirements for participation; amending s. 768.28, F.S.; correcting a cross-reference; directing the Agency for Health Care Administration to establish a work group to examine personnel licensing and training issues relating to rural hospitals; providing membership; requiring a report; providing appropriations; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment:

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

Section 1. Paragraph (a) of subsection (2) of section 240.4067, Florida Statutes, 1992 Supplement, is amended to read:

240.4067 Medical Education Reimbursement and Loan Repayment Program.—

(2) From the funds available, the Department of Health and Rehabilitative Services shall make payments to selected medical professionals as follows:

(a) Up to $4,000 per year for licensed practical nurses and registered nurses, up to $10,000 per year for advanced registered nurse practitioners and physician's assistants, and up to $20,000 per year for physicians. *Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program* ~~or an amount equivalent to one-third of the total of loans and other educational expenses that were incurred by the health care professional during his enrollment in medical or nursing school, whichever is less, for a maximum of 3 years.~~ Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health and Rehabilitative Services.

Section 2. Subsection (1) and paragraph (a) of subsection (7) of section 240.4075, Florida Statutes, 1992 Supplement, are amended to read:

240.4075 Nursing Student Loan Forgiveness Program.—

(1) To encourage qualified personnel to seek employment in areas of this state in which critical nursing shortages exist, there is established the Nursing Student Loan Forgiveness Program. The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the state and in state-operated medical and health care facilities, *birth centers,* federally sponsored community health centers and teaching hospitals by making repayments toward loans received by students from federal or state programs or commercial lending institutions for the support of post-secondary study in accredited or approved nursing programs.

(7)(a) Funds contained in the Nursing Student Loan Forgiveness Trust Fund which are to be used for loan forgiveness for those nurses employed by hospitals, *birth centers,* and nursing homes must be matched on a dollar-for-dollar basis by contributions from the employing institutions except that this provision shall not apply to state-operated medical and health care facilities, county public health units, federally sponsored community health centers, or teaching hospitals as defined in s. 408.07.

Section 3. Section 381.0302, Florida Statutes, 1992 Supplement, is amended to read:

381.0302 Florida Health Services Corps.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, the Legislature establishes the Florida Health Services Corps.

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

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

(b) "Florida Health Services Corps" means a program authorized by this section which:

1. Offers scholarships to *allopathic, osteopathic,* ~~medical,~~ chiropractic, *podiatric,* dental, *physician assistant,* and nursing students, *and loan repayment assistance and travel and relocation expenses to allopathic and osteopathic residents and physicians, chiropractors, podiatrists, nurse practitioners, dentists, and physician assistants,* in return for service in a public health care program *or in a medically underserved area.*

2. Offers membership on a voluntary basis to physicians and other health care personnel who provide uncompensated care.

(c) "Medically underserved area" means:

1. A geographic area, a special population, or a facility that has a shortage of health professionals as defined by federal regulations;

2. A county public health unit, community health center, or migrant health center; or

3. A geographic area or facility designated by rule by the department that has a shortage of health care practitioners who serve Medicaid and other low-income patients.

(d) "Medically indigent person" means a person who lacks public or private health insurance, is unable to pay for care, and is a member of a family with an income at or below 185 percent of the federal poverty level.

(e) "Public health program" means a county public health unit, a children's medical services program, a federally funded community health center, a federally funded migrant health center, or other publicly funded *or nonprofit* health care program designated by the department.

(f) "Primary care" means family and general practice, general pediatrics, obstetrics/gynecology, and general internal medicine.

(3) The Florida Health Services Corps shall be developed by the State Health Office in cooperation with the programs in the area Health Education Center network as defined in s. 381.0402 and the state's health care education and training institutions. The State Health Officer shall be the director of the Florida Health Services Corps.

(4) Corps members shall be supervised by the State Health Officer, or his physician designee, for the purpose of practice guidelines, continuing education, and other matters pertaining to professional conduct.

(5) The department may award scholarships to students studying medicine, *osteopathic medicine,* chiropractic, *podiatric,* nursing, or dentistry.

(a) The program shall require a student who receives a scholarship to accept an assignment in a public health care program or work in a specific community located in a medically underserved area upon *completion of primary care training* ~~graduation~~. The department shall determine assignments. If a practitioner is assigned to a medically underserved area, the practitioner must treat Medicaid patients and other patients with low incomes.

(b) An eligible student must *be pursuing* ~~pursue~~ a full-time course of study in:

1. Allopathic or osteopathic medicine, including physician assistants;

2. Dentistry;

3. Podiatric medicine;

4. ~~3.~~ Nursing, including registered nurses, nurse midwives, and other nurse practitioners; or

5. ~~4.~~ Chiropractic medicine.

(c) In selecting students to participate in the scholarship program, priority shall be given to students who indicate a desire to practice a primary care specialty in a medically underserved area after their obligation is completed and who indicate an intent to practice medical specialties for which the department has a need.

(d) Scholarship assistance shall consist of reimbursement for tuition and other educational costs such as books, supplies, equipment, transportation, and monthly living expense stipends. The department shall pay the same amount for living expense stipends as is paid by the National Health Services Corps. Each monthly living expense stipend shall be for a 12-month period beginning with the first month of each school year in which the student is a participant. The department may reimburse a participant for books, supplies, and equipment based on average costs incurred by participants for these items. The department shall prescribe, by rule, eligible expenses for reimbursement and allowable amounts.

(e) For *an allopathic or osteopathic* ~~a~~ medical student, enrollment in the corps may begin in the second year of medical school or in any year thereafter. For a nursing student or other student, enrollment may occur in any year.

(f) For a student who receives scholarship assistance, participation in the corps after *completion of training* ~~graduation~~ shall be 1 year for each school year of *scholarship* ~~financial~~ assistance, up to a maximum of 3 years. The period of obligated service shall begin when the participant is assigned by the department to a public health program or to a medically underserved area.

(6) The department may provide loan repayment assistance and travel and relocation reimbursement to allopathic and osteopathic medical residents with primary care specialties during their last 2 years of residency training or upon completion of residency training, and to physician assistants and nurse practitioners with primary care specialties, in return for an agreement to serve a minimum of 2 years in the Florida Health Services Corps. During the period of service, the maximum amount of annual financial payments shall not be greater than the annual total of loan repayment assistance and tax subsidies authorized by the National Health Services Corps loan repayment program.

(7)~~(6)~~ The financial penalty for noncompliance with participation requirements *for persons who have received financial payments under subsection (5) or subsection (6)* shall be determined in the same manner as in the National Health Services Corps scholarship program. In addition, noncompliance with participation requirements shall also result in ineligibility for professional licensure *or renewal of licensure* under chapter 458, chapter 459, chapter 460, chapter 464, chapter 465, or chapter 466. For a participant who is unable to participate for reasons *of* ~~beyond his control, such as~~ disability, the penalty is the actual amount of financial assistance provided to the participant. Financial penalties shall be deposited in the Florida Health Services Corps Trust Fund and shall be used to provide additional scholarship and financial assistance.

(8)~~(7)~~ Membership in the corps may be extended to any licensed physician or other health care practitioner who provides uncompensated care to medically indigent persons referred by the department. Participation in the corps is voluntary and subject to the supervision of the department for the purpose of practice guidelines, continuing education, and other matters pertaining to professional conduct.

(9) Persons who receive loan repayment assistance under s. 240.4067 shall be members of the Florida Health Services Corps.

(10) Corps members shall be enrolled in Medicaid and accept all patients referred by the department pursuant to an agreement with the department.

(11)~~(8)~~ A Florida Health Services Corps member is an agent of the state under s. 768.28(9) while providing uncompensated services to medically indigent persons who are referred by the department.

(12)~~(9)~~ Funds appropriated under this section shall be deposited in the Florida Health Services Corps Trust Fund, which shall be administered by the State Health Office. *The department may use funds appropriated for the Florida Health Services Corps as matching funds for federal service-obligation scholarship programs for health care*

practitioners, such as the Demonstration Grants to States for Community Scholarship Grants program. If funds appropriated under this section are used as matching funds, federal criteria shall be followed whenever there is a conflict between provisions in this section and federal requirements.

(13)~~(10)~~ The department shall adopt rules to implement the Florida Health Services Corps. The rules must also quantify penalties for noncompliance.

Section 4. Section 381.0406, Florida Statutes, is created to read:

381.0406 Rural health networks.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that, in rural areas, access to health care is limited and the quality of health care is negatively affected by inadequate financing, by difficulty in recruiting and retaining skilled health professionals, and because of a migration of patients to urban areas for general acute care and specialty services.

(b) The Legislature further finds that the efficient and effective delivery of health care services in rural areas requires the integration of public and private resources and the coordination of health care providers.

(c) The Legislature further finds that the availability of a continuum of quality health care services, including preventive, primary, secondary, tertiary, and long term care, is essential to the economic and social vitality of rural communities.

(d) The Legislature further finds that the creation of rural health networks can help to alleviate these problems. Rural health networks shall, to the extent possible, be structured to provide a continuum of quality health care services for rural residents through the cooperative efforts of rural health network members.

(e) The Legislature further finds that rural health networks shall have the goal of increasing the utilization of statutory rural hospitals for appropriate health care services whenever feasible, which shall help to ensure their survival and thereby support the economy and protect the health and safety of rural residents.

(f) Finally, the Legislature finds that rural health networks may serve as "laboratories" to determine the best way of organizing rural health services, to move the state closer to ensuring that everyone has access to health care, and to promote cost containment efforts. The ultimate goal of rural health networks shall be to ensure that quality health care is available and efficiently delivered to all persons in rural areas.

(2) DEFINITIONS.—

(a) "Rural" means an area with a population density of less than 100 individuals per square mile or an area defined by the United States Census as rural.

(b) "Health care provider" means any individual, group, or entity, public or private, that provides health care, including: preventive health care, primary health care, secondary and tertiary health care, in-hospital health care, public health care, and health promotion and education.

(c) "Rural health network" or "network" means a nonprofit legal entity, consisting of rural and urban health care providers and others, that is organized to plan and deliver health care services on a cooperative basis in a rural area, except for some secondary and tertiary care services.

(3) Because each rural area is unique, with a different health care provider mix, health care provider membership may vary, but all networks shall include members that provide public health, comprehensive primary care, emergency medical care, and acute inpatient care.

(4) Network membership shall be available to all health care providers, provided that they render care to all patients referred to them from other network members.

(5) Network areas do not need to conform to local political boundaries or state administrative district boundaries.

(6) Networks shall develop provisions for referral to tertiary inpatient care and to other services that are not available in rural areas.

(7) Networks shall make available health promotion, disease prevention, and primary care services to improve the health status of rural residents and to contain health care costs.

(8) Networks may have multiple points of entry, such as through private physicians, community health centers, county public health units, certified rural health clinics, hospitals, or other providers; or they may have a single point of entry.

(9) Networks shall establish standard protocols, coordinate and share patient records, and develop patient information exchange systems.

(10) Networks shall develop risk management and quality assurance programs for network providers.

(11) NETWORK GOVERNANCE AND ORGANIZATION.—

(a) Networks shall be incorporated under the laws of the state.

(b) Each network shall have a board of directors that derives membership from local government, health care providers, businesses, consumers, and others.

(c) Network boards of directors shall have the responsibility of determining the content of health care provider agreements that link network members. The agreements shall specify:

1. Who provides what services.

2. The extent to which the health care provider provides care to persons who lack health insurance or are otherwise unable to pay for care.

3. The procedures for transfer of medical records.

4. The method used for the transportation of patients between providers.

5. Referral and patient flow, including appointments and scheduling.

6. Payment arrangements for the transfer or referral of patients.

(12) NETWORK SERVICES.—

(a) Networks, to the extent feasible, shall provide for a continuum of care for all patients served by the network. Each network shall include the following core services: disease prevention, health promotion, comprehensive primary care, emergency medical care, and acute inpatient care. Networks shall, to the extent feasible, also ensure the availability of the following services either directly, by contract, or through referral agreements:

1. Services available in the home:

a. Home health care.

b. Hospice care.

2. Services accessible within 30 minutes or less:

a. Emergency medical services, including advanced life support, ambulance, and basic emergency room services.

b. Primary care.

c. Prenatal care.

d. Community-based services for elders, such as adult day care and assistance with activities of daily living.

e. Public health services, including communicable disease control, disease prevention, health education, and health promotion.

f. Outpatient psychiatric and substance abuse services.

3. Services accessible within 45 minutes or less:

a. Hospital acute inpatient care for persons whose illnesses or medical problems are not severe.

b. Level I obstetrical care, which is labor and delivery for low-risk patients.

c. Skilled nursing services and long-term care, including nursing home care.

d. Dialysis.

e. Osteopathic and chiropractic manipulative therapy.

4. Services accessible within 2 hours or less:

a. Specialist physician care.

b. Hospital acute inpatient care for severe illnesses and medical problems.

c. Level II and III obstetrical care, which is labor and delivery care for high-risk patients and neonatal intensive care.

d. Comprehensive medical rehabilitation.

e. Inpatient psychiatric and substance abuse services.

f. Magnetic resonance imaging, lithotripter treatment, advanced radiology, and other technologically advanced services.

g. Subacute care.

(b) Networks shall actively participate with area health education center programs, whenever feasible, in developing and implementing recruitment, training, and retention programs directed at positively influencing the supply and distribution of health care professionals serving in, or receiving training in, network areas.

(c) As funds become available, networks shall emphasize community care alternatives for elders who would otherwise be placed in nursing homes.

(13) TRAUMA SERVICES.—In network areas which have an established trauma agency approved by the Department of Health and Rehabilitative Services, that trauma agency must be a participant in the network. Trauma services provided within the network area must comply with s. 395.405.

(14) NETWORK FINANCING. Networks may use all sources of public and private funds to support network activities.

(15) NETWORK IMPLEMENTATION.—As funds become available, networks shall be developed and implemented in two phases:

(a) Phase I shall consist of a network planning and development grant program administered by the Agency for Health Care Administration in consultation with the State Health Officer. Planning grants shall be used to organize networks, incorporate network boards, and develop formal provider agreements as provided for in this section. The Agency for Health Care Administration shall develop a request-for-proposal process to solicit grant applications.

(b) Phase II shall consist of network operations. As funds become available, certified networks shall be eligible to receive grant funds to be used to help defray the costs of providing patient care. A phase II award may occur in the same fiscal year as a phase I award.

(16) CERTIFICATION.—For the purpose of certifying networks that are eligible for phase II funding, the Agency for Health Care Administration, in consultation with the State Health Office, shall certify networks that meet the criteria delineated in this section.

(17) RULES.—The Agency for Health Care Administration, in consultation with the State Health Office, shall establish rules that govern the creation and certification of networks, including establishing outcome measures for networks.

Section 5. Subsection (2) of section 395.1055, Florida Statutes, 1992 Supplement, is amended to read:

395.1055 Rules and enforcement.—

(2) Separate standards may be provided for general and specialty hospitals, ~~and~~ ambulatory surgical centers, *and statutory rural hospitals as defined in s. 395.602.*

Section 6. Section 395.606, Florida Statutes, is created to read:

395.606 Rural health network cooperative agreements.—

(1) INTENT.—It is the Legislature's intent that, to the extent necessary to foster the development of rural health networks as provided for in s. 381.0406, competitive market forces shall be replaced with state regulation, as provided for in subsections (2) and (3). It is also the intent of the Legislature that consolidation of hospital services or technologies undertaken pursuant to this section, and cooperative agreements between members of rural health networks, shall not violate the state's antitrust laws when such arrangements improve the quality of health care, moderate cost increases, and are made between members of rural health networks as defined in s. 381.0406. It is also the intent of the Legislature that such arrangements be protected from federal antitrust laws, subject to the approval and supervision of the Agency for Health Care Administration. Such intent is within the public policy of the state to facilitate the provision of quality, cost-efficient medical care to its citizens.

(2) STATE ACTION APPROVAL.—Providers who are members of certified rural health networks who seek to consolidate services or technologies or enter into cooperative agreements shall seek approval from the Agency for Health Care Administration, which may consult with the Department of Legal Affairs. The agency shall determine that the likely benefits resulting from the agreement outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement and issue a letter of approval if, in its determination, the agreement reduces or moderates costs and meets any of the following criteria:

(a) Consolidates services or facilities in a market area used by rural health network patients to avoid duplication;

(b) Promotes cooperation between rural health network members in the market area;

(c) Encourages cost sharing among rural health network facilities;

(d) Enhances the quality of rural health care; or

(e) Improves utilization of rural health resources and equipment.

(3) STATE OVERSIGHT.—The Agency for Health Care Administration shall review each agreement approved under subsection (2) at least every 2 years. If the agency determines that the likely benefits resulting from its state action approval no longer outweigh any disadvantages attributable to any potential reduction in competition resulting from the agreement, the agency shall initiate proceedings to terminate its state action approval governing the agreement. Such termination proceeding shall be governed by chapter 120 of the Florida Administrative Procedure Act.

(4) ADMINISTRATIVE AND JUDICIAL REVIEW.—Any applicant aggrieved by a decision of the Agency for Health Care Administration shall be entitled to both administrative and judicial review thereof in accordance with chapter 120. In such review, the decision of the agency shall be affirmed unless it is arbitrary, capricious, or not in compliance with this section.

Section 7. Paragraph (i) is added to subsection (3) of section 408.036, Florida Statutes, 1992 Supplement, to read:

408.036 Projects subject to review.—

(3) EXEMPTIONS.—Upon request, supported by such documentation as the department may require, the department shall grant an exemption from the provisions of subsection (1):

(i) For the conversion of licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital as defined in s. 395.602, so long as the conversion of the beds does not involve the construction of new facilities. The total number of skilled nursing beds, including swing beds, may not exceed one-half of the total number of licensed beds in the rural hospital as of July 1, 1993. Certified skilled nursing beds designated under this paragraph, excluding swing beds, shall be included in the community nursing home bed inventory. A rural hospital which subsequently decertifies any acute care beds exempted under this paragraph shall notify the agency of the decertification and the agency shall adjust the community nursing home bed inventory accordingly.

Section 8. Subsection (4) is added to section 408.043, Florida Statutes, 1992 Supplement, to read:

408.043 Special provisions.—

(4) RURAL HEALTH NETWORKS.—Preference shall be given in the award of a certificate of need to members of certified rural health networks, as provided for in s. 381.0406, subject to the following conditions:

(a) Need must be shown pursuant to s. 408.035.

(b) The proposed project must:

1. Strengthen health care services in rural areas through partnerships between rural care providers; or

2. Increase access to inpatient health care services for Medicaid recipients or other low-income persons who live in rural areas.

(c) No preference shall be given under this section for the establishment of skilled nursing facility services by a hospital.

Section 9. Subsection (8) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The department may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined by the department to be eligible on the dates on which the services were provided. Any service under this section may be provided only when medically necessary, shall be provided in accordance with state and federal law, and is subject to the availability of moneys and any limitation established by the general appropriations act or chapter 216.

(8) NURSING FACILITY SERVICES.—The department shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part I of chapter 400 *or in a rural hospital, as defined in s. 395.602*, which are ordered by and provided under the direction of a licensed physician.

Section 10. Section 409.9116, Florida Statutes, is created to read:

409.9116 Disproportionate share program for rural hospitals.—In addition to the payments made under s. 409.911, the Agency for Health Care Administration shall design and implement a system of making disproportionate share payments to statutory rural hospitals. This system of payments shall conform with federal requirements and shall distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding the provisions of s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients.

(1) The following formula shall be used by the agency to calculate the total amount earned for hospitals that participate in the rural hospital disproportionate share program:

$$TAERH = (CCD + MDD)/TPD$$

Where:

CCD = total charity care-other, plus charity care-Hill Burton, minus 50 percent of unrestricted tax revenue from local governments, and restricted funds for indigent care, divided by gross revenue per adjusted patient day.

MDD = Medicaid inpatient days plus Medicaid HMO inpatient days.

CCDR = charity care days for a rural hospital.

TPD = total inpatient days.

TAERH = total amount earned by each rural hospital.

In computing the total amount earned by each rural hospital, the agency must use the most recent actual data reported in accordance with s. 408.061(4)(a).

(2) The distribution amount for each rural hospital under this section must be calculated by the agency as follows:

$$DAER = (TAERH \times TARH)/STAERH$$

Where:

DAER = distribution amount for each rural hospital.

STAERH = sum of total amount earned by each rural hospital.

TAERH = total amount earned by each rural hospital.

TARH = total amount appropriated or distributed under this section.

(3) The Agency for Health Care Administration shall recommend to the Legislature a formula to be used in subsequent fiscal years to distribute funds appropriated for this section that includes charity care, uncompensated care to medically indigent patients, and Medicaid inpatient days.

(4) In the event the disproportionate share program is not available for providing specific assistance to rural hospitals, there shall be created the rural hospital financial assistance program. Funds appropriated to the rural hospital financial assistance program shall be allocated to rural hospitals based on the formulas in subsection (1) and subsection (2).

(5) In order to receive payments under this section, a hospital must be a rural hospital as defined in s. 395.602 and must meet the following additional requirements:

(a) Agree to conform to all agency requirements to ensure high quality in the provision of services, including criteria adopted by agency rule concerning staffing ratios, medical records, standards of care, equipment, space, and such other standards and criteria as the agency deems appropriate as specified by rule.

(b) Agree to accept all patients, regardless of ability to pay, on a functional space-available basis.

(c) Agree to provide backup and referral services to the county public health units and other low-income providers within the hospital's service area, including the development of written agreements between these organizations and the hospital.

Section 11. Paragraph (b) of subsection (9) of section 768.28, Florida Statutes, 1992 Supplement, is amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions.—

(9)

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115, any member of the Florida Health Services Corps, as defined in s. *381.0302* ~~381.90~~, who provides uncompensated care to medically indigent persons referred by the Department of Health and Rehabilitative Services, and any public defender or his employee or agent, including, among others, an assistant public defender and an investigator.

Section 12. The Agency for Health Care Administration shall establish a workgroup for the purpose of examining personnel licensing and training issues related to rural hospitals, as defined in s. 395.602, and shortages of health care professionals.

(1) The agency workgroup shall make recommendations for specific statutory and regulatory changes necessary to accomplish the following goals:

(a) Enhancement of the quality and effectiveness of health care in rural areas.

(b) Development of a licensure category and cross-training program that allows rural hospitals, as defined in s. 395.602, flexibility in utilizing personnel licensed under chapter 464, chapter 483, or part III, part IV, or part V of chapter 468, who have at least 3 years' professional experience, to perform professional functions in one or more of the other areas of professional practice listed in this paragraph.

(c) Development of standards for a nonrenewable, temporary license to be issued by the appropriate licensing boards that would allow a health care professional licensed in another state to practice in areas of the state designated as areas of critical health professional shortage, or in a profession designated as a profession of critical shortage, for a period not to exceed 6 months. The agency workgroup shall make recommendations as to which areas of the state should be designated as areas of critical health professional shortage, as well as which health care professions should be designated as professions of critical shortage.

(2) The agency workgroup shall be composed of the following members:

(a) One member who is a representative of the Office of Licensure and Certification of the agency, appointed by the Director of Health Care Administration.

(b) One representative of the agency appointed by the Director of Health Care Administration.

(c) One representative of the Department of Professional Regulation appointed by the Secretary of Professional Regulation.

(d) One member who is a representative of the Division of Community Colleges of the Department of Education appointed by the Executive Director of the Division of Community Colleges.

(e) One member appointed by the Board of Medicine.

(f) One member appointed by the Board of Nursing.

(g) One member appointed by the Board of Clinical Laboratory Personnel.

(h) One member who is a representative of the Office of Rural Health appointed by the Secretary of Health and Rehabilitative Services.

(i) Two members who are representatives of statutory rural hospitals appointed by the Governor.

(j) Two members who are representatives of statutory rural hospitals appointed by the President of the Senate.

(k) Two members who are representatives of statutory rural hospitals appointed by the Speaker of the House of Representatives.

(3) The agency shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing the workgroup's recommendations no later than December 31, 1993.

Section 13. There is hereby appropriated to the Agency for Health Care Administration $9,126,044 from the General Revenue Fund and $4,417,233 from the Medical Care Trust Fund to be allocated as follows:

$5,000,000 from the General Revenue Fund for rural hospitals Financial Assistance Program

$3,826,044 from the General Revenue Fund and $4,417,233 from the Medical Care Trust Fund for Medicaid reimbursement for skilled nursing facility beds in acute care hospitals

$300,000 from the General Revenue Fund for 4 rural health network development grants

Section 14. There is hereby appropriated to the Department of Health and Rehabilitative Services, 3 career service positions and $2,150,000 from the General Revenue Fund to be allocated as follows:

$150,000 and 3 positions for the Office of Rural Health.

$2,000,000 for the Florida Health Services Corps Program.

Section 15. Notwithstanding any other provision of law, the Governor may place any or all of the funds appropriated in this act in mandatory reserve for the entire fiscal year 1993-1994 in the event that duplicative funds are appropriated for the programs modified or created herein.

Section 16. This act shall take effect July 1, 1993.

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 rural health care; amending s. 240.4067, F.S., relating to the medical education reimbursement and loan repayment program; providing for penalties for noncompliance; deleting a 3-year limit on payment period; amending s. 240.4075, F.S.; adding birth centers to the list of eligible employing institutions for the nursing student loan forgiveness program; amending s. 381.0302, F.S.; providing additional membership in the Florida Health Services Corps; authorizing the Department of Health and Rehabilitative Services to provide certain financial assistance to primary care medical residents, physician assistants, and nurse practitioners; authorizing use of certain appropriated funds as federal matching funds; creating s. 381.0406, F.S., relating to rural health networks; providing legislative findings and intent; providing definitions; providing for organization, administration, and nonprofit corporate status; specifying services to be provided; requiring participation of certain trauma agencies; providing for public and private financing; providing for phased-in implementation; specifying responsibilities of the agency and the State Health Office relating to establishment and certification of rural health networks; providing for rules; amending s. 395.1055, F.S.; providing for separate standards for statutory rural hospitals; creating s. 395.606, F.S., relating to rural health network cooperative agreements; providing legislative intent with respect to antitrust laws; specifying conditions under which health care providers who are members of rural health networks may consolidate services or enter into cooperative agreements; requiring approval and oversight by the agency; providing for administrative and judicial review; amending s. 408.036, F.S.; providing an exemption from certificate-of-need review; amending s. 408.043, F.S.; providing a preference in the award of certificate of need for members of certified rural health networks; amending s. 409.905, F.S.; providing for Medicaid nursing facility services for recipients in rural hospitals; creating s. 409.9116, F.S.; creating a disproportionate share program for rural hospitals; establishing a funding formula; providing for creation of a rural hospital financial assistance program under certain circumstances; specifying requirements for participation; amending s. 768.28, F.S.; correcting a cross reference; directing the agency to establish a workgroup to examine personnel licensing and training issues relating to rural hospitals; providing membership; requiring a report; providing appropriations; providing an effective date.

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

Amendment 1A—On page 2, lines 15 and 24, following *"center," insert: Community mental health center,*

Amendment 1B—On page 3, strike all of lines 13-16 and insert: *nutritionist,* and nursing students, *and loan repayment assistance and travel and relocation expenses to allopathic and osteopathic residents and physicians, chiropractors, podiatrists, nurse practitioners, nutritionists, dentists, and physician assistants,* in return

Amendment 1C—On page 4, line 12, after "medicine" insert: *by primary care physicians licensed under chapters 458, 459, 460 or 461*

Amendment 1D—On page 4, line 25, following "nursing," insert: *nutrition*

Amendment 1E—On page 5, after line 11, insert:

6. optometry; or

7. nutrition

Amendment 1F—On page 6, strike line 16 and insert: *specialties, and to other practitioners, in return for an agreement to serve a minimum of 2 years in*

Amendment 1G—On page 6, line 21, following the period (.) insert: *Nutritionists shall be treated in the same manner as nurses with regard to reimbursement.*

Amendment 1H—On page 12, line 17, after "therapy" insert: *and services*

Amendment 1I—On page 12, line 7, after "psychiatric" insert: *, psychotherapeutic*

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

Amendment 1J—On page 12, line 18, insert:

f. Podiatric services.

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

Amendment 1K—On page 13, line 9, following "homes" insert: *and community care alternatives for persons with mental disorders who would otherwise be institutionalized.*

Amendment 1L—On page 19, strike line 7

Amendment 1M—On page 22, between lines 21 and 22, insert:

(f) One member appointed by the Board of Osteopathic Medicine.

(g) One member appointed by the Board of Chiropractic.

(h) One member appointed by the Board of Podiatric Medicine.

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

Amendment 1N—On page 1, line 12, insert:

Section 1. Paragraph (b) of subsection (1) of section 400.051, Florida Statutes, is amended to read:

400.051 Homes or institutions exempt from the provisions of this part.—

(1) The following shall be exempt from the provisions of this part:

(b) Any *hospital that* ~~institution which offers its services primarily for medical treatment or surgery and~~ is licensed *under chapter 395* ~~by the state~~.

Section 2. Subsection (8) of section 409.905, Florida Statutes, are amended to read:

409.905 Mandatory Medicaid services.—The department may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined by the department to be eligible on the dates on which the services were provided. Any service under this section may be provided only when medically necessary, shall be provided in accordance with state and federal law, and is subject to the availability of moneys and any limitation established by the general appropriations act or chapter 216.

(8) NURSING FACILITY SERVICES.—The department shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part I of chapter 400 *or in a Medicare-certified skilled nursing facility operated by a hospital licensed under part I of chapter 395*, which *services* are ordered by and provided under the direction of a licensed physician.

Section 3. Paragraph (a) of subsection (2) of section 409.908, Florida Statutes, 1992 Supplement, is amended to read:

409.908 Reimbursement of Medicaid providers.—The department shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the department and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, and other mechanisms the department considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations established by the general appropriations act or chapter 216.

(2)(a) Reimbursement to nursing homes licensed under part I of chapter 400 and intermediate care facilities for the mentally retarded licensed under chapter 393 must be made prospectively. Reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the *statewide* average ~~statewide~~ nursing home payment. *Reimbursement to a hospital licensed under part I of chapter 395 for the provision of skilled nursing services must be made on the basis of the average payment for those services to a community nursing home in the county in which the hospital is located. If a hospital is located in a county that does not have a community nursing home, reimbursement must be determined by averaging the payments to nursing homes in the counties that surround the county in which the hospital is located. Reimbursement to a hospital for skilled nursing services is limited to 30 days, unless prior authorization has been obtained from the department. Medicaid reimbursement may be extended by the department beyond 30 days, and approval must be based upon verification by the patient's physician that either the patient requires short-term rehabilitative and recuperative services only, in which case an extension of no more than 15 days may be approved, or there is no available community nursing home bed, in which case an extension may be approved only until a community nursing home bed is located.*

Amendment 1 as amended was adopted.

On motion by Senator Thomas, by two-thirds vote **CS for SB 1018** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37 Nays—None

Consideration of **SB 1856** was deferred.

On motions by Senator Casas, by two-thirds vote **CS for CS for HB 911** was withdrawn from the Committees on Community Affairs; Governmental Operations; Finance, Taxation and Claims; and Appropriations.

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

CS for CS for HB 911—A bill to be entitled An act relating to emergency management; amending s. 23.121, F.S.; revising policy and purpose of the Florida Mutual Aid Act; amending s. 23.1225, F.S.; expanding provisions with respect to mutual aid agreements; amending s. 23.1231, F.S.; revising powers and duties with respect to the Florida Mutual Aid Plan; amending s. 23.127, F.S.; expanding provisions with respect to mutual aid agreements between law enforcement agencies; creating s. 213.055, F.S.; authorizing refunds of certain taxes paid during a state of emergency; authorizing the extension of due dates; authorizing the waiver of interest on taxes due; amending s. 235.26, F.S.; requiring the Department of Education to determine amendments necessary to the State Uniform Building Code for Public Educational Facilities Construction for the purpose of incorporating public shelter design criteria; requiring submission of criteria and estimated costs to the Governor and the Legislature; requiring the State Board of Education to amend the uniform building code by a specified date; amending s. 240.295, F.S.; requiring the Board of Regents to assess public shelter space within existing facilities of the State University System; providing for a report; providing for public shelter construction under certain circumstances; creating s. 252.311, F.S.; providing legislative intent; amending s. 252.32, F.S.; clarifying policy and purpose with respect to emergency management; amending s. 252.34, F.S.; providing definitions; amending s. 252.36, F.S.; providing clarifying language with respect to the emergency management powers of the Governor; amending and renumbering s. 252.35, F.S.; creating the Division of Emergency Management within the Department of Community Affairs; providing duties and responsibilities of the division; providing for a state comprehensive emergency management plan; creating s. 252.365, F.S.; providing for designation of Emergency Coordination Officers; amending s. 252.37, F.S.; providing specified surcharges; providing for the deposit of funds in a specified account within the Grants and Donations Trust Fund of the Department of Community Affairs; providing for the distribution of funds; providing for rules; amending s. 252.38, F.S.; revising and clarifying the emergency management powers of political subdivisions; specifying emergency management powers of counties and municipalities; amending and renumbering s. 252.355, F.S.; requiring each local emergency management agency in the state to maintain a registry of disabled persons; specifying the purpose of such registries; requiring the Department of Health and Rehabilitative Services to provide registration information; providing an exemption from public records requirements for records and information relative to such registries; providing for future review and repeal; creating s. 252.385, F.S.; providing legislative intent with respect to safe public shelter space; providing for a survey program; providing for annual reports with respect to retrofitting of facilities; amending s. 252.40, F.S., relating to mutual-aid arrangements; requiring a report from the Governor; amending ss. 252.46, 252.47, and 252.50, F.S., to conform; amending s. 252.52, F.S., to conform; prohibiting professional malpractice claims against certain licensed professionals under certain circumstances; providing a limitation against such immunity from liability; creating s. 327.59, F.S., relating to evacuations of marinas; amending s. 393.067, F.S.; requiring the Department of Health and Rehabilitative Services and the Agency for Health Care Administration to adopt rules establishing minimum standards for the preparation and annual updating of a comprehensive emergency management plan with respect to residential facilities for persons with developmental disabilities; amending s. 395.1055, F.S.; providing for the inclusion of a comprehensive emergency management plan within rules governing hospital regulation; amending ss. 400.23 and 400.441, F.S.; revising provisions with respect to minimum standards for nursing home facilities and adult congregate living facilities; including the preparation and annual updating of a comprehensive emergency management plan within such minimum standards; amending s. 400.407, F.S.; correcting a cross reference; creating s. 408.0415, F.S.; providing for expedited licensure and relicensure of specified intermediate care facilities for the developmentally disabled; amending s. 409.905, F.S.; expanding provisions relating to mandatory Medicaid services to provide for payment for specified nursing facility services under certain circumstances; amending s. 409.908, F.S., relating to reimbursement to hospitals for the provision of skilled nursing services; amending s. 465.019, F.S.; authorizing the provision of dispensing and consulting services by Class II institutional pharmacies during a state of emergency;

amending s. 465.0275, F.S.; providing exceptions to provisions regulating emergency prescription refills; amending s. 768.13, F.S.; adding declared states of emergency to the circumstances under which the good faith gratuitous rendering of emergency care or treatment is provided certain immunity from civil liability, and reenacting s. 401.265(3), F.S., relating to medical directors, to incorporate said amendment in a reference thereto; amending s. 624.5092, F.S.; requiring the Department of Revenue to administer, audit, and enforce the assessment and collection of the surcharge imposed by s. 252.37, F.S.; amending s. 374.976, F.S., relating to impacts of waterway development projects; authorizing inland navigation districts to waive certain rules for a project approved in a county recovering from a state of emergency; providing an appropriation; providing an effective date.

—a companion measure, was substituted for **CS for CS for CS for SB 1858** and by two-thirds vote read the second time by title.

Senator Casas moved the following amendment:

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

Section 1. Subsection (1) of section 23.121, Florida Statutes, 1992 Supplement, is amended to read:

23.121 Policy and purpose.—

(1) Because of the existing and continuing possibility of the occurrence of natural or manmade disasters or emergencies and other major law enforcement problems, including those that cross jurisdictional lines, and in order to ensure that preparations of this state will be adequate to deal with such activity, protect the public peace and safety, and preserve the lives and property of the people of the state, it is found and declared to be necessary:

(a) To create a state law enforcement mutual aid plan which provides for the *command and* coordination of law enforcement planning, operations, and mutual aid;

(b) To provide for the coordination of the dispatch and use of *state* law enforcement *and Florida National Guard* personnel and equipment ~~whenever,~~ because of natural or manmade disasters or emergencies *whenever,* a local law enforcement agency requires law enforcement assistance from *the state or* any other jurisdiction;

(c) To provide for a system for the receipt and dissemination of information, data, and directives pertaining to activities among law enforcement agencies;

(d) To prescribe a procedure for the inventory of all law enforcement personnel, facilities, and equipment in the state;

(e) To collect and disseminate information and intelligence relating to disasters or emergencies, either existing or pending;

(f) To preplan distribution and allocation of state resources in support of the overall law enforcement mission; and

(g) To allow a law enforcement agency to enter into a mutual aid agreement with another law enforcement agency of this state or any other state *or with any law enforcement agency of the United States or its territories.*

Section 2. Subsection (5) is added to section 23.1225, Florida Statutes, 1992 Supplement, to read:

23.1225 Mutual aid agreements.—

(5) In the event of a disaster or emergency such that a state of emergency is declared by the Governor pursuant to chapter 252, the requirement that a requested operational assistance agreement be a written agreement for rendering of assistance in a law enforcement emergency may be waived by the participating agencies for a period up to 90 days from the declaration of the disaster.

(a) When a law enforcement agency lends assistance pursuant to this subsection, all powers, privileges, and immunities listed in s. 23.127, except with regard to interstate mutual aid agreements, apply to the agency, provided that the law enforcement employees rendering services are being requested and coordinated by the affected local law enforcement executive in charge of law enforcement operations.

(b) A listing of such agencies and the officers and employees of such agencies rendering assistance pursuant to this subsection must be maintained by the agency requesting such assistance and filed at the end of the 90-day period with the Florida Department of Law Enforcement.

Section 3. Section 23.1231, Florida Statutes, 1992 Supplement, is amended to read:

23.1231 Florida Mutual Aid Plan; powers and duties.—

(1) The Florida Mutual Aid Plan must prepare for the distribution and allocation of state resources, *including the Florida National Guard,* in support of the overall law enforcement mission. The plan shall be administered by the Department of Law Enforcement to implement the policy and purposes set forth in s. 23.121.

(2) The executive director of the Department of Law Enforcement acting under the Governor as the state's chief law enforcement officer is the director of the Florida Mutual Aid Plan. The director of the Florida Mutual Aid Plan *shall* ~~may~~:

(a) Coordinate, integrate, and implement law enforcement planning and activities for the use of mutual aid and state resources;

(b) Coordinate the organization and direction of the law enforcement services of the Florida Mutual Aid Plan;

(c) Coordinate and implement the gathering and collection of information and intelligence relating to law enforcement mutual aid or assistance from state agencies to support local law enforcement agencies in any local disaster or emergency, and provide information to state and local law enforcement agencies;

(d) During a state of emergency declared by the Governor under chapter 252, command, control, and coordinate all state law enforcement personnel and equipment to support local law enforcement agencies;

(e)~~(d)~~ Act as the liaison with the Division of the Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles in order to coordinate and integrate plans for traffic control and the participation of the department in the law enforcement operation;

(f) Serve as liaison and guide the flow of requests from local law enforcement for requesting law enforcement services from the Florida National Guard;

(g)~~(e)~~ Serve as liaison to the Governor, federal and state departments and agencies, and local law enforcement officials in order to achieve close coordination and cooperation in planning and operations in trouble areas;

(h)~~(f)~~ Guide the flow of law enforcement information from federal and state organizations to local law enforcement officials;

(i)~~(g)~~ Serve as liaison to the Attorney General in order to keep him informed of changes in law enforcement plans and regulations, mutual aid agreements, and current developments in all situations from a legal standpoint; and

(j)~~(h)~~ Do other things necessary for the implementation of this part.

(3) The department may:

(a) Maintain an inventory of all state and local law enforcement resources and the resources of the Florida National Guard, as directed by the director of the Florida Mutual Aid Plan;

(b) Provide technical assistance to state and local agencies in making inventories of their resources, planning, and preparing mutual aid agreements;

(c) Draft rules for mutual aid agreements;

(d) Conduct surveys as necessary to carry out the purposes of this part; and

(e) Do other things necessary for the implementation of this act.

Section 4. Subsection (4) of section 23.127, Florida Statutes, 1992 Supplement, is amended to read:

23.127 Powers, privileges, and immunities.—

(4) A mutual aid agreement between law enforcement agencies in this state and any law enforcement agencies *of* ~~in~~ another state *or of the*

United States or its territories has the status of an interstate compact, but in any case or controversy involving performance or interpretation thereof or liability thereunder, the law enforcement agencies party thereto are real parties in interest and the state may maintain an action to recoup or otherwise make itself whole for any damages or liability that it incurs by reason of being joined as a party therein. Such action is maintainable against any public agency or agencies whose acts or omissions caused or contributed to the incurring of damages or liability by the state.

Section 5. Section 213.055, Florida Statutes, is created to read:

213.055 Declared emergency; waiver or suspension of specified revenue laws.—The following actions to waive or suspend a revenue law may be implemented only when the Governor has declared a state of emergency pursuant to s. 252.36.

(1)(a) The Governor and Cabinet may grant refunds of state and local taxes on motor and special fuel donated during a declared state of emergency for official emergency use, in cases in which the state solicits the donation. The refunds may be implemented by a vote of the majority of the Governor and Cabinet during a public meeting or by a majority jointly signing a written order.

(b) The authorized refunds of state and local taxes on motor and special fuel apply to taxes imposed by the following statutes:

1. Chapter 206;

2. Chapter 212;

3. Section 336.021;

4. Section 336.025; and

5. Section 336.026.

(2) Notwithstanding any other provision of law, the Executive Director of the Department of Revenue may implement the following actions during a declared state of emergency for those revenue sources over which the department is granted administrative control pursuant to s. 213.05:

(a) Extend the stipulated due date for tax returns and accompanying tax payments; and

(b) Waive interest that accrues during the period of the state of emergency on taxes due prior to and during the period of the disaster.

Section 6. Present subsection (10) of section 235.26, Florida Statutes, 1992 Supplement, is renumbered as subsection (11), and a new subsection (10) is added to that section, to read:

235.26 State Uniform Building Code for Public Educational Facilities Construction.—The State Board of Education shall adopt a uniform statewide building code for planning and construction of public educational and ancillary plants, except for Board of Regents facilities. The code shall be entitled the State Uniform Building Code for Public Educational Facilities Construction. Included in this code shall be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R., Parts 59 and 60, established by the Federal Emergency Management Agency, effective October 1, 1986. Wherever the words "Uniform Building Code" appear, they shall mean the "State Uniform Building Code for Public Educational Facilities Construction." It shall not be the intent of the Uniform Building Code to inhibit the use of new materials or innovative techniques; nor shall it specify or prohibit materials by brand names. The code shall be flexible enough to cover all phases of construction which will afford reasonable protection for public safety, health, and general welfare. The office may secure the service of other state agencies or such other assistance as it may find desirable in the revision of the code.

(10) EDUCATION FACILITIES AS SHELTERS.—The Department of Education shall, in consultation with school boards and county and state emergency management offices, assess the State Uniform Building Code for Public Educational Facilities Construction to determine amendments necessary to incorporate public shelter design criteria into the uniform building code. The new criteria must be designed to ensure that new educational facilities can serve as public shelters for emergency management purposes. The department shall submit the proposed criteria and an estimate of the costs associated with implementing the proposed criteria to the Governor and the Legislature by January 1, 1994. The State Board of Education shall amend the State Uniform Building Code for Public Educational Facilities Construction to include the proposed public-shelter criteria by July 1, 1994. A facility for which a design contract is entered into subsequent to July 1, 1994, must be built in compliance with the amended code unless the facility or a part thereof is exempted from using the new shelter criteria due to its location, size, or other characteristics by the applicable district school board or community college district board of trustees with the concurrence of the applicable local emergency management agency or the Department of Community Affairs.

Section 7. Subsection (4) is added to section 240.295, Florida Statutes, to read:

240.295 State University System buildings; approval of construction.—

(4) The Board of Regents shall, in consultation with local and state emergency management agencies, assess existing facilities to identify the extent to which each campus has public shelter space adequate to house those students, faculty, and employees expected to seek public shelter prior to or during a disaster and those other persons for which the campus has agreed with the local emergency management agency or other voluntary organization to provide shelter space. The board shall submit a report describing the results of its assessment to the Governor and the Legislature by February 1, 1994. At the discretion of the board, this report may be accompanied by a list of proposed improvements to existing buildings to improve shelter capacity and an estimate of the costs associated with implementing these improvements. Until a campus has sufficient shelter space, any building for which a design contract is entered into subsequent to July 1, 1994, must be constructed in accordance with public-shelter standards unless the board, with the concurrence of the local emergency management agency or the Department of Community Affairs, exempts the building or part thereof from shelter standards because of its location, size, or other characteristic.

Section 8. Section 252.311, Florida Statutes, is created to read:

252.311 Legislative intent.—

(1) The Legislature finds and declares that the state is vulnerable to a wide range of emergencies, including natural, technological, and manmade disasters, all of which threaten the life, health, and safety of its people; damage and destroy property; disrupt services and everyday business and recreational activities; and impede economic growth and development. The Legislature further finds that this vulnerability is exacerbated by the tremendous growth in the state's population, especially the growth in the number of persons residing in coastal areas, in the elderly population, in the number of seasonal vacationers, and in the number of persons with special needs. This growth has greatly complicated the state's ability to coordinate its emergency management resources and activities.

(2) It is the intent of the Legislature to reduce the vulnerability of the people and property of this state; to prepare for efficient evacuation and shelter of threatened or affected persons; to provide for the rapid and orderly provision of relief to persons and for the restoration of services and property; and to provide for the coordination of activities relating to emergency preparedness, response, recovery, and mitigation among and between agencies and officials of this state, with similar agencies and officials of other states, with local and federal governments, with interstate organizations, and with the private sector.

(3) It is further the intent of the Legislature to promote the state's emergency preparedness, response, recovery, and mitigation capabilities through enhanced coordination, long-term planning, and adequate funding. State policy for responding to disasters is to support local emergency response efforts. In the case of a major or catastrophic disaster, however, the needs of residents and communities will likely be greater than local resources. In these situations, the state must be capable of providing effective, coordinated, and timely support to communities and the public. Therefore the Legislature hereby determines and declares that the provisions of this act fulfill an important state interest.

Section 9. Section 252.32, Florida Statutes, is amended to read:

252.32 Policy and purpose.—

(1) Because of the existing and continuing possibility of the occurrence of emergencies *and disasters* ~~of unprecedented size and destructiveness~~ resulting from ~~enemy attack, sabotage, or other hostile action or from~~ natural, *technological,* or manmade causes; in order to ensure that

preparations of this state will be adequate to deal with, reduce vulnerability to, and recover from such emergencies *and disasters*; ~~generally~~ to provide for the common defense and to protect the public peace, health, and safety; and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To create a state emergency management agency to be known as the "Division of Emergency Management," to authorize the creation of local organizations for emergency management in the political subdivisions of the state, and to authorize cooperation with the Federal Government and the governments of other states.

(b) To confer upon the Governor, the Division of Emergency Management, and the governing body of each political subdivision of the state the emergency powers provided herein.

(c) To provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the Federal Government with respect to carrying out all emergency management functions and responsibilities.

(d) To authorize the establishment of such organizations and the development and employment of such measures as are necessary and appropriate to carry out the provisions of ss. *252.31-252.91* ~~252.31-252.60~~.

(e) To provide the means to assist in the prevention or mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(2) It is further declared to be the purpose of ss. *252.31-252.91* ~~252.31-252.60~~ and the policy of the state that all emergency management functions of the state be coordinated to the maximum extent with comparable functions of the Federal Government, including its various departments, agencies of other states and localities, and private agencies of every type, to the end that the most effective preparation and use may be made of the manpower, resources, and facilities of the nation for dealing with any emergency that may occur.

Section 10. Section 252.34, Florida Statutes, is amended to read:

252.34 Definitions.—As used in ss. 252.31-252.60, *the term:*

(1) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States. Disasters shall be identified by the severity of resulting damage, as follows:

(a) "Catastrophic disaster" means a disaster that will require massive state and federal assistance, including immediate military involvement.

(b) "Major disaster" means a disaster that will likely exceed local capabilities and require a broad range of state and federal assistance.

(c) "Minor disaster" means a disaster that is likely to be within the response capabilities of local government and to result in only a minimal need for state or federal assistance.

(2)~~(1)~~ "Division" means the Division of Emergency Management of the Department of Community Affairs, or the successor to that division.

(3)~~(2)~~ "Emergency" means any occurrence, or threat thereof, whether ~~accidental,~~ natural, *technological,* or *manmade* ~~caused by man,~~ in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.

(4)~~(3)~~ "Emergency management" means the preparation for, *the mitigation of, the response to, and the recovery from emergencies and disasters. Specific emergency management* ~~and the carrying out of, all emergency responsibilities and functions, other than those for which military forces or other federal agencies are primarily responsible, to prevent, mitigate, or repair injury and damage resulting from the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from emergencies. These~~ responsibilities include, but are not limited to:

(a) Reduction of vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, *technological,* or manmade *emergencies* ~~catastrophes~~ or hostile military or paramilitary action.

(b) Preparation for prompt and efficient *response and recovery to protect lives and property affected by emergencies* ~~rescue, care, and treatment of persons victimized or threatened by disasters~~.

(c) Response to emergencies using all systems, plans, and resources necessary to preserve adequately the health, safety, and welfare of persons or property affected by the emergency.

(d)~~(c)~~ *Recovery from emergencies by providing for* ~~Provision of a setting conducive to~~ the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.

(e)~~(d)~~ Provision of an emergency management system embodying all aspects of preemergency preparedness and postemergency response, *recovery, and mitigation.*

(f)~~(e)~~ Assistance in anticipation, recognition, appraisal, prevention, and mitigation of emergencies which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.

(5)~~(4)~~ "Local emergency management agency" means an organization created in accordance with the provisions of ss. *252.31-252.91* ~~252.31-252.60~~ to discharge the emergency management responsibilities and functions of a political subdivision.

(6) "Manmade emergency" means an emergency caused by an action against persons or society, including, but not limited to, enemy attack, sabotage, terrorism, civil unrest, or other action impairing the orderly administration of government.

(7) "Natural emergency" means an emergency caused by a natural event, including, but not limited to, a hurricane, a storm, a flood, severe wave action, a drought, or an earthquake.

(8)~~(5)~~ "Political subdivision" means any county or municipality created pursuant to law.

(9) "Technological emergency" means an emergency caused by a technological failure or accident, including, but not limited to, an explosion, transportation accident, radiological accident, or chemical or other hazardous material incident.

Section 11. Subsections (3), (4), (6), (7), and (9) of section 252.36, Florida Statutes, are amended to read:

252.36 Emergency management powers of the Governor.—

(3) An executive order or proclamation of a state of emergency shall:

(a) Activate the emergency mitigation, response, and recovery aspects of the state, local, and interjurisdictional emergency management plans applicable to the political subdivision or area in question; and

(b) Be authority for the deployment and use of any forces to which the plan or plans apply and for the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to ss. *252.31-252.91* ~~252.31-252.60~~ or any other provision of law relating to emergencies.

(c) Identify whether the state of emergency is due to a minor, major, or catastrophic disaster.

1. For a major or catastrophic disaster, the proclamation is authority for a health care practitioner licensed in another state to assist in providing health care in the disaster area according to the provisions specified in the proclamation.

2. For a catastrophic disaster, the proclamation constitutes a formal request for mobilization of the military, which shall be communicated to the President of the United States.

(4) During the continuance of a state of emergency, the Governor is commander in chief of the *Florida National Guard* ~~organized and volunteer militia~~ and of all other forces available for emergency duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or rules, but nothing herein restricts his authority to do so by orders issued at the time of the emergency.

(6) The Governor shall take such action and give such direction to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of ss. *252.31-252.91* ~~252.31-252.60~~ and with the orders and rules made pursuant thereto.

(7) The Governor shall employ such measures and give such directions to the Department of Health and Rehabilitative Services *and the Agency for Health Care Administration* as may be reasonably necessary for the purpose of securing compliance with the provisions of ss. *252.31-252.91* ~~252.31-252.60~~ or with the findings or recommendations of such agency of health by reason of conditions arising from emergencies or threats of emergency.

(9) The Governor and the division shall establish agencies and offices and appoint executive, professional, technical, clerical, and other personnel as may be necessary to carry out the provisions of ss. *252.31-252 91* ~~252.31-252.60~~.

Section 12. Section 252.35, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 252.35, F.S., for present text.)

252.35 Emergency management powers; Division of Emergency Management.—

(1) The division is responsible for maintaining a comprehensive statewide program of emergency management. The division is responsible for coordination with efforts of the Federal Government with other departments and agencies of state government, with county and municipal governments and school boards, and with private agencies that have a role in emergency management.

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.91. In performing its duties under ss. 252.31-252.91, the division shall:

(a) Prepare a state comprehensive emergency management plan, which shall be integrated into and coordinated with the emergency management plans and programs of the Federal Government. The plan shall be implemented by a continuous, integrated comprehensive emergency management program. The plan must contain provisions to ensure that the state is prepared for emergencies and minor, major, and catastrophic disasters, and the division shall work closely with local governments and agencies and organizations with emergency management responsibilities in preparing and maintaining the plan. The state comprehensive emergency management plan shall be operations oriented and:

1. Include an evacuation component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of evacuation activities. This component must, at a minimum: contain guidelines for lifting tolls on state highways; ensure coordination pertaining to evacuees crossing county lines; set forth procedures for directing people caught on evacuation routes to safe shelter; establish strategies for ensuring sufficient, reasonably priced fueling locations along evacuation routes; and establish policies and strategies for emergency medical evacuations.

2. Include a shelter component that includes specific regional and interregional planning provisions and promotes coordination of shelter activities between the public, private, and nonprofit sectors. This component must, at a minimum: contain strategies to ensure the availability of adequate public shelter space in each region of the state; establish strategies for refuge-of-last-resort programs; provide strategies to assist local emergency management efforts to ensure that adequate staffing plans exist for all shelters, including medical and security personnel; provide for a postdisaster communications system for public shelters; establish model shelter guidelines for operations, registration, inventory, power generation capability, information management, and staffing; and set forth policy guidance for sheltering people with special needs.

3. Include a postdisaster response and recovery component that includes specific regional and interregional planning provisions and promotes intergovernmental coordination of postdisaster response and recovery activities. This component must provide for postdisaster response and recovery strategies according to whether a disaster is minor, major, or catastrophic. The postdisaster response and recovery component must, at a minimum: establish the structure of the state's postdisaster response and recovery organization; establish procedures for activating the state's plan; set forth policies used to guide postdisaster response and recovery activities; describe the chain of command during the postdisaster response and recovery period; describe initial and continuous postdisaster response and recovery actions; identify the roles and responsibilities of each involved agency and organization; provide for a comprehensive communications plan; establish procedures for monitoring mutual aid agreements; provide for rapid impact assessment teams; ensure the availability of an effective statewide urban search and rescue program coordinated with the fire services; ensure the existence of a comprehensive statewide medical care and relief plan administered by the Department of Health and Rehabilitative Services; and establish systems for coordinating volunteers and accepting and distributing donated funds and goods.

4. Include additional provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the division.

5. Address the need for coordinated and expeditious deployment of state resources, including the Florida National Guard. In the case of an imminent major disaster, procedures should address predeployment of the Florida National Guard, and, in the case of an imminent catastrophic disaster, procedures should address predeployment of the Florida National Guard and the U.S. Armed Forces.

6. Establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.

7. Establish guidelines and schedules for annual exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and catastrophic disasters and support local emergency management agencies. Such exercises shall be coordinated with local governments and, to the extent possible, the Federal Government.

8. Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

The division shall prepare an interim postdisaster response and recovery component that substantially complies with the provisions of this paragraph by June 1, 1993. Each state agency assigned lead responsibility for an emergency support function by the state comprehensive emergency management plan shall also prepare a detailed operational plan needed to implement its responsibilities by June 1, 1993. The complete state comprehensive emergency management plan shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor no later than February 1, 1994, and on February 1 of every even-numbered year thereafter.

(b) Adopt standards and requirements for county emergency management plans. The standards and requirements must ensure that county plans are coordinated and consistent with the state comprehensive emergency management plan. If a municipality elects to establish an emergency management program, it must adopt a city emergency management plan that complies with all standards and requirements applicable to county emergency management plans.

(c) Assist political subdivisions in preparing and maintaining emergency management plans.

(d) Review periodically political subdivision emergency management plans for consistency with the state comprehensive emergency management plan and standards and requirements adopted under this section.

(e) Cooperate with the President, the heads of the Armed Forces, the various federal emergency management agencies, and the officers and agencies of other states in matters pertaining to emergency management in the state and the nation and incidents thereof and, in connection therewith, take any measures that it deems proper to carry into effect any request of the President and the appropriate federal officers and agencies for any emergency management action, including the direction or control of:

1. Emergency management drills, tests, or exercises of whatever nature.

2. Warnings and signals for tests and drills, attacks, or other imminent emergencies or threats thereof and the mechanical devices to be used in connection with such warnings and signals.

(f) Make recommendations to the Legislature, building code organizations, and political subdivisions for zoning, building, and other land-use controls; safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and other preparedness, prevention, and mitigation measures designed to eliminate emergencies or reduce their impact.

(g) In accordance with the state comprehensive emergency management plan and program for emergency management, ascertain the requirements of the state and its political subdivisions for equipment and supplies of all kinds in the event of an emergency; plan for and either procure supplies, medicines, materials, and equipment or enter into memoranda of agreement or open purchase orders that will ensure their availability; and use and employ from time to time any of the property, services, and resources within the state in accordance with ss. 252.31-252.91.

(h) Anticipate trends and promote innovations that will enhance the emergency management system.

(i) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues.

(j) Prepare and distribute to appropriate state and local officials catalogs of federal, state, and private assistance programs.

(k) Coordinate federal, state, and local emergency management activities and take all other steps, including the partial or full mobilization of emergency management forces and organizations in advance of an actual emergency, to ensure the availability of adequately trained and equipped forces of emergency management personnel before, during, and after emergencies and disasters

(l) Establish a schedule of fees that may be charged by local emergency management agencies for review of emergency management plans on behalf of external agencies and institutions. In establishing such schedule, the division shall consider facility size, review complexity, and other factors.

(m) Implement training programs to improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs. This shall include a continuous training program for agencies and individuals that will be called on to perform key roles in state and local postdisaster response and recovery efforts and for local government personnel on federal and state postdisaster response and recovery strategies and procedures.

(n) Review periodically emergency operating procedures of state agencies and recommend revisions as needed to ensure consistency with the state comprehensive emergency management plan and program.

(o) Make such surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of ss. 252.31-252.91.

(p) Prepare, in advance whenever possible, such executive orders, proclamations, and rules for issuance by the Governor as are necessary or appropriate for coping with emergencies and disasters.

(q) Cooperate with the Federal Government and any public or private agency or entity in achieving any purpose of ss. 252.31-252.91 and in implementing programs for mitigation, preparation, response, and recovery.

(r) Assist political subdivisions with the creation and training of urban search and rescue teams and promote the development and maintenance of a state urban search and rescue program.

(s) Delegate, as necessary and appropriate, authority vested in it under ss. 252.31-252.91 and provide for the subdelegation of such authority.

(t) Report biennially to the President of the Senate, Speaker of the House of Representatives, and Governor, no later than February 1 of every odd-numbered year, the status of the emergency management capabilities of the state and its political subdivisions.

(u) In accordance with chapter 120, create, implement, administer, promulgate, amend, and rescind rules, programs, and plans needed to carry out the provisions of ss. 252.31-252.91 with due consideration for, and in cooperating with, the plans and programs of the Federal Government.

(v) Do other things necessary, incidental, or appropriate for the implementation of ss. 252.31-252.91.

Section 13. Section 252.365, Florida Statutes, is created to read:

252.365 Designation of emergency coordination officers.—

(1) The head of each executive department, the executive director of each water management district, the Public Service Commission, the Game and Freshwater Fish Commission, and the Department of Military Affairs shall select from within such agency a person to be designated as the emergency coordination officer for the agency and an alternate.

(2) The emergency coordination officer is responsible for coordinating with the division on emergency preparedness issues, preparing and maintain emergency preparedness and postdisaster response and recovery plans for such agency, maintaining rosters of personnel to assist in disaster operations, and coordinating appropriate training for agency personnel.

(3) These individuals shall be responsible for ensuring that each state facility, such as a prison, office building, or university, has a disaster preparedness plan that is approved by the applicable local emergency management agency or the division.

(4) The head of each agency shall notify the Governor and the division in writing of the person initially designated as the emergency coordination officer for such agency and his alternate and of any changes in persons so designated thereafter.

Section 14. Section 252.38, Florida Statutes, 1992 Supplement, is amended to read:

252.38 Emergency management powers of political subdivisions.—

~~(1)~~ Safeguarding the life and property of its citizens is an innate responsibility of the governing body of each political subdivision of the state.

(1) COUNTIES.—

(a)~~(2)~~ In order to provide effective and orderly governmental control and coordination of emergency operations in emergencies within the scope of ss. *252.31-252.91* ~~252.31-252.60~~, each county within this state shall be within the jurisdiction of, and served by, the division. Except as otherwise provided in ss. *252.31-252 91* ~~252.31-252.60~~, each local emergency management agency shall have jurisdiction over and serve an entire county. *Unless part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule,* each *county must* ~~political subdivision is authorized and directed to~~ establish and maintain such an emergency management agency *and shall develop a county emergency management plan and program that is coordinated and consistent with* ~~in support of~~ the state comprehensive emergency management plan and program. *Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to paragraph (3)(b) which is recognized by the Governor by executive order or rule shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state comprehensive emergency management plan and program.*

(b) Each county emergency management agency created and established pursuant to ss. 252.31-252.91 shall have a director who shall be appointed and have his annual salary fixed by the board of county commissioners of the county. The director must meet the minimum training and education qualifications established in a job description approved by the county. The director shall be appointed by the board of county commissioners to serve at the pleasure of the board, subject to their direction and control, in conformance with applicable resolutions, ordinances, and laws. Each board of county commissioners shall promptly inform the division of the appointment of the director and other personnel. Each director has direct responsibility for the organization, administration, and operation of the county emergency management agency, subject only to the direction and control of the governing body of the county. The director shall coordinate emergency management activities, services, and programs within the county and shall serve as liaison to the division and other local emergency management agencies and organizations.

(c) Each county emergency management agency shall perform emergency management functions within the territorial limits of the county within which it is organized and, in addition, shall conduct such activities outside its territorial limits as are required pursuant to ss 252 31-252.91 and in accordance with state and county emergency management plans and mutual aid agreements. Counties shall serve as liaison for and coordinator of municipalities' requests for state and federal assistance during postdisaster emergency operations.

(d) During a declared state or local emergency and upon the request of the director of a local emergency management agency, the district school board or school boards in the affected area shall participate in emergency management by providing facilities and necessary personnel to staff such facilities. Each school board providing transportation assistance in an emergency evacuation shall coordinate the use of its vehicles and personnel with the local emergency management agency.

(e) County emergency management agencies may charge and collect fees for the review of emergency management plans on behalf of external agencies and institutions. Fees must be reasonable and may not exceed the cost of providing a review of emergency management plans in accordance with fee schedules established by the division.

(2)~~(3)~~ *MUNICIPALITIES.*—Legally constituted municipalities are authorized and encouraged to create municipal emergency management *programs* ~~agencies~~. Municipal emergency management *programs* ~~agencies~~ shall coordinate their activities with those of the county emergency management agency. Municipalities without emergency management *programs* ~~agencies~~ shall be served by their respective county agencies. *If a municipality elects to establish an emergency management program, it must comply with all laws, rules, and requirements applicable to county emergency management agencies. Each municipal emergency management plan must be consistent with and subject to the applicable county emergency management plan. In addition, each municipality must coordinate requests for state or federal emergency response assistance with its county. This requirement does not apply to requests for reimbursement under federal public disaster assistance programs.*

~~(4) Each local emergency management agency created and established pursuant to the provisions of ss. 252.31-252.60 shall have a director who shall be appointed and have his annual salary fixed by the board of county commissioners of the county or the governing body of a city or town, as appropriate. Such a director shall meet the minimum training and education qualifications established in a job description approved by the Department of Management Services or the political subdivision. Such directors shall be appointed by their respective political subdivisions, to serve at their pleasure, subject to their direction and control, in conformance with applicable resolutions, ordinances, and Florida statutes. Each political subdivision shall promptly inform the division of the appointment of directors and other personnel. Each director shall have direct responsibility for the organization, administration, and operation of the local emergency management agency, subject only to the direction and control of the governing body of the political subdivision and of the division. The director shall coordinate the activities, services, and programs for emergency management within the county or municipality and shall maintain liaison with other state and local emergency management agencies.~~

~~(5) Each local emergency management agency shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized and, in addition, shall conduct such activities outside its territorial limits as may be required pursuant to the provisions of ss. 252.31-252.60 and in accordance with state and county emergency management plans and mutual aid agreements.~~

(3) EMERGENCY MANAGEMENT POWERS; POLITICAL SUBDIVISIONS.—

(a)~~(6)~~ In carrying out the provisions of ss. *252.31-252.91* ~~252.31-252.60~~, each political subdivision shall have the power and authority:

1.~~(a)~~ To appropriate and expend funds; make contracts; obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any emergency; and direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies.

2.~~(b)~~ To appoint, employ, remove, or provide, with or without compensation, coordinators, rescue teams, fire and police personnel, and other emergency management workers.

3.~~(c)~~ To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government and direction and control of emergency operations.

4.~~(d)~~ To assign and make available for duty the offices and agencies of the political subdivision, including the employees, property, or equipment thereof relating to firefighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency operation purposes, as the primary emergency management forces of the political subdivision for employment within or outside the political limits of the subdivision.

5.~~(e)~~ To request state assistance or invoke emergency-related mutual-aid assistance by declaring a state of local emergency in the event of an emergency affecting only one political subdivision. The duration of each state of emergency declared locally is limited to 7 days; it may be extended, as necessary, in *7-day* ~~72-hour~~ increments. Further, the political subdivision has the power and authority to waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

a.~~1.~~ Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community.

b.~~2.~~ Entering into contracts.

c.~~3.~~ Incurring obligations.

d.~~4.~~ Employment of permanent and temporary workers.

e.~~5.~~ Utilization of volunteer workers.

f.~~6.~~ Rental of equipment.

g.~~7.~~ Acquisition and distribution, with or without compensation, of supplies, materials, and facilities.

h.~~8.~~ Appropriation and expenditure of public funds.

(6)~~(7)~~ Upon the request of two or more adjoining *counties* ~~political subdivisions~~, or if the Governor finds that two or more adjoining *counties* ~~political subdivisions~~ would be better served by an interjurisdictional arrangement than by maintaining separate emergency management agencies and services, the Governor may delineate by executive order or rule an interjurisdictional area adequate to plan for, prevent, mitigate, or respond to emergencies in such area and may direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency plan, a provision for mutual aid, or an area organization for emergency planning and services. A finding of the Governor pursuant to this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective emergency prevention, mitigation, preparedness, response, and recovery system on a unijurisdictional basis, such as:

1.~~(a)~~ Small or sparse population.

2.~~(b)~~ Limitations on public financial resources severe enough to make maintenance of a separate emergency management agency and services unreasonably burdensome.

3.~~(c)~~ Unusual vulnerability to emergencies as evidenced by a past history of emergencies, topographical features, drainage characteristics, emergency potential, and presence of emergency-prone facilities or operations.

4.~~(d)~~ The interrelated character of the counties in a multicounty area.

5.~~(e)~~ Other relevant conditions or circumstances.

Section 15. Section 252.355, Florida Statutes, is amended to read:

252.355 Registry of disabled *persons* ~~citizens~~; notice.—

(1) *In order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical or mental handicaps,* each local emergency management agency in the state shall *maintain a registry* ~~provide for the voluntary registration~~ of disabled *persons* ~~citizens~~ located within the jurisdiction of the local agency~~,~~ ~~and the records relating to the registration of disabled citizens are confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14~~. The registration shall *identify those persons in need of assistance and plan for resource allocation to meet those identified needs. To assist the local emergency management agency in identifying such persons, the Department of Health and Rehabilitative Services shall provide registration information to all of its special-needs clients and to all incoming clients as a part of the intake process. The registry* ~~be utilized to determine who would need assistance in case of evacuation because of an emergency and~~ shall be updated annually. *The registration program*

shall give disabled persons the option of preauthorizing emergency response personnel to enter their homes during search and rescue operations if necessary to assure their safety and welfare following disasters.

(2) *On or before May 1 of each year* each electric utility in the state shall annually notify residential customers in its service area of the availability of *the registration* ~~a volunteer~~ program *available through* ~~by~~ their local emergency management agency ~~to register all disabled citizens who may need assistance during an emergency~~.

(3) All records, data, information, correspondence, and communications relating to the registration of disabled persons as provided in subsection (1) are confidential and exempt from the provisions of s. 119.07(1), except that such information shall be available to other emergency response agencies, as determined by the local emergency management director. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(4) All appropriate agencies and community-based service providers, including home health care providers, shall assist emergency management agencies by collecting registration information for people with special needs as part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters. Clients of state or federally funded service programs with physical or mental handicaps who need assistance in evacuating or when in shelters must register as people with special needs.

~~(3) Any advertising required by this section shall, whenever possible, be done through the use of public service announcements of local radio stations and shall not require the expenditure of local government funds.~~

Section 16. Section 252.385, Florida Statutes, is created to read:

252.385 Public shelter space.—

(1) It is the intent of the legislature that this state not have a deficit of safe public shelter space in any region of the state by 1998 and thereafter.

(2) The division shall administer a program to survey existing schools, universities, community colleges, and other state owned, municipally owned, and county owned public buildings to identify those that are appropriately designed and located to serve as shelters. The owners of the facilities shall be given the opportunity to participate in the surveys. The Board of Regents and the Department of Education are responsible for coordinating and implementing the survey of public schools, universities, and community colleges.

(3) Beginning no later than September 1, 1994, the division shall annually provide to the President of the Senate, Speaker of the House of Representatives, and Governor a list of facilities recommended to be retrofitted using state funds. State funds should be targeted to counties with shelter deficits. Retrofitting facilities in regions with public shelter deficits shall be given first priority and should be completed by 1998. All appropriate facilities should be retrofitted by 2003.

Section 17. By June 1, 1993, the Governor shall report to the President of the Senate and the Speaker of the House of Representatives actions taken pursuant to section 252.40, Florida Statutes.

Section 18. Section 252.46, Florida Statutes, is amended to read:

252.46 Orders *and*~~,~~ rules~~, and regulations~~.—

(1) In accordance with the provisions of chapter 120, the political subdivisions of the state and other agencies designated or appointed by the Governor *or in the state comprehensive emergency management plan* are authorized and empowered to make, amend, and rescind such orders *and*~~,~~ rules~~, and regulations~~ as *are* ~~may be~~ necessary for emergency management purposes and to supplement the carrying out of the provisions of ss. *252.31-252.91* ~~252.31-252.60~~, but which are not inconsistent with any orders or rules *adopted* ~~promulgated~~ by the division or by any state agency exercising a power delegated to it by the Governor or the division.

(2) All orders *and*~~,~~ rules *adopted*~~, and regulations promulgated~~ by the division or any political subdivision or other agency authorized by ss. *252.31-252.91* ~~252.31-252.60~~ to make orders *and*~~,~~ rules~~, and regulations shall~~ have full force and effect of law after adoption in accordance with the provisions of chapter 120 in the event of issuance by the division or any state agency or, if promulgated by a political subdivision of the state or agency thereof, when filed in the office of the clerk or recorder of the political subdivision or agency promulgating the same. All existing laws, ordinances, *and* rules~~, and regulations~~ inconsistent with the provisions of ss. *252.31-252.91* ~~252.31-252.60~~, or any order *or*~~,~~ rule~~, or regulation~~ issued under the authority of ss. *252.31-252.91* ~~252.31-252.60~~, shall be suspended during the period of time and to the extent that such conflict exists.

(3) In order to attain uniformity so far as practicable throughout the country in measures taken to aid emergency management, all action taken under ss. *252.31-252.91* ~~252.31-252.60~~ and all orders *and*~~,~~ rules~~, and regulations~~ made pursuant to such sections shall be taken or made with due consideration of the orders, rules, ~~regulations,~~ actions, recommendations, and requests of federal authorities relevant thereto and, to the extent permitted by law, shall be consistent with such orders, rules, ~~regulations,~~ actions, recommendations, and requests.

Section 19. Section 252.47, Florida Statutes, is amended to read:

252.47 Enforcement.—The law enforcement authorities of the state and the political subdivisions thereof shall enforce the orders *and*~~,~~ rules~~, and regulations~~ issued pursuant to ss. *252.31-252.91* ~~252.31-252.60~~.

Section 20. Section 252.50, Florida Statutes, is amended to read:

252.50 Penalties.—Any person violating any provision of ss. *252.31-252.91* ~~252.31-252.60~~ or any rule *or*~~,~~ order~~, or regulation~~ made pursuant to ss. *252.31-252.91* ~~252.31-252.60~~ is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 21. Section 252.52, Florida Statutes, is amended to read:

252.52 Liberality of construction.—Sections *252.31-252.91* ~~252.31-252.60~~ shall be construed liberally in order to effectuate their purposes.

Section 22. Section 327.59, Florida Statutes, is created to read:

327.59 Marina evacuations.—

(1) After June 1, 1994, marinas may not adopt, maintain, or enforce policies pertaining to evacuation of vessels which require vessels to be removed from marinas following the issuance of a hurricane watch or warning, in order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property.

(2) The Department of Insurance shall, in cooperation with the Department of Natural Resources, Boating Advisory Council, and Department of Revenue, evaluate the need for insurance programs and immunity provisions to be established to mitigate the effect of subsection (1) on marina owners and submit a report containing suggested statutory revisions, if any, to the President of the Senate, the Speaker of the House of Representatives, and the Governor by November 15, 1993.

(3) Nothing in this section may be construed to restrict the ability of an owner of a vessel or his authorized representative to remove a vessel voluntarily from a marina at any time or to restrict a marina owner from dictating the kind of cleats, ropes, fenders, and other measures that must be used on vessels as a condition of use of a marina.

Section 23. Present subsections (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), and (19) of section 393.067, Florida Statutes, are renumbered as subsections (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), and (21), respectively, and new subsections (8) and (9) are added to that section to read:

393.067 Licensure of residential facilities and comprehensive transitional education programs.—

(8) The department and the Agency for Health Care Administration, after consultation with the Department of Community Affairs, shall adopt rules for residential facilities under the respective regulatory jurisdiction of each establishing minimum standards for the preparation and annual update of a comprehensive emergency management plan. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan for all intermediate care facilities for the developmentally disabled, facilities serving seven or more people, and homes serving individuals who have complex medical conditions is subject to review and approval by the local emergency management agency.

During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Agency for Health Care Administration, the Department of Health and Rehabilitative Services, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(9) The Agency for Health Care Administration shall establish standards for facilities and equipment to increase the extent to which facilities for intermediate care for developmentally disabled persons are structurally capable of serving as shelters and equipped to be self-supporting during and immediately following disasters.

Section 24. Subsection (1) of section 395.1055, Florida Statutes, 1992 Supplement, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall adopt, amend, promulgate, and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(a) Sufficient numbers and qualified types of personnel and occupational disciplines are on duty and available at all times to provide necessary and adequate patient care and safety.~~;~~

(b) Infection control, housekeeping, sanitary conditions, ~~emergency management plan,~~ and medical record procedures that will adequately protect patient care and safety are established and implemented.~~;~~

(c) A comprehensive emergency management plan is prepared and updated annually. Such standards must be included in the rules adopted by the agency after consulting with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records, and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(d) Facilities are structurally capable of serving as shelters and equipped to be self-supporting during and immediately following disasters.

(e)~~(c)~~ Construction, maintenance, repair, life safety, and renovation of licensed facilities are governed by the most recently adopted, nationally recognized life-safety code, except as may be specifically modified by rule.~~;~~

(f)~~(d)~~ The use of seclusion and restraint is consistent with the rights of mentally ill persons or patients as provided in s. 394.459.

(g)~~(e)~~ Licensed facilities are established, organized, and operated consistent with established standards and rules.~~; and~~

(h)~~(f)~~ Licensed facility beds conform to minimum space, equipment, and furnishings standards as specified by the department.

(i)~~(g)~~ All hospitals submit such data as necessary to conduct certificate-of-need reviews required under ss. 408.031-408.045. Such data shall include, but shall not be limited to, patient origin data, hospital utilization data, type of service reporting, and facility staffing data. The agency shall not collect data that identifies or could disclose the identity of individual patients. The agency shall utilize existing uniform statewide data sources when available and shall minimize reporting costs to hospitals.

(j)~~(h)~~ Each hospital has a quality improvement program designed according to standards established by their current accrediting organization. This program will enhance quality of care and emphasize quality patient outcomes, corrective action for problems, governing board review, and reporting to the agency of standardized data elements necessary to analyze quality of care outcomes. The agency shall use existing data, when available, and shall not duplicate the efforts of other state agencies in order to obtain such data.

Section 25. Subsection (2) of section 400.23, Florida Statutes, is amended to read:

400.23 Rules; minimum standards; evaluation and rating system; fee for review of plans.—

(2) Pursuant to the intention of the Legislature, the *agency* ~~department~~ shall publish and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards in relation to:

(a) The location and construction of the facility; including fire and life safety, plumbing, heating, lighting, ventilation, and other housing conditions which will ensure the health, safety, and comfort of residents, including an adequate call system. *The agency shall establish standards for facilities and equipment to increase the extent to which facilities are structurally capable of serving as shelters and equipped to be self-supporting during and immediately following disasters.* In making such rules, the *agency* ~~department~~ shall be guided by standards recommended by nationally recognized reputable professional groups and associations with knowledge of such subject matters. The *agency* ~~department~~ shall update or revise such standards as the need arises. All nursing homes must comply with those life safety code requirements and building code standards applicable at the time of approval of their construction plans. The *agency* ~~department~~ may require alterations to a building if it determines that an existing condition constitutes a distinct hazard to life, health, or safety. The *agency* ~~department~~ shall *adopt* ~~promulgate~~ fair and reasonable rules setting forth conditions under which existing facilities undergoing additions, alterations, conversions, renovations, or repairs shall be required to comply with the most recent updated or revised standards.

(b) The number and qualifications of all personnel, including management, medical, and nursing personnel, and aides, orderlies, and support personnel, having responsibility for any part of the care given residents.

(c) All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene which will ensure the health and comfort of residents.

(d) The equipment essential to the health and welfare of the residents.

(e) A uniform accounting system.

(f) The care, treatment, and maintenance of residents and measurement of the quality and adequacy thereof.

(g) The preparation and annual update of a comprehensive emergency management plan. The agency shall adopt rules establishing minimum criteria for the plan after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

Section 26. Subsection (1) of section 400.441, Florida Statutes, is amended to read:

400.441 Rules establishing standards.—

(1) Pursuant to the intention of the Legislature to provide safe and sanitary facilities, the department shall promulgate, publish, and enforce rules to implement the provisions of this part, which shall include reasonable and fair minimum standards in relation to:

(a) The maintenance of facilities, not in conflict with the provisions of chapter 553, relating to plumbing, heating, lighting, ventilation, and other housing conditions, which will ensure the health, safety, and comfort of residents and protection from fire hazard, including adequate provisions for fire alarm and other fire protection suitable to the size of the structure. Uniform firesafety standards shall be established and enforced by the State Fire Marshal in cooperation with the department. Facilities which are fully sprinkled and in compliance with other firesafety standards shall not be required to conduct more than one of the required fire drills between the hours of 11 p.m. and 7 a.m., per year. The department shall not duplicate fire inspections performed by state or local fire marshals. Such standards shall be included in the rules promulgated by the department after consultation with the State Fire Marshal. Pursuant to s. 633.05(8), the State Fire Marshal shall be the final administrative authority for firesafety standards established and enforced pursuant to this section.

(b) The preparation and annual update of a comprehensive emergency management plan. Such standards must be included in the rules adopted by the department after consultation with the Department of Community Affairs. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; communicating with families; and responding to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the opportunity to review the plan: the Department of Elderly Affairs, the Department of Health and Rehabilitative Services, the Agency for Health Care Administration, and the Department of Community Affairs. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.

(c)~~(b)~~ The number and qualifications of all personnel having responsibility for the care of residents. The rules shall require adequate staff to provide for the safety of all residents.

(d)~~(c)~~ All sanitary conditions within the facility and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of residents. The rules shall clearly delineate the responsibilities of the department's licensure staff and the responsibilities of the county public health units and ensure that inspections are not duplicative.

(e)~~(d)~~ The levying and enforcement of penalties and use of income from fees and fines.

(f)~~(e)~~ The enforcement of the resident bill of rights specified in s. 400.428.

(g)~~(f)~~ The care and maintenance of residents which shall include, but not be limited to:

1. The provision of personal services;

2. The provision of, or arrangement for, social and leisure activities;

3. The arrangement for appointments and transportation to appropriate medical, dental, nursing, or mental health services, as needed by residents;

4. The provision of limited nursing services; and

5. The provision of extended congregate care services.

(h)~~(g)~~ The establishment of specific criteria to define appropriateness of admission and continued residency.

(i)~~(h)~~ The definition and use of mechanical restraints. The use of mechanical restraints is limited to half-bed rails as prescribed and documented by the resident's physician.

Section 27. Subsection (8) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The department may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined by the department to be eligible on the dates on which the services were provided. Any service under this section may be provided only when medically necessary, shall be provided in accordance with state and federal law, and is subject to the availability of moneys and any limitation established by the general appropriations act or chapter 216.

(8) NURSING FACILITY SERVICES.—The department shall pay for 24-hour-a-day nursing and rehabilitative services for a recipient in a nursing facility licensed under part I of chapter 400 which are ordered by and provided under the direction of a licensed physician. *However, if a nursing facility has been destroyed or otherwise made uninhabitable by natural disaster or other emergency and another nursing facility is not available, the department must pay for similar services temporarily in a hospital licensed under part I of chapter 395 provided federal funding is approved and available.*

Section 28. Paragraph (a) of subsection (2) of section 409.908, Florida Statutes, 1992 Supplement, is amended to read:

409.908 Reimbursement of Medicaid providers.—The department shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the department and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, and other mechanisms the department considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations established by the general appropriations act or chapter 216.

(2)(a) Reimbursement to nursing homes licensed under part I of chapter 400 and intermediate care facilities for the mentally retarded licensed under chapter 393 must be made prospectively. Reimbursement to hospitals licensed under part I of chapter 395 for the provision of swing-bed nursing home services must be made on the basis of the average statewide nursing home payment. *Reimbursement to a hospital licensed under part I of chapter 395 for the temporary provision of skilled nursing services to nursing home residents who have been displaced as the result of a natural disaster or other emergency may not exceed the average county nursing home payment for those services in the county in which the hospital is located and is limited to the period of time which the department considers necessary for continued placement of the nursing home residents in the hospital.*

Section 29. Paragraph (b) of subsection (2) of section 465.019, Florida Statutes, is amended to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(b) "Class II institutional pharmacies" are those institutional pharmacies which employ the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, shall provide dispensing and consulting services on the premises to patients of that institution, for use on the premises of that institution. *However, an institutional pharmacy located in an area or county included in an emergency order or proclamation of a state of emergency declared by the Governor may provide dispensing and consulting services to individuals who are not patients of the institution.* However, a single dose of a medicinal drug may be obtained and administered to a patient on a valid physician's drug order under the supervision of a physician or charge nurse, consistent with good institutional practice procedures. The obtaining and administering of such single dose of a medicinal drug shall be pursuant to drug-handling procedures established by a consultant pharmacist. Medicinal drugs may be dispensed in a Class II institutional pharmacy, but only in accordance with the provisions of this section.

Section 30. Section 465.0275, Florida Statutes, is amended to read:

465.0275 Emergency prescription refill.—In the event a pharmacist receives a request for a prescription refill and the pharmacist is unable to readily obtain refill authorization from the prescriber, the pharmacist may dispense a one-time emergency refill of up to a 72-hour supply of the prescribed medication, *with the exception of those areas or counties included in an emergency order or proclamation of a state of emergency declared by the Governor, in which the executive order may authorize the pharmacist to dispense up to a 30-day supply,* providing that:

(1) The prescription is not for a medicinal drug listed in schedule II appearing in chapter 893.

(2) The medication is essential to the maintenance of life or to the continuation of therapy in a chronic condition.

(3) In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort.

(4) The dispensing pharmacist creates a written order containing all of the prescription information required by this chapter and chapters 499 and 893 and signs that order.

(5) The dispensing pharmacist notifies the prescriber of the emergency dispensing within a reasonable time after such dispensing.

Section 31. Subsection (2) of section 374.976, Florida Statutes, is amended to read:

374.976 Authority to address impacts of waterway development projects.—

(2) A district that sponsors a program pursuant to this section shall adopt rules to govern the program, pursuant to chapter 120. At a minimum, such rules shall prohibit the encumbrance of funds for a project beyond 3 years following approval of the project and, except for funds provided to enhance public navigation, law enforcement on the waterways, or environmental education projects within its district, shall prohibit financial support unless matching funds are provided by the recipient of such financial support. *The district may waive such rules for a project approved in a county that is recovering from a state of emergency declared under chapter 252.*

Section 32. No person shall have a claim for professional malpractice against a licensed professional who provides services for which no compenation is sought or received to such person during the period of a declared emergency if the professional services arose out of the emergency and if the professionalacted as an ordinary reasonably prudent member of the profession would have acted under the same or similar circumstances.

Section 33. 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 disaster and emergency preparedness; amending s. 23.121, F.S.; providing policies and purposes; amending s. 23.1225, F.S.; providing for mutual aid in cases of emergency or disaster; amending s. 23.1231, F.S.; providing for certain matters to be included in the Florida Mutual Aid Plan; amending s. 23.127, F.S.; providing for powers, privileges, and immunities under mutual aid agreements; amending s. 213.055, F.S.; providing for waiver of certain revenue laws in cases of emergency; amending s. 235.26, F.S.; requiring inclusion of design criteria for using school buildings as emergency shelters into the State Uniform Building Code for Educational Facilities Construction; amending s. 240.295, F.S.; providing for construction of State University System buildings to provide shelter in emergencies; creating s. 252.311, F.S.; providing legislative intent with respect to emergency management; amending s. 252.32, F.S.; providing policy and purpose with respect to response to disasters; amending s. 252.34, F.S.; defining and redefining terms; amending s. 252.36, F.S.; requiring additional information to be included in an executive order or proclamation of a state of emergency; amending s. 252.35, F.S.; prescribing powers of the Division of Emergency Management; creating s. 252.365, F.S.; providing for designation of emergency coordination officers; amending s. 252.38, F.S.; prescribing powers of units of local government with respect to emergency management; amending s. 252.355, F.S.; requiring compilation of a registry of disabled persons; creating s. 252.385, F.S.; prescribing intent, and duties of the Division of Emergency Management, with respect to shelter space; requiring a report; amending s. 252.46, F.S.; providing for emergency management orders and rules; amending ss. 252.47, 252.50, F.S.; correcting a cross-reference; amending s. 252.52, F.S.; correcting a cross-reference; creating s. 327.59, F.S.; prohibiting certain acts in relation to marina evacuation during emergencies; amending s. 393.067, F.S.; providing for adoption of emergency management plans and structural requirements for residential facilities; amending s. 395.1055, F.S.; providing for adoption of emergency management plans and structural requirements for hospitals; amending s. 400.23, F.S.; providing for adoption of emergency management plans and structural requirements for nursing homes and related facilities; amending s. 400.441, F.S.; providing for adoption of emergency management plans for adult congregate living facilities; amending s. 409.905, F.S.; providing for payment for nursing facility services in cases of a declared state of emergency; amending s. 409.908, F.S.; providing for Medicaid reimbursement for hospitals furnishing skilled nursing services during declared emergencies; amending s. 465.019, F.S.; providing powers of institutional pharmacies in areas that are subject to a declared state of emergency; amending s. 465.0275, F.S.; authorizing certain emergency refills of prescriptions in areas that are subject to a declared state of emergency; amending s. 374.976, F.S.; authorizing inland navigation districts to waive certain rules following a declared state of emergency; clarifying standards for determining professional malpractice; providing an effective date.

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

Amendment 1A (with Title Amendment)—On page 49, between lines 13 and 14, insert:

Section 33. Paragraph (a) of subsection (2) of section 768.13, Florida Statutes, is amended to read:

768.13 Good Samaritan Act; immunity from civil liability.—

(2)(a) Any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment *either in direct response to emergency situations related to and arising out of a state of emergency which has been declared pursuant to s. 252.36 or* at the scene of an emergency outside of a hospital, doctor's office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, shall not be held liable for any civil damages as a result of such care or treatment or as a result of any act or failure to act in providing or arranging further medical treatment where the person acts as an ordinary reasonably prudent *person* ~~man~~ would have acted under the same or similar circumstances.

Section 34. For the purpose of incorporating the amendment to section 768.13, Florida Statutes, in a reference thereto, the subdivision of Florida Statutes set forth below is reenacted to read:

401.265 Medical directors.—

(3) Any medical director who in good faith gives oral or written instructions to certified emergency medical services personnel for the provision of emergency care shall be deemed to be providing emergency medical care or treatment for the purposes of s. 768.13(2).

(Renumber subsequent section.)

And the title is amended as follows:

In title, on page 52, line 11, after the semicolon (;) insert: amending s. 768.13, F.S.; adding declared states of emergency to the circumstances under which the good faith gratuitous rendering of emergency care or treatment is provided certain immunity from civil liability, and reenacting s. 401.265(3), F.S., relating to medical directors, to incorporate said amendment in a reference thereto;

Amendment 1 as amended was adopted.

On motion by Senator Casas, by two-thirds vote **CS for CS for HB 911** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39 Nays—None

Motion

On motion by Senator Casas, by two-thirds vote **CS for CS for CS for SB 1858** was removed from the table.

CS for CS for CS for SB 1858—A bill to be entitled An act relating to disaster and emergency preparedness; amending s. 23.121, F.S.; providing policies and purposes; amending s. 23.1225, F.S.; providing for mutual aid in cases of emergency or disaster; amending s. 23.1231, F.S.; providing for certain matters to be included in the Florida Mutual Aid Plan; amending s. 23.127, F.S.; providing for powers, privileges, and immunities under mutual aid agreements; amending s. 213.055, F.S.; providing for waiver of certain revenue laws in cases of emergency; amending s. 235.26, F.S.; requiring inclusion of design criteria for using school buildings as

emergency shelters into the State Uniform Building Code for Educational Facilities Construction; amending s. 240.295, F.S.; providing for construction of State University System buildings to provide shelter in emergencies; creating s. 252.311, F.S.; providing legislative intent with respect to emergency management; amending s. 252.32, F.S.; providing policy and purpose with respect to response to disasters; amending s. 252.34, F.S.; defining and redefining terms; amending s. 252.36, F.S.; requiring additional information to be included in an executive order or proclamation of a state of emergency; amending s. 252.35, F.S.; prescribing powers of the Division of Emergency Management; creating s. 252.365, F.S.; providing for designation of emergency coordination officers; creating the Emergency Management, Preparedness, and Assistance Trust Fund; providing for an annual surcharge on homeowner's and commercial insurance policies to fund emergency management, preparedness, and assistance; providing for distribution of moneys appropriated from the Emergency Management, Preparedness, and Assistance Trust Fund; amending s. 624.5092, F.S.; authorizing the Department of Insurance to share information with the Department of Revenue; amending s. 252.37, F.S.; revising legislative intent; amending s. 252.38, F.S.; prescribing powers of units of local government with respect to emergency management; amending s. 252.355, F.S.; requiring compilation of a registry of disabled persons; creating s. 252.385, F.S.; prescribing intent, and duties of the Division of Emergency Management, with respect to shelter space; requiring a report; amending s. 252.46, F.S.; providing for emergency management orders and rules; amending ss. 252.47, 252.50, F.S.; correcting a cross-reference; amending s. 252.52, F.S.; correcting a cross-reference; creating s. 327.59, F.S.; prohibiting certain acts in relation to marina evacuation during emergencies; amending s. 393.067, F.S.; providing for adoption of emergency management plans and structural requirements for residential facilities; amending s. 395.1055, F.S.; providing for adoption of emergency management plans and structural requirements for hospitals; amending s. 400.23, F.S.; providing for adoption of emergency management plans and structural requirements for nursing homes and related facilities; amending s. 400.441, F.S.; providing for adoption of emergency management plans for adult congregate living facilities; amending s. 409.905, F.S.; providing for payment for nursing facility services in cases of a declared state of emergency; amending s. 409.908, F.S.; providing for Medicaid reimbursement for hospitals furnishing skilled nursing services during declared emergencies; amending s. 465.019, F.S.; providing powers of institutional pharmacies in areas that are subject to a declared state of emergency; amending s. 465.0275, F.S.; authorizing certain emergency refills of prescriptions in areas that are subject to a declared state of emergency; amending s. 374.976, F.S.; authorizing inland navigation districts to waive certain rules following a declared state of emergency; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Casas moved the following amendment:

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

Section 1. There is created the Emergency Management, Preparedness, and Assistance Trust Fund to be administered by the Department of Community Affairs.

Section 2. In order to provide funds for emergency management, preparedness, and assistance, an annual surcharge of $2 per policy shall be imposed on every homeowner's, mobile homeowner's, tenant homeowner's, and condominium unit owner's policy, and an annual $4 surcharge shall be imposed on every commercial fire, commercial multiple peril, and business owner's property insurance policy, issued or renewed on or after May 1, 1993. The surcharge shall be paid by the policyholder to the insurer. The insurer shall collect the surcharge and remit it to the Department of Revenue, which shall collect, administer, audit, and enforce the surcharge pursuant to section 624.5092, Florida Statutes. The surcharge is not to be considered premiums of the insurer; however, nonpayment of the surcharge by the insured may be a valid reason for cancellation of the policy. All proceeds of the surcharge shall be deposited in the Emergency Management, Preparedness, and Assistance Trust Fund and may not be used to supplant existing funding.

Section 3. (1) Funds appropriated from the Emergency Management, Preparedness, and Assistance Trust Fund shall be allocated by the Department of Community Affairs as follows:

(a) Sixty percent to implement and administer state and local emergency management programs, including training, of which 20 percent shall be used by the division and 80 percent shall be allocated to local emergency management agencies and programs. Of this 80 percent, at least 80 percent shall be allocated to counties.

(b) Twenty-five percent to provide for state relief assistance for nonfederally declared disasters, including, but not limited to, grants and below-interest-rate loans to businesses for uninsured losses resulting from a disaster.

(c) Fifteen percent for grants and loans to state or regional agencies, local governments, and private organizations to implement projects that will further state and local emergency management objectives, including projects that will promote public education on disaster preparedness and recovery issues and the coordination of relief efforts of statewide private sector organizations. The division shall establish procedures for competitive allocation of these funds by rule. No more than 5 percent of any award made pursuant to this paragraph may be used for administrative expenses.

(2) The distribution formula provided in subsection (1) may be adjusted proportionally when necessary to meet any matching requirements imposed as a condition of receiving federal disaster relief assistance or planning funds.

(3) The department shall allocate funds from the Emergency Management, Preparedness, and Assistance Trust Fund to local emergency management agencies and programs pursuant to criteria specified in rule. Such rules shall include, but are not limited to:

(a) Requiring that, at a minimum, a local emergency management agency either:

1. Have a program director who works at least 40 hours a week in that capacity; or

2. If the county has fewer than 50,000 population or is party to an interjurisdictional emergency management agreement entered into pursuant to section 252.38(3)(b), Florida Statutes, that is recognized by the Governor by executive order or rule, have an emergency management coordinator who works at least 20 hours a week in that capacity.

(b) Specifying a formula that establishes a base grant allocation and weighted factors for funds to be allocated over the base grant amount.

(c) Specifying match requirements.

(d) Preferential funding to provide incentives to counties and municipalities to participate in mutual aid agreements.

(4) If adequate funds are available as determined by the division, every county shall receive funds at least sufficient to fund a dedicated, full-time emergency preparedness officer position.

Section 4. Subsection (1) of section 624.5092, Florida Statutes, 1992 Supplement, is amended to read:

624.5092 Administration of taxes; payments.—

(1) The Department of Revenue shall administer, audit, and enforce the assessment and collection of those taxes to which this section is applicable. The Department of Insurance is authorized to share information with the Department of Revenue as necessary to verify premium tax *or other tax* liability arising under such taxes and credits which may apply thereto.

Section 5. Section 252.37, Florida Statutes, is amended to read:

252.37 Financing.—

(1) It is the intent of the Legislature and declared to be the policy of the state that funds to *be prepared for and* meet emergencies shall always be available.

(2) It is the legislative intent that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, he may make funds available by transferring and expending moneys appropriated for other purposes or out of any unappropriated surplus funds.

(3) Nothing contained in this section shall be construed to limit the authority of the Governor to apply for, administer, and expend any grants, gifts, or payments in aid of emergency prevention, mitigation, preparedness, response, or recovery.

(4)(a) Whenever the Federal Government or any agency or officer thereof offers to the state or, through the state, to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, or loan for the purposes of emergency management, the state, acting through the division, or such political subdivision, acting with the consent of the Governor or his authorized representative, may accept such offer. Upon such acceptance, the division or the presiding officer or governing body of such political subdivision may authorize receipt of the gift, grant, or loan on behalf of the state or such political subdivision, subject to the terms of the offer and the rules and regulations of the agency making the offer.

(b) Whenever any person, firm, or corporation offers to the state or to any political subdivision thereof services, equipment, supplies, materials, or funds by way of gift, grant, loan, or other agreement for the purpose of emergency management, the state, acting through the division, or such political subdivision, acting through its governing body or a local emergency management agency, may accept such offer. Upon such acceptance, the division or the presiding officer or governing body of the political subdivision may authorize receipt of the gift, grant, or loan on behalf of the state or such political subdivision, subject to the terms of the offer.

Section 6. Effective July 1, 1993, the sum of $12.7 million is appropriated from the Emergency Management, Preparedness and Assistance Trust Fund to the Department of Community Affairs for the purposes of this act, and up to nine full-time equivalent positions are authorized.

Section 7. 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 disaster and emergency preparedness; creating the Emergency Management, Preparedness, and Assistance Trust Fund; providing for an annual surcharge on homeowner's and commercial insurance policies to fund emergency management, preparedness, and assistance; providing for distribution of moneys appropriated from the Emergency Management, Preparedness, and Assistance Trust Fund; amending s. 624.5092, F.S.; authorizing the Department of Insurance to share information with the Department of Revenue; amending s. 252.37, F.S.; revising legislative intent; providing an appropriation; providing an effective date.

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

Amendment 1A—On page 2, strike all of lines 12-25 and insert:

(b) Twenty percent to provide for state relief assistance for nonfederally declared disasters, including but not limited to, grants and below-interest rate loans to businesses for uninsured losses resulting from a disaster.

(c) Twenty percent for grants and loans to state or regional agencies, local governments, and private organizations to implement projects that will further state and local emergency management objectives. These projects must include, but need not be limited to, projects that will promote public education on disaster preparedness and recovery issues, enhance coordination of relief efforts of statewide private-sector organizations, and improve the training and operations capabilities of agencies assigned lead or support responsibilities in the state comprehensive emergency management plan, including the State Fire Marshal's Office for coordinating the Florida fire services. The division shall establish criteria and procedures for competitive allocation of these funds by rule. No more than 5 percent of any award made pursuant to this paragraph may be used for administrative expenses.

Amendment 1 as amended was adopted.

On motion by Senator Casas, by two-thirds vote **CS for CS for CS for SB 1858** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39 Nays—None

Consideration of **SB 1872, CS for SB 2082** and **CS for HB 1085** was deferred.

CLAIM BILLS

SB 96—A bill to be entitled An act relating to the relief of certain members of the Florida National Guard; providing an appropriation to compensate them for property damage to their vehicles while they were on military duty during Hurricane Andrew; providing an effective date.

—was read the second time by title.

One amendment was adopted to **SB 96** to conform the bill to **CS for HB 281**.

Pending further consideration of **SB 96** as amended, on motion by Senator Bankhead, by two-thirds vote **CS for HB 281** was withdrawn from the Committee on Finance, Taxation and Claims.

On motion by Senator Bankhead—

CS for HB 281—A bill to be entitled An act relating to the relief of certain members of the Florida National Guard; providing an appropriation to compensate them for property damage to their vehicles while they were on military duty during Hurricane Andrew; providing an effective date.

—a companion measure, was substituted for **SB 96** and read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 281** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for HB 279—A bill to be entitled An act for the relief of Diane Stampler; providing an appropriation to compensate her for injuries she sustained in an accident caused by 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 Forman, by two-thirds vote **CS for HB 279** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

CS for HB 401—A bill to be entitled An act for the relief of Steven Tomesko; providing an appropriation to compensate him for injuries he received due to the negligence of the Department of Transportation; providing an effective date.

—was read the second time by title. On motion by Senator Crist, by two-thirds vote **CS for HB 401** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40 Nays—None

HB 403—A bill to be entitled An act for the relief of Denise Parmentier; providing an appropriation to compensate her for severe facial injuries sustained due to the negligence of the Department of Transportation; providing an effective date.

—was read the second time by title. On motion by Senator Silver, by two-thirds vote **HB 403** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

SPECIAL ORDER, continued

On motion by Senator Myers, by two-thirds vote **HB 703** was withdrawn from the Committee on Judiciary.

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

CS for HB 703—A bill to be entitled An act relating to reproductive technology; amending s. 742.11, F.S.; providing for the status of certain children born from donated eggs or preembryos; changing the title of ch. 742, F.S.; creating s. 742.13, F.S.; providing definitions; creating s. 742.14, F.S.; providing for the relinquishment of rights by the donor of eggs, sperm, or preembryos; restricting compensation for such donation; creating s. 742.15, F.S.; requiring a contract before engaging in gestational surrogacy; specifying contract requirements and restrictions; creating s. 742.16, F.S.; requiring a petition for affirmation of parental status; providing for notice and hearing; specifying duties of the Department of Health and Rehabilitative Services regarding birth certificates; providing an exemption from public records law; providing for review and repeal; creating s. 742.17, F.S.; providing for the disposition of eggs, sperm, and preembryos under specified conditions; restricting rights of inheritance; providing an effective date.

—a companion measure, was substituted for **CS for SB 2082** and by two-thirds vote read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 703** 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 Jenne, by two-thirds vote **CS for HB 111** was withdrawn from the Committees on Criminal Justice and Judiciary.

On motion by Senator Jenne—

CS for HB 111—A bill to be entitled An act relating to venue in criminal cases; amending s. 910.03, F.S.; authorizing the court to give priority, upon motion, to demographic composition similarity after ordering a change of venue; providing an effective date, and providing applicability to pending cases.

—a companion measure, was substituted for **SB 1872** and read the second time by title. On motion by Senator Jenne, by two-thirds vote **CS for HB 111** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38 Nays—None

CS for SB's 2078 and 1608—A bill to be entitled An act relating to postsecondary education; amending s. 240.2601, F.S., relating to the State University System Facility Enhancement Challenge Grant Program; providing that a university may expend funds from private sources for certain fundraising activities; providing that the funds used for fundraising are eligible for matching funds if the facility project is initiated; amending s. 240.2605, F.S., relating to the Trust Fund for Major Gifts; providing for the trust fund to be administered by the Board of Regents as a part of the major gifts program; providing that moneys appropriated for the new donors program and the eminent scholars program shall be transferred into the Trust Fund for Major Gifts; providing that all real estate that is donated for the purposes of the major gifts program shall be administered under rules of the Board of Regents; providing for administration and for matching grants; requiring that foundations submit a report to the Board of Regents specifying the use of the proceeds of endowments established; deleting certain provisions relating to the trust fund; amending s. 240.207, F.S.; providing for a 2-year term of office for the student member of the Board of Regents; amending s. 240.253, F.S.; providing for confidentiality of certain personnel records of university direct-support organizations; amending s. 240.299, F.S.; providing for confidentiality of certain financial information of university direct-support organizations; amending s. 240.522, F.S.; providing for transfer of assets to the direct-support organization for the new state university in southwest Florida; amending s. 240.5285, F.S.; providing for a direct-support organization at the Broward County campus of Florida Atlantic University; prohibiting universities from assessing student fees not authorized by law; providing requirements for organizations that solicit financial support on university campuses; amending s. 215.16, F.S., relating to reductions in vacant positions; amending s. 240.209, F.S.; modifying provisions relating to the setting of fees by the Board of Regents; authorizing varying fee schedules and expenditures; requiring rules relating to financial aid fees; prescribing responsibilities of specified state universities for providing certain programs and services statewide; authorizing instruction in certain disciplines to be provided throughout the state; amending s. 240.2094, F.S.; authorizing an increase in salary rate under certain circumstances; amending s. 240.214, F.S.; revising data in the accountability process plan; requiring additional information in the accountability reports; amending s. 240.271, F.S.; revising provisions relating to funding based on enrollment; providing for the retention and expenditure of certain fee revenues; amending s. 240.272, F.S.; revising provisions relating to the carryforward and expenditure of certain funds; amending s. 240.278, F.S.; revising provisions relating to the required course program and the Quality Assurance Fund; amending ss. 240.531, 282.308, 447.203, F.S.; correcting cross-references; amending s. 240.311, F.S.; revising duties of the State Board of Community Colleges; providing procedures for selection of presidents of community colleges; amending s. 240.319, F.S.; prescribing requirements for rules, procedures, and policies; amending s. 240.324, F.S.; revising community college planning relating to the accountability process; requiring automated student records systems; amending s. 240.325, F.S.; revising provisions relating to guidelines for community colleges; amending s. 240.331, F.S.; conforming provisions; amending s. 240.347, F.S.; revising provisions relating to the State Community College Program Fund; providing community college program requirements; amending s. 240.359, F.S.; providing for community college budgets and budget categories; amending s. 240.363, F.S.; providing requirements for purchases generated from external funding; repealing s. 240.257, F.S., relating to the Florida Endowment Trust Fund for Eminent Scholars Act; repealing s. 240.259, F.S., relating to the Trust Fund for New Donors; repealing ss. 240.349 and 240.361, F.S., relating to requirements for participation in the Community College Program Fund and budgets for community colleges; 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. Subsection (4) of section 240.2601, Florida Statutes, is amended to read:

240.2601 State University System Facility Enhancement Challenge Grant Program.—

(4)*(a)* *A* ~~No~~ project *may not* ~~shall~~ be initiated unless all private funds for planning, construction, and equipping the facility have been received and deposited in the trust fund and the state's share for the minimum amount of funds needed to begin the project has been appropriated by the Legislature. The Legislature may appropriate the state's matching funds in one or more fiscal years for the planning, construction, and equipping of an eligible facility.

(b) A university may expend funds from private sources to develop a prospectus, architectural schematics, and models for use in its effort to raise private funds for a facility. Additionally, any private funds expended for this purpose are eligible for state matching funds if the facility project is initiated.

Section 2. Section 240.2605, Florida Statutes, is amended to read:

240.2605 Trust Fund for Major Gifts.—

(1) There is established a Trust Fund for Major Gifts, to be divided into challenge grants to be administered by the Board of Regents *as the major gifts program.* The Legislature shall designate funds to be transferred to the trust fund from the General Revenue Fund. *All moneys appropriated for the new donors program and the eminent scholars program must be transferred into the trust fund.* All appropriated funds deposited into the trust fund shall be invested pursuant to rules of the Board of Regents. *All real property that is donated for the purposes of this program must be administered under rules of the Board of Regents.* Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any undisbursed balance remaining in the trust fund and interest income accruing to that portion of the trust fund not allocated shall remain in the trust fund and shall increase the total funds available for such challenge grants. If excess unencumbered funds exist in the Trust Fund for Eminent Scholars or the Trust Fund for Major Gifts, such funds may be transferred between such trust funds to be used for matching grants on the approved priority list.

(2) 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.

(3) The moneys appropriated to the trust fund shall be allocated by the Board of Regents to each state university and the New College, based on the amount of each donation and the restrictions applied to that donation. Donations for a specific purpose will be matched in the following manner:

(a) Each university that raises a contribution of at least $100,000 but no more than $600,000 from a private source will receive a matching grant equal to 50 percent of the private contribution.

(b) Each university that raises a contribution in excess of $600,000 but no more than $1 million from a private source will receive a matching grant equal to 70 percent of the private contribution.

(c) Each university that raises a contribution in excess of $1 million but no more than $1.5 million from a private source will receive a matching grant equal to 75 percent of the private contribution.

(d) Each university that raises a contribution in excess of $1.5 million but no more than $2 million from a private source will receive a matching grant equal to 80 percent of the private contribution.

(e) Each university that raises a contribution in excess of $2 million from a private source will receive a matching grant equal to 100 percent of the private contribution.

For the purpose of this schedule of matching private donations, a donation made by one individual that is divided among universities is considered one donation.

(4) A single donation made after July 1, 1993, for the establishment of a permanent endowment to be used at the discretion of the president of a university for improving the educational and academic programs of the university, which donation is not restricted for use by a specific college, department, discipline, or program and which donation is at least $100,000, will 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 of a university for improving the academic programs of the university, which donation is not restricted for use by a specific college, department, discipline, or program and which donation is in excess of $1 million will be matched pursuant to the provisions of subsection (3) for matching a restricted donation.

(5) Annually, each foundation shall submit to the Board of Regents a report specifying the use of the proceeds of endowments established pursuant to this section. The Board of Regents shall specify the format and content of the annual report.

(6) 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.

~~(2) The amount appropriated to the trust fund shall be allocated by the Board of Regents to each university on the basis of one $50,000 grant for each $100,000 contributed by private sources. Grants from the fund shall be allocated for contributions made after July 1, 1985. A contribution may also qualify for a matching grant if the donor makes an initial payment of $20,000 and provides a written pledge to pay the balance of the contribution within the subsequent 4 years in an annual amount equal to at least 25 percent of the written pledge. Payments on the balance shall be made on or before the anniversary date of the initial payment. No grant shall be allocated prior to collection of the total $100,000 contribution.~~

~~(3) Grants received pursuant to this section shall be placed in a restricted endowment by the university foundation. The interest income accrued to the endowment shall be expended exclusively for endowed professorships and scholarships other than athletic.~~

~~(4) The New College Foundation shall also establish a trust fund account for donors into which shall be deposited private, voluntary contributions and appropriated moneys appropriated thereto by the state. The foundation shall annually report to the board the amount of funds actually transferred to New College for programs identified in subsection (3).~~

Section 3. Section 240.253, Florida Statutes, is amended to read:

240.253 Personnel records.—The university may prescribe the content and custody of limited access records which the university *or the university's direct-support organizations* may maintain on its employees. Such records shall be limited to information reflecting evaluations of employee performance and shall be open to inspection only by the employee and by officials of the university *or direct-support organization* who are responsible for supervision of the employee. Such limited access employee records are confidential and exempt from the provisions of s. 119.07(1). Except as required for use by the president in the discharge of his official responsibilities, the custodian of limited access employee records may release information from such records only upon authorization in writing from the employee or upon order of a court of competent jurisdiction. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 4. Subsection (4) of section 240.299, Florida Statutes, is amended to read:

240.299 Direct-support organizations; use of property; board of directors; audit; status.—

(4) ANNUAL AUDIT; *CONFIDENTIALITY.*—

(a) Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with rules ~~to be~~ promulgated by the *Auditor General* ~~Board of Regents~~. The annual audit report shall include a management letter and shall be submitted to the Auditor General and the Board of Regents for review. The Board of Regents and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization.

(b) All information about a donor or a prospective donor which, if released, would identify that donor is exempt from the provisions of s. 119.07(1). Except for expenditure information, marketing strategies and campaign plans are exempt from the provisions of s. 119.07(1). In any case in which a direct-support organization seeks to sell real property, all appraisals and other reports relating to value, offers, and counteroffers must be in writing and are exempt from the provisions of s. 119.07(1) until execution of a valid option contract or written offer to sell has been conditionally accepted by the buyer, at which time the exemption shall expire. For the purpose of this paragraph, "option contract" means an agreement of the direct-support organization to sell real property subject to final approval by the buyer of the real property. ~~The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report.~~ All *other* records of the organization *are public records for the purpose of chapter 119* ~~other than the auditor's report, management letter, and any supplemental data requested by the Board of Regents and the Auditor General shall be confidential and exempt from the provisions of s. 119.07(1)~~. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 5. Subsection (4) of section 240.522, Florida Statutes, 1992 Supplement, is amended to read:

240.522 Establishment of university in Southwest Florida.—

(4) Upon certification by the Board of Regents of a direct-support organization *pursuant to s. 240.299* to serve as the foundation of the state university in Southwest Florida, the Board of Regents, in conjunction with the University of South Florida Foundation, shall develop and implement a plan to transfer to the new foundation assets derived from donations intended for the enhancement of the Ft. Myers branch of the University of South Florida.

Section 6. Subsection (3) of section 240.5285, Florida Statutes, 1992 Supplement, is amended to read:

240.5285 Florida Atlantic University campuses.—

(3) The Board of Regents shall take all actions necessary to assure that Florida Atlantic University Broward and Florida Atlantic University Boca Raton are partners in the overall policymaking and academic governance structures of the university. Annual legislative budget requests for operations and facilities shall separately identify those funds requested for Florida Atlantic University Broward and Florida Atlantic University Boca Raton. Florida Atlantic University Broward and Florida Atlantic University Boca Raton shall have local management authority over their campus faculty, staff, and programs, but there shall be universitywide standards and processes for evaluating requests for promotion and tenure; there shall be complete transferability of credits and uniform pro-

grams across campuses; and colleges operating on multiple campuses shall have only one dean for each college. Florida Atlantic University Broward shall establish a faculty senate and may establish a direct-support organization *pursuant to s. 240.299.*

Section 7. Subsection (1) of section 240.207, Florida Statutes, is amended to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(1) The Board of Regents shall consist of the Commissioner of Education and 12 citizens of this state who shall be selected from the state at large, representative of the geographical areas of the state; who shall have been residents and citizens thereof for a period of at least 10 years prior to their appointment (one of whom shall be a member registered as a full-time student in the State University System and who shall have been a resident of this state for at least 5 years prior to appointment in lieu of the 10 years required of other members); and who shall be appointed by the Governor, approved by three members of the Cabinet, and confirmed by the Senate. However, no appointee shall take office until after his appointment has been approved by three members of the Cabinet. The State Board of Education shall develop rules and procedures for review and approval of the appointees. Except for the Commissioner of Education and except for the full-time student member, who shall serve for *2 years* ~~1 year~~, the terms of office for the members of the Board of Regents shall be 6 years and until their successors are appointed and qualified, except in case of an appointment to fill a vacancy, in which case the appointment shall be for the unexpired term, and except as in this section otherwise provided. No member shall be selected from any county to serve with any other member from the same county, except that not more than two members may be selected from a county which has a population in excess of 900,000, and with the exceptions of the student member, who shall be selected at large, and the Commissioner of Education. The Governor shall fill all vacancies, subject to the above approval and confirmation, that may at any time occur on the board.

Section 8. Paragraph (e) is added to subsection (5) of section 240.209, Florida Statutes, 1992 Supplement, to read:

240.209 Board of Regents; powers and duties.—

(5) The Board of Regents is responsible for:

(e) Adopting standards for the oversight, preparation, and assistance by faculty of graduate teaching assistants.

Section 9. Section 240.214, Florida Statutes, is amended to read:

240.214 State University System accountability process.—It is the intent of the Legislature that an accountability process be implemented which provides for the systematic, ongoing evaluation of quality and effectiveness in the State University System. It is further the intent of the Legislature that this accountability process monitor performance at the system level in each of the major areas of instruction, research, and public service, while recognizing the differing missions of each of the state universities. The accountability process shall provide for the adoption of systemwide performance standards and *measurable* performance goals for each standard identified through a collaborative effort involving the State University System, the Legislature, and the Governor's Office. The accountability process shall be implemented in incremental phases.~~, as follows:~~

~~(1) No later than December 31, 1991, and annually thereafter, the board shall submit to the Legislature an evaluation of the production of classroom contact hours at each university pursuant to s. 240.243. The evaluation must include a specific analysis of the contact-hour expectations resulting from the multiplication of the requirements of s. 240.243 by the instructional man-years generated through the legislative enrollment formula. The analysis must, in addition, include the contact-hour expectations resulting from the multiplication of 84 percent of the positions provided for undergraduate enhancement by the contact-hour requirements of s. 240.243. The board may also conduct this analysis using alternative formulas. The board shall recommend to the Legislature any appropriate modifications to this section, s. 240.243, or other current policies. These recommendations shall be included in the annual accountability report submitted pursuant to subsection (3). The reports developed pursuant to this section shall be designed in consultation with the Legislature.~~

(1)~~(2)~~ By December 1993, the Board of Regents shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a plan for the implementation of ~~the balance of~~ the State University System accountability process. The plan shall be designed in consultation with the Legislature, the Governor's Office, and the Office of the Auditor General. The plan must provide a timetable that identifies the specific performance standards and related *measurable* goals to be implemented each year and must provide for full implementation of the accountability process by December 31, 1993. The plan must also identify the data files that will be used to substantiate achievement of performance goals. If it is necessary to develop new data files or modify existing files, the plan must describe the content of such files and include a sample file format. The plan must include, at a minimum, data on the following performance standards:

(a) Total student credit hours produced, by institution and by discipline;

(b) Total number of degrees awarded, by institution and by discipline;

(c) Total number of contact hours of instruction produced by faculty, by institution, rank, and course level;

(d) Pass rates on professional licensure examinations, by institution;

(e) Institutional quality as assessed by followup surveys of alumni, parents, clients, and employers, *analyses of employment information on former students and institution's national ranking*;

(f) Length of time and number of academic credits required to complete an academic degree, by institution and by degree;

(g) Enrollment, progression, retention, and graduation rates by race, *and* gender~~, and disability~~;

(h) Student course demand *and the process used for analyzing student course demand* ~~analysis~~; ~~and~~

(i) Classroom utilization*; and.*

(j) An annual evaluation, conducted in consultation with the Legislature, of the production of classroom contact hours at each university. The evaluation must include a specific analysis of the contact-hour expectations resulting from the standard of 32 contact hours for each instructional full-time equivalent position generated through the legislative enrollment formula. The analysis must, in addition, include the contact-hour expectations resulting from the multiplication of 84 percent of the positions provided for undergraduate enhancement by 32 contact hours. "Classroom contact hours" means a regularly scheduled 1-hour period of classroom activity in a course of instruction which has been approved by the university.

(2)~~(3)~~ *By* ~~Beginning~~ December *31 of each year* ~~1, 1992~~, the Board of Regents shall submit an annual accountability report providing information on the implementation of performance standards, *actions taken to improve university achievement of performance goals,* ~~*achievement of performance goals during the prior year*~~, and initiatives to be undertaken during the next year. The accountability reports shall be designed in consultation with the Governor's Office, the Office of the Auditor General, and the Legislature.

(3) Beginning with the December 1995 accountability report, the board shall include in the report an analysis of the administrator-to-faculty ratio, the percent of funds for administrative costs in the total budget, and the percent of funds in support programs compared to the percent of funds in instructional programs, including such other indicators of administrative cost as are necessary. The reports shall provide for the identification of administration and support activities of faculty.

(4) Beginning with the 1994 accountability report and periodically thereafter, the board shall include in the report an analysis of the cumulative debt of undergraduate and graduate students.

Section 10. Section 240.245, Florida Statutes, is amended to read:

240.245 Evaluations of faculty members~~; report~~.—

(1) ~~For the purpose of evaluating faculty members,~~ Each university shall adopt procedures for *evaluating faculty members based on assigned* ~~the assignment of~~ duties and responsibilities ~~to faculty members~~. These assigned duties or responsibilities shall be conveyed to each

faculty member at the beginning of each academic term, in writing, by his departmental chairman or other appropriate university administrator making the assignment. In evaluating the competencies of a faculty member, primary assessment shall be in terms of his performance of the assigned duties and responsibilities, and such evaluation shall be given adequate consideration for the purpose of salary adjustments, promotions, reemployment, and tenure.

(2) A faculty member who is assigned full-time teaching duties ~~as provided by law~~ shall be rewarded with salary adjustments, promotions, reemployment, or tenure for meritorious teaching and other *related* scholarly activities *consistent with the salary adjustments, promotions, reemployment, or tenure of faculty assigned other duties* ~~related thereto~~. *A full-time teaching assignment shall be based on a minimum of 12 classroom contact hours or instructional equivalents.*

(3)~~(2)~~ *Each university shall adopt and the Board of Regents shall review* ~~The Board of Regents shall establish~~ criteria for evaluating ~~the quantity and quality of service to public schools by university~~ faculty members *for the purpose of* ~~and shall require consideration of this service in~~ promotion, tenure, and other reward measures. *The Board of Regents shall adopt procedures for ensuring* ~~Each university shall ensure~~ that the following policies are implemented:

(a) Flexible criteria for rewarding faculty members, consistent with the educational goals and objectives of the university, shall be established, which criteria shall include quality teaching, *research,* and service ~~to public schools~~ as major factors in determining salary adjustments, promotions, reemployment, or tenure.

(b) Measures shall be taken to increase the recognition, reinforcements, and rewards given quality teaching ~~and service to public schools~~. Such measures might include grants for professional development, curriculum improvement, and instructional innovation, as well as awards of varying kinds for meritorious teaching.

(c) The means of identifying and evaluating quality teachers ~~and outstanding service to public schools~~ shall be determined in accordance with established guidelines of the university.

(4) The Board of Regents shall evaluate and adopt, as appropriate, promotional opportunities for faculty in addition to the promotion through faculty ranks and to administrative positions. Opportunities for promotion to be evaluated shall include doctoral directive status, the assumption of responsibility for the undergraduate curriculum, and the supervision of graduate teaching assistants.

~~(3) The vice presidents for academic affairs for the nine state universities shall disseminate information to all faculty members which clearly states that service to public schools is one of the criteria used to determine salary adjustments, promotions, reemployment, and tenure for faculty members.~~

Section 11. The University of Florida, Florida State University, and Florida A&M University are responsible for providing, statewide, programs and services that are not provided by any of the other state universities. The activities of the cooperative extension service continue to be the responsibility of the Institute of Food and Agricultural Sciences of the University of Florida without regard to the geographical areas in which those activities occur. A state university that has capability in specific disciplines not currently being provided by another state university may offer instruction in those disciplines in any part of the state without prior approval.

Section 12. Subsections (5) and (6) of section 240.271, Florida Statutes, 1992 Supplement, are amended to read:

240.271 State University System; funding.—

(5)*(a)* ~~If the actual enrollment for any university is less than the planned enrollment by 0 to 5 percent for any fiscal year, the university shall receive full funding as allocated.~~ If the actual enrollment is less than planned enrollment by more than 5 percent for any *2* fiscal *years* ~~year~~, the ~~allocation of the~~ university *enrollment plan* ~~for instruction~~ shall be reduced ~~proportionately to the difference between 5 percent and the actual percentage reduction in enrollment for any fiscal year~~. ~~All such reductions in university allocations shall be reallocated in the fourth quarter of the fiscal year to all universities on a proportional basis based on actual enrollment by level, not including actual enrollment in excess of planned enrollment.~~ If actual enrollment exceeds target enrollment, ~~there shall be no increased allocation, and~~ an explanation of the excess shall be provided with the next year's enrollment plan.

(6) The enrollment planning *and* ~~plus~~ program cost data established by this section shall be used as the basis for preparing the legislative budget requests.

Section 13. Section 240.272, Florida Statutes, is amended to read:

240.272 Carryforward of unexpended funds.—Notwithstanding the provisions of s. 216.301 to the contrary, the Executive Office of the Governor shall, on July 1 of each year, certify forward all unexpended funds appropriated *or provided pursuant to s. 240.209 or s. 240.271* for the State University System. Any unexpended funds in the current year operating budget, including unexpended student fee revenues, shall be carried forward by the Board of Regents for use by the university to which the funds were allocated.

(1) Such carryforward shall not exceed 5 percent of the total operating budget of the university. Funds carried forward pursuant to this section shall be expended for nonrecurring expenses *or for maintaining course offerings in the event of a revenue shortfall* as approved by the Board of Regents.

(2) No university shall be penalized in the allocation of subsequent funds as a result of the carryforward of an unexpended balance.

Section 14. Subsection (5) of section 240.531, Florida Statutes, is amended to read:

240.531 Establishment of educational research centers for child development.—

(5) Each educational research center for child development shall be funded by a portion of the Capital Improvement Trust Fund fee established by the Board of Regents pursuant to s. 240.209(3)*(k)*~~(h)~~. Each university which establishes a center shall receive a portion of such fees collected from the students enrolled at that university, usable only at that university, equal to 22.5 cents per student per credit hour taken per term, based on the summer term and fall and spring semesters. This allocation shall be used by the university only for the establishment and operation of a center as provided by this section and rules promulgated hereunder. Said allocation may be made only after all bond obligations required to be paid from such fees have been met.

Section 15. Subsection (2) of section 282.308, Florida Statutes, 1992 Supplement, is amended to read:

282.308 State University System information resources management plan.—

(2) The Chancellor of the Board of Regents shall review, recommend modifications to, and approve each university plan and shall provide a copy of each university's approved plan and a copy of the approved State University System Strategic Information Resources Management Plan to the commission by May 1 of each even-numbered year. Such plans are not subject to approval by the commission, but shall support and further the goals and objectives of the master plan required pursuant to s. 240.209(3)*(m)*~~(j)~~, the policies and objectives of the functional plan prepared by the Department of Education pursuant to s. 186.021, and the goals and policies of the State Strategic Plan for Information Resources Management specified in s. 282.3061.

Section 16. Subsection (2) of section 447.203, Florida Statutes, is amended to read:

447.203 Definitions.—As used in this part:

(2) "Public employer" or "employer" means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. With respect to all public employees determined by the commission as properly belonging to a statewide bargaining unit composed of State Career Service System employees or Selected Professional Service employees, the Governor shall be deemed to be the public employer; and the Board of Regents shall be deemed to be the public employer with respect to all public employees within the State University System as provided in s. 240.209(3)*(i)*~~(f)~~, except that such employees shall have the right, in elections to be conducted at each university by the commission pursuant to its rules, to elect not to participate in collective bargaining. In the event that a majority of such voting employees at any university elect not to participate in collective bargaining, they shall be removed from the applicable Board of Regents bargaining unit. If, thereafter, by election conducted by the com-

mission pursuant to its rules, a majority of such voting employees elect to participate in collective bargaining, they shall be included again in the applicable Board of Regents bargaining unit for such purpose. The board of trustees of a community college shall be deemed to be the public employer with respect to all employees of the community college. The district school board shall be deemed to be the public employer with respect to all employees of the school district. The Board of Trustees of the Florida School for the Deaf and the Blind shall be deemed to be the public employer with respect to the academic and academic administrative personnel of the Florida School for the Deaf and the Blind. The Board of Correctional Education shall be deemed to be the public employer with respect to all officers and employees of the Correctional Education School Authority.

Section 17. Subsections (3) and (7) are amended, paragraph (q) is added to subsection (3), and subsection (8) is added to s. 240.311, Florida Statutes, to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(a) Provide for each community college to offer educational training and service programs designed to meet the needs of both students and the communities served.

(b) Provide, through rule, for the coordination of the state community college system.

(c) Review new associate degree or certificate programs for relationship to student *and workforce* demand; conduct periodic reviews of existing programs; *provide for implementation of recommendations resulting from program reviews;* and provide rules for termination of associate degree or certificate programs when excessive duplication exists *or when programs are not meeting minimum standards.*

(d) Ensure that the rules and procedures of community college district boards relating to admission to, enrollment in, employment in, and programs, services, functions, and activities of each college provide equal access and equal opportunity for all persons.

(e) Advise presidents of community colleges of the fiscal policies adopted by the Legislature and of their responsibilities to follow such policies.

(f) Specify, by rule, procedures to be used by the boards of trustees in the *annual* ~~periodic~~ evaluations of presidents and formally review the evaluations of presidents by the boards of trustees. *Such evaluation shall include consideration of the institutional accountability plan as required by law, and the equity accountability plan as required in s. 240.3355. By January 31 of each year the State Board of Community Colleges shall review the annual presidential evaluations from the previous year and provide any comments or recommendations concerning the process used, including any deficiencies, to the district board of trustees. The review shall specifically indicate whether or not the evaluations satisfied the requirements and procedure established in rule.*

(g) Recommend to the State Board of Education minimum standards for the operation of each community college as required in s. 240.325, which standards may include, but are not limited to, general qualifications of personnel, budgeting, accounting and financial procedures, educational programs, student admissions and services, *articulation,* and community services.

(h) Establish an effective information system which will provide *comprehensive* ~~composite~~ data about the community colleges and *ensure that all reports and studies required by statute, as well as other special analyses about the community colleges, are conducted and that such reports provide accurate and valid information about the community colleges and about the State Community College System as a whole. A component of this information system shall be data requirements related to the accountability outcome measures report required under s. 240.324. The State Board of Community Colleges may require other such reports from each community college to the State Board of Community Colleges on its progress towards meeting goals related to the Five-Year Master Plan as well as other oversight areas. Such reports shall be based upon information from the prior reporting year.* ~~assure that special analyses and studies about the colleges are conducted, as necessary, for provision of accurate and cost effective information about the colleges and about the community college system as a whole. A component of this information system shall be an annual report from each community college to the State Board of Community Colleges on its progress towards meeting state and institutional quality goals. Such reports shall be based upon information from the prior academic year and shall contain:~~

~~1. An interpretation and analysis of student progress, including grade point average data and college level academic skills test information.~~

~~2. Followup information, including the success of graduates in upper-division university programs or placement rates of graduates in related employment fields.~~

~~3. Information on the needs of the community college and its students.~~

~~4. Information on college salaries and fringe benefits.~~

~~5. A report on college travel expenditures.~~

~~6. A report on the expenditure of funds raised by community college direct support organizations.~~

These reports ~~The annual report~~ shall be submitted to the State Board of Community Colleges ~~by November 1~~ each *reporting* ~~academic~~ year *as determined by the State Board of Community Colleges or as prescribed in law,* and *they* ~~it~~ shall clearly show the progress in each area from one year to the next year. The *reports* ~~report~~ shall be reproduced and made available at the least possible cost and may be issued in a series or as part of existing college publications.

(i) Encourage the colleges and the system as a whole to cooperate with other educational institutions and agencies and with all levels and agencies of government in the interest of effective utilization of all resources, programs, and services.

(j) Establish criteria for making recommendations relative to modifying district boundary lines and for making recommendations upon all proposals for the establishment of additional centers or campuses for community colleges.

(k) Develop a plan in cooperation with the local school district and the Department of Education to include any and all counties in a community college service district.

(l) Assess the need to consolidate any community colleges.

(m) Develop and adopt guidelines relating to salary and fringe benefit policies for community college administrators, including community college presidents.

(n) Develop and adopt guidelines relating to official travel by community college employees.

(o) Receive an annual administrative review of each community college.

1. Such review shall include, but is not limited to, the administrator-to-faculty ratio, the percent of funds for administrative costs in the total budget, and the percent of funds in support programs compared to the percent of funds in instructional programs and may include such other indicators of quality as are necessary.

2. The review shall also include all courses offered by a community college outside its district. Courses offered outside the home district which are not approved by the State Board of Community Colleges shall not be counted for funding purposes or to meet enrollment assignments.

(p) Encourage and support activities which promote and advance college and statewide direct-support organizations.

(q) Beginning September 1, 1993, in consultation with the community college presidents, develop a Five-Year Systemwide Master Plan which specifies measurable goals and objectives to be achieved within that 5-year period for the State Community College System. The master plan shall address, at a minimum, the accountability process and outcome measures pursuant to s. 240.324. The master plan and an interim status report, upon approval by the State Board of Community Colleges, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(7) *The State Board of Community Colleges shall adopt rules and procedures to be followed by district boards of trustees for the recruitment, consideration, and selection process for presidents of the colleges.*

The rules or procedures shall address, at a minimum, the following: composition of a search committee that provides for membership representing the diversity of the community, faculty, students, and staff; the program mix of the colleges and priorities of the community and board; and a recruitment and consideration process that provides a candidate pool with ethnic and gender diversity appropriate for the college district. Upon selection of a president by a board of trustees, the board shall submit a report to the State Board of Community Colleges documenting compliance with this paragraph. ~~The State Board of Community Colleges must be notified of the appointment of presidents of community colleges.~~

(8) Provide for programs to train new appointees to district boards of trustees. Such programs shall include at a minimum a review of the duties, responsibilities, powers, and authority of the board as stipulated in Florida Statutes, administrative rules, and policies as adopted by the State Board of Education and the Legislature, annual reviews of training provided, including a list of the participating trustees and the program topics and participants.

Section 18. Section 240.312, Florida Statutes, is amended to read:

240.312 Community colleges; program review.—*The State Board of Community Colleges shall conduct* ~~Program~~ reviews for the community college system, *which* shall be coordinated with the Postsecondary Education Planning Commission every year. ~~Every major program shall be reviewed every 5 years or whenever the effectiveness or efficiency of a program is jeopardized.~~ Indicators of quality and criteria for the program reviews shall be defined. *The program review process shall include, but not be limited to, an annual report to each college indicating the following:*

(1) The academic performance of community college students enrolled in the state university system.

(2) The performance of occupational and professional programs in meeting the performance standards as defined in 239.233.

(3) Recommendations for additional evaluation and improvement.

(4) Requirements that district boards of trustees develop systematic plans to improve inadequate programs and expand programs that are increasingly in demand by students.

The board shall also conduct state level program reviews. These reviews shall focus on specific programs and must include an evaluation of workforce needs, faculty qualifications, student services, facilities and equipment, articulation and acceleration mechanisms, program content and length, costs, and success and retention of students. The board shall annually report to the district boards of trustees on the recommendations contained within the state level reviews. Within 1 year after approval of any review, the state board, and each district board of trustees, shall approve a plan to implement the recommendations required in this section. The results of these program reviews shall be tied to the budget request for the community college system.

Section 19. A new subsection (8) is added to section 240.313, Florida Statutes, to read:

240.313 Community college districts; establishment and organization of boards of trustees.—

(8) Trustees shall participate in a trustee training program approved by the State Board of Community Colleges as required in s. 240.311. New trustees shall participate in at least one training program within 1 year after the date of their appointment. The State Board of Community Colleges shall annually provide to the Governor and the Legislature lists of the trustees who participated in the training programs during the previous year.

Section 20. Paragraph (a) 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:

(a) Each board ~~of trustees~~ shall appoint, suspend, or remove the president of the community college. The Board of trustees *shall follow rules or procedures adopted by the State Board of Community Colleges to establish a process to recruit and consider qualified candidates for the position of president* ~~may appoint a search committee~~. Periodic evaluations of the president shall be conducted in accordance with the rules of the State Board of Community Colleges; and such evaluations shall be submitted to the State Board of Community Colleges for review.

Section 21. Subsection (1) of section 240.324, Florida Statutes, 1992 Supplement, is amended, subsections (2) and (3) are renumbered as subsections (3) and (4), respectively, and a new subsection (2) is added to said section, to read:

240.324 Community college accountability process.—

(1) It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the State Community College System. Accordingly, the State Board of Community Colleges and the community college boards of trustees shall develop and implement a *system* plan to improve and evaluate the instructional and administrative efficiency and effectiveness of the State Community College System. *The community college district boards of trustees shall develop institutional plans to include measurable goals, and strategies which are consistent with the system plan. The system and college plans* ~~This plan~~ must address the following issues:

(a) Graduation rates of AA and AS degree-seeking students compared to first-time enrolled students seeking the associate degree.

(b) Minority student enrollment and retention rates.

(c) Student performance, including student performance rates on college level academic skills tests, mean grade-point averages for community college AA transfer students, and community college student performance on state licensure examinations.

(d) Job placement rates of community college vocational students.

(e) Student progression by admission status and program.

(f) Vocational accountability standards identified in s. 239.229.

(g) Other measures as identified by the Postsecondary Education Planning Commission and approved by the State Board of Community Colleges.

(2) In accordance with ss. 240.325(9) and 240.347(3)(c), each community college shall develop and maintain an automated student records system which includes data necessary to track individual community college students, produce records, and provide information for the systemwide student outcome reports pursuant to this section.

Section 22. Subsection (9) of section 240.325, Florida Statutes, is renumbered and amended, and new subsections (9), (11), and (12) are added to said section, to read:

240.325 Minimum standards, definitions, and guidelines for community colleges.—The State Board of Education shall prescribe minimum standards, definitions, and guidelines for community colleges which will assure quality education, systemwide coordination, and that the purposes of the community college are attained. Such guidelines may include, but are not limited to, the following areas:

(9) Development and maintenance of an institutional-level comprehensive automated student records system capable of including and tracking data on student enrollment, matriculation, and graduation pursuant to s. 240.324.

(10)~~(9)~~ *Other* reports, surveys, and information systems, including forms and dates of submission.

(11) Contracts with other institutions for the provision of instruction or for awarding of credit for prior instruction or experience.

(12) Articulation.

Section 23. Subsection (3) of section 240.331, Florida Statutes, is amended to read:

240.331 Community college direct-support organizations.—

(3) ANNUAL AUDIT.—Each direct-support organization shall make provisions for an annual postaudit of its financial accounts to be conducted by an independent certified public accountant in accordance with

rules to be promulgated by the district board of trustees. The annual audit report shall be submitted to the Auditor General and the board of trustees for review. The board of trustees and the Auditor General shall have the authority to require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report. All records of the organization, other than ~~the information necessary for the annual report required by s. 240.311(3)(h)6. and~~ the auditor's report and supplemental data requested by the board of trustees and the Auditor General, shall be confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 24. Section 240.347, Florida Statutes, is amended to read:

240.347 State Community College Program Fund.—

(1) There is established a State Community College Program Fund. This fund shall comprise all appropriations made by the Legislature for the support of the current operating program and shall be apportioned and distributed to the community college districts of the state on the basis of procedures established by law and regulations of the State Board of Education and the State Board of Community Colleges. The annual apportionment for each community college district shall be distributed monthly in payments as nearly equal as possible.

(2) Each community college which receives an allocation from the state appropriations for the State Community College Program Fund shall maintain a community college program which at minimum:

(a) Meets the standards prescribed by the State Board of Education in accordance with s. 240.325.

(b) Effectively fulfills the mission of the community colleges in accordance with s. 240.301.

(c) Establishes and maintains an ongoing institutional accountability plan and process which addresses systemwide goals and outcomes pursuant to s. 240.324.

~~(2) Beginning with the 1985-1987 legislative budget request, the prior year's June 30 salary rate and adjusted expenditure data base for salaries and benefits shall be included in the budget request for the State Community College Program Fund within the following categories: "Instructional" with subcategories including "Faculty," "Nonfaculty," "Faculty Other Personal Services," and "Nonfaculty Other Personal Services"; and "Noninstructional" with subcategories including "Administrative," "Professional," "Nonprofessional," and "Noninstructional Other Personal Services." Within the foregoing categories and subcategories, the following shall be reported: salaries and employer contributions for retirement, social security, health insurance, life insurance, and other employer paid personnel benefits.~~

Section 25. Section 240.359, Florida Statutes, 1992 Supplement, is amended to read:

240.359 *Community college budgets and procedures* ~~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) BUDGETS FOR COMMUNITY COLLEGES.—The president of each community college shall recommend to the board of trustees a budget of income and expenditures at such time and in such form as the State Board of Community Colleges may prescribe. Upon approval of a budget by the board of trustees, such budget shall be transmitted to the State Board of Community Colleges and the Department of Education for review, approval, and transmittal to the Governor and Legislature. Rules of the State Board of Education shall prescribe procedures for effecting budget amendments subsequent to the final approval of a budget for a given year.

(2) BUDGET CATEGORIES FOR COMMUNITY COLLEGES.—The prior year's June 30 adjusted expenditure base for salaries and benefits shall be included in the budget request for the State Community College Program Fund within the following categories: "Instructional" with subcategories including "Faculty," "Nonfaculty," "Faculty Other Personal Services," and "Nonfaculty Other Personal Services"; and "Noninstructional" with subcategories including "Administrative," "Professional," "Nonprofessional," and "Noninstructional Other Personal Services." Within such categories and subcategories, the following shall be reported: salaries and employer contributions for retirement; social security; health insurance; life insurance; and other employer-paid personnel benefits.

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

(a) The Department of Education shall determine annually from an analysis of operating costs, prepared in the manner prescribed by rules of the State Board of Education, the costs per full-time equivalent student served in courses and fields of study offered in community colleges. This information and current college operating budgets shall be submitted to the Executive Office of the Governor with the legislative budget request prior to each regular session of the Legislature.

(b) The allocation of funds for community colleges shall be based on advanced and professional disciplines, vocational program areas, compensatory programs, and adult elementary and secondary programs. The vocational program areas shall be further subdivided into postsecondary, postsecondary adult, and supplemental vocational program areas.

(c) The funding category of lifelong learning is for students enrolled pursuant to s. 239.301. A student shall also 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.

(d) If an adult student has been determined to be a disabled student eligible for an approved educational program for disabled adults provided pursuant to s. 239.301 and rules of the State Board of Education and is enrolled in a class with curriculum frameworks developed for the program, state funding for that student shall be provided at a level double that of a student enrolled in a special adult general education program provided by a community college.

(e) The State Board of Education shall adopt rules to implement s. 9(d)(8)f., Art. XII of the State Constitution. These rules shall provide for the use of the funds available under s. 9(d)(8)f., Art. XII by an individual community college for operating expense in any fiscal year during which the State Board of Education has determined that all major capital outlay needs have been met. Highest priority for the use of these funds for purposes other than financing approved capital outlay projects shall be for the proper maintenance and repair of existing facilities for projects approved by the State Board of Education. However, in any fiscal year in which funds from this source are authorized for operating expense other than approved maintenance and repair projects, the allocation of community college program funds shall be reduced by an amount equal to the sum used for such operating expense for that community college that year, and that amount shall not be released or allocated among the other community colleges that year.

(4)~~(2)~~ DETERMINING THE AMOUNT TO BE INCLUDED FOR CAPITAL OUTLAY AND DEBT SERVICE.—The amount included for capital outlay and debt service shall be as determined and provided in s. 18, Art. XII of the State Constitution of 1885, as adopted by s. 9(d), Art. XII of the 1968 revised State Constitution and State Board of Education rules.

(5)~~(3)~~ DETERMINING THE APPORTIONMENT FROM STATE FUNDS.—

(a) By December 15 of each year, the Department of Education shall estimate the annual enrollment of each community college for the current fiscal year and for the 6 subsequent fiscal years. These estimates shall be based upon prior years' enrollments, upon the initial fall term enrollments for the current fiscal year for each college, and upon each college's estimated current enrollment and demographic changes in the respective community college districts.

(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 sub-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 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.

(c) No community college shall commit funds for the employment of personnel or resources in excess of those required to continue the same level of support for either the previously approved enrollment or the revised enrollment, whichever is lower.

(d) The apportionment to each community college district for capital outlay and debt service shall be the amount determined in accordance with subsection *(3)*~~(2)~~. This amount, less any amount determined as necessary for administrative expense by the State Board of Education and any amount necessary for debt service on bonds issued by the State Board of Education, shall be transmitted to the community college district board of trustees to be expended in a manner prescribed by rules of the State Board of Education.

(e) Colleges shall seek to maintain an unencumbered fund balance of between 4 percent and 10 percent of the funds available in the current general fund of the operating budget. If the 10-percent upper level is exceeded for 2 consecutive years, the appropriation to the college in a succeeding fiscal year shall be reduced by the average of the excess of the fund balance over the 10 percent for the 2 years. In exceptional cases, when fund balances greater than 10 percent are necessary for a college, prior approval shall be obtained from the State Board of Community Colleges.

(f) Expenditures for apprenticeship programs shall be reported separately.

(6)~~(4)~~ EXPENDITURE OF ALLOCATED FUNDS.—Any funds allocated herein to any district for a public community college shall be expended only for the purpose of supporting that college.

(7)~~(5)~~ REPORT OF REMEDIAL EDUCATION.—Each community college shall report the volume and cost of remedial education activities as a separate item in its annual cost accounting system.

Section 26. Paragraph (b) of subsection (1) of section 240.115, Florida Statutes, is amended to read:

240.115 Articulation agreement; acceleration mechanisms.—

(1)

(b) Any student who transfers among postsecondary institutions that participate in the common course designation and numbering system *and are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools* shall be awarded credit by the receiving institution for courses satisfactorily completed by the student at the previous institutions if the courses are judged by the appropriate common course designation and numbering system faculty task force to be equivalent to courses offered at the receiving institution. The award of credit may be limited to courses that are entered in the common course designation and numbering system. Credits awarded pursuant to this subsection shall satisfy institutional requirements on the same basis as credits awarded to native students.

Section 27. Sections 240.243, 240.257, 240.259, 240.349, and 240.361, Florida Statutes, are repealed.

Section 28. This act shall take effect July 1, 1993.

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 postsecondary education; amending s. 240.2601, F.S., relating to the State University System Facility Enhancement Challenge Grant Program; providing that a university may expend funds from private sources for certain fundraising activities; providing that the funds used for fundraising are eligible for matching funds if the facility project is initiated; amending s. 240.2605, F.S., relating to the Trust Fund for Major Gifts; providing for the trust fund to be administered by the Board of Regents as a part of the major gifts program; providing that moneys appropriated for the new donors program and the eminent scholars program shall be transferred into the Trust Fund for Major Gifts; providing that all real estate that is donated for the purposes of the major gifts program shall be administered under rules of the Board of Regents; providing for administration and for matching grants; requiring that foundations submit a report to the Board of Regents specifying the use of the proceeds of endowments established; deleting certain provisions relating to the trust fund; amending s. 240.207, F.S.; providing for a 2-year term of office for the student member of the Board of Regents; amending s. 240.253, F.S.; providing for confidentiality of certain personnel records of university direct-support organizations; amending s. 240.299, F.S.; providing for confidentiality of certain financial information of university direct-support organizations; amending s. 240.522, F.S.; providing for transfer of assets to the direct-support organization for the new state university in southwest Florida; amending s. 240.5285, F.S.; providing for a direct-support organization at the Broward County campus of Florida Atlantic University; prohibiting universities from assessing student fees not authorized by law; providing requirements for organizations that solicit financial support on university campuses; amending s. 240.209, F.S.; requiring the Board of Regents to adopt standards relating to graduate teaching assistants; amending s. 240.214, F.S.; revising provision relating to implementation of the State University System accountability process; requiring additional data in the implementation plan; revising provisions relating to the accountability report; amending s. 240.245, F.S.; revising provisions relating to evaluations of university faculty members; providing criteria for a full-time teaching assignment; revising duties of the Board of Regents and universities and deleting requirement of faculty service to public schools; requiring adoption of additional promotional opportunities; amending s. 240.271, F.S.; revising provisions relating to funding based on enrollment; amending s. 240.272, F.S.; revising provisions relating to the carryforward and expenditure of certain funds; amending ss. 240.531, 282.308, 447.203, F.S.; correcting cross-references; amending s. 240.311, F.S.; revising duties of the State Board of Community Colleges; providing procedures for selection of presidents of community colleges; amending s. 240.319, F.S.; prescribing requirements for rules, procedures, and policies; amending s. 240.324, F.S.; revising community college planning relating to the accountability process; requiring automated student records systems; amending s. 240.325, F.S.; revising provisions relating to guidelines for community colleges; amending s. 240.331, F.S.; conforming provisions; amending s. 240.347, F.S.; revising provisions relating to the State Community College Program Fund; providing community college program requirements; amending s. 240.359, F.S.; providing for community college budgets and budget categories; repealing s. 240.257, F.S., relating to the Florida Endowment Trust Fund for Eminent Scholars Act; repealing s. 240.259, F.S., relating to the Trust Fund for New Donors; repealing ss. 240.349 and 240.361, F.S., relating to requirements for participation in the Community College Program Fund and budgets for community col-

leges; amending s. 240.115, F.S.; providing an additional criterion for postsecondary institutions that award course credit for transferring students; repealing s. 240.243, F.S., relating to required number of classroom teaching hours for university faculty members; providing an effective date.

On motion by Senator Kirkpatrick, further consideration of **CS for SB's 2078 and 1608** as amended was deferred.

RECESS

The President declared the Senate in recess at 6:40 p.m. to reconvene at 7:30 p.m.

EVENING SESSION

The Senate was called to order by the President at 7:57 p.m. A quorum present—38:

Mr. President	Diaz-Balart	Jenne	Siegel
Bankhead	Dudley	Jennings	Silver
Beard	Dyer	Johnson	Sullivan
Boczar	Foley	Jones	Thomas
Brown-Waite	Forman	Kirkpatrick	Turner
Burt	Grant	Kiser	Weinstein
Casas	Gutman	Kurth	Wexler
Childers	Harden	McKay	Williams
Crist	Hargrett	Meadows	
Dantzler	Holzendorf	Myers	

Communications

Senator Ander Crenshaw, President April 1, 1993
The Florida Senate

Dear Mr. President:

In compliance with Article III, Section 19(d) of the Constitution and Joint Rule 2, copies of the Appropriations Conference Committee Report have been furnished to each member of the Legislature, each member of the Cabinet, the Governor, and the Chief Justice of the Supreme Court.

Delivery was completed April 1, 1993 at 3:48 p.m., EST.

Respectfully submitted,
Joe Brown, Secretary of the Senate

Senator Ander Crenshaw, President April 1, 1993
The Florida Senate

Dear Mr. President:

In compliance with Article III, Section 19(d) of the Constitution and Joint Rule 2, copies of the Conference Committee Report on the Appropriations Implementing Bill have been furnished to each member of the Legislature, each member of the Cabinet, the Governor, and the Chief Justice of the Supreme Court.

Delivery was completed April 1, 1993 at 5:33 p.m., EST.

Respectfully submitted,
Joe Brown, Secretary of the Senate

Senator Ander Crenshaw, President April 1, 1993
The Florida Senate

Dear Mr. President:

In compliance with Article III, Section 19(d) of the Constitution and Joint Rule 2, copies of the Hurricane Andrew Conference Committee Report have been furnished to each member of the Legislature, each member of the Cabinet, the Governor, and the Chief Justice of the Supreme Court.

Delivery was completed April 1, 1993 at 3:48 p.m., EST.

Respectfully submitted,
Joe Brown, Secretary of the Senate

SPECIAL ORDER, continued

The Senate resumed consideration of—

CS for SB's 1914, 2006, 1784 and 406—A bill to be entitled An act relating to health care; amending s. 20.42, F.S., relating to organization of the Agency for Health Care Administration; modifying the organization and responsibilities of the agency; delaying transfer to the agency of certain responsibilities relating to the regulation of health care professionals; creating the Health Care Advisory Commission within the agency; providing for membership of the commission; providing duties of the commission; renaming the Division of Health Policy and Planning as the Division of Health Policy and Cost Control; providing additional responsibilities relating to state and local health planning, certificate-of-need review, hospital budget review, and the administration of specified contracts; providing duties of the Division Director for State Health Purchasing; redesignating the Agency for Health Care Administration as the Department of Health Care Administration on a specified date; amending s. 20.30, F.S.; reinstating the Division of Medical Quality Assurance within the Department of Professional Regulation; reestablishing the Board of Nursing Home Administrators and the Board of Opticianry within the Division of Professions of the Department of Professional Regulation; reestablishing the Board of Medicine, the Board of Osteopathic Medicine, the Board of Acupuncture, the Board of Chiropractic, the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, the Board of Dentistry, the Board of Nursing, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy Practice, the Board of Podiatric Medicine, the Board of Psychological Examiners, the Board of Speech-Language Pathology and Audiology, and the Board of Clinical Laboratory Personnel within the Division of Medical Quality Assurance; providing for future transfer of the Division of Medical Quality Assurance within the Department of Professional Regulation to the Division of Health Quality Assurance within the Department of Health Care Administration; amending s. 33, ch. 92-33, Laws of Florida; delaying the transfer of powers, duties, and funds of the Division of Medical Quality Assurance of the Department of Professional Regulation to the Department of Health Care Administration; amending s. 110.123, F.S., relating to the state group insurance program; providing legislative intent; providing agency responsibilities; transferring powers, duties, records, property, and unexpended allocations of funds associated with positions in the State Employees Health Insurance Program to the Division of State Health Purchasing of the Agency for Health Care Administration; transferring powers, duties, records, property, and unexpended allocations of funds of the Medicaid program within the Department of Health and Rehabilitative Services to the Division of State Health Purchasing of the Agency for Health Care Administration; amending s. 20.19, F.S.; conforming provisions to such transfer; amending s. 112.0455, F.S.; providing duties of the agency under the Drug-Free Workplace Act; providing for regulation of drug testing laboratories by the agency; amending ss. 154.011, 154.205, 154.245, 154.304, 154.306, 154.308, 154.309, 154.31, 154.3105, 154.312, F.S., relating to certificates of need and the Health Care Responsibility Act of 1988; conforming provisions and references to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the agency; amending ss. 159.27, 186.003, F.S.; conforming cross-references; amending ss. 189.415, 196.1975, 205.1965, F.S., relating to certificate-of-need review and agency licensure of homes for the aged and adult congregate living facilities; amending s. 215.20, F.S.; conforming terminology relating to the name of a trust fund; amending s. 240.4067, F.S., relating to the Medical Education Reimbursement and Loan Repayment Program; providing for penalties for noncompliance; deleting a limitation on the payment period; providing additional categories of eligibility; amending s. 240.4075, F.S.; adding birth centers, community mental health centers, and alcohol and drug abuse programs to the list of eligible employing institutions for the Nursing Student Loan Forgiveness Program; amending s. 381.026, F.S., relating to the Florida Patient's Bill of Rights and Responsibilities; providing a penalty; amending s. 381.0261, F.S., relating to the distribution of summaries of health care information; conforming provisions to changes made by the act; amending s. 381.0302, F.S.; providing additional membership in the Florida Health Services Corps; authorizing the Department of Health and Rehabilitative Services to provide certain financial assistance to students in additional medical programs; providing additional requirements for corps members; authorizing use of certain appropriated funds as federal matching funds; creating s. 381.0406, F.S., relating to rural health networks; providing legislative findings and intent; providing definitions; providing for organization, administration, and nonprofit corporate status; specifying services to be provided; requiring participation of certain trauma agencies; providing

for public and private financing; providing for phased-in implementation; specifying responsibilities of the agency and the State Health Office relating to establishment and certification of rural health networks; providing for rules; creating s. 381.0407, F.S.; authorizing special consideration under the certificate-of-need program for certain rural regional hospital systems; authorizing rural regional hospital systems to establish tax districts that cross county boundaries; creating s. 381.0408, F.S.; providing for designation of rural health care innovation zones by the Agency for Health Care Administration; providing special consideration of certificate-of-need applicants located in rural health care innovation zones; authorizing the Department of Health and Rehabilitative Services to seek funding to support health care facilities and providers in rural health care innovation zones; amending s. 381.045, F.S., relating to procedures and services for certain health care professionals infected with hepatitis B or human immunodeficiency virus; amending s. 381.0602, F.S., relating to the Organ Transplant Advisory Council; amending and renumbering s. 381.0605, F.S., relating to a survey of state hospital facilities; amending ss. 381.6021, 381.6022, 381.6023, 381.6024, 381.6025, F.S., relating to organ and tissue procurement; conforming provisions and references to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the agency; amending and renumbering s. 381.695, F.S., relating to certificate-of-need exemption for health care facilities within the Department of Corrections; amending and renumbering s. 381.698, F.S., relating to the Florida Blood Transfusion Act; amending ss. 383.302, 383.305, 383.307, 383.308, 383.309, 383.31, 383.312, 383.313, 383.318, 383.32, 383.324, 383.325, 383.327, 383.33, 383.331, 383.335, F.S., relating to regulation and licensure of birth centers; amending ss. 390.001, 390.002, 390.011, 390.012, 390.014, 390.015, 390.016, 390.017, 390.018, 390.019, 390.021, F.S., relating to termination of pregnancies; conforming provisions and references to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; amending s. 395.1055, F.S.; providing for separate standards for statutory rural hospitals; amending s. 395.403, F.S.; conforming provisions to changes made by the act; creating s. 395.606, F.S., relating to rural health network cooperative agreements; providing legislative intent with respect to antitrust laws; specifying conditions under which health care providers who are members of rural health networks may consolidate services or enter into cooperative agreements; requiring approval and oversight by the agency; providing for administrative and judicial review; amending s. 408.001, F.S.; revising requirements for the bylaws of the board of directors of the Florida Health Care Purchasing Cooperative; providing additional membership requirements for the board of directors; revising the membership of the board; conforming provisions to changes made by the act; amending s. 408.002, F.S., relating to the Florida Health Plan; amending s. 408.003, F.S., relating to appointment of the Health Care Board; providing for ethnic, geographic, and gender composition; providing for removal of members; providing for meetings, notice, and a quorum; providing for per diem and travel expenses; amending s. 408.01, F.S.; providing for a council advising the agency on health insurance and cost containment to include group health care purchasing organizations; amending s. 408.02, F.S.; revising requirements for the agency in establishing practice parameters; amending ss. 408.032, 408.033, 408.034, 408.035, 408.036, 408.037, 408.038, 408.039, 408.040, 408.041, 408.043, 408.044, 408.045, F.S., relating to certificate of need and authority to license health care facilities and health service providers; conforming provisions and references to the transfer of responsibilities from the Department of Health and Rehabilitative Services and the Health Care Board to the agency; providing an additional exemption from certificate-of-need review; providing for preference in certificate-of-need awards to rural health networks under certain conditions; amending s. 408.05, F.S., relating to the State Center for Health Statistics; amending s. 408.061, F.S., relating to health care data collection; providing additional data to be collected from health care facilities by the Agency for Health Care Administration; requiring nursing homes to submit to the agency audited actual experience and statistical profiles of nursing home residents; requiring the agency and the Department of Health and Rehabilitative Services to review the statistical profiles and include findings in the Florida Health Plan; requiring the agency to collect information on certain drugs and medical equipment and supplies; deleting a requirement with respect to the establishment of a health care data base; amending s. 408.062, F.S.; revising requirements of the Health Care Board in evaluating data from nursing home financial reports; amending s. 408.063, F.S.; requiring the agency to collect data on retail prices of certain drugs and medical equipment and supplies; requiring the agency to distribute brochures to pharmacies and retail sellers of medical equipment and supplies; amending s. 408.07, F.S.; redefining the term "banked points" for purposes of agency review of hospital budgets; amending ss. 408.072, 408.08, F.S.; modifying provisions relating to review of hospital budgets; amending s. 408.09, F.S., relating to assistance on cost containment strategies; clarifying provisions; amending s 408.20, F.S.; conforming terminology relating to the name of a trust fund, creating s. 408.70, F.S.; providing legislative intent regarding the need to reform the state's health care delivery system; proposing the creation of managed competition throughout the state; proposing the creation of community health purchasing alliances; creating s. 408.701, F.S.; providing definitions; creating s. 408.702, F.S.; establishing community health purchasing alliance regions; providing for the merger of certain alliances; providing for alliance standards; providing for voluntary membership; providing duties, powers, and responsibilities; providing for membership fees; creating s. 408.703, F.S.; providing community health purchasing alliance membership requirements for small employers; creating s. 408.704, F.S.; providing agency responsibilities with respect to community health purchasing alliances; authorizing the agency to contract with alliances and provide startup funds; requiring an annual review; requiring alliances to submit certain data to the agency; establishing an advisory data committee and specifying membership; requiring a report to the Legislature; requiring the submission of data by health care providers; requiring the agency to adopt and implement recommendations of the advisory data committee; establishing an appeals process for grievances; exempting certain records from public disclosure requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; creating s. 408.7045, F.S.; establishing community health purchasing alliance marketing requirements; creating s. 408.705, F.S.; providing for boards of directors for community health purchasing alliances; providing for membership, appointment, and terms; providing for staff; creating s. 408.706, F.S.; establishing standards for accountable health partnerships; providing for designation of accountable health partnerships by the agency; specifying standards and requirements; creating s. 408.90, F.S.; providing legislative findings and intent; creating s. 408.901, F.S.; providing definitions; creating s. 408.902, F.S.; creating the MedAccess program within the Agency for Health Care Administration; providing for a report; creating s. 408.903, F.S.; providing eligibility requirements; creating s. 408.904, F.S.; providing health care benefits; creating s. 408.905, F.S.; providing limitations and exclusions; creating s. 408.906, F.S.; providing for the payment of claims; creating s. 408.907, F.S.; providing for the collection of premiums; creating s. 408.908, F.S.; providing agency responsibilities for the administration of the MedAccess program; amending s. 409.335, F.S.; conforming provisions to changes made by the act; amending s. 409.701, F.S.; authorizing the Florida Health Access Corporation to provide subsidized or nonsubsidized coverage to small employers; expanding the program statewide; authorizing the corporation to serve businesses with fewer than a specified number of employees; changing the composition of the board of directors of the Florida Health Access Corporation; deleting a requirement that the Department of Insurance provide certain assistance to the corporation; amending s. 409.7015, F.S.; delaying the repeal of the corporation's access to certain data from the Department of Labor and Employment Security; amending ss. 409.901, 409.902, 409.903, 409.904, F.S.; conforming provisions and references to the transfer of responsibilities for the Medicaid program to the agency; amending s. 409.905, F.S.; providing for Medicaid nursing facility services for recipients in rural hospitals; amending ss. 409.906, 409.907, 409.910, F.S.; conforming provisions; amending s. 409.908, F.S.; revising the methodology for reimbursing providers for physician services under Medicaid; amending s. 409.911, F.S.; providing additional requirements for hospitals that receive distributions under the disproportionate share program; amending s. 409.9113, F.S.; providing an additional requirement for teaching hospitals that receive distributions under the disproportionate share program; amending ss. 409.9112, 409.9115, F.S., and s. 2, ch. 92-33, Laws of Florida; conforming provisions; creating s. 409.9116, F.S.; establishing a disproportionate share program for rural hospitals; providing requirements for rural hospitals that receive distributions under the program; amending s. 409.912, F.S.; providing for inclusion of health maintenance organizations and prepaid health plans in the agency's definition of a managed care provider; creating s. 409.9121, F.S.; providing legislative findings and intent; creating s. 409.9122, F.S.; providing for the expansion of the MediPass program; directing the agency to encourage the enrollment of Medicaid recipients in managed care plans; providing for a study of the feasibility of managed care programs for Medicaid recipients with special needs; providing for funds for technical assistance in developing Medicaid prepaid health plans; requiring state agencies to provide access to managed health care providers to market their benefit plans in buildings owned, rented, or leased by the agencies; amending s. 409.913, F.S.; authorizing the agency to conduct certain investigations of Medicaid pro-

viders; providing circumstances under which the agency may withhold payments to a provider under the Medicaid program; providing for notice to the provider; providing that certain payments are due to the agency upon demand; amending ss. 409.914, 409.915, 409.916, 409.919, 409.920, 411.222, F.S.; conforming provisions; amending ss. 415.107, 415.51, F.S.; providing duties of the Agency for Health Care Administration with respect to the confidentiality of reports and records in cases of abuse, neglect, or exploitation of aged persons, disabled adults, and children; amending ss. 419.001, 419.002, F.S.; providing duties of the agency with respect to the regulation of community residential homes; amending s. 440.102, F.S., relating to requirements for the drug-free workplace program; conforming provisions to the transfer of certain duties and functions to the agency; amending ss. 455.201, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, F.S.; conforming provisions to changes made by the act; amending s. 43, ch. 92-33, Laws of Florida, relating to license renewal for certain medical professions; delaying the repeal of s. 455.213(6) and (7), F.S.; amending ss. 44 and 46, ch. 92-33, Laws of Florida, delaying the creation of ss. 455.2141, 455.2173, F.S., relating to duties of the Agency for Health Care Administration with respect to licensing; amending ss. 455.2175, 455.218, F.S.; conforming provisions to changes made by the act; revising licensure requirements for certain foreign-trained professionals; amending ss. 49 and 50, ch. 92-33, Laws of Florida, delaying the creation of ss. 455.220, 455.2205, F.S., relating to the Health Care Trust Fund; amending ss. 455.221, 455.223, 455.224, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.241, 455.243, 455.245, 455.26, F.S.; conforming provisions to changes made by the act; amending s. 455.25, F.S.; providing exceptions to the prohibition against an entity's providing items or services to a patient without making a specified written disclosure of certain financial relationships and fees and other matters; amending s. 464.009, F.S.; revising the requirements for applicants for licensure as a professional or practical nurse with respect to licensure by endorsement; amending ss. 483.610, 483.613, 483.614, 483.615, 483.616, 483.619, 483.620, 483.621, 483.622, 483.624, F.S., relating to the Cholesterol Screening Center Licensure Act; conforming provisions and references to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the agency; amending s. 624.91, F.S.; increasing the membership of the board of directors of the Florida Healthy Kids Corporation; transferring the Florida Healthy Kids Trust Fund to the Agency for Health Care Administration; amending s. 626.9545, F.S.; requiring insurers to establish a financial incentive program for policy holders to report errors or overcharges; amending s. 627.613, F.S.; increasing the amount an insurer must pay to an insured for reporting improper billings that result in a reduction in the amount paid to a provider; amending ss. 641.21, 641.225, F.S.; conforming cross-references to changes made by the act; amending ss. 641.47, 641.48, 641.49, 641.495, 641.511, 641.512, 641.515, 641.52, 641.54, 641.55, 641.56, 641.57, 641.58, F.S., relating to health maintenance organizations and prepaid health clinics; conforming provisions and references to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the agency; providing an exemption from the health maintenance organization and prepaid health clinic regulatory assessment; amending s. 651.118, F.S.; transferring responsibilities of the Department of Health and Rehabilitative Services with respect to certificates of need for sheltered beds and community beds to the Agency for Health Care Administration; amending s. 743.0645, F.S.; providing for consent for medical care of a minor in a facility licensed by the agency; amending s. 766.1115, F.S.; expanding the definition of the term "health care provider" under the Access to Health Care Act; amending s. 768.28, F.S.; conforming a cross-reference to changes made by the act; amending s. 15, ch. 91-178, Laws of Florida; revising the date that the prohibition against referrals by certain investors in designated health services applies; amending s. 627.410, F.S.; providing for filing certificates for certain groups for information purposes; amending s. 627.4106, F.S.; revising a definition; amending s. 627.6699, F.S.; providing definitions; requiring guarantee issue of all health plans to small employers; requiring modified community rating of health plans issued to small employers; revising definition of small employer; revising preexisting conditions requirements for certain groups; requiring Department of Insurance specification of geographic regions for rating purposes; providing for guaranteed renewability of small group health plans; requiring carriers to maintain records; providing confidentiality; providing for review and repeal; providing for revisions in the standard and basic health benefit plans; requiring the reinsurance board to report complaints of abuse and misrepresentation to the Department of Insurance; providing for alliance membership on the health benefit plan committee; amending s. 641.30, F.S.; specifying applicability for certain health maintenance organization contracts; requiring the Agency for Health Care Administration to develop a standardized claims form and an electronic claims format; requiring health care payers, insurers, and providers to use such claims form or claims format by a specified date; requiring the agency to develop an electronic medical information and billing system; providing for a pilot project; providing circumstances under which a participant in a health care program may use an alternate provider for the purpose of providing prescribed medicine services; requiring the agency to form a work group to examine licensing and training issues with respect to rural hospitals and health care professional shortages; providing membership of the work group; requiring the agency to establish an Interagency Work Group on Health Care Fraud and Abuse; providing for membership and duties; requiring a report; requiring the agency to conduct an assessment and a participation study of community health purchasing alliances; requiring the agency, in consultation with the Department of Legal Affairs, to assess the effects of antitrust laws on community health purchasing alliances and accountable health partnerships; requiring the agency to develop and implement a UB-92 based system; requiring the Governor to establish an interagency task force to study the most appropriate structure of governmental agencies for the delivery of health care and children's services; requiring a report; providing appropriations; repealing s. 409.9114, F.S., relating to the extraordinary disproportionate share program; repealing s. 407.60, F.S., relating to the Health Care Cost Containment Board; repealing s. 3, ch. 92-304, F.S., relating to directions for preparing a reviser's bill; repealing s. 455.238, F.S., relating to markup provisions; repealing s. 627.4106, F.S., relating to small group health insurance; providing effective dates.

—which had been considered March 31. Pending **Amendment 3** by Senator Gutman was deferred.

Motion

On motion by Senator Jennings, the rules were waived and time of recess was extended until 11:00 p.m.

The following amendments were offered to the bill as previously amended:

Senator Myers moved the following amendment which was adopted:

Amendment 1—On page 61, line 15 through page 62, line 7, strike all of said lines and insert:

$$TAERH = (CCD + MDD)/TPD$$

Where:

CCD = total charity care-other, plus charity care-Hill Burton, minus 50 percent of unrestricted tax revenue from local governments, and restricted funds for indigent care, divided by gross revenue per adjusted patient day.

MDD = Medicaid inpatient days plus Medicaid HMO inpatient days.

TPD = total inpatient days.

TAERH = total amount earned by each rural hospital.

In computing the total amount earned by each rural hospital, the agency must use the most recent actual data reported in accordance with s. 408.061(4)(a).

(2) The distribution amount for each rural hospital under this section must be calculated by the agency as follows:

$$DAER = (TAERH \times TARH)/STAERH$$

Where:

DAER = distribution amount for each rural hospital.

STAERH = sum of total amount earned by each rural hospital.

TAERH = total amount earned by each rural hospital.

TARH = total amount appropriated or distributed under this section.

(3) The Agency for Health Care Administration shall recommend to the Legislature a formula to be used in subsequent fiscal years to distribute funds appropriated for this section that includes charity care, uncompensated care to medically indigent patients, and Medicaid inpatient days.

(Renumber subsequent subsections.)

Senator Myers moved the following amendment:

Amendment 2 (with Title Amendment)—On page 65, lines 17 through page 69, line 11, strike all of said lines and insert:

Section 30. Section 408.02, Florida Statutes, 1992 Supplement, is amended to read:

(Substantial rewording of section. See s. 408.02, F.S., 1992 Supp., for present text.)

408.02 Practice parameters.—

(1) The Agency for Health Care Administration shall coordinate the development, endorsement, implementation, and evaluation of scientifically sound, clinically relevant practice parameters in order to reduce unwarranted variation in the delivery of medical treatment, improve the quality of medical care, and promote the appropriate utilization of health care services. "Practice parameters" or "practice guidelines" are defined to mean strategies for patient management that are developed to assist physicians in clinical decision-making.

(2) The agency shall establish a workgroup of appropriate medical and technical professionals and agency personnel to develop uniform standards and methods for the collection and analysis of patient outcomes data. The workgroup shall focus on collecting data which measures both the efficient utilization of medical resources and the effectiveness of medical care, and shall include such factors as patient diagnosis, the severity of the patient's condition, patient length of stay, number of diagnostic tests and scans performed, procedures performed, medications prescribed, number of consultations, patient mortality, source and date of patient admission and readmission, total patient charges and source of payment, and patient discharge status. The workgroup shall coordinate data collection with the data committee created pursuant to s. 408.7025. The workgroup shall have completed the development of such standards by December 31, 1993.

(3) Every hospital, in conjunction with the hospital medical staff, shall produce outcomes data by diagnosis for each patient treated in the hospital pursuant to the criteria developed under subsection (2). The hospital shall forward such data to the agency in a manner consistent with s. 408.061 on a quarterly basis beginning with the quarter ending June 30, 1994. The report shall also include a description of any practice guideline which has been adopted by the medical staff, as well as outcomes data for persons treated according to such practice guideline. As used in this section, "hospital" means an acute care hospital licensed under chapter 395.

(4) The agency shall summarize the effectiveness and cost of care outcomes for each diagnosis by hospital, by district, by region, and across the state, as well as by any other grouping which will facilitate the development of clinically relevant practice parameters. The agency shall make the report available to the public and all hospitals throughout the state on an annual basis beginning December 31, 1994. The agency shall also make detail data submitted pursuant to subsection (3) available for analysis by others, subject to protection of confidentiality pursuant to s. 408.05(6).

(5) The agency, in conjunction with the Florida Medical Association, the Florida Chiropractic Association, the Florida Osteopathic Medical Association, the Florida Podiatric Medical Association, and other health professional associations, and in conjunction with the respective boards within the Division of Medical Quality Assurance, shall develop and may adopt by rule state practice parameters based on the data received under subsection (4) as well as nationally developed practice guidelines. However, practice parameters adopted by rule shall not provide grounds for any administrative action. The agency shall prioritize the development of those practice parameters which involve the greatest utilization of resources either because they are the most costly or because they are the most frequently performed. Prior to the development of practice parameters under this subsection, the agency in conjunction with the various health professional associations may proceed with the development of state practice parameters based on nationally developed practice guidelines.

(6) The agency, in conjunction with the appropriate health professional associations shall develop and may adopt by rule practice parameters for services provided by diagnostic imaging centers, radiation therapy services, clinical laboratory services, physical therapy services, and comprehensive rehabilitative services. Practice parameters applicable to diagnostic imaging services shall be implemented by December 31, 1993.

(7) Parameters developed pursuant to this section shall be made available to the public and to all hospitals and health professionals throughout the state.

(8) Procedures shall be instituted which provide for the periodic review and revision of practice parameters based on the latest outcomes data, research findings, technological advancements, and clinical experiences, but in no case shall the review be less than every 3 years.

(9) The agency shall establish a demonstration project to evaluate the effectiveness of practice parameters with regard to the costs of defensive medicine and professional liability insurance.

(a) Under the demonstration project, the agency, in conjunction with the Board of Medicine, shall create advisory committees to advise the agency in the development of and adoption or endorsement of practice parameters. The advisory committees must complete the adoption of as many practice parameters as practical, giving priority to those procedures and diagnoses that account for a significant percentage of total statewide health services and health care costs, no later than July 1, 1994.

(b) The practice parameters must establish standards of practice designed to avoid liability claims and to increase the defensibility of liability claims when they occur, thereby eliminating the need for physicians to practice defensive medicine.

(c) The Board of Medicine shall review the practice parameters used in the demonstration project and may adopt them by rule.

(d) Physicians selected by the agency may elect to:

1. Participate in the demonstration project.

2. Practice in compliance with the practice parameters, beginning no later than October 1, 1994.

(e) A participating physician who is named as a defendant in a cause of action accruing on or after January 1, 1994, but before October 1, 1998, may introduce evidence of compliance with the practice parameters as an affirmative defense to a liability claim.

(10) The agency shall include a progress report on the development of practice parameters in the final Florida Health Care Plan submitted to the Legislature by December 31, 1993. The report shall address the data collection, the development of state practice parameters, the utilization of practice parameters by hospitals and health professionals, and the demonstration project.

And the title is amended as follows:

In title, on page 222, lines 7 and 8, strike "providing a liability defense;"

Senator Myers moved the following amendment to **Amendment 2** which failed:

Amendment 2A—On page 3, line 28, strike "*implemented*" and insert: *recommended*

Senator Silver moved the following substitute amendment which was adopted:

Amendment 3—On page 65, line 22 through page 69, line 11, strike all of said lines and insert:

408.02 Practice parameters.—

(1) The Agency for Health Care Administration, in conjunction with the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Podiatric Association, the Florida Chiropractic Association, and other health professional associations, and in conjunction with the respective boards within the Division of Medical Quality Assurance within the Department of Professional Regulation, shall coordinate the development, adoption or endorsement, implementation, and evaluation of clinically relevant statewide practice parameters. In developing the practice parameters, the agency shall consider the principles and guidelines developed by the American Medical Association and other national health professional organizations, practice parameters that have been adopted by other states and the Federal Government, and the data received pursuant to this section. The practice parameters shall be developed for physicians, osteopaths, chiropractors, podiatrists, and other health professionals and may be adopted by rule. The practice parameters shall be clinically relevant and applicable to the day-to-day practice

of medicine. The agency shall consult with health professionals and use relevant research findings with respect to patient outcomes in its adoption or endorsement of specific practice parameters.

(2) Practice parameters or guidelines are strategies for patient management, developed to assist physicians and other health professionals in clinical decisionmaking. Practice parameters include standards, guidelines, and other patient management strategies. The standards for practice parameters are accepted principles for patient management which identify a particular management strategy, or a range of management strategies, and provide guidance for the proper management of specific clinical situations. Other strategies for patient management include practice policies and practice options.

(3) The practice parameters adopted or endorsed by the agency shall consider the standards, principles, and guidelines developed by state and national health professional associations, other states, and the Federal Government. The practice parameters adopted by the agency shall include appropriateness criteria related to appropriateness for a condition, recommended frequency of use by age and sex, and exceptions to the parameter based on patient conditions. The practice parameters shall also specifically highlight practice patterns that indicate overuse and add to the costs of health care. The agency shall establish criteria for selecting health professionals and medical treatments, procedures, or other service groupings for the priority development of practice parameters. Such criteria shall include percentage of statewide health care expenditures and services, percentage of malpractice claims, likelihood of promoting primary and preventive health care, extent to which overuse or overutilization is suspected, public interest, and the practicality of evaluating the effects of the parameters on the cost and quality of care. The agency shall target the completion of 50 practice parameters by December 31, 1993. The agency shall prioritize the development of those practice parameters which involve the greatest utilization of resources, either because they are the most costly or because they are the most frequently performed.

(4) The purpose of practice parameters is to improve the quality of medical care by eliminating unwarranted variations in the delivery of medical treatment, fostering the appropriate utilization of health care services, and reducing unnecessary costs due to wrongful and excessive utilization. The practice parameters shall aim at providing quality medical care in the most cost-effective manner possible.

(5) The agency, in consultation with the appropriate professional boards, health professionals, technical experts, and representatives of consumer, insurer, and employer groups, shall develop and adopt state practice parameters, beginning with those which involve the greatest utilization of resources based on frequency and cost.

(6) The agency, in conjunction with the appropriate professional associations and in consultation with the respective boards within the Division of Medical Quality Assurance of the Department of Professional Regulation, shall develop practice parameters for services provided by diagnostic imaging centers, radiation therapy services, clinical laboratory services, physical therapy services, and comprehensive rehabilitative services. Practice parameters applicable to diagnostic imaging services shall be implemented by December 31, 1993.

(7) The practice parameters must establish standards for practice designed both to avoid liability claims altogether and to increase the defensibility of liability claims when they occur, thereby eliminating the need of physicians who use the practice parameters to practice unnecessary defensive medicine.

(8) The agency, in consultation with the appropriate professional boards and associations, shall implement procedures that provide for the periodic review and revision of practice parameters to ensure that the practice parameters are based on the latest scientific findings, outcomes data, other research findings, technological advancements, and clinical experience. Each practice parameter adopted must be reviewed at least once every 3 years. The agency shall use appropriate clinical, professional, and technical experts to assess the appropriateness of practice parameters adopted by the agency.

(9) The agency shall make the practice parameters available to the public, and to all hospitals, health professionals, health insurers, and other interested parties.

(10) The agency and the appropriate professional boards shall provide for the education of practicing physicians and other health professionals on the use of practice parameters.

(11) The agency shall use practice parameters for the utilization review of Medicaid and primary care services to evaluate the effects of practice parameters on the cost of defensive medicine and professional liability insurance.

(12) Where a practice parameter developed pursuant to this section defines a standard of care under the circumstances of a given case, a physician, an employee of a physician, an employer of a physician, a hospital, or an employee of a hospital, practicing in conformity with the practice paramters, who is subsequently named as a defendant in a lawsuit, may raise compliance with the practice parameter as an affirmative defense to a liability claim. Compliance or noncompliance with a practice parameter developed under this section is relevant to an affirmative defense based on compliance or relevant to a claim that damages were proximately caused by noncompliance. The factfinder may consider whether any extenuating factors not anticipated by the practice parameters required a different course of care for an individual patient. Noncompliance with a practice parameter does not, in and of itself, create a cause of action.

(13) Practice parameters developed pursuant to this section shall be used in conjunction with the basic health care benefit package developed under this chapter and the health benefit plans authorized under s. 627.6699.

(14) The agency shall require the submission by health care professionals, health care facilities, and health care insurers of data necessary to carry out the agency's duties under this section. To the greatest extent possible, the agency shall coordinate data collection authorized under this subsection with the community health purchasing alliances authorized by ss. 408.701-408.706. The agency shall use the most efficient data collection and reporting process possible, minimizing the workload and the cost of reporting for health care professionals, health care facilities, and health care insurers. To the extent feasible, the agency shall collect required data from one source, such as health insurers. Entities required to report patient data to the agency are subject to the same penalties for failing to report as authorized by s. 408.08(14). Data to be collected and subsequently released to the public under this section shall be developed by the agency with the assistance of the health professional boards, health professional associations, and other interested parties determined by the agency. The agency shall adopt, by rule, the data-reporting requirements of health professionals, health facilities, and health insurers to ensure that the agency has sufficient data to evaluate the practice patterns of health professionals in the state. The data reports shall be provided to the agency quarterly, beginning with the quarter ending December 31, 1993. The agency shall collect data regarding the use of practice parameters, the extent to which health professionals bill for services provided outside the scope of practice parameters, and the effectiveness of practice parameters with regard to the costs of defensive medicine and professional liability insurance. Data collected by the agency shall include such data as patient volume, services provided by procedure and diagnostic grouping, number and type of medications prescribed, number of diagnostic tests ordered, number of consultations, patient outcomes, and total patient charges and sources of payment. These data shall be reported by patient age, sex, diagnosis, and other demographic and condition classifications required by the agency. Data collected and reported to the agency on individual professionals is confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(15) The agency shall prepare periodic aggregate reports, but at least annual reports, on health professional practice patterns and on the extent to which health professionals comply with practice parameters, for each type of health professional and geographic area, using the data reported by health professionals, health care facilities, and health insurers pursuant to this section. These reports shall be disseminated to the appropriate health professional boards, health professional associations, individual practitioners, insurers, and other interested parties. The agency shall also provide information to the public on health professional practice patterns and compliance with practice parameters in a way that is useful and meaningful to the public. The agency shall also establish a process for educating health care professionals about the use of practice parameters.

(16) In consultation with health professional boards, associations, and representatives of consumers, employers, and insurers, the agency shall conduct a study to assess:

(a) The acceptance and use of practice parameters within various health professional communities;

(b) The feasibility of using various incentives, including additional education, to promote health professional compliance with practice parameters;

(c) Ways in which payers, such as Medicaid, health maintenance organizations, other managed care organizations, and other third-party payers, can link health professional reimbursement to an overall pattern of adherence to adopted or endorsed practice parameters;

(d) Ways in which health professional licensure protocols can be used to promote adherence to practice parameters;

(e) Methods that hospitals and other health facilities that employ or offer staff privileges to health professionals should be able to use to promote compliance with practice standards, such as reimbursement methods and the continuation of staff privileges;

(f) Methods for evaluating the effectiveness of practice parameters in reducing the costs and incidence of defensive medicine and the costs of professional liability insurance; and

(g) Means for instituting disciplinary actions against health professionals who consistently practice outside the state practice parameters.

(17) The agency shall include a progress report on the development of practice parameters in the final Florida Health Plan due to the Legislature by December 31, 1993. The report shall address the criteria used to prioritize the development of practice parameters, a description of the initial set practice parameters adopted by the agency, public and provider information and education activities, data collection activities, a plan for the development of additional state practice parameters and the use of practice parameters by hospitals and health care professionals, and a report on the results of the study required by this section.

Senator Myers moved the following amendments which were adopted:

Amendment 4 (with Title Amendment)—On page 116, line 15 through page 117, line 3, strike all of said lines

And the title is amended as follows:

In title, on page 225, strike all of lines 12-15 and insert: procedures; repealing s.

Amendment 5—On page 121, lines 13, 14 and 17, strike all of said lines and insert:

District 9.—Indian River, Okeechobee, St. Lucie, Martin, and Palm Beach Counties.

Senator Sullivan moved the following amendment:

Amendment 6 (with Title Amendment)—On page 1, line 12 through page 9, line 5 and on page 40, line 1 thru page 41, line 14, strike all of said lines

And the title is amended as follows:

In title, on page 218, line 22 after the semicolon (;) to page 219, line 4 through the semicolon (;), strike all of said lines

Senator Gutman moved the following substitute amendment which was adopted:

Amendment 7 (with Title Amendment)—On page 1, line 12 through page 9, line 5, strike all of said lines and insert:

Section 1. Section 33 of chapter 92-33, Laws of Florida, is repealed.

Section 2. Section 20.30, Florida Statutes, 1992 Supplement, as amended by section 32 of chapter 92-33, Laws of Florida, section 35 of chapter 92-58, Laws of Florida, sections 1, 72, and 159 of chapter 92-149, Laws of Florida, and sections 1 and 2 of chapter 92-292, Laws of Florida is amended to read:

20.30 Department of Professional Regulation.—There is created a Department of Professional Regulation.

(1) The head of the Department of Professional Regulation is the Secretary of Professional Regulation. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(2) The following divisions of the Department of Professional Regulation are established:

(a) Division of Technology, Testing and Training.

(b) Division of Professions.

(c) Division of Medical Quality Assurance.

1. The director of the division shall be appointed by the Secretary of Professional Regulation.

2. The division shall concentrate sufficient resources and efforts on the investigation and discipline of health care practitioners regulated by the department who are in violation of the unprofessional conduct provisions of the applicable practice acts and other provisions of law, as are necessary to meet the challenge of identifying those health care practitioners who are not providing adequate medical care in order to take forceful corrective measures to assure quality medical care throughout the state.

3. The division shall coordinate closely with the Agency for Health Care Administration to ensure that the state's regulation of health care facilities and the health care practitioners who practice therein is consistent and offers adequate protection to the public.

4. The division shall establish and maintain a disciplinary training program for division staff and board members designed to ensure the proper and appropriate administration of medical quality assurance. The program shall provide for initial and periodic training in the grounds for disciplinary action, the actions which may be taken, changes in any relevant law, sanctions which are most appropriate for specified types of unprofessional conduct, guidelines for the conduct of hearings, and any other matters which the division shall determine may be necessary or useful.

(d)~~(c)~~ Division of Real Estate.

1. The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Florida Real Estate Commission.

2. The offices of the Division of Real Estate shall be located in Orlando.

(e)~~(d)~~ Division of Regulation.

(f)~~(e)~~ Division of Administration.

(g)~~(f)~~ Division of Certified Public Accounting.

1. The director of the division shall be appointed by the Secretary of Professional Regulation, subject to approval by a majority of the Board of Accountancy.

2. The offices of the division shall be located in Gainesville.

(3) There shall be a director for each division established within this section. Each division director shall directly administer the division and shall be responsible to the secretary of the department. The secretary of the department may appoint assistant secretaries as necessary to fulfill the secretary's statutory obligations.

(4) The following boards are established within the Department of Professional Regulation, Division of Professions:

(a) Board of Architecture and Interior Design, created under part I of chapter 481.

(b) Board of Auctioneers, created under part VI of chapter 468.

(c) Barbers' Board, created under chapter 476.

(d) Construction Industry Licensing Board, created under part I of chapter 489.

(e) Board of Cosmetology, created under chapter 477.

(f) Electrical Contractors' Licensing Board, created under part II of chapter 489.

(g) Board of Professional Engineers, created under chapter 471.

(h) Board of Funeral Directors and Embalmers, created under chapter 470.

(i) Board of Professional Geologists, created under chapter 492.

(j) Board of Hearing Aid Specialists, created under part II of chapter 484.

(k) Board of Professional Land Surveyors, created under chapter 472.

(l) Board of Landscape Architecture, created under part II of chapter 481.

(m) Board of Massage, created under chapter 480.

(n) Board of Nursing Home Administrators, created under part II of chapter 468.

(o) Board of Opticianry, created under part I of chapter 484.

(p)~~(n)~~ Board of Pilot Commissioners, created under chapter 310.

(q)~~(o)~~ Board of Employee Leasing Companies, created under part XI of chapter 468.

~~(p) Board of Veterinary Medicine, created under chapter 474.~~

(5) The following boards are established within the Department of Professional Regulation, Division of Medical Quality Assurance:

(a) Board of Medicine, created under chapter 458.

(b) Board of Osteopathic Medicine, created under chapter 459.

(c) Board of Acupuncture, created under chapter 457.

(d) Board of Chiropractic, created under chapter 460.

(e) Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491.

(f) Board of Dentistry, created under chapter 466.

(g) Board of Nursing, created under chapter 464.

(h) Board of Optometry, created under chapter 463

(i) Board of Pharmacy, created under chapter 465

(j) Board of Physical Therapy Practice, created under chapter 486.

(k) Board of Podiatric Medicine, created under chapter 461.

(l) Board of Psychological Examiners, created under chapter 490.

(m) Board of Veterinary Medicine, created under chapter 474.

(n) Board of Speech-Language Pathology and Audiology, created under part I of chapter 468.

(o) Board of Clinical Laboratory Personnel, created by s. 483.805.

(6)~~(5)~~ The following board and commission are established within the Department of Professional Regulation, Division of Real Estate:

(a) Florida Real Estate Commission, created under part I of chapter 475.

(b) Florida Real Estate Appraisal Board, created under part II of chapter 475.

(7)~~(6)~~ The following board is established within the Department of Professional Regulation, Division of Certified Public Accounting.

(a) Board of Accountancy, created under chapter 473.

(8)~~(7)~~ The members of each board established pursuant to subsections (4), (5), ~~and~~ (6), *and (7)* shall be appointed by the Governor, subject to confirmation by the Senate. Consumer members on the board shall be appointed pursuant to subsection *(9)* ~~(8)~~. Members shall be appointed for 4-year terms, and such terms shall expire on October 31. However, a term of less than 4 years may be utilized to ensure the following:

(a) No more than two members' terms shall expire during the same calendar year for boards consisting of seven or eight members.

(b) No more than three members' terms shall expire during the same calendar year for boards consisting of nine to twelve members.

(c) No more than five members' terms shall expire during the same calendar year for boards consisting of thirteen or more members.

(d) A member whose term has expired shall continue to serve on the board until such time as a replacement is appointed.

A vacancy on the board shall be filled for the unexpired portion of the term in the same manner as the original appointment. No member shall serve for more than the remaining portion of a previous member's unexpired term, plus two consecutive 4-year terms of the member's own appointment thereafter.

(9)~~(8)~~ Each board with five or more members shall have at least two consumer members who are not, and have never been, members or practitioners of the profession regulated by *the* ~~such~~ board or of any closely related profession. Each board with fewer than five members shall have at least one consumer member who is not, and has never been, a member or practitioner of the profession regulated by *the* ~~such~~ board or of any closely related profession.

(10)~~(9)~~ No board, with the exception of joint coordinatorships, shall be transferred from its present location unless authorized by the Legislature in the General Appropriations Act.

(11)~~(10)~~ It is legislative intent that all newly regulated professions, and all professions newly regulated under the department, shall be regulated directly under the department unless a compelling need for the existence of a board is documented. In an instance where a board is statutorily established, the department shall not create the board for a minimum of 1 full year after statutory authority regulating a profession becomes effective, and the profession shall initially be directly regulated by the department. Prior to implementing a new board or council, the department shall seek and receive specific legislative authorization. Such recommendation to establish a new board or council shall be included in the department's annual report to the Legislature required by s. 455.2285.

Section 3. Section 20.42, Florida Statutes, 1992 Supplement, is amended to read:

20.42 Agency for Health Care Administration.—There is created the Agency for Health Care Administration within the Department of Professional Regulation. The agency shall be a separate budget entity, and the director of the agency shall be the agency head for all purposes. The agency shall not be subject to control, supervision, or direction by the Department of Professional Regulation in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters.

(1) DIRECTOR OF HEALTH CARE ADMINISTRATION.—The head of the agency is the Director of Health Care Administration, who shall be appointed by the Governor. The director shall serve at the pleasure of and report to the Governor.

(2) ORGANIZATION OF THE AGENCY.—The agency shall be organized as follows:

(a) ~~Effective July 1, 1993,~~ The Division of Health Quality Assurance, which shall be responsible for *health care*~~:~~ facility licensure and inspection.~~;~~

(b) The Health Care Advisory Commission, composed of the chairpersons of: ~~certificate of need;~~ the Board of Medicine, created under chapter 458; the Board of Osteopathic Medicine, created under chapter 459; the Board of Acupuncture, created under chapter 457; the Board of Chiropractic, created under chapter 460; the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under chapter 491; the Board of Dentistry, created under chapter 466; the Board of Optometry, created under chapter 463; the Board of Pharmacy, created under chapter 465; the Board of Podiatric Medicine, created under chapter 461; the Board of Nursing, created under chapter 464; the Board of Psychological Examiners, created under chapter 490; the Board of Speech-Language Pathology and Audiology, created under chapter 468; the Board of Nursing Home Administrators, created under part II of chapter 468; *the Board of*~~occupational therapy, as regulated under part III of chapter 468; respiratory therapy, as regulated under part V of chapter 468;~~ Physical Therapy, *created* ~~as regulated~~ under chapter 486; *the Board of Clinical Laboratory Personnel, created under part IV of chapter 483;* and the Board of Opticianry, created under part I of chapter 484. *The director is chairman of the commission.*

1. The commission shall review and evaluate any legislation or rules proposed by any board represented on the commission which may directly affect more than one board, and make recommendations to the

Secretary of Professional Regulation, the Governor, and the Legislature regarding such proposed legislation or rules. The commission shall also make recommendations to the Health Care Board, as requested by the director or the Health Care Board, regarding hospital budget review, nursing home financial review, and special studies conducted by the Health Care Board or the agency.

2. The commission shall annually prepare and submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report stating its findings and making specific programmatic recommendations it deems appropriate. The reports shall be submitted no later than December 31 of each year, beginning December 31, 1994.

3. The commission shall meet at least once each quarter. The members of the commission are entitled to reimbursement for all necessary expenses in the performance of their duties, including travel expenses, in accordance with s. 112.061.

4. The agency, the Department of Professional Regulation, and all boards represented on the commission shall supply information, assistance, and facilities as the commission deems necessary for it to carry out its duties under this section, and shall provide staff assistance necessary for the performance of required clerical and administrative functions of the commission.

(c)~~(b)~~ The Division of Health Policy and *Cost Control* ~~Planning~~, which shall be responsible for *health policy,* the State Center for Health Statistics, the development of The Florida Health Plan, *state and local health planning under s. 408.033, certificate-of-need review, hospital budget review,* and research and analysis.

(d)~~(c)~~ ~~Effective July 1, 1993,~~ The Division of State Health Purchasing, which shall be responsible for *the Medicaid program* ~~supervising the purchase of health care by: Medicaid; the Florida Health Access Program; the Pooled Purchasing Cooperative~~; and *the* state employee health insurance *program, including functions related to: the selection of the entity that administers the state employee health insurance plan; the development of the plan's benefit design; the establishment of the plan's cost sharing and cost containment requirements; the creation and maintenance of administrative cost controls; the collection and analysis of data; and the monitoring and evaluation of the administrator and provider network performance. The division shall also administer the contracts with the Florida Health Access Corporation, the Florida Health Care Purchasing Cooperative, and the Florida Healthy Kids Corporation.*

(e)~~(d)~~ The Health Care Board, which shall be responsible for hospital budget review, nursing home financial analysis, and special studies as assigned by the *director* ~~secretary~~ or the Legislature.

(f)~~(e)~~ The Division of Administrative Services, which shall be responsible for revenue management, budget, personnel, *management information services,* and general services.

(3) *DIVISION* ~~DEPUTY~~ DIRECTOR FOR HEALTH QUALITY ASSURANCE.—The director shall appoint a *Division* ~~Deputy~~ Director for Health Quality Assurance who shall serve at the pleasure of, and be directly responsible to, the director. The *Division* ~~Deputy~~ Director for Health Quality Assurance shall be responsible for the Division of Health Quality Assurance.

(4) *DIVISION* ~~DEPUTY~~ DIRECTOR FOR HEALTH POLICY AND *COST CONTROL* ~~PLANNING~~.—The director shall appoint a *Division* ~~Deputy~~ Director for Health Policy and *Cost Control* ~~Planning~~ who shall serve at the pleasure of, and be directly responsible to, the director. The *Division* ~~Deputy~~ Director for Health Policy and *Cost Control* ~~Planning~~ shall be responsible for the Division of Health Policy and *Cost Control* ~~Planning and the Division of State Health Purchasing~~.

(5) DIVISION DIRECTOR FOR STATE HEALTH PURCHASING.—The director shall appoint a Division Director for State Health Purchasing who shall serve at the pleasure of, and be directly responsible to, the director. The Division Director for State Health Purchasing shall be responsible for the Division of State Health Purchasing.

(6)~~(5)~~ HEALTH CARE BOARD.—The Health Care Board shall be composed of 11 members appointed by the Governor, subject to confirmation by the Senate. The members of the board shall biennially elect a chairperson and a vice chairperson from its membership. The board shall be responsible for hospital budget review, nursing home financial review and analysis, and special studies requested by ~~the Governor,~~ the Legislature~~,~~ or the director.

(7)~~(6)~~ *DIVISION* ~~DEPUTY~~ DIRECTOR *FOR* ~~OF~~ ADMINISTRATIVE SERVICES.—The director shall appoint a *Division* ~~Deputy~~ Director of Administrative Services who shall serve at the pleasure of, and be directly responsible to, the director. The *Division* ~~deputy~~ Director *for Administrative Services is* ~~shall be~~ responsible for the Division of Administrative Services.

And the title is amended as follows:

In title, on page 218, line 21 through page 219, line 4, strike all of said lines and insert: A bill to be entitled An act relating to health care; repealing s. 33, ch. 92-33, Laws of Florida; abrogating the transfer of powers, duties, and funds of the Division of Medical Quality Assurance of the Department of Professional Regulation to the Agency for Health Care Administration; amending s. 20.30, F.S.; reinstating the Division of Medical Quality Assurance within the Department of Professional Regulation; reestablishing the Board of Nursing Home Administrators and the Board of Opticianry within the Division of Professions of the Department of Professional Regulation; reestablishing the Board of Medicine, the Board of Osteopathic Medicine, the Board of Acupuncture, the Board of Chiropractic, the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, the Board of Dentistry, the Board of Nursing, the Board of Optometry, the Board of Pharmacy, the Board of Physical Therapy Practice, the Board of Podiatric Medicine, the Board of Psychological Examiners, the Board of Veterinary Medicine, the Board of Speech-Language Pathology and Audiology, and the Board of Clinical Laboratory Personnel within the Division of Medical Quality Assurance; amending s. 20.42, F.S., relating to organization of the Agency for Health Care Administration; creating the Health Care Advisory Commission within the agency; providing for membership of the commission; providing duties of the commission; renaming the Division of Health Policy and Planning as the Division of Health Policy and Cost Control; providing additional responsibilities relating to state and local health planning, certificate-of-need review, hospital budget review, and the administration of specified contracts; providing duties of the Division Director for State Health Purchasing; amending s. 110.123, F.S.;

Senator Holzendorf moved the following amendment which was adopted:

Amendment 8—On page 1, line 26, after "Governor" insert: , subject to confirmation by the Senate

Senator Forman moved the following amendments which were adopted:

Amendment 9—On page 4, line 16, strike "11" and insert: *13*

Amendment 10—On page 12, line 15, after the semicolon (;) insert: *primary eye health care;*

Senator Myers moved the following amendment which was adopted:

Amendment 11—On page 18, line 18, before the comma (,) insert: and the State Health Officer.

Senator Bankhead moved the following amendment which was adopted:

Amendment 12 (with Title Amendment)—On page 19, between lines 26 and 27, insert:

Section 5. Section 440.101, Florida Statutes, is amended to read:

440.101 Legislative intent; drug-free workplaces.—

(1) It is the intent of the Legislature to promote drug-free workplaces in order that employers in the state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace, and reach their desired levels of success without experiencing the costs, delays, and tragedies associated with work-related accidents resulting from drug abuse by employees. It is further the intent of the Legislature that drug abuse be discouraged and that employees who choose to engage in drug abuse face the risk of unemployment and the forfeiture of workers' compensation benefits.

(2) If an employer implements a drug-free workplace program *substantially in accordance with s. 440.102* which includes notice, education, and *procedural requirements for* testing for drugs and alcohol pursuant to rules developed by the division, the employer may require the employee to submit to a test for the presence of drugs or alcohol and, if a drug or alcohol is found to be present in the employee's system at a

level prescribed by rule adopted pursuant to this act, the employee may be terminated and *forfeits* ~~shall forfeit~~ his eligibility for medical and indemnity benefits ~~upon exhaustion of the procedures prescribed in s. 440.102(5)~~. However, a drug-free workplace program *must* ~~shall~~ require the employer to notify all employees that it is a condition of employment *for an employee* to refrain from *reporting to work or working with the presence of* ~~taking~~ drugs *or alcohol in his body* ~~on or off the job~~ and, if *an* ~~the~~ injured *employee* ~~worker~~ refuses to submit to a test for drugs or alcohol, *the employee* ~~he~~ forfeits his eligibility for medical and indemnity benefits.

Section 153. Section 440.102, Florida Statutes, is amended to read:

440.102 Drug-free workplace program requirements.—The following *provisions* ~~shall~~ apply to a drug-free workplace program implemented pursuant to rules adopted by the division:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act, *the term*:

(a)~~(e)~~ "Chain of custody" refers to the methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing for accountability at each stage in handling, testing, and storing specimens and reporting test results.

(b)~~(d)~~ "Confirmation test," "confirmed test," or "confirmed drug test" means a second analytical procedure used to identify the presence of a specific drug or metabolite in a specimen, *which*~~. The confirmation~~ test *is* ~~must be~~ different in scientific principle from that of the initial test procedure *and*~~. This confirmation method must be~~ capable of providing requisite specificity, sensitivity, and quantitative accuracy.

(c)~~(a)~~ "Drug" means alcohol, including *a* distilled *spirit* ~~spirits~~, wine, *a* malt *beverage* ~~beverages~~, *or an* ~~and~~ intoxicating *liquor* ~~liquors~~; *an amphetamine* ~~amphetamines~~; *a cannabinoid* ~~cannabinoids~~; cocaine; phencyclidine (PCP); *a hallucinogen* ~~hallucinogens~~; methaqualone; *an opiate* ~~opiates~~; *a barbiturate* ~~barbiturates~~; *a benzodiazepine* ~~benzodiazepines~~; *a* synthetic *narcotic* ~~narcotics~~; *a* designer *drug* ~~drugs~~; or a metabolite of any of the substances listed *in this paragraph* ~~herein~~.

(d) "Drug rehabilitation program" means an established program that provides expert identification, assessment, and resolution of employee drug abuse in a confidential and timely service provided only by persons who are licensed as health professionals authorized to provide drug rehabilitative services.

(e)~~(b)~~ "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered *by a laboratory certified by the National Institute on Drug Abuse or licensed by the Agency for Health Care Administration* for the purpose of determining the presence or absence of a drug or its metabolites.

(f)~~(g)~~ "Employee" means any person who works for salary, wages, or other remuneration for an employer.

(g)~~(l)~~ "Employee assistance program" means an established program *that provides expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program or require monitoring after return to work and that provides diagnostic and treatment services, if these services are also provided, only by persons who are licensed as health professionals authorized to provide diagnostic and treatment services* ~~for employee assessment, counseling, and possible referral to an alcohol and drug rehabilitation program~~.

(h) "Employer" means a person or entity that employs a person and that is covered by the Workers' Compensation Law.

(i)~~(e)~~ "Initial drug test" means a sensitive, rapid, and reliable procedure to identify negative and presumptive positive specimens, *using*~~. All initial tests shall use~~ an immunoassay procedure or an equivalent, or ~~shall use~~ a more accurate, scientifically accepted method approved by *the National Institute on Drug Abuse or* the *Agency on Health Care Administration* ~~Department of Health and Rehabilitative Services~~ as such more accurate technology becomes available in a cost-effective form.

(j)~~(f)~~ "Job applicant" means a person who has applied for a position with an employer and has been offered employment conditioned upon successfully passing a drug test, *but who may have begun work pending the outcome of the test. For a public employer, the term pertains only to a person who has applied for a special-risk or safety-sensitive position.*

(k) "Medical review officer" means a licensed physician, employed by or under contract with an employer, who has knowledge of substance-abuse disorders, laboratory-testing procedures, and chain-of-custody collection procedures; who verifies drug test results; and who has the necessary medical training to interpret and evaluate an individual's positive drug test result in relation to the individual's medical history or other relevant biomedical information.

(l)~~(i)~~ "Prescription or nonprescription medication" means a drug or medication obtained pursuant to a prescription as defined by s. 893.02 or a medication that is authorized pursuant to federal or state law for general distribution and use without a prescription in the treatment of human diseases, ailments, or injuries.

(m) "Public employer" means an agency within state government which is an employer.

(n)~~(j)~~ *"Reasonable-suspicion* ~~Reasonable suspicion~~ drug testing" means drug testing based on a belief that an employee is using or has used drugs in violation of the employer's policy drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon:

1. Observable phenomena while at work, such as direct observation of drug use or of the physical symptoms or manifestations of being under the influence of a drug.

2. Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance.

3. A report of drug use~~,~~ provided by a reliable and credible source~~, which has been independently corroborated~~.

4. Evidence that an individual has tampered with a drug test during his employment with the current employer.

5. Information that an employee has caused, ~~or~~ contributed to, *or been involved in* an accident while at work.

6. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working, ~~or~~ while on the employer's premises, or while operating the employer's vehicle, machinery, or equipment.

(o) "Safety-sensitive position," in relation to a public employer, includes a position in which a drug impairment constitutes an immediate and direct threat to public health or safety, such as a position that requires the occupant to carry a firearm, perform life-threatening procedures, work with confidential information or documents pertaining to criminal investigations, or work with controlled substances; a position subject to s. 110.1127; and a position in which a momentary lapse of attention could cause injury or death to another person.

(p) "Special-risk position," in relation to a public employer, means a position that is required to be filled by an employee who is certified under chapter 633 or chapter 943.

(q)~~(k)~~ "Specimen" means tissue, hair, or *a* product of the human body capable of revealing the presence of drugs or their metabolites.

(2) DRUG TESTING.—*An employer may test an employee or job applicant for any drugs described in paragraph (1)(c). In order to qualify as having established a drug-free workplace program that affords an employer the ability to qualify for the discounts provided under s. 627.0915 and to deny medical and indemnity benefits under this section,* all drug testing conducted by *the employer must* ~~employers shall~~ be in conformity with the standards *and procedures* established in this section and all applicable rules adopted pursuant to this section. However, *an employer does* ~~employers shall~~ not have a legal duty under this section to request an employee or job applicant to undergo drug testing. *If an employer does not maintain a drug-free workplace program in accordance with the standards and procedures established in this section and in the applicable rules, the employer is not eligible for the discounts provided under s. 627.0915.*

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, prior to testing, *an employer must give* all employees and job applicants for employment ~~must be given~~ a written policy statement *that* ~~from the employer which~~ contains:

1.~~(a)~~ A general statement of the employer's policy on employee drug use, which *must* ~~shall~~ identify:

a.~~1.~~ The types of *drug* testing an employee or job applicant may be required to submit to, including *testing based on* reasonable suspicion or other basis; and

b.~~2.~~ The actions the employer may take against an employee or job applicant on the basis of a positive, confirmed ~~drug~~ test result.

2.~~(b)~~ A statement advising the employee or job applicant of the existence of this section.

3.~~(c)~~ A general statement concerning confidentiality.

4.~~(d)~~ Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications *to a medical review officer* both before and after being tested.

5. A list ~~Additionally, employees and job applicants shall receive notice~~ of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ shall be available to employers through the Division of Workers' Compensation of the Department of Labor and Employment Security.

6.~~(e)~~ The consequences of refusing to submit to a drug test.

7.~~(f)~~ *A representative sampling of* names, addresses, and telephone numbers of employee assistance programs and local ~~alcohol and~~ drug rehabilitation programs.

8.~~(g)~~ A statement that an employee or job applicant who receives a positive, confirmed ~~drug~~ test result may contest or explain the result to *a medical review officer* ~~the employer~~ within 5 working days after *receiving* written notification of the ~~positive~~ test result*; that,*~~.~~ if an employee's or job applicant's explanation or challenge is unsatisfactory to the *medical review officer* ~~employer~~, the *medical review officer will report a positive test result back to the employer; and that a* ~~person may~~ contest *regarding a* ~~the drug~~ test result *will be conducted* pursuant to rules adopted by the Department of Labor and Employment Security.

9.~~(h)~~ A statement informing the employee or job applicant of his responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

10.~~(i)~~ A list of all drugs for which the employer will test, described by brand *name* ~~names~~ or common *name* ~~names~~, as applicable, as well as by chemical *name* ~~names~~.

11.~~(j)~~ A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.

12.~~(k)~~ A statement notifying employees and job applicants of their right to consult *with a medical review officer* ~~the testing laboratory~~ for technical information regarding prescription *or* ~~and~~ nonprescription medication.

(b)~~(l)~~ An employer not having a *drug-testing* ~~drug testing~~ program shall ensure that at least 60 days elapse between a general one-time notice to all employees that a *drug-testing* ~~drug testing~~ program is being implemented and the beginning of actual drug testing. An employer having a *drug-testing* ~~drug testing~~ program in place prior to *July 1, 1990,* ~~the effective date of this section~~ is not required to provide a 60-day notice period.

(c)~~(m)~~ An employer shall include notice of drug testing on vacancy announcements for ~~those~~ positions for which drug testing is required. A notice of the employer's *drug-testing* ~~drug testing~~ policy must also be posted in an appropriate and conspicuous location on the employer's premises, and copies of the policy must be made available for inspection by the *employer's employees and job applicants* ~~general public~~ during regular business hours in the employer's personnel office or other suitable locations.

(4) TYPES OF TESTING.—

(a) An employer is required to conduct the following types of drug tests ~~in order to qualify for the discounts provided under s. 627.0915~~:

1.~~(a)~~ Job applicant *drug* testing.—An employer must require job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive, confirmed drug test as a basis for *refusing* ~~refusal~~ to hire *a* ~~the~~ job applicant.

2.~~(b)~~ *Reasonable-suspicion drug testing* ~~Reasonable suspicion.~~—An employer must require an employee to submit to *reasonable-suspicion* ~~reasonable suspicion~~ drug testing.

3.~~(c)~~ Routine fitness-for-duty *drug-testing.*—An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.

4.~~(d)~~ Followup *drug* testing.—If the employee in the course of employment enters an employee assistance program for drug-related problems, or *a* ~~an alcohol and~~ drug rehabilitation program, the employer must require the employee to submit to a drug test as a followup to *the* ~~such~~ program, *unless the employee voluntarily enters the program in which case the employer need not require the employee to undergo followup testing*~~, and on a quarterly, semiannual, or annual basis for up to 2 years thereafter~~. *If followup testing is required, it must be done at least once a year for 2 years after completion of the program by the employee. Advance notice of a followup testing date must not be given to the employee to be tested.*

(b) This subsection does not preclude a private employer from conducting random testing or other lawful testing of employees for drugs.

(c) Limited testing of job applicants, if based on reasonable classifications, is permissible in accordance with division rule.

(5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(a) A sample shall be collected with due regard to the privacy of the individual providing the sample~~,~~ and in a manner reasonably calculated to prevent substitution or contamination of the sample.

(b) Specimen collection shall be documented, and the documentation procedures *must* ~~shall~~ include:

1. Labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results.

2. A form for the employee or job applicant to provide any information he considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. *The* ~~Such~~ form *must* ~~shall~~ provide notice of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information *does* ~~shall~~ not preclude the administration of the drug test, but shall be taken into account in interpreting any positive, confirmed *test result* ~~results~~.

(c) Specimen collection, storage, and transportation to the testing site shall be performed in a manner *that* ~~which will~~ reasonably *precludes* ~~preclude specimen~~ contamination or adulteration *of specimens.*

(d) Each initial *drug test* and confirmation test conducted ~~under this section~~, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed laboratory ~~as~~ described in subsection (9).

(e) A specimen for a drug test may be taken or collected by any of the following persons:

1. A physician, a physician assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.

2. A qualified person employed by a licensed laboratory.

(f) A person who collects or takes a specimen for a drug test ~~conducted pursuant to this section~~ shall collect an amount sufficient for two drug tests as determined by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~.

(g) Every specimen that produces a positive, confirmed *test* result shall be preserved by the ~~licensed~~ laboratory that *conducted* ~~conducts~~ the confirmation test for a period of at least 210 days after the *result* ~~results~~ of the ~~positive confirmation~~ test *was* ~~are~~ mailed or otherwise delivered to the *medical review officer* ~~employer~~. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 180-day period after written notification of a positive test result, the employee or job applicant who ~~has~~ provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense~~, at another laboratory, licensed and approved by the Department of Health and Rehabilitative Services, chosen by the employee or job applicant~~. The second laboratory must test at equal or greater sensitivity for the drug in question as the first laboratory. The first laboratory *that* ~~which~~ performed the test for the employer *is* ~~shall be~~ responsible for the transfer of the portion of the specimen to be retested~~,~~ and for the integrity of the chain of custody during such transfer.

(h) Within 5 working days after receipt of a positive, confirmed test result from the *medical review officer* ~~testing laboratory~~, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such *result* ~~results~~, and the options available to the employee or job applicant.

~~(i)~~ The employer shall provide to the employee or job applicant, upon request, a copy of the test *result* ~~results~~.

(i)~~(j)~~ Within 5 working days after receiving notice of a positive, confirmed test result, *an* ~~the~~ employee or job applicant may submit information to *the* ~~an~~ employer explaining or contesting the test *result* ~~results~~, and *explaining* why the *result does* ~~results do~~ not constitute a violation of the employer's policy.

(j)~~(k)~~ If *the* ~~an~~ employee's or job applicant's explanation or challenge of the positive test *result* ~~results~~ is unsatisfactory to the employer, a written explanation as to why the employee's or job applicant's explanation is unsatisfactory, along with the report of *the* positive *result* ~~results~~, shall be provided by the employer to the employee or job applicant; and all such documentation shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(k)~~(l)~~ *An* ~~No~~ employer may *not* discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation of an employee or job applicant on the sole basis of a positive test result that has not been verified by a confirmation test *and by a medical review officer.*

(l)~~(m)~~ An employer *that* ~~who~~ performs drug testing or specimen collection *must* ~~shall~~ use chain-of-custody procedures ~~as~~ established by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ to ensure proper recordkeeping, handling, labeling, and identification of all specimens ~~to be~~ tested.

(m)~~(n)~~ An employer shall pay the cost of all drug tests, initial and confirmation, which *the employer* ~~he~~ requires of employees.

~~(o)~~ An employee or job applicant shall pay the costs of any additional drug tests not required by the employer.

(n)~~(p)~~ *An* ~~No~~ employer *may not* ~~shall~~ discharge, discipline, or discriminate against an employee solely upon the employee's voluntarily seeking treatment, while under the employ of the employer, for a drug-related problem if the employee has not previously tested positive for drug use, entered an employee assistance program for drug-related problems, or entered *a* ~~an alcohol and~~ drug rehabilitation program. *Unless otherwise provided by a collective bargaining agreement, an employer may select the employee assistance program or drug rehabilitation program if the employer pays the cost of the employee's participation in the program.*

(o)~~(q)~~ If *drug* testing is conducted based on reasonable suspicion, the employer shall promptly detail in writing the circumstances which formed the basis of the determination that reasonable suspicion existed to warrant the testing. A copy of this documentation shall be given to the employee upon request and the original documentation shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(6) CONFIRMATION TESTING.—

(a) If an initial drug test is negative, the employer may in its sole discretion seek a confirmation test.

(b) Only licensed laboratories ~~as~~ described in subsection (9) *may* ~~shall~~ conduct confirmation drug tests.

(c) All positive initial tests shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ as such technology becomes available in a cost-effective form.

(d) If an initial drug test of an employee or job applicant is confirmed as positive, the employer's medical review officer shall provide technical assistance to the employer and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(7) EMPLOYER PROTECTION.—

(a) *An* ~~No~~ employee or job applicant whose drug test result is confirmed as positive in accordance with ~~the provisions of~~ this section *may not* ~~shall~~, by virtue of the result alone, be *deemed to have a handicap or disability as defined under federal, state, or local handicap and disability discrimination laws* ~~defined as a person having a "handicap" as cited in the 1973 Rehabilitation Act~~.

(b) An employer who discharges or disciplines an employee or refuses to hire a job applicant in compliance with this section *is* ~~shall be~~ considered to have discharged, disciplined, or refused to hire for cause.

(c) *A* ~~No~~ physician-patient relationship is *not* created between an employee or job applicant and an employer or any person performing or evaluating a drug test, solely by the establishment, implementation, or administration of a *drug-testing* ~~drug testing~~ program.

(d) ~~Nothing in~~ This section *does not preclude* ~~shall be construed to prevent~~ an employer from establishing reasonable work rules related to ~~employee~~ possession, use, sale, or solicitation of drugs *by employees*, including convictions for drug-related offenses, and taking action based upon a violation of any of those rules.

(e) ~~Nothing in~~ This section *does not* ~~shall be construed to~~ operate retroactively~~,~~ and *does not* ~~nothing in this section shall~~ abrogate the right of an employer under state law to conduct drug tests, or implement employee *drug-testing* ~~drug testing~~ programs~~, prior to October 1, 1990~~; however, only those programs that meet the criteria outlined in this section qualify for reduced rates under s. 627.0915.

(f) If an employee or job applicant refuses to submit to a drug test, the employer *is* ~~shall~~ not ~~be~~ barred from discharging or disciplining the employee or from refusing to hire the job applicant. However, ~~nothing in~~ this paragraph *does not* ~~shall~~ abrogate the rights and remedies of the employee or job applicant as otherwise provided in this section.

(g) ~~Nothing in~~ This section *does not* ~~shall be construed to~~ prohibit an employer from conducting medical screening or other tests required, *permitted, or not disallowed* by any statute, rule, or regulation for the purpose of monitoring exposure of employees to toxic or other unhealthy substances in the workplace or in the performance of job responsibilities. Such screening or *testing must* ~~tests shall~~ be limited to the specific substances expressly identified in the applicable statute, rule, or regulation, unless prior written consent of the employee is obtained for other tests. *Such screening or testing need not be performed in compliance with the rules adopted by the Department of Labor and Employment Security and the Agency for Health Care Administration under s. 112.0455. A public employer may, through the use of an unbiased selection procedure, conduct random drug tests of employees occupying safety-sensitive or special-risk positions if the testing is performed in accordance with the drug-testing rules adopted by the Agency for Health Care Administration and the Department of Labor and Employment Security. If applicable, random drug testing must be collectively bargained with the appropriate certified bargaining agent before it is implemented.*

(h) No cause of action arises in favor of any person based upon the failure of an employer to establish a drug-testing program or policy.

(8) CONFIDENTIALITY.—The provisions of s. 119.07 to the contrary notwithstanding:

(a) All information, interviews, reports, statements, memoranda, and drug test results, written or otherwise, received by the employer through a *drug-testing* ~~drug testing~~ program are confidential communications and may not be used or received in evidence, obtained in discovery, or disclosed in any public or private proceedings, except in accordance with this section or in determining compensability under this chapter.

(b) Employers, laboratories, *medical review officers,* employee assistance programs, drug ~~and alcohol~~ rehabilitation programs, and their agents who receive or have access to information concerning drug test results shall keep all information confidential. Release of such information under any other circumstance *is permitted* ~~shall be~~ solely pursuant to a written consent form signed voluntarily by the person tested, unless such release is compelled by a hearing officer or a court of competent jurisdiction pursuant to an appeal taken under this section~~,~~ or *is* ~~unless~~ deemed appropriate by a professional or occupational licensing board in a related disciplinary proceeding. The consent form must contain, at a minimum:

1. The name of the person who is authorized to obtain the information.

2. The purpose of the disclosure.

3. The precise information to be disclosed.

4. The duration of the consent.

5. The signature of the person authorizing release of the information.

(c) Information on drug test results *may* ~~shall~~ not be released or used in any criminal proceeding against the employee or job applicant. Information released contrary to this section *is* ~~shall be~~ inadmissible as evidence in any such criminal proceeding.

(d) *This subsection does not* ~~Nothing herein shall be construed to~~ prohibit *an* ~~the~~ employer, *the* agent of *an* ~~the~~ employer, or *a* laboratory conducting a drug test from having access to *or from using* employee drug test information when consulting with legal counsel in connection with actions brought under or related to this section or when the information is relevant to its defense in a civil or administrative matter.

(9) *DRUG-TESTING* ~~DRUG TESTING~~ STANDARDS *FOR*~~;~~ LABORATORIES.—

(a) *A* ~~No~~ laboratory may *not* analyze initial or confirmation *test* ~~drug~~ specimens unless:

1. The laboratory is ~~licensed and~~ approved ~~by the Department of Health and Rehabilitative Services using criteria established~~ by the National Institute on Drug Abuse ~~as guidelines for modeling the state drug testing program pursuant to this section~~.

2. The laboratory has written procedures to ensure the chain of custody.

3. The laboratory follows proper quality control procedures, including, but not limited to:

a. The use of internal quality controls including the use of samples of known concentrations ~~which are~~ used to check the performance and calibration of testing equipment, and periodic use of blind samples for overall accuracy.

b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory.

c. Security measures implemented by the ~~testing~~ laboratory to preclude adulteration of specimens and drug test results.

d. Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(b) A laboratory shall disclose to the *medical review officer* ~~employer~~ a written test result report within 7 working days after receipt of the sample. All laboratory reports of a drug test result *must* ~~shall~~, at a minimum, state:

1. The name and address of the laboratory *that* ~~which~~ performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.

3. A list of the drugs for which the drug analyses were conducted.

4. The type of tests conducted for both initial *tests* and confirmation tests and the minimum cutoff levels of the tests.

5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (5)(b)2. and a positive, confirmed drug test result.

A ~~No~~ report *must not* ~~shall~~ disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

(c) The laboratory shall submit to the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ a monthly report with statistical information regarding the testing of employees and job applicants. The report *must* ~~shall~~ include information on the methods of *analysis* ~~analyses~~ conducted, the drugs tested for, the number of positive and negative results for both initial *tests* and confirmation tests, and any other information *considered* ~~deemed~~ appropriate by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~. *A* ~~No~~ monthly report *must not* ~~shall~~ identify specific employees or job applicants.

~~(d) Laboratories shall provide technical assistance to the employer, employee, or job applicant for the purpose of interpreting any positive confirmed test results which could have been caused by prescription or nonprescription medication taken by the employee or job applicant.~~

(10) RULES.—

~~(a)~~ The Department of Labor and Employment Security shall adopt rules, using *the* rules adopted by the *Agency for Health Care Administration* ~~Department of Health and Rehabilitative Services~~ pursuant to s. 112.0455 and *the* criteria established by the National Institute on Drug Abuse as guidelines for modeling the state *drug-testing* ~~drug testing~~ program, concerning, but not limited to:

(a)~~1.~~ Standards for *licensing of drug-testing laboratories* ~~drug testing laboratory licensing~~ and suspension and revocation of *such licenses* ~~a license~~.

(b)~~2.~~ Body specimens and minimum specimen amounts *that* ~~which~~ are appropriate for drug testing.

(c)~~3.~~ Methods of analysis and procedures to ensure reliable *drug-testing* ~~drug testing~~ results, including standards for initial tests and confirmation tests.

(d)~~4.~~ Minimum cutoff detection levels for *each drug* ~~drugs~~ or *its* ~~their~~ metabolites for the purposes of determining a positive test result.

(e)~~5.~~ Chain-of-custody procedures to ensure proper identification, labeling, and handling of specimens ~~being~~ tested.

(f)~~6.~~ Retention, storage, and transportation procedures to ensure reliable results on confirmation tests and retests.

(11) PUBLIC EMPLOYEES IN SAFETY-SENSITIVE OR SPECIAL-RISK POSITIONS.—

(a) If an employee who is employed by a public employer in a safety-sensitive position enters an employee assistance program or drug rehabilitation program, the employer shall assign the employee to a non-safety-sensitive position or, if such a position is not available, place the employee on leave while the employee is participating in the program. The employee shall be permitted, however, to use any accumulated annual leave credits before leave may be ordered without pay.

(b) An employee who is employed by a public employer in a special-risk position may be discharged or disciplined by a public employer for the first positive, confirmed test result if the drug confirmed is an illicit drug under s. 893.03. A special-risk employee who is participating in an employee assistance program or drug rehabilitation program may not be allowed to continue to work in any special-risk or safety-sensitive position of the public employer, but may be assigned to a non-safety-sensitive position or placed on leave while the employee is participating in the program. The employee shall be permitted, however, to use any accumulated annual leave credits before leave may be ordered without pay.

(12) REFUSAL TO DENY BENEFITS.—An employer may not refuse to deny medical and indemnity benefits under this chapter to an employee in accordance with the provisions of this section.

(13)~~(b)~~ *COLLECTIVE BARGAINING RIGHTS.*—This section *does* ~~shall~~ not ~~be construed to~~ eliminate ~~the~~ bargainable rights ~~as~~ provided in the collective bargaining process if applicable.

Section 154. Subsection (7) is added to section 440.13, Florida Statutes, 1992 Supplement, to read:

440.13 Medical services and supplies; penalty for violations; limitations.—

(7) All authorized remedial treatment, care, and, attendance provided by a health care provider to an injured employee before medical and indemnity benefits are denied under s. 440.102 must be paid for by the carrier or self-insurer. However, the carrier or self-insurer must have given reasonable notice to the affected health care provider that payment for treatment, care, and attendance provided to the employee after a future date certain will be denied. A health care provider that refuses, without good cause, to continue to provide treatment, care, and attendance to an employee before the provider receives notice of benefit denial is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 495, line 28 through page 496, line 1, strike "amending s. 440.102, F.S., relating to requirements for the drug-free workplace program; conforming provisions to the transfer of certain duties and functions to the agency;" and insert: amending ss. 440.101, 440.102, F.S.; revising requirements pertaining to the drug-free workplace program, including notice and other procedural requirements; providing for collective bargaining of certain drug-testing procedures; providing that no cause of action arises based on the failure of an employer to establish a drug-testing program or policy; revising confidentiality provisions; revising standards for drug-testing laboratories; providing for reassignment or placement on leave of state employees while participating in employee assistance programs or drug rehabilitation programs; prohibiting an employer from refusing to deny medical and indemnity benefits in accordance with the act; amending s. 440.13, F.S.; prohibiting a health care provider from discontinuing, without good cause, authorized remedial treatment, care, and attendance to an injured employee before the receipt of certain notice from the carrier or self-insurer of the denial of medical and indemnity benefits to that employee; providing penalties; replacing references to the Department of Health and Rehabilitative Services with references to the Agency on Health Care Administration to conform to governmental reorganization of the functions of the department;

Senators McKay, Foley and Williams offered the following amendment which was moved by Senator McKay and adopted:

Amendment 13 (with Title Amendment)—On page 26, between lines 2 and 3, insert:

Section 6. Section 287.088, Florida Statutes, 1992 Supplement, is amended to read:

287.088 Employees of state contractors; access to hospitalization and medical insurance benefits.—

(1) As used in this section:

(a) "Agency" means any state officer, department, division, board, bureau, commission, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any state agency.

(b) "Contractor" means any person or entity that enters into a contract with an agency to provide services or to furnish materials of any kind, but does not include a person or entity that enters into a provider agreement with the Department of Health and Rehabilitative Services to provide services under the Medicaid program.

(c) "Full-time employee" means a person who is employed by a contractor and meets the eligibility requirements of the contractor's group health insurance carrier.

~~(c) "Subcontractor" means any person or entity who is in privity with a contractor to provide services or to furnish materials of any kind, either to the contractor or to the agency.~~

(2) Effective July 1, *1995* ~~1994~~, every contractor~~, and each subcontractor of every contractor,~~ shall ensure that each *full-time* employee who works on a competitively bid state agency contract valued in excess of $100,000 shall have access to hospitalization and medical insurance benefits during his employment on such agency contracts. ~~The contractor's and subcontractor's obligation to ensure employee access to hospitalization and medical insurance benefits shall be fulfilled through the employer's payment of wages or contributions to employee hospitalization and medical insurance benefit plans, or any combination thereof. The monetary value of the hospitalization and medical insurance benefits provided to the employee by the employer shall be based on hospitalization and medical insurance coverage for the employee, the employee's spouse, and legally dependent children.~~

(3) Before signing the contract as described in subsection (2), the contractor shall provide the agency with sufficient written documentation to demonstrate that the provisions of this section have been satisfied ~~by the contractor and the subcontractors, if any~~. The agency shall examine the written documentation to ascertain that each *full-time* employee who will work on the contract has access to hospitalization and medical insurance benefits. If the agency finds that the contractor ~~or any subcontractor under the contractor~~ has not ensured *the full-time* employees' access to hospitalization and medical insurance benefits, the agency shall notify the contractor in writing that the provisions of this section have not been met and shall provide sufficient detail to enable the contractor to take remedial action. A contractor ~~or any subcontractor~~ who has been notified by an agency that the provisions of this section have not been met has 15 days from the date the agency provided written notice to ensure access to hospitalization and medical insurance benefits for each *full-time* employee who will work on the contract and to provide written documentation of the remedial action to the agency. No later than 10 days after receiving written documentation from the contractor, the agency shall examine the written documentation pertaining to the contractor's remedial action to determine if the provisions of this section have been met. If the agency finds that the contractor still has not ensured access to hospitalization and medical insurance benefits for each *full-time* employee who will work on the contract, the agency shall award the contract to another contractor who has complied with the provisions of this section.

~~(4) Each agency contract governed by this section shall mandate that the contractor to whom the contract is awarded, and any subcontractor under him:~~

~~(a) May not pay hospitalization and medical insurance benefits contributions in lieu of the employee's regular wages for the type of work he will perform under the state contract.~~

~~(b) Shall pay to the state $200 as liquidated damages for each employee of the contractor, or of any subcontractor under him, who performs any portion of the contract work for each calendar day, or portion thereof, if such employee's hospitalization and medical insurance benefit contributions have not been paid by the employer. These liquidated damages shall be deposited in the Public Medical Assistance Trust Fund.~~

~~(c) Shall post, in a conspicuous place on the site where such contract work is performed:~~

~~1. A statement of the employee's right to access to hospitalization and medical insurance benefits.~~

~~2. The amount of liquidated damages for any failure to pay such benefits.~~

~~3. The name and address of the responsible state official to whom complaints should be given.~~

~~(d) May not terminate an employee performing work on the contract because of the employee's filing a complaint regarding the payment of hospitalization and medical insurance benefits contributions.~~

~~(5) Should it be determined by an agency that a contractor or any subcontractor under him has substantially or repeatedly failed to comply with the provisions of this section, the noncomplying contractor or subcontractor, and the principal owners thereof, shall be prohibited from bidding on or otherwise participating in state contracts for a period of 3 years.~~

(4)~~(6)~~ State agencies shall promulgate the necessary rules to administer the provisions of this section ~~and shall establish administrative procedures for the resolution of written complaints pertaining to the underpayment of hospitalization and medical insurance benefits~~.

(5)~~(7)~~ This section shall not apply to:

(a) Any contract that is in effect on July 1, *1995* ~~1994~~. This section shall not apply to any contract for which bids have been advertised or proposals have been requested prior to July 1, *1995* ~~1994~~.

(b) Blanket contracts designed to consolidate an indeterminate number of smaller contracts which may be needed over a fixed period of time, provided the overall contract ceiling does not exceed $500,000, and further provided that no individual work order issued under such contract shall exceed $25,000.

(c) State agency contracts which are subject to the provisions of the Davis-Bacon Act.

(d) Contractors or subcontractors who are subject to the provisions of a collective bargaining agreement which provides access to hospitalization and medical insurance benefits.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 219, line 9, after the semicolon (;) insert: amending s. 287.088, F.S.; defining the term "full-time employee" with respect to a state contractor for purposes of access to hospitalization and medical insurance benefits; deleting provisions relating to subcontractors; changing effective dates of certain provisions; eliminiating provisions relating to fulfillment of hospitalization and medical insurance obligations; deleting requirements for payment of liquidated damages, posting certain statements, and filing complaints; deleting prohibition on contractors for failure to comply;

Senator Myers moved the following amendment which was adopted:

Amendment 14 (with Title Amendment)—On page 26, between lines 2 and 3, insert:

Section 6. Subsection (3) of section 154.235, Florida Statutes, is amended to read:

154.235 Refunding bonds.—

(3) *Any such escrowed proceeds, pending such use, may be invested in the following securities:*

(a) Direct obligations of the United States.

(b) Obligations of which the principal and interest are unconditionally guaranteed by the United States.

(c) Obligations of any agency or instrumentality of the United States, or of any corporation organized under the laws of the United States, whether or not the principal or interest thereon is guaranteed by the United States.

(d) Certificates of deposit or time deposits secured by securities described in paragraph (a), paragraph (b), or paragraph (c).

(e) Obligations of any state of the United States, or of any political subdivision of the United States, or of any public body organized under the laws of the United States, which obligations have themselves been refunded through the deposit in escrow of securities described in paragraph (a), paragraph (b), or paragraph (c).

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

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 219, line 9, after the semicolon (;) insert: amending s. 154.235, F.S., relating to bond refunds; revising authorized investments for health facilities authorities;

Senator Gutman moved the following amendments which were adopted:

Amendment 15 (with Title Amendment)—On page 26, between lines 2 and 3, insert:

Section 6. Effective January 1, 1994, section 220.187, Florida Statutes, is created to read:

220.187 Preventative cancer-screening procedures tax credit.—

(1) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) While studies have shown that early detection and screening for cancer can reduce cancer morbidity by as much as 50 percent for certain types of cancer, physicians report that concern about the costs of early detection procedures is one of the main reasons for hesitating to order those procedures.

(b) Many low-income Americans lack comprehensive health insurance coverage and many existing health insurance policies do not adequately cover the costs of early detection and cancer-screening procedures.

(c) Socioeconomically disadvantaged Americans are disproportionately affected by cancer in terms of incidence and mortality.

(d) In order to significantly improve the availability of early detection and cancer-screening procedures for low-income state residents who are not covered by insurance, it is necessary to provide additional resources, and the participation of private enterprise in funding such tests is an effective means for accomplishing that goal.

(2) POLICY AND PURPOSE.—It is the policy of this state to encourage the participation of private corporations in improving the health and well-being of state residents. The purpose of this section is to provide an incentive for such participation by granting partial state income tax credits to corporations that contribute resources to fund early detection and cancer-screening procedures for low-income state residents who are not covered by insurance.

(3) AUTHORIZATION TO GRANT PREVENTATIVE CANCER-SCREENING PROCEDURES TAX CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM SPENDING.—

(a) There shall be allowed a credit of 25 percent of a preventative cancer-screening procedures contribution against any tax due for a taxable year under this chapter.

(b) A business firm may not receive more than $200,000 in annual tax credits for all approved preventative cancer-screening procedures contributions made in any one year.

(c) The total amount of tax credit that may be granted for all contributions approved under this section is $3 million annually.

(d) Each proposal for the granting of the tax credit must have the prior approval of the secretary of the Department of Health and Rehabilitative Services, or his designee.

(e) If the credit granted under this section is not fully used in any one year because of insufficient tax liability on the part of the business firm, the unused amount may be carried forward for a period not to exceed 5 years. The carryover credit may be used in a subsequent year when the tax imposed by this chapter for that year exceeds the credit for that year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(10).

(4) ELIGIBILITY REQUIREMENTS.—

(a) All preventative cancer-screening procedures contributions by a business firm must be in the form of cash or other liquid assets or in-kind contributions if such business firm is licensed under chapter 395 or chapter 483.

(b) All preventative cancer-screening procedures contributions must benefit low-income state residents whose income level does not exceed 150 percent of the official poverty level, as defined by the Office of Management and Budget of the United States Government, and to the extent whose medical insurance does not pay for such preventative cancer-screening procedures costs.

(c) The preventative cancer-screening procedures contribution must be expended on the components of the adult health screen as outlined in the Medicaid program including these cancer-screening procedures:

1. Physical breast examination and mammogram for detecting female breast cancer;

2. Digital rectal examination for detecting prostate cancer, proctoscopy, and blood stool test for occult blood for detecting colon and rectum cancer;

3. Pap test for detecting uterine cancer; and

4. Pelvic examination for detecting ovarian cancer.

(5) APPLICATION REQUIREMENTS.—

(a) Any eligible sponsor who wishes to make preventative cancer-screening procedures contributions, whether in the form of cash or other liquid assets or by in-kind contributions if such business firm is licensed under chapter 395 or chapter 483, must submit a proposal to the Department of Health and Rehabilitative Services. The proposal must identify the sponsor; specify the form of the contribution, the facility that will administer the eligible cancer-screening procedures, and the fee schedule established for Medicaid compensable service; and include all supporting information that is required by rule.

(b) Any business that wishes to participate in this program must submit an application for tax credit to the Department of Health and Rehabilitative Services. The application must identify the sponsor that donates the funds or in-kind contribution and the recipient facility and must specify the value and purpose of the contribution. The recipient facility must verify the terms of the application, indicate its willingness to receive the contribution, and certify that the screening procedures will be provided according to the fee schedules established for Medicaid compensable services. This verification must be in writing and must accompany the application for tax credit.

(c) The business firm must submit a separate application for tax credit for each individual contribution that it proposes to contribute to each recipient facility.

(6) ADMINISTRATION.—

(a) The Department of Health and Rehabilitative Services may adopt rules necessary to administer this section, including rules for approving or disapproving proposals by business firms.

(b) The decision of the secretary or his designee must be in writing, and, if approved, the approval must state the maximum credit allowable to the business firm. A copy of the decision must be transmitted to the Executive Director of the Department of Revenue, who shall apply such credit to the tax liability of the business firm.

(c) The Department of Health and Rehabilitative Services shall periodically monitor all approved projects in a manner consistent with available resources to ensure that resources are used in accordance with this section; however, each approved project must be reviewed at least every 2 years.

(d) The Department of Revenue shall adopt rules necessary to ensure the orderly implementation and administration of this section.

Section 2. Effective January 1, 1994, subsection (10) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(10) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 220.68, those enumerated in s. 631.719(1), those enumerated in s. 631.705, those enumerated in s. 220.18, those enumerated in s. 631.828, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, *those enumerated in s. 220.187,* and those enumerated in s. 220.188.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 219, line 9, after the semicolon (;) insert: creating s. 220.187, F.S.; providing an exemption from the state corporate income tax for certain preventative cancer-screening procedures; providing eligibility and application requirements; providing for administration by the Department of Health and Rehabilitative Services; amending s. 220.02, F.S.; providing order for applying credits against the corporate income tax;

Amendment 16 (with Title Amendment)—On page 26, between lines 2 and 3, insert:

Section 6. Subsection (11) is added to section 394.875, Florida Statutes, to read:

394.875 Crisis stabilization units and residential treatment facilities; authorized services; license required; penalties.—

(11) Notwithstanding any other provision of this section, a facility licensed under chapters 396 and 397 for detoxification, residential level I care, and outpatient treatment, may elect to license concurrently all of the beds at the facility both for that purpose and as a long-term residential treatment facility pursuant to this section if all of the following conditions are met:

(a) The licensure application was received by the department before January 1, 1993.

(b) On January 1, 1993, the facility was licensed under chapters 396 and 397 as a facility for detoxification, residential level I care, and outpatient treatment of substance abuse.

(c) The facility restricted its practice to the treatment of law enforcement personnel for a period of at least 12 months beginning after January 1, 1992.

(d) The number of beds to be licensed under chapter 394 is equal to or less than the number of beds licensed under chapters 396 and 397 as of January 1, 1993.

(e) The licensee agrees in writing to a condition placed upon the license that the facility will limit its treatment exclusively to law enforcement personnel and their immediate families who are seeking admission on a voluntary basis and who are exhibiting symptoms of post-traumatic-stress disorder or other mental health problems, including drug and alcohol abuse, which are directly related to law enforcement work and which are amenable to verbal treatment therapies; the licensee agrees to coordinate the provision of appropriate post-residential care for discharged individuals; and the licensee further agrees in writing that a failure to meet any condition specified in this paragraph constitutes grounds for a revocation of the facility's license as a residential treatment facility.

(f) The licensee agrees that the facility will meet all licensure requirements for a residential treatment facility, including minimum standards for compliance with life-safety requirements, except those licensure requirements that are in direct conflict with the conditions and other provisions specified in this subsection.

(g) The licensee agrees that the conditions stated in this subsection must be agreed to in writing by any person who acquires the facility by any means.

A facility licensed under this subsection is not required to provide any services to any persons except those included in the specified conditions of licensure, and is exempt from any requirements related to the 60-day or greater average length of stay imposed on community-based residential treatment facilities otherwise licensed under this chapter.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 219, line 9, after the first semicolon (;) insert: 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;

Amendment 17 (with Title Amendment)—On page 26, between lines 2 and 3, insert:

Section 6. Subsection (3) of section 395.0191, Florida Statutes, 1992 Supplement, is amended to read:

395.0191 Staff membership and clinical privileges.—

(3)*(a)* When a licensed facility requires, as a precondition to obtaining staff membership or clinical privileges, the completion of, eligibility in, or graduation from any program or society established by or relating to the American Medical Association or the Liaison Committee on Graduate Medical Education, the licensed facility shall also make available such membership or privileges to physicians who have attained completion of, eligibility in, or graduation from any equivalent program established by or relating to the American Osteopathic Association.

(b) Membership in the American Academy of Family Practice that was obtained before December 31, 1988, and that is in good standing is equivalent to board certification in family practice for purposes of granting staff membership or clinical privileges in a hospital or managed care program.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 219, line 9, after the semicolon (;) insert: amending s. 395.0191, F.S.; providing an equivalency to board certification for purposes of staff membership and clinical privileges;

Amendment 18 (with Title Amendment)—On page 26, between lines 2 and 3, insert:

Section 6. Paragraph (a) of subsection (2) of section 395.7015, Florida Statutes, 1992 Supplement, is amended to read:

395.7015 Annual assessment on health care entities.—

(2) There is hereby imposed an annual assessment against certain health care entities as described in this section:

(a) The assessment shall be equal to 1.5 percent of the annual net operating revenues of health care entities *less a credit against the assessment for those entities described in subparagraph (b)3. equal to $1 credit for each $2 of uncompensated charity care, as defined by agency rule, provided to patients, the value of such uncompensated charity care being the difference between the amount actually collected and the Medicare fee in effect for participating physicians as determined by the United States Secretary of Health and Human Services.*

1. The first assessment shall be due on April 30, 1992, and the second on April 30, 1993, and each shall be based on the appropriate reports filed with the agency no later than March 31 of the year the assessment is due. By January 1, 1992, the health care entity shall make a one-time election to base the assessments on net operating revenue received in the health care entity's latest fiscal year ending on or before December 31, 1991, or December 31, 1992, respectively, or in the 12-month period ending March 31 of the year the assessment is due. The assessment shall be payable to and collected by the agency.

2. Beginning July 1, 1993, assessments shall be based on annual net operating revenues for the entity's most recently completed fiscal year as provided in subsection (3).

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 219, line 9, after the semicolon (;) insert: amending s. 395.7015, F.S.; providing a credit for uncompensated charity care against the annual assessment on freestanding radiation therapy centers;

Senator Myers moved the following amendments which were adopted:

Amendment 19—On page 26, strike all of lines 9-15 and insert:

1. The Director of the Division of State Employees Insurance of the Department of Management Services;

2. The Assistant Secretary for Medicaid of the Department of Health and Rehabilitative Services

Amendment 20—On page 26, between lines 20 and 21, insert:

5. The State Health Officer or his designee.

Senator Holzendorf moved the following amendment which was adopted:

Amendment 21—On page 26, line 28, insert:

7. A person who represents the American Federation of State, County and Municipal Employees.

8. A person who represents the Florida Education Association/United.

9. A person who represents the Florida Teaching Profession National Education Association.

Senator Myers moved the following amendment which was adopted:

Amendment 22—On page 27, line 2, insert:

(c) By July 1, 1993 t~~T~~he board shall adopt bylaws for the corporation which shall contain provisions for the selection of directors to represent members of the cooperative following the initial appointments. The board of directors may increase the number of its directors to provide for representation by members of the cooperative. *The board must include a representative of the state agency administering the cooperative's contract for operational funding by the state, if such a contract exists.*

Senator Foley moved the following amendment which was adopted:

Amendment 23—On page 29, line 11, insert:

Florida Statutes 408.036(2) is amended to read:

~~(d) Acquisition of land which is to be used for the construction of a health care facility, or office facilities for health care providers.~~

Senator Forman moved the following amendments which were adopted:

Amendment 24—On page 43, line 29, insert a new paragraph:

8. An optometrist licensed under chapter 463.

Amendment 25—On page 44, line 15, insert:

14. Licensed alcohol and drug abuse treatment programs as defined in chapters 396 and 397 under contract with a governmental contractor.

Senator Gutman moved the following amendments which were adopted:

Amendment 26 (with Title Amendment)—On page 45, between lines 3 and 4, insert:

Section . *A health care provider who is a participant in a medical school faculty practice plan and who is a full time faculty member at an accredited college of medicine shall not be considered an investor or as having an investment interest as defined in s. 455.236, F.S., 1992 Supplement.*

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 220, line 13, after the semicolon (;) insert: clarifying that participation in a faculty practice plan does not constitute an investment interest;

Amendment 27 (with Title Amendment)—On page 45, between lines 3 and 4, insert:

Section 20. Paragraph (k) of subsection (3) of section 455.236, Florida Statutes, 1992 Supplement, is amended to read:

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

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(k) "Investment interest" means an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instruments. Except for purposes of s. 455.239, the following investment interests shall be excepted from this definition:

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

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

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

4. An investment interest in an entity which owns or leases and operates a hospital licensed under chapter 395, *but only if the investor who owns that investment interest is prohibited by the entity from referring outpatients for any designated service that the hospital first began to provide after August 1, 1992,* or a nursing home facility licensed under chapter 400.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 220, line 13, after the semicolon (;) insert: amending s. 455.236, F.S.; redefining the term "investment interest" for purposes of financial arrangements between referring health care providers and providers of health care services

Senators Gutman and Jenne offered the following amendment which was moved by Senator Gutman and failed:

Amendment 28 (with Title Amendment)—On page 45, between lines 3 and 4, insert:

Section 20. Section 458.311, Florida Statutes, 1992 Supplement, is amended to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician shall apply to the department to take the licensure examination. The department shall examine each applicant whom the board certifies:

(a) Has completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee not to exceed $300 plus the actual per applicant cost to the department for purchase of the examination from the Federation of State Medical Boards of the United States or a similar national organization, which is refundable if the applicant is found to be ineligible to take the examination.

(b) Is at least 21 years of age.

(c) Is of good moral character.

(d) Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331.

(e) For any applicant who has graduated from medical school after October 1, 1992, has completed the equivalent of 2 academic years of preprofessional, postsecondary education, as determined by rule of the board, which shall include, at a minimum, courses in such fields as anatomy, biology, and chemistry prior to entering medical school.

(f) Meets one of the following medical education and postgraduate training requirements:

1.a. Is a graduate of an allopathic medical school or allopathic college recognized and approved by an accrediting agency recognized by the United States Office of Education;

b. If the language of instruction of the medical school is other than English, has demonstrated competency in English through presentation of a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

2.a. Is a graduate of a foreign medical school registered with the World Health Organization and certified pursuant to s. 458.314 as having met the standards required to accredit medical schools in the United States or reasonably comparable standards;

b. If the language of instruction of the foreign medical school is other than English, has demonstrated competency in English through presentation of the Educational Commission on Foreign Medical Graduates English proficiency certificate or by a satisfactory grade on the Test of Spoken English of the Educational Testing Service or a similar test approved by rule of the board; and

c. Has completed an approved residency of at least 1 year.

3.a. Is a graduate of a foreign medical school which has not been certified pursuant to s. 458.314;

b. Has had his medical credentials evaluated by the Education Commission on Foreign Medical Graduates, holds an active, valid certificate issued by that commission, and has passed the examination utilized by that commission; and

c. Has completed an approved residency of at least 1 year; however, after October 1, 1992, the applicant shall have completed an approved residency of at least 3 years in one specialty area.

~~(2) Every applicant who is otherwise qualified may take the licensing examination five times after October 1, 1986, notwithstanding the number of times the examination has been previously failed. If an applicant fails the examination taken after October 1, 1986, five times, he shall no longer be eligible for licensure.~~

(2)~~(3)~~ Notwithstanding the provisions of subparagraph (1)(f)3., a graduate of a foreign medical school need not present the certificate issued by the Educational Commission for Foreign Medical Graduates or pass the examination utilized by that commission if he:

(a) Has received a bachelor's degree from an accredited United States college or university.

(b) Has studied at a medical school which is recognized by the World Health Organization.

(c) Has completed all of the formal requirements of the foreign medical school, except the internship or social service requirements, and has passed part I of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(d) Has completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and upon completion has passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

(3)~~(4)~~ The department and the board shall assure that applicants for licensure meet the criteria in subsection (1) through an investigative process. When the investigative process is not completed within the time set out in s. 120.60(2) and the department or board has reason to believe that the applicant does not meet the criteria, the secretary or his designee may issue a 90-day licensure delay which shall be in writing and sufficient to notify the applicant of the reason for the delay. The provisions of this subsection shall control over any conflicting provisions of s. 120.60(2).

(4)~~(5)~~ The board may not certify to the department for licensure any applicant who is under investigation in another jurisdiction for an offense which would constitute a violation of this chapter until such investigation is completed. Upon completion of the investigation, the provisions of s. 458.331 shall apply. Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331. When the board finds that an individual has committed an act or offense in any jurisdiction which would constitute the basis for disciplining a physician pursuant to s. 458.331, then the board may enter an order imposing one or more of the terms set forth in subsection *(8)*~~(9)~~.

(5)~~(6)~~ Each applicant who passes the examination and meets the requirements of this chapter shall be licensed as a physician, with rights as defined by law.

(6)~~(7)~~ Upon certification by the board, the department shall impose conditions, limitations, or restrictions on a license by examination if the applicant is on probation in another jurisdiction for an act which would constitute a violation of this chapter.

(7)~~(8)~~ Notwithstanding any of the provisions of this section, the department shall issue a restricted license to any applicant who successfully completes *Part II of* the Florida Board Examination and who the board certifies has met the criteria of subparagraph (a)1., ~~or~~ subparagraph (a)2., *or subparagraph (a)3.* as follows:

(a)1.a. Is a graduate of a foreign medical institution located in a country in the Western Hemisphere with which the United States does not maintain diplomatic relations;

b. Received a medical education which was substantially similar at the time of the applicant's graduation to approved United States medical programs;

c. Practiced medicine in a foreign country from which he immigrated to the United States of America and has lawful immigration status, including employment authority; and

d. Successfully completed the examination utilized by the Educational Commission for Foreign Medical Graduates or successfully completed a course developed by the University of Miami, the University of Florida, or the University of South Florida for physician training which is equivalent to the course developed for such purposes pursuant to ch. 74-105, Laws of Florida, or successfully completed a 500-hour review course developed and administered by one of the three university medical schools or developed by said schools and administered by an organization accredited by the Accreditation Council for Continuing Medical Education and approved by the board *or a course monitored and approved by the University of Miami medical school, and developed for the purpose of physician training and which is equivalent to the course developed by one of the university medical schools prior to December 31, 1995.* The board shall monitor each such course. Each applicant must have approval from the board ~~prior to taking such course~~ and must demonstrate, to the satisfaction of the board, that he has met the requirements of the course; ~~or~~

2. Obtained a certificate of completion from the program established at the first accredited medical school pursuant to ch. 74-105, Laws of Florida, prior to January 1, 1982*; or*~~.~~

3. Obtained a certificate of completion prior to January 1, 1994, from a course monitored and approved by the University of Miami medical school, and developed for the purpose of physician training and which is equivalent to the course developed by one of the university medical schools.

a. The applicants under this subsection shall have graduated from a World Health Organization recognized medical institution.

b. The board shall monitor each such course. Each applicant must have approval from the board and must demonstrate, to the satisfaction of the board, that he has met the requirements of the course.

(b) The holder of a restricted license issued pursuant to this subsection may only practice medicine under the *indirect* ~~direct~~ supervision of a physician with an active, valid license issued pursuant to this section or s. 458.313.

(c) Upon demonstration to the board that the holder of a restricted license issued pursuant to *sub-subparagraph (a)1.a.* ~~this subsection~~ has practiced for 1 year under *indirect* ~~direct~~ supervision, has had no malpractice suits filed against him, and has not committed any act or is not under investigation for any act which would constitute a violation of this chapter, the department shall issue an unrestricted license to the restricted licenseholder. *Upon demonstration to the board that the holder of a restricted license issued pursuant to subparagraph (a)3. has practiced 2 years under indirect supervision, has had no malpractice suits filed against him, and has not committed any act or is not under investigation for any act which would constitute a violation of this chapter, the department shall issue an unrestricted general practice license to the restricted licenseholder.*

(d) The Florida Board Examination may be translated into a foreign language at the request of no fewer than five applicants who are otherwise qualified pursuant to this subsection; however, the cost for such translation shall be paid by such applicants.

(e) The first sitting for the Florida Board Examination shall be held by no later than February 2, 1987, and shall be offered in 6-month intervals thereafter.

This subsection is repealed effective October 1, 1993.

(8)~~(9)~~ When the board determines that any applicant for licensure by examination has failed to meet, to the board's satisfaction, each of the appropriate requirements set forth in this section it may enter an order requiring one or more of the following terms:

(a) Refusal to certify to the department an application for licensure, certification, or registration;

(b) Certification to the department of an application for licensure, certification, or registration with restrictions on the scope of practice of the licensee; or

(c) Certification to the department of an application for licensure, certification, or registration with placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

(9)~~(10)~~(a) Notwithstanding any of the provisions of this section, an applicant who, at the time of his medical education, was a citizen of the country of Nicaragua and, at the time of application for licensure under this subsection, is either a citizen of the country of Nicaragua or a citizen of the United States may make initial application to the department on or before July 1, 1992, for licensure subject to this subsection and may reapply pursuant to board rule. Upon receipt of such application, the department shall issue a 2-year restricted license to any applicant therefor upon the applicant's successful completion of the licensure examination as described in paragraph (1)(a) and who the board certifies has met the following requirements:

1. Is a graduate of a World Health Organization recognized foreign medical institution located in a country in the Western Hemisphere.

2. Received a medical education which has been determined by the board to be substantially similar, at the time of the applicant's graduation, to approved United States medical programs.

3. Practiced medicine in the country of Nicaragua for a period of 1 year prior to residing in the United States and has lawful employment authority in the United States.

4. Has had his medical education verified by the Florida Board of Medicine.

5. Successfully completed the Educational Commission for Foreign Medical Graduates Examination or Foreign Medical Graduate Examination in the Medical Sciences or successfully completed a course developed for the University of Miami for physician training equivalent to the course developed for such purposes pursuant to ch. 74-105, Laws of Florida. No person shall be permitted to enroll in the physician training course until he has been certified by the board as having met the requirements of this paragraph or conditionally certified by the board as having substantially complied with the requirements of this paragraph. Any person conditionally certified by the board shall be required to establish, to the board's satisfaction, full compliance with all the requirements of this paragraph prior to completion of the physician training course and shall not be permitted to sit for the licensure examination unless the board certifies that all of the requirements of this paragraph have been met.

However, applicants eligible for licensure under s. 455.218 or s. 458.311(9), Florida Statutes, 1988 Supplement, as amended by s. 18, ch. 89-162, Laws of Florida, and ss. 5 and 42, ch. 89-374, Laws of Florida, and renumbered as s. 458.311(8) by s. 5, ch. 89-374, Laws of Florida, shall not be eligible to apply under this subsection.

(b) The holder of a restricted license issued pursuant to this subsection may practice medicine for the first year only under the direct supervision, as defined by board rule, of a board-approved physician.

(c) Upon recommendation of the supervising physician and demonstration of clinical competency to the satisfaction of the board that the holder of a restricted license issued pursuant to this subsection has practiced for 1 year under direct supervision, such licenseholder shall work for 1 year under general supervision, as defined by board rule, of a Florida-

licensed physician in an area of critical need as determined by the board. Prior to commencing such supervision, the supervising physician shall notify the board.

(d) Upon completion of the 1 year of work under general supervision and demonstration to the board that the holder of the restricted license has satisfactorily completed the requirements of this subsection, and has not committed any act or is not under investigation for any act which would constitute a violation of this chapter, the department shall issue an unrestricted license to such licenseholder.

(e) Rules necessary to implement and carry out the provisions of this subsection shall be *adopted* ~~promulgated~~ by the board.

And the title is amended as follows:

In title, on page 220, line 13, after the semicolon (;) insert: amending s. 458.311, F.S.; deleting a limitation on the number of times the licensure examination may be taken; revising requirements for issuance for a restricted license;

The vote was:

Yeas—16 Nays—20

Senator Forman moved the following amendments which were adopted:

Amendment 29—On page 45, line 15, strike the period (.) and insert: *, and optometrists.*

Amendment 30—On page 47, line 6, after *"podiatric,"* insert: *optometric,*

Amendment 31—On page 47, line 9, after *chiropractors,* insert: *optometrists,*

Senator Myers moved the following amendment which was adopted:

Amendment 32—On page 48, lines 4 through 6, strike all said language and insert:

(f) "Primary care" means family and general practice, general pediatrics, emergency medicine, obstetrics/gynecology and general internal medicine.

Senator Forman moved the following amendment which was adopted:

Amendment 33—On page 48, line 5, after the comma (,) insert: *primary eye health care,*

Senator Myers moved the following amendments which were adopted:

Amendment 34—On page 48, line 6, before the (.) insert: by primary care physicians licensed under chapters 458, 459, 460, and 461

Amendment 35—On page 48, line 19, after "nursing", insert: *physician assistants,*

Senator Forman moved the following amendments which were adopted:

Amendment 36—On page 48, line 19, after *"podiatric,"* insert: *optometry,*

Amendment 37—On page 49, line 6, insert: *6. Optometry.*

Amendment 38—On page 50, line 8, after *"to"* insert: *optometrists,*

Senator Myers moved the following amendment which was adopted:

Amendment 39—On page 50, line 8, before "physician" insert: chiropractic physicians and podiatric physicians and to

Senator Forman moved the following amendments which were adopted:

Amendment 40—On page 53, line 1, insert:

(f) The legislature further finds that the development of rural health networks can, in many cases, be facilitated through efforts of local health councils as described in s. 408.033.

(Renumber sections accordingly.)

Amendment 41—On page 53, line 26, after "care," insert: *primary eye health care,*

Amendment 42—On page 55, line 16, after "primary care," insert: *primary eye health care,*

Amendment 43—On page 55, line 26, strike the period (.) and after "care" insert: *, and primary eye health care.*

Senator Myers moved the following amendments which were adopted:

Amendment 44—On page 56, line 14, before the period (.) insert: and services

Amendment 45—On page 56, between lines 14 and 15 insert:

f. Podiatric services.

Senator Dudley moved the following amendment which failed:

Amendment 46—On page 58, line 8, insert a new Section 24:

395.0191 Staff membership and clinical privileges.

(11) No licensed facility, in considering and acting upon an application for staff membership or clinical privileges shall discriminate against any licensed health care practitioner who is licensed to provide the same services provided by that licensed facility.

Senator Holzendorf moved the following amendment which was adopted:

Amendment 47—On page 58, between lines 13 and 14 insert:

Section 25. Effective July 1, 1993, subsection (1) of section 395.3025, Florida Statutes, 1992 Supplement, is amended to read:

395.3025 *Patient records* and personnel records; copies; examination.—

(1) Any licensed facility shall, upon written request, and only after discharge of the patient, furnish, in a timely manner, without delays for legal review, to any person admitted therein for care and treatment or treated thereat, or to any such person's guardian, curator, or personal representative, or in the absence of one of those persons, to the next of kin of a decedent or the parent of a minor, or to anyone designated by such person in writing, a true and correct copy of all *the patient's* ~~patient~~ records, including X-rays, and insurance information concerning such person in writing, which records are in the possession of the licensed facility, provided the person requesting such records agrees to pay a charge. The exclusive charge for copies of *a patient's* ~~patient~~ records may include sales tax and actual postage, and, except for nonpaper records which are subject to a charge not to exceed $2 as provided in s. 28.24(9)(c), may not exceed $1 per page, as provided in s. 28.24(8)(a). A fee of up to $1 may be charged for each year of records requested. These charges shall apply to all records furnished, whether directly from the facility or from a copy service providing these services on behalf of the facility. However, a patient whose records are copied or searched for the purpose of continuing to receive medical care is not required to pay a charge for copying or for the search. The licensed facility *must* ~~shall further~~ allow any such person to examine the original records in its possession, or microforms or other suitable reproductions of the records, upon ~~such~~ reasonable terms ~~as shall be imposed~~ to assure that the records will not be damaged, destroyed, or altered, *in addition, a facility may not charge for furnishing an indigent patient or indigent former patient his attorney or his legal representative, with the records that are required to support an appeal of a disability determination under the Social Security Act, if the request for those records is accompanied by documentation of the appeal. A patient is indigent if his income is at or below 125 percent of the federal patient guidelines. A state agency is not a patient's legal representative for the purposes of this subsection. Records requested to support an appeal of a disability determination under the Social Security Act must be provided within 30 days after receipt of the request.*

Section 26. Effective July 1, 1993, subsection (4) of section 455.241, Florida Statutes, 1992 Supplement, is amended to read:

455.241 Patient records; report or copies of records to be furnished.—

(4)(a) A health care practitioner furnishing copies of reports or records pursuant to this section *may* ~~shall~~ charge no more than the actual cost of copying, including reasonable staff time, or the amount specified in administrative rule by the appropriate board.

(b) However, the health care practitioner may not charge for furnishing an indigent patient or indigent former patient, his attorney, or his legal representative, with the records that are required to support an appeal of a disability determination under the Social Security Act, if the request for those records is accompanied by documentation of the appeal. A patient is indigent if his income is at or below 125 percent of the federal poverty guidelines. A State agency is not a parent's legal representative for the purpose of this paragraph. Records requested to support an appeal of a disability determination under the Social Security Act must be recorded within 30 days after receipt of the request.

(Renumber subsequent sections.)

Senator Forman moved the following amendment which was adopted:

Amendment 48—On page 59, between lines 24 and 25, insert:

(f) Is consistent with the objectives of the local health plan specified in 408.033(b)(1).

Senator Gutman moved the following amendments which were adopted:

Amendment 49—On page 64, between lines 30 and 31, insert:

(f) One member appointed by the Board of Osteopathic Medicine.

(g) One member appointed by the Board of Chiropractic.

(h) One member appointed by the Board of Podiatric Medicine.

Amendment 50—On page 65, line 6 through 12, strike those lines and insert:

(i) One member who is a representative of the Office of Radiation Control of the Department of Health and Rehabilitative Services.

(j) Two members who are representatives of statutory rural hospitals appointed by the Governor.

(k) Two members who are representatives of statutory rural hospitals appointed by the President of the Senate.

(l) Two members who are representatives of statutory rural hospitals appointed by the Speaker of the House of Representatives.

Senator Forman moved the following amendments which were adopted:

Amendment 51—On page 65, line 25, after "Association," insert: *Florida Optometric Association,*

Amendment 52—On page 66, line 3, after "podiatrists," insert: *optometrists,*

Amendment 53—On page 66, line 27, after "chiropractic physicians," insert: *optometrists*

Amendment 54—On page 67, line 12, after the period (.) insert: The practice parameters must be reviewed at a minimum of every 3 years.

Senator Gutman moved the following amendment which was adopted:

Amendment 55—On page 68, line 2, after "Medicine," insert: Board of Osteopathic Medicine, Board of Chiropractic, and Board of Podiatric Medicine

Senators Jenne and Silver offered the following amendment which was moved by Senator Jenne:

Amendment 56 (with Title Amendment)—On page 69, line 12, through page 93, line 7, strike all of said lines and insert:

Section 31. Section 408.70, Florida Statutes, is created to read:

408.70 Community health purchasing; legislative findings and intent.—

(1) The Legislature finds that the current health care system in this state does not provide access to affordable health care for all persons in this state. Almost one in five persons is without health insurance. For many, entry into the health care system is through a hospital emergency room rather than a primary care setting. The availability of preventive and primary care and managed, family-based care is limited. Health insurance underwriting practices have led to the avoidance, rather than to the sharing, of insurance risks, limiting access to coverages for small-sized employer groups and high-risk populations. Spiraling premium costs have placed health insurance policies out of the reach of many small-sized and medium-sized businesses and their employees. Lack of outcome and cost information has forced individuals and businesses to make critical health care decisions with little guidance or leverage. Health care resources have not been allocated efficiently, leading to excess and unevenly distributed capacity. These factors have contributed to the high cost of health care. Rural and other medically underserved areas have too few health care resources. Comprehensive, first-dollar coverages have allowed individuals to seek care without regard to cost. Provider competition and liability concerns have led to a medical technology arms race. Rather than competing on the basis of price and patient outcome, health care providers compete for patients on the basis of service, equipping themselves with the latest and best technologies. Managed-care and group-purchasing mechanisms are not widely available to small group purchasers. Health care regulation has placed undue burdens on health care insurers and providers, driving up costs, limiting competition, and preventing market-based solutions to cost and quality problems. Health care costs have been increasing at several times the rate of general inflation, eroding employer profits and investments, increasing government revenue requirements, reducing consumer coverages and purchasing power, and limiting public investments in other vital governmental services.

(2) It is the intent of the Legislature that a structured health care competition model, known as "managed competition," be implemented throughout the state to improve the efficiency of the health care markets in this state. The managed competition model will promote the pooling of purchaser and consumer buying power; ensure informed cost-conscious consumer choice of managed care plans; reward providers for high-quality, economical care; increase access to care for uninsured persons; and control the rate of inflation in health care costs.

(3) The Legislature intends that state-chartered, nonprofit private purchasing organizations, to be known as "community health purchasing alliances," be established. The community health purchasing alliances shall be responsible for assisting alliance members in securing the highest quality of health care, based on current standards, at the lowest possible prices.

Section 32. Section 408.701, Florida Statutes, is created to read:

408.701 Community health purchasing; definitions.—As used in ss. 408.70-408.706, the term:

(1) "Accountable health partnership" means an organization that integrates health care providers and facilities and assumes risk, in order to provide health care services, as certified by the agency under s. 408.704.

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

(3) "Alliance" means a community health-purchasing alliance.

(4) "Alliance member" means a small employer as defined in s. 627.6699, or the state for purposes of providing health benefits to state employees and their dependents through the State Group Insurance Program, or Medicaid recipients, or participants in the MedAccess program, or participants in the Medicaid buy-in program, who voluntarily choose to join an alliance. The state may not use claims experience or health status to determine whether to put state employees and their dependents through the State Group Insurance Program, Medicaid recipients participants in the MedAccess program, or participants in the Medicaid buy-in program, into the alliances. However, the claims experiences, rates, and charges for Medicaid recipients, participants in the MedAccess program, and participants in the Medicaid buy-in program may not be commingled with those of other alliance members. Pursuant to legislative approval as provided in s. 110.123, and prior to the state becoming a member for the purpose of purchasing health care for state employees and dependents of such employees, the agency shall consult with employee collective bargaining organizations that represent state employees, the Department of Management Services, and the administrator of the State Group Insurance Program. However, legislative approval is not required if the employee benefit package remains unchanged and does not result in additional costs to the state or its employees. Participation in the purchasing alliance will be determined by the ability of the alliance to meet or exceed the benefit standard that has been collectively bargained. Participation of Medicaid recipients in the purchasing alliance will be determined by the ability of the alliance to meet or exceed the benefit standards authorized by the Legislature.

(5) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(6) "Associate alliance member" means any purchaser who joins an alliance for the purposes of participating on the alliance board and receiving data from the alliance at no charge as a benefit of membership.

(7) "Benefit standard" means a specified set of health services that are the minimum that must be covered under a basic health benefit plan, as defined in s. 627.6699.

(8) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(9) "Community health purchasing alliance" means a state-chartered, nonprofit organization that provides member-purchasing services and detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health partnerships.

(10) "Consumer" means an individual user of health care services.

(11) "Department" means the Department of Insurance.

(12) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(13) "Health care provider" or "provider" means a state-licensed or state-authorized facility, a licensed practitioner, or a county public health unit established under part I of chapter 154, which delivers health care services to individuals.

(14) "Health insurer" or "insurer" means an organization licensed by the department under part III of chapter 624 or part I of chapter 641.

(15) "Health plan" means any hospital or medical policy or contract or certificate, hospital or medical service plan contract, or health maintenance organization contract as defined in the Insurance Code or Health Maintenance Organization Act. The term does not include accident-only, specific disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare supplement, long-term care, or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

(16) "Health status" means an assessment of an individual's mental and physical condition.

(17) "Managed care" means systems or techniques generally used by third-party payers or their agents to affect access to and control payment for health care services. Managed-care techniques most often include one or more of the following: prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services; contracts with selected health care providers; financial incentives or disincentives related to the use of specific providers, services, or service sites; controlled access to and coordination of services by a case manager; and payer efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(18) "Managed competition" means a process by which purchasers form alliances to obtain information on, and purchase from, competing accountable health partnerships.

(19) "Medical outcome" means a change in an individual's health status after the provision of health services.

(20) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(21) "Purchaser" means an individual, an organization, or the state that makes health-benefit purchasing decisions on behalf of a group of individuals.

(22) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(23) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(24) "24-hour coverage" means the consolidation of such time-limited health care coverage as personal injury protection under automobile insurance into a general health insurance plan.

(25) "Agent" means a person who is licensed to sell insurance in this state pursuant to chapter 626.

Section 33. Section 408.702, Florida Statutes, is created to read:

408.702 Community health purchasing alliance; establishment.—

(1) There is hereby created a community health purchasing alliance in each of the 11 health service planning districts established under s. 408.032(5). Each alliance must be operated as a state-chartered, nonprofit private organization organized pursuant to chapter 617.

(2) Three or fewer alliances located in contiguous districts that are not primarily urban may merge into a single alliance upon approval of the agency based upon a showing by the alliance board members that the members of each alliance would be better served under a combined alliance. Board members of each alliance shall serve as the board of the combined alliance.

(3) An alliance is the only entity that is allowed to operate as an alliance in a particular district and must operate for the benefit of its members who are: small employers, as defined in s. 627.6699, the state on behalf of its employees and the dependents of such employees, and Medicaid recipients; and associate alliance members. An alliance is the exclusive entity for the oversight and coordination of alliance member purchases. Any health plan offered through an alliance must be offered by an accountable health partnership and an alliance may not directly provide insurance; directly contract, for purposes of providing insurance, with a health care provider or provider network; or form self-insurance plans among its members. Nothing in ss. 408.70-408.706 limits or authorizes the formation of business health coalitions; however, a person or entity that pools together or assists in purchasing health coverage for small employers, as defined in s. 627.6699, may not discriminate in its activities based on the health status or historical or projected claims experience of such employers.

(4) Each alliance shall capitalize on the expertise of existing business health coalitions.

(5) Membership or associate membership in an alliance is voluntary.

(6) Each community health purchasing alliance has the following powers, duties, and responsibilities:

(a) Establishing the conditions of alliance membership in accordance with ss. 408.70-408.706.

(b) Providing to alliance members clear, standardized information on each accountable health partnership and each health plan offered by each accountable health partnership, including information on price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities and obligations; and providing accountable health partnership comparison sheets in accordance with agency rule to be used in providing members and their employees with information regarding standard, basic, and specialized coverage that may be obtained through the accountable health partnerships.

(c) Annually offering to all alliance members all accountable health partnerships and health plans offered by the accountable health partnerships which meet the requirements of ss. 408.70-408.706; and provide assistance to alliance members in selecting and obtaining coverage through accountable health partnerships that meet those requirements.

(d) Requesting proposals for the standard and basic health plans, as defined in s. 627.6699, from all accountable health partnerships in the district; providing, in the format required by the alliance in the request for proposals, the necessary information for accountable health partnership comparison sheets; and offering to its members health plans of accountable health partnerships which meet those requirements.

(e) Requesting proposals from all accountable health partnerships in the district for specialized benefits approved by the alliance board based on input from alliance members, determining if the proposals submitted by the accountable health partnerships meet the requirements of the request for proposals, and offering them as options through riders to standard plans and basic plans. This paragraph does not limit an accountable health partnership's ability to offer other specialized benefits to alliance members.

(f) Distributing to health care purchasers, placing special emphasis on the elderly, retail price data on prescription drugs and their generic equivalents, durable medical equipment, and disposable medical supplies which is provided by the agency pursuant to s. 408.063(3) and (4).

(g) Establishing administrative and accounting procedures for the operation of the alliance and members' services, preparing an annual alliance budget, and preparing annual program and fiscal reports on alliance operations as required by the agency.

(h) Developing and implementing a marketing plan to publicize the alliance to potential members and associate members and developing and implementing methods for informing the public about the alliance and its services.

(i) Developing grievance procedures to be used in resolving disputes between members and the alliance and disputes between the accountable health partnerships and the alliance. Any member of, or accountable health partnership that serves, an alliance may appeal to the agency any grievance that is not resolved by the alliance.

(j) Ensuring that accountable health partnerships have grievance procedures to be used in resolving disputes between members and an accountable health partnership. A member may appeal to the alliance any grievance that is not resolved by the accountable health partnership. An accountable health partnership that is a health maintenance organization must follow the grievance procedures established in ss. 641.31(5) and 641.311.

(k) Maintaining all records, reports, and other information required by the agency, ss. 408.70-408.706, or other state and local laws.

(l) Receiving and accepting grants, loans, advances, or funds from any public or private agency; and receiving and accepting contributions, from any source, of money, property, labor, or any other thing of value.

(m) Contracting, as authorized by alliance members, with a qualified, independent third party for any service necessary to carry out the powers and duties required by ss. 408.70-408.706.

(n) Developing a plan to facilitate participation of providers in the district in an accountable health partnership, placing special emphasis on ensuring participation by minority physicians in accountable health partnerships if such physicians are available. The use of the term "minority" in ss. 408.70-408.706 is consistent with the definition of "minority person" provided in s. 288.703(3).

(o) Maximizing the choices of health plans available to members and employees of members by offering, at a minimum, the option of choosing between a closed network, such as a health maintenance organization or exclusive provider organization; an open network, such as a preferred provider organization, or a managed care indemnity insurance plan. These options may be provided by a single accountable health partnership if selected by the employer and offered by that partnership, or may be provided by two or more accountable health partnerships selected by the employer from those available in the alliance region.

(p) Petitioning the agency for a determination as to the cost effectiveness of collecting premiums on behalf of participating accountable health partnerships. If determined by the agency to be cost-effective, the alliance may establish procedures for collecting premiums from members and distribute them to the participating accountable health partnerships. This may include the remittance of the share of the group premium paid by both an employer and an enrollee. If an alliance assumes premium collection responsibility, it shall also assume liability for uncollected premium. This liability may be collected through a bad debt surcharge on alliance members to finance the cost of uncollected premiums. The alliance shall pay participating accountable health partnerships their contracting premium amounts on a prepaid monthly basis, or as otherwise mutally agreed upon.

(7) When purchasing health care for state employees and the dependents of such employees, the agency shall annually offer to all employees the opportunity to enroll in an accountable health partnership of their choice which meets the requirements of s. 408.706 and this section, presented in a standardized format pursuant to s. 408.702(5)(b), so that each recipient of state-sponsored health care services may choose the accountable health partnership from which the recipient will receive health care services. The agency shall make available to its employees and their dependents accountable health partnerships that offer health plans through health maintenance organizations, exclusive provider organizations, preferred provider organizations, and managed-care pure indemnity plans. An accountable health partnership is not required to provide all four health plans, but all four plans must be made available through multiple accountable health partnerships. The state shall offer a minimum of five health maintenance organizations and five preferred provider organizations, where available, to state employees. The agency shall select the accountable health partnerships based upon appropriate objective criteria, including premium price, access to quality care, and member satisfaction. When purchasing health care for Medicaid, MedAccess, and Medicaid buy-in recipients, the agency shall offer to all recipients the opportunity to enroll in any accountable health partnership that meets the requirements of ss. 408.701-408.706, including MediPass providers and Medicaid-certified health maintenance organizations, presented in a standardized format pursuant to s. 408.702(5)(b), so that each recipient of state-sponsored health care services may choose the accountable health partnership from which the recipient will receive health care services.

(8) Each alliance shall set reasonable fees for membership in the alliance which will finance all reasonable and necessary costs incurred in administering the alliance.

(9) Each alliance shall annually report on the operations of the alliance, including program and financial operations; and shall provide for annual internal and independent audits.

(10) A community health purchasing alliance may not engage in any activities for which an insurance agent's license is required.

(11) The powers and responsibilities of a community health purchasing alliance with respect to purchasing services from accountable health partnerships do not extend beyond those ennumerated in ss. 408.70-408.706.

Section 34. Section 408.703, Florida Statutes, is created to read:

408.703 Small employer members of community health purchasing alliances; eligibility requirements.—

(1) The agency shall establish conditions of participation for small employers, as defined in s. 627.6699, which must include, but need not be limited to:

(a) Assurance that the group is a valid small employer and is not formed for the purpose of securing health benefit coverage. This assurance must include requirements for sole proprietors and self-employed individuals which must be based on a specified requirement for the time that the sole proprietor or self-employed individual has been in business, required filings to verify employment status, and other requirements to ensure that the individual is working.

(b) Assurance that the individuals in the small employer group are employees and have not been added for the purpose of securing health benefit coverage.

The agency may not require that a small employer pay any portion of premium as a condition of participation in an alliance.

(2) The agency may require a small employer seeking membership to agree to participate in the alliance for a specified minimum period of time, not to exceed 1 year.

(3) If the employer contributes to coverage of employees, or dependents of the employees, the alliance shall require that the employer contribute the same dollar amount for any given employee, regardless of the accountable health partnership or benefit plan chosen by the employee.

Section 35. Section 408.704, Florida Statutes, is created to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:

(1) Initially and thereafter annually, certifying that each community health purchasing alliance complies with ss. 408.70-408.706 and rules adopted under ss. 408.70-408.706. The agency may decertify any community health purchasing alliance if the alliance fails to comply with ss. 408.70-408.706 and rules adopted under ss. 408.70-408.706.

(2) Providing administrative startup funds. Each contract for startup funds is limited to $275,000.

(3) Conducting an annual review of the performance of each alliance to ensure that the alliance is in compliance with ss. 408.70-408.706. To assist the agency in its review, each alliance shall submit, quarterly, data to the agency, including, but not limited to, employer enrollment by employer size, industry sector, previous insurance status, and count; number of total eligible employers in the alliance district participating in the alliance; number of insured lives by county and insured category, including employees, dependents, and other insured categories, represented by alliance members; profiles of potential employer membership by county; premium ranges for each accountable health partnership for alliance member categories; type and resolution of member grievances; membership fees; and alliance financial statements. A summary of this annual review shall be provided to the Legislature and to each alliance.

(4) Developing procedures for implementing carrier comparison sheets established by the agency to be used in providing members and their eligible employees with information regarding accountable health partnerships and health plans offered by accountable health partnerships.

(5) Establishing a data system for accountable health partnerships.

(a) The agency shall establish an advisory data committee comprised of the following representatives of employers, medical providers, hospitals, health maintenance organizations, and insurers:

1. Two representatives appointed by each of the following organizations: Associated Industries of Florida, the Florida Chamber of Commerce, the National Federation of Independent Businesses, and the Florida Retail Federation;

2. One representative of each of the following organizations: the Florida League of Hospitals, the Association of Voluntary Hospitals of Florida, the Florida Hospital Association, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Chapter of the National Medical Association, the Association of Managed Care Physicians, the Florida Insurance Council, the Florida Association of Domestic Insurers, the Florida Association of Health Maintenance Organizations; and

3. One representative of governmental health care purchasers and three consumer representatives, to be appointed by the agency.

(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:

1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994. The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. 455.236(3)(g).

2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care providers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.

3. Methods by which the agency should collect, process, analyze, and distribute the data.

4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.

5. Structuring the data collection process to:

a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;

b. Require that carrier customer satisfaction data conclusions are validated by the agency;

c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061(1); and

d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.

6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.

(c) In developing data recommendations, the advisory data committee shall assess the cost-effectiveness of collecting data from individual physician providers. The initial emphasis must be placed on collecting data from those providers with whom the highest percentages of the health care dollars are spent: hospitals, large physician group practices, outpatient facilities, and pharmacies.

(d) The agency shall, to the maximum extent possible, adopt and implement the recommendations of the advisory data committee. The agency shall report all recommendations of the advisory data committee to the Legislature and submit an implementation plan.

(e) The travel expenses of the participants of the advisory data committee must be paid by the participant or by the organization that nominated the participant.

(4) Collecting, compiling, and analyzing data on accountable health partnerships and providing statistical information to alliances.

(5) Receiving appeals by members of an alliance and accountable health partnerships whose grievances were not resolved by the alliance. The agency shall review these appeals pursuant to chapter 120. Records or reports submitted as a part of a grievance proceeding conducted as provided for under this subsection, or patient care quality assurance proceedings, records, or reports obtained or made by any member of a community health purchasing alliance or any member of an accountable health partnership shall be held confidential by the agency and are exempt from s. 119.07(1). The exemption from s. 119.07(1) provided in this subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 36. Section 408.7041, Florida Statutes, is created to read:

408.7041 Antitrust protection.—In addition to the duties described in s. 408.704, the agency shall actively supervise the community health purchasing alliances to ensure that actions that affect market competition are not for private interests, but accomplish the legislative intent found in s. 408.70, so as to provide state and federal antitrust protection of alliances and their board members.

Section 37. Section 408.7045, Florida Statutes, is created to read:

408.7045 Community health purchasing alliance marketing requirements.—

(1) Each alliance shall use appropriate, efficient, and standardized means to notify members of the availability of sponsored health coverage from the alliance.

(2) Each alliance shall make available to members marketing materials that accurately summarize the benefit plans that are offered by its accountable health partnerships and the rates, costs, and accreditation information relating to those plans.

(3) Annually, the alliance shall offer each member all accountable health partnerships available in the alliance district and provide them with the appropriate materials relating to those plans. The member may choose which health benefit plans shall be offered to eligible employees and may change the selection each year. The employee may be given options with regard to health plans and the type of managed care system under which his benefits will be provided.

(4) An alliance may notify the agency of any marketing practices or materials that it finds are contrary to the fair and affirmative marketing

requirements of the program. Upon the request of an alliance, the agency shall request the Department of Insurance to investigate the practices and the Department of Insurance may take any action authorized for a violation of the Insurance Code or the Health Maintenance Organization Act.

Section 38. Section 408.705, Florida Statutes, is created to read:

408.705 Community health purchasing alliances; boards of directors.—

(1) Each community health purchasing alliance shall operate subject to the supervision and approval of a board of directors. The board of directors of each alliance must be composed of 17 members who reside within the alliance district and must be representative of alliance members, consumers, and government purchasers. The board members shall be appointed by October 1, 1993, by the Governor, the President of the Senate, and the Speaker of the House of Representatives as follows:

(a) Three consumer members, one appointed by the President of the Senate, one appointed by the Speaker of the House of Representatives, and one appointed by the Governor. A consumer member may not be, or in the past have been, employed by or affiliated with a health insurer, health maintenance organization, or health care provider. The consumer members must be employees of businesses located within the community health purchasing alliance region.

(b) Three members representing state and local governments, one appointed by the President of the Senate, one appointed by the Speaker of the House of Representatives, and one appointed by the Governor. Members representing government must currently be, or in the past have been, in positions of government.

(c) Eleven members representing business and industry, two appointed by the President of the Senate, two appointed by the Speaker of the House of Representatives, and seven appointed by the Governor. Six of the business representatives must be representatives of businesses with 50 or fewer employees, with the appointing officers each appointing two such members.

(2) Each appointment to the board of directors is for a 3-year term, except that:

(a) The initial appointment of one consumer member appointed by the Speaker of the House of Representatives, the representative of state or local government appointed by the President of the Senate, two representatives of business and industry appointed by the Governor, and one representative of business and industry appointed by the President of the Senate, shall be for a term of 1 year from the date of initial appointment;

(b) The initial appointment of one consumer member appointed by the President of the Senate, the representative of state or local government appointed by the Governor, two representatives of business and industry appointed by the Governor, and one representative of business and industry appointed by the Speaker of the House of Representatives, shall be for a term of 2 years from the date of initial appointment; and

(c) The initial appointment of one consumer member appointed by the Governor, the representative of state or local government appointed by the Speaker of the House of Representatives, three representatives of business and industry appointed by the Governor, one representative of business and industry appointed by the President of the Senate, and one representative of business and industry appointed by the Speaker of the House of Representatives, shall be for a term of 3 years from the date of initial appointment.

(3) Board members may be reappointed. A member of an alliance board of directors may not be employed by, affiliated with, an agent of, or otherwise a representative of any health care provider or insurance carrier.

(4) The Governor may remove from office any board member for cause. Reappointments shall take place at the end of each term. All reappointments shall be made by the office of the public official who made the original appointment. Board members are limited to two terms of office.

(5) The alliance board shall adopt bylaws. The bylaws must include a procedure for the election of board officers. The board shall meet at times and places as it determines necessary to operate the alliance in accordance with ss. 408.70-408.706.

(6) Community health purchasing alliance boards should be representative of the racial, demographic, and gender mix of the community served by the alliance.

(7) Board members may be reimbursed from alliance funds for actual and necessary expenses incurred by them as members.

(8) The board may appoint an executive director to serve as the chief operating officer of the alliance, and other staff needed to administer the alliance. The executive director and other alliance staff serve at the pleasure of the board.

(9) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of an alliance board, or its employees or agents, for any action taken by them in performance of their powers and duties under ss. 408.70-408.706.

(10) Board members may be reimbursed from funds collected by the board for actual and necessary expenses incurred by them as members, according to state travel and per diem limitations as found in s. 112.061.

Section 39. Section 408.706, Florida Statutes, is created to read:

408.706 Community health purchasing alliances; accountable health partnerships.—

(1) An accountable health partnership may be created by health care providers, health maintenance organizations, and health insurers, for the purpose of providing health care services to alliance members.

(2) Each accountable health partnership that seeks to offer services to members of an alliance must first obtain agency designation. The agency shall adopt rules in accordance with ss. 408.70-408.706 for designating accountable health partnerships in each district. To qualify as an accountable health partnership, an applicant must submit information considered sufficient by the agency, in a format prescribed by the agency, to satisfactorily demonstrate that the partnership:

(a) Is licensed and in good standing with the department and the licensure agency for participating providers;

(b) Has demonstrated the capacity to administer the health plans it is offering;

(c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

(d) Has the ability, policies, and procedures to conduct utilization management;

(e) Has the ability to achieve, monitor, and evaluate the quality and cost-effectiveness of care provided by its provider network;

(f) Has the ability to assure enrollees adequate access to providers of health care, including geographic availability and adequate numbers and types;

(g) Has the ability and procedures to monitor access to its provider network;

(h) Has a satisfactory grievance procedure and the ability to respond to enrollees' calls, questions, and complaints;

(i) Has the ability to use medical outcome data to educate network providers, update utilization review procedures, and recommend modifications to benefit designs;

(j) Has the ability to recruit and retain health care practitioners who are minorities as defined in s. 288.703(3), with special emphasis on the recruitment and retention of African-American health care providers; and

(k) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting.

If an accountable health partnership is accredited by a nationally recognized accrediting body or federal agency whose standards are acceptable to the agency, or if it is qualified or accredited as a health maintenance organization, the accountable health partnership may be deemed to meet the requirements of paragraphs (a)-(h).

(3) For the purpose of providing Medicaid and MediPass services only, current Medicaid providers with contracts shall be deemed accountable health partnerships and shall continue to provide health care services to Medicaid and Medipass recipients.

(4) The agency shall establish a designation fee to be paid by each accountable health partnership to cover the agency's cost in performing the designation review.

(5) An accountable health partnership shall:

(a) Require all providers that are part of the partnership to report medical outcomes in accordance with agency standards.

(b) Comply with all rating, underwriting, claims-handling, sales, solicitation, licensing, and unfair trade practices and other provisions of the Florida Insurance Code or of chapter 641.

(6) An accountable health partnership may provide services to more than one community health purchasing alliance.

(7) If an accountable health partnership elects to terminate its contract with an alliance member, the accountable health partnership must provide advance notice of its decision to the alliance at least 120 days prior to the nonrenewal of any health plan by the accountable health partnership.

(8) An accountable health partnership shall maintain records and submit reports to the alliance as required by ss. 408.70-408.706.

(9) An accountable health partnership shall use the services of a licensed agent for the solicitation of insurance or procurement of applications or any other activities for which a health insurance agent's license is required.

(10)(a) The agency shall suspend or revoke its designation of an accountable health partnership that fails to continue to meet the requirements of this section.

(b) The agency shall expedite proceedings to determine whether the designation of the accountable health partnership should be suspended or revoked.

Section 40. Community health purchasing alliances; antitrust study.—

(1) The Legislature recognizes that the health care reforms authorized by sections 408.70-408.706, Florida Statutes, require a different relationship between health insurers, hospitals, physicians, and other providers. The success of community health purchasing alliances depends on accountable health partnerships providing detailed information that can facilitate informed decisions by those who purchase health care. The Legislature intends to research antitrust laws, rules, and case law in order to determine their impact on community health purchasing alliances and accountable health partnerships in this state.

(2) Recognizing the need for more information on which to make future decisions, the Legislature directs the Agency for Health Care Administration, in consultation with the Department of Legal Affairs, the agency advisory council, and health care consumers, purchasers, providers, and insurers, to assess the effects of antitrust laws on community health purchasing alliances and accountable health partnerships. The findings and recommendations from this study must be provided by the agency in its final Florida Health Care Plan that is to be submitted to the Legislature by December 31, 1993.

(3) The antitrust study conducted by the agency must include, but need not be limited to, the following elements:

(a) A methodology, including regulation and state oversight, which would allow physicians, hospitals, insurers, and other providers to form accountable health partnerships in order to offer health care services to community health purchasing alliances and to purchasers of health care who are not alliance members.

(b) A methodology and guidelines that would prevent the formation of monopolies and oligopolies by accountable health partnerships, including limitations on the market share held by one or two accountable health partnerships.

(c) A working definition of a methodology to prevent predatory pricing and other anticompetitive activities such as price fixing and market allocation by insurers, physicians, hospitals, and other providers for the purpose of forcing providers out of business or to unfairly gain market share.

(d) A methodology to allow individual physicians and hospitals to come together in order to jointly offer services as part of an accountable health partnership to an alliance.

(e) Recommendations as to specific changes in federal and state antitrust laws which are required to facilitate the objectives set forth in sections 408.70-408.706, Florida Statutes.

(f) Recommendations on how to ensure a competitive marketplace despite the authorization of antitrust exemptions.

(g) An analysis and report on any other issues related to antitrust exemptions which meet the intent of this section.

And the title is amended as follows:

(Renumber subsequent sections.)

In title, on page 222, lines 8 through page 223, line 29, strike all of said lines and insert:

liability defense; creating s. 408.70, F.S.; providing legislative intent regarding the need to reform the state's health care delivery system; proposing the creation of managed competition throughout the state; proposing the creation of community health purchasing alliances; creating s. 408.701, F.S.; providing definitions; creating s. 408.702, F.S.; establishing community health purchasing alliance regions; providing for the merger of certain alliances; providing for alliance standards; providing for voluntary membership; providing duties, powers, and responsibilities; providing for membership fees; creating s. 408.703, F.S.; providing community health purchasing alliance membership requirements for small employers; creating s. 408.704, F.S.; providing agency responsibilities with respect to community health purchasing alliances; authorizing the agency to contract with alliances and provide startup funds; requiring an annual review; requiring alliances to submit certain data to the agency; establishing an advisory data committee and specifying membership; requiring a report to the Legislature; requiring the submission of data by health care providers; requiring the agency to adopt and implement recommendations of the advisory data committee; establishing an appeals process for grievances; exempting certain records from public disclosure requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; creating s. 408.7041, F.S.; requiring the agency to actively supervise the community health purchasing alliances to provide protection from antitrust laws; creating s. 408.7045, F.S.; establishing community health purchasing alliance marketing requirements; creating s. 408.705, F.S.; providing for boards of directors for community health purchasing alliances; providing for membership, appointment, and terms; providing for staff; creating s. 408.706, F.S.; establishing standards for accountable health partnerships; providing for designation of accountable health partnerships by the agency; specifying standards and requirements; requiring the agency to assess the effects of antitrust laws on community health purchasing alliances and accountable health partnerships; creating s. 408.90, F.S.; providing

Senator Gutman moved the following substitute amendment which was adopted:

Amendment 57 (with Title Amendment)—On page 69, line 12, through page 92, line 18, strike all of said lines and insert:

Section 31. Section 408.70, Florida Statutes, is created to read:

408.70 Community health purchasing; legislative findings and intent.—

(1) The Legislature finds that the current health care system in this state does not provide access to affordable health care for all persons in this state. Almost one in five persons is without health insurance. For many, entry into the health care system is through a hospital emergency room rather than a primary care setting. The availability of preventive and primary care and managed, family-based care is limited. Health insurance underwriting practices have led to the avoidance, rather than to the sharing, of insurance risks, limiting access to coverages for small-sized employer groups and high-risk populations. Spiraling premium costs have placed health insurance policies out of the reach of many small-sized and medium-sized businesses and their employees. Lack of outcome and cost information has forced individuals and businesses to make critical health care decisions with little guidance or leverage. Health care resources have not been allocated efficiently, leading to excess and unevenly distributed capacity. These factors have contributed to the high cost of health care. Rural and other medically underserved areas have too few health care resources. Comprehensive, first-dollar coverages have allowed individuals to seek care without regard to cost. Provider competition and liability concerns have led to a medical technology arms race. Rather than competing on the basis of price and patient out-

come, health care providers compete for patients on the basis of service, equipping themselves with the latest and best technologies. Managed-care and group-purchasing mechanisms are not widely available to small group purchasers. Health care regulation has placed undue burdens on health care insurers and providers, driving up costs, limiting competition, and preventing market-based solutions to cost and quality problems. Health care costs have been increasing at several times the rate of general inflation, eroding employer profits and investments, increasing government revenue requirements, reducing consumer coverages and purchasing power, and limiting public investments in other vital governmental services.

(2) It is the intent of the Legislature that a structured health care competition model, known as "managed competition," be implemented throughout the state to improve the efficiency of the health care markets in this state. The managed competition model will promote the pooling of purchaser and consumer buying power; ensure informed cost-conscious consumer choice of managed care plans; reward providers for high-quality, economical care; increase access to care for uninsured persons; and control the rate of inflation in health care costs.

(3) The Legislature intends that state-chartered, nonprofit private purchasing organizations, to be known as "community health purchasing alliances," be established. The community health purchasing alliances shall be responsible for assisting alliance members in securing the highest quality of health care, based on current standards, at the lowest possible prices.

Section 32. Section 408.701, Florida Statutes, is created to read:

408.701 Community health purchasing; definitions.—As used in ss. 408.70-408.706, the term:

(1) "Accountable health partnership" means an organization that integrates health care providers and facilities and assumes risk, in order to provide health care services, as certified by the agency under s. 408.704.

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

(3) "Alliance" means a community health-purchasing alliance.

(4) "Alliance member" means:

(a) A small employer as defined in s. 627.6699, or

(b) The state, for the purpose of providing health benefits to state employees and their dependents through the State Group Insurance Program and to Medicaid recipients, participants in the MedAccess program, and participants in the Medicaid buy-in program,

if such entities voluntarily choose to join an alliance.

(5) "Antitrust laws" means federal and state laws intended to protect commerce from unlawful restraints, monopolies, and unfair business practices.

(6) "Associate alliance member" means any purchaser who joins an alliance for the purposes of participating on the alliance board and receiving data from the alliance at no charge as a benefit of membership.

(7) "Benefit standard" means a specified set of health services that are the minimum that must be covered under a basic health benefit plan, as defined in s. 627.6699.

(8) "Business health coalition" means a group of employers organized to share information about health services and insurance coverage, to enable the employers to obtain more cost-effective care for their employees.

(9) "Community health purchasing alliance" means a state-chartered, nonprofit organization that provides detailed information to its members on comparative prices, usage, outcomes, quality, and enrollee satisfaction with accountable health partnerships.

(10) "Consumer" means an individual user of health care services.

(11) "Department" means the Department of Insurance.

(12) "Grievance procedure" means an established set of rules that specify a process for appeal of an organizational decision.

(13) "Health care provider" or "provider" means a state-licensed facility or practitioner that delivers health care services to individuals.

(14) "Health insurer" or "insurer" means an organization licensed by the department under part III of chapter 624 or part I of chapter 641.

(15) "Health plan" means any hospital or medical policy or contract or certificate, hospital or medical service plan contract, or health maintenance organization contract as defined in the Insurance Code or Health Maintenance Organization Act. The term does not include accident-only, specific disease, individual hospital indemnity, credit, dental-only, vision-only, Medicare supplement, long-term care, or disability income insurance; coverage issued as a supplement to liability insurance; workers' compensation or similar insurance; or automobile medical-payment insurance.

(16) "Health status" means an assessment of an individual's mental and physical condition.

(17) "Managed care" means systems or techniques generally used by third-party payers or their agents to affect access to and control payment for health care services. Managed-care techniques most often include one or more of the following: prior, concurrent, and retrospective review of the medical necessity and appropriateness of services or site of services; contracts with selected health care providers; financial incentives or disincentives related to the use of specific providers, services, or service sites; controlled access to and coordination of services by a case manager; and payer efforts to identify treatment alternatives and modify benefit restrictions for high-cost patient care.

(18) "Managed competition" means a process by which purchasers form alliances to obtain information on, and purchase from, competing accountable health partnerships.

(19) "Medical outcome" means a change in an individual's health status after the provision of health services.

(20) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals.

(21) "Purchaser" means an individual, an organization, or the state that makes health-benefit purchasing decisions on behalf of a group of individuals.

(22) "Self-funded plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for all covered services provided to its enrollees.

(23) "Utilization management" means programs designed to control the overutilization of health services by reviewing their appropriateness relative to established standards or norms.

(24) "24-hour coverage" means the consolidation of such time-limited health care coverage as personal injury protection under automobile insurance into a general health insurance plan.

(25) "Agent" means a person who is licensed to sell insurance in this state pursuant to chapter 626.

Section 33. Section 408.702, Florida Statutes, is created to read:

408.702 Community health purchasing alliance; establishment.—

(1) There is hereby created a community health purchasing alliance in each of the 11 health service planning districts established under s. 408.032(5). Each alliance must be operated as a state-chartered, nonprofit private organization organized pursuant to chapter 617.

(2) Three or fewer alliances located in contiguous districts that are not primarily urban may merge into a single alliance upon approval of the agency based upon a showing by the alliance board members that the members of each alliance would be better served under a combined alliance. Board members of each alliance shall serve as the board of the combined alliance.

(3) An alliance is the only entity that is allowed to operate as an alliance in a particular district and must operate for the benefit of its members who are: small employers, as defined in s. 627.6699; the state on behalf of its employees and the dependents of such employees; Medicaid recipients; and associate alliance members. An alliance is the exclusive entity for the oversight and coordination of alliance member purchases. Any health plan offered through an alliance must be offered by an accountable health partnership and an alliance may not directly provide insurance, bear any risk, or form self-insurance plans among its members.

An alliance may form a network with other alliances in order to improve services provided to alliance members. Nothing in ss. 408.70-408.706 limits or authorizes the formation of business health coalitions; however, a person or entity that pools together or assists in purchasing health coverage for small employers, as defined in s. 627.6699, may not discriminate in its activities based on the health status or historical or projected claims experience of such employers.

(4) Each alliance shall capitalize on the expertise of existing business health coalitions.

(5) Membership or associate membership in an alliance is voluntary.

(6) Each community health purchasing alliance has the following powers, duties, and responsibilities:

(a) Establishing the conditions of alliance membership in accordance with ss. 408.70-408.706.

(b) Providing to alliance members clear, standardized information on each accountable health partnership and each health plan offered by each accountable health partnership, including information on price, enrollee costs, quality, patient satisfaction, enrollment, and enrollee responsibilities and obligations; and providing accountable health partnership comparison sheets in accordance with agency rule to be used in providing members and their employees with information regarding standard, basic, and specialized coverage that may be obtained through the accountable health partnerships.

(c) Annually offering to all alliance members all accountable health partnerships and health plans offered by the accountable health partnerships which meet the requirements of ss. 408.70-408.706 and which submit a responsive proposal as to information necessary for accountable health partnership comparison sheets, and providing assistance to alliance members in selecting and obtaining coverage through accountable health partnerships that meet those requirements.

(d) Requesting proposals for the standard and basic health plans, as defined in s. 627.6699, from all accountable health partnerships in the district; providing, in the format required by the alliance in the request for proposals, the necessary information for accountable health partnership comparison sheets; and offering to its members health plans of accountable health partnerships which meet those requirements.

(e) Requesting proposals from all accountable health partnerships in the district for specialized benefits approved by the alliance board based on input from alliance members, determining if the proposals submitted by the accountable health partnerships meet the requirements of the request for proposals, and offering them as options through riders to standard plans and basic plans. This paragraph does not limit an accountable health partnership's ability to offer other specialized benefits to alliance members.

(f) Distributing to health care purchasers, placing special emphasis on the elderly, retail price data on prescription drugs and their generic equivalents, durable medical equipment, and disposable medical supplies which is provided by the agency pursuant to s. 408.063(3) and (4).

(g) Establishing administrative and accounting procedures for the operation of the alliance and members' services, preparing an annual alliance budget, and preparing annual program and fiscal reports on alliance operations as required by the agency.

(h) Developing and implementing a marketing plan to publicize the alliance to potential members and associate members and developing and implementing methods for informing the public about the alliance and its services.

(i) Developing grievance procedures to be used in resolving disputes between members and the alliance and disputes between the accountable health partnerships and the alliance. Any member of, or accountable health partnership that serves, an alliance may appeal to the agency any grievance that is not resolved by the alliance.

(j) Ensuring that accountable health partnerships have grievance procedures to be used in resolving disputes between members and an accountable health partnership. A member may appeal to the alliance any grievance that is not resolved by the accountable health partnership. An accountable health partnership that is a health maintenance organization must follow the grievance procedures established in ss. 641.31(5) and 641.311.

(k) Maintaining all records, reports, and other information required by the agency, ss. 408.70-408.706, or other state and local laws.

(l) Receiving and accepting grants, loans, advances, or funds from any public or private agency; and receiving and accepting contributions, from any source, of money, property, labor, or any other thing of value.

(m) Contracting, as authorized by alliance members, with a qualified, independent third party for any service necessary to carry out the powers and duties required by ss. 408.70-408.706.

(n) Developing a plan to facilitate participation of providers in the district in an accountable health partnership, placing special emphasis on ensuring participation by minority physicians in accountable health partnerships if such physicians are available. The use of the term "minority" in ss. 408.70-408.706 is consistent with the definition of "minority person" provided in s. 288.703(3).

(o) Maximizing the choices of health plans available to members and employees of members by offering, at a minimum, the option of choosing between a closed network, such as a health maintenance organization or exclusive provider organization; an open network, such as a preferred provider organization; or a managed care indemnity insurance plan. These options may be provided by a single accountable health partnership if selected by the employer and offered by that partnership, or may be provided by two or more accountable health partnerships selected by the employer from those available in the alliance region.

(p) Petitioning the agency for a determination as to the cost effectiveness of collecting premiums on behalf of participating accountable health partnerships. If determined by the agency to be cost-effective, the alliance may establish procedures for collecting premiums from members and distribute them to the participating accountable health partnerships. This may include the remittance of the share of the group premium paid by both an employer and an enrollee. If an alliance assumes premium collection responsibility, it shall also assume liability for uncollected premium. This liability may be collected through a bad debt surcharge on alliance members to finance the cost of uncollected premiums. The alliance shall pay participating accountable health partnerships their contracting premium amounts on a prepaid monthly basis, or as otherwise mutally agreed upon.

(7) Each alliance shall set reasonable fees for membership in the alliance which will finance all reasonable and necessary costs incurred in administering the alliance.

(8) Each alliance shall annually report on the operations of the alliance, including program and financial operations; and shall provide for annual internal and independent audits.

(9) A community health purchasing alliance may not engage in any activities for which an insurance agent's license is required.

Section 34. Section 408.703, Florida Statutes, is created to read:

408.703 Small employer members of community health purchasing alliances; eligibility requirements.—

(1) The agency shall establish conditions of participation for small employers, as defined in s. 627.6699, which must include, but need not be limited to:

(a) Assurance that the group is a valid small employer and is not formed for the purpose of securing health benefit coverage. This assurance must include requirements for sole proprietors and self-employed individuals which must be based on a specified requirement for the time that the sole proprietor or self-employed individual has been in business, required filings to verify employment status, and other requirements to ensure that the individual is working.

(b) Assurance that the individuals in the small employer group are employees and have not been added for the purpose of securing health benefit coverage.

(2) The agency may not require a small employer to pay any portion of premiums as a condition of participation in an alliance.

(3) The agency may require a small employer seeking membership to agree to participate in the alliance for a specified minimum period of time, not to exceed 1 year.

(4) If a member small employer offers more than one accountable health partnership or health plan and the employer voluntarily contributes to coverage of employees or dependents of employees, the alliance shall require that the employer contribute the same dollar amount for each employee, regardless of the accountable health partnership or benefit plan chosen by the employee.

(5) An employer that employs 30 or fewer employees must offer at least two accountable health partnerships or health plans to its employees and an employer that employs 31 or more employees must offer three or more accountable health partnerships or health plans to its employees.

Section 35. Section 408.704, Florida Statutes, is created to read:

408.704 Agency duties and responsibilities related to community health purchasing alliances.—The agency shall assist in developing a statewide system of community health purchasing alliances. To this end, the agency is responsible for:

(1) Annually certifying that each community health purchasing alliance complies with ss. 408.70-408.706 and rules adopted by the agency. The agency may decertify any community health purchasing alliance if the alliance fails to comply with ss. 408.70-408.706 and rules adopted by the agency. There shall be a rebuttable presumption that an alliance is in compliance if it can show that it is controlling health care costs in the district.

(2) Providing administrative startup funds. Each contract for startup funds is limited to $275,000.

(3) Conducting an annual review of the performance of each alliance to ensure that the alliance is in compliance with ss. 408.70-408.706. To assist the agency in its review, each alliance shall submit, quarterly, data to the agency, including, but not limited to, employer enrollment by employer size, industry sector, previous insurance status, and count; number of total eligible employers in the alliance district participating in the alliance; number of insured lives by county and insured category, including employees, dependents, and other insured categories, represented by alliance members; profiles of potential employer membership by county; premium ranges for each accountable health partnership for alliance member categories; type and resolution of member grievances; membership fees; and alliance financial statements. A summary of this annual review shall be provided to the Legislature and to each alliance.

(4) Developing procedures for implementing carrier comparison sheets established by the agency to be used in providing members and their eligible employees with information regarding accountable health partnerships and health plans offered by accountable health partnerships.

(5) Establishing a data system for accountable health partnerships.

(a) The agency shall establish an advisory data committee comprised of the following representatives of employers, medical providers, hospitals, health maintenance organizations, and insurers:

1. Two representatives appointed by each of the following organizations: Associated Industries of Florida, the Florida Chamber of Commerce, the National Federation of Independent Businesses, and the Florida Retail Federation;

2. One representative of each of the following organizations: the Florida League of Hospitals, the Association of Voluntary Hospitals of Florida, the Florida Hospital Association, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Chapter of the National Medical Association, the Association of Managed Care Physicians, the Florida Insurance Council, the Florida Association of Domestic Insurers, the Florida Association of Health Maintenance Organizations; and

3. One representative of governmental health care purchasers and three consumer representatives, to be appointed by the agency.

(b) The advisory data committee shall issue a report and recommendations on each of the following subjects as each is completed. A final report covering all subjects must be included in the final Florida Health Plan to be submitted to the Legislature on December 31, 1993. The report shall include recommendations regarding:

1. Types of data to be collected. Careful consideration shall be given to other data collection projects and standards for electronic data interchanges already in process in this state and nationally, to evaluating and recommending the feasibility and cost-effectiveness of various data collection activities, and to ensuring that data reporting is necessary to support the evaluation of providers with respect to cost containment, access, quality, control of expensive technologies, and customer satisfaction analysis. Data elements to be collected from providers include prices, utilization, patient outcomes, quality, and patient satisfaction. The completion of this task is the first priority of the advisory data committee. The agency shall begin implementing these data collection activities immediately upon receipt of the recommendations, but no later than January 1, 1994. The data shall be submitted by hospitals, other licensed health care facilities, pharmacists, and group practices as defined in s. 455.236(3)(g).

2. A standard data set, a standard cost-effective format for collecting the data, and a standard methodology for reporting the data to the agency, or its designee, and to the alliances. The reporting mechanisms must be designed to minimize the administrative burden and cost to health care providers and carriers. A methodology shall be developed for aggregating data in a standardized format for making comparisons between accountable health partnerships which takes advantage of national models and activities.

3. Methods by which the agency should collect, process, analyze, and distribute the data.

4. Standards for data interpretation. The advisory data committee shall actively solicit broad input from the provider community, carriers, the business community, and the general public.

5. Structuring the data collection process to:

a. Incorporate safeguards to ensure that the health care services utilization data collected is reviewed by experienced, practicing physicians licensed to practice medicine in this state;

b. Require that carrier customer satisfaction data conclusions are validated by the agency;

c. Protect the confidentiality of medical information to protect the patient's identity and to protect the privacy of individual physicians and patients. Proprietary data submitted by insurers, providers, and purchasers are confidential pursuant to s. 408.061(1); and

d. Afford all interested professional medical and hospital associations and carriers a minimum of 60 days to review and comment before data is released to the public.

6. Developing a data collection implementation schedule, based on the data collection capabilities of carriers and providers.

(c) In developing data recommendations, the advisory data committee shall assess the cost-effectiveness of collecting data from individual physician providers. The initial emphasis must be placed on collecting data from those providers with whom the highest percentages of the health care dollars are spent: hospitals, large physician group practices, outpatient facilities, and pharmacies.

(d) The agency shall, to the maximum extent possible, adopt and implement the recommendations of the advisory data committee. The agency shall report all recommendations of the advisory data committee to the Legislature and submit an implementation plan.

(e) The travel expenses of the participants of the advisory data committee must be paid by the participant or by the organization that nominated the participant.

(4) Collecting, compiling, and analyzing data on accountable health partnerships and providing statistical information to alliances.

(5) Receiving appeals by members of an alliance and accountable health partnerships whose grievances were not resolved by the alliance. The agency shall review these appeals pursuant to chapter 120. Records or reports submitted as a part of a grievance proceeding conducted as provided for under this subsection, or patient care quality assurance proceedings, records, or reports obtained or made by any member of a community health purchasing alliance or any member of an accountable health partnership shall be held confidential by the agency and are exempt from s. 119.07(1). The exemption from s. 119.07(1) provided in this subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 36. Section 408.7042, Florida Statutes, is created to read:

408.7042 Purchasing health care for state employees and Medicaid recipients through community health purchasing alliances.—

(1) Pursuant to legislative approval as provided in s. 110.123, and prior to the purchase of health care for state employees and their dependents through community health purchasing alliances, the Division of State Health Purchasing of the Agency for Health Care Administration shall consult with collective bargaining organizations that represent state employees, the Department of Management Services, and the administrator of the State Group Insurance Program. Legislative approval for such purchase of health care is not required, however, if the employee benefit package remains unchanged, or is enhanced, the quality of care is increased, and there is no additional cost to the state or its employees. The purchase of health care for state employees and their dependents through a community health purchasing alliance will be determined by the ability of the alliance to meet or exceed the benefit standard that has been collectively bargained. When purchasing health care for state employees and the dependents of such employees through community health purchasing alliances, the Department of Management Services shall annually offer to all employees the opportunity to select from health plans offered by all accountable health partnerships in the district in which the employee lives. The Department of Management Services shall make available to state employees accountable health partnerships that offer health plans through health maintenance organizations, exclusive provider organizations, preferred provider organizations, and managed-care pure indemnity plans. An accountable health partnership is not required to provide all four types of health plans, but all four types of plans must be made available through multiple accountable health partnerships to state employees, if the Division of State Health Purchasing elects to purchase health care for state employees through community health purchasing alliances. The division shall offer a minimum of five health maintenance organizations and five preferred provider organizations, where available to state employees. The division shall select the accountable health partnerships based upon appropriate objective criteria, including premium price, access to quality care, and member satisfaction. For purposes of the purchase of health care for state employees and their dependents through community health purchasing alliances, the state group health insurance plan is an accountable health partnership.

(2) When purchasing health care for Medicaid, MedAccess, and Medicaid buy-in recipients through community health purchasing alliances, the agency shall ensure that the claims experiences, rates, and charges for such recipients are not commingled with those of other alliance members. The state shall offer to all Medicaid, MedAccess, and Medicaid buy-in recipients the opportunity to select health plans from all accountable health partnerships that have a Medicaid managed-care contract that has been approved by the United States Health Care Financing Administration, or from physicians and facilities that participate in MediPass, in the district in which the recipient lives. For purposes of the purchase of health care for such recipients, the MediPass program and entities with Medicaid managed-care contracts are accountable health partnerships. An entity that provides managed-care for Medicaid recipients pursuant to a contract must obtain a certificate of authority from the agency and begin enrolling non-Medicaid enrollees by July 1, 1994, or within 3 years after the date on which the entity entered into the contract to provide managed care for Medicaid recipients, whichever is sooner. Purchase of health care for Medicaid, MedAccess, and Medicaid buy-in recipients by the agency through community health purchasing alliances may not result in a reduction of benefits or any increased costs for such recipients without prior legislative approval.

Section 37. Section 408.7045, Florida Statutes, is created to read:

408.7045 Community health purchasing alliance marketing requirements.—

(1) Each alliance shall use appropriate, efficient, and standardized means to notify members of the availability of sponsored health coverage from the alliance.

(2) Each alliance shall make available to members marketing materials that accurately summarize the benefit plans that are offered by its accountable health partnerships and the rates, costs, and accreditation information relating to those plans.

(3) Annually, the alliance shall offer each member small employer all accountable health partnerships available in the alliance and provide them with the appropriate materials relating to those plans. The member small employer may choose which health benefit plans shall be offered to eligible employees and may change the selection each year. The employee may be given options with regard to health plans and the type of managed care system under which his benefits will be provided.

(4) An alliance may notify the agency of any marketing practices or materials that it finds are contrary to the fair and affirmative marketing requirements of the program. Upon the request of an alliance, the agency shall request the Department of Insurance to investigate the practices and the Department of Insurance may take any action authorized for a violation of the Insurance Code or the Health Maintenance Organization Act.

Section 38. Section 408.705, Florida Statutes, is created to read:

408.705 Community health purchasing alliances; boards of directors.—

(1) Each community health purchasing alliance shall operate subject to the supervision and approval of a board of directors. The board of directors of each alliance must be composed of 17 members who reside within the alliance district and must be representative of alliance members, consumers, and government purchasers. The initial board members shall be appointed by October 1, 1993, by the Governor, the President of the Senate, and the Speaker of the House of Representatives as follows:

(a) Three consumer members, one appointed by the President of the Senate, one appointed by the Speaker of the House of Representatives, and one appointed by the Governor. A consumer member may not be, or in the past have been, employed by or affiliated with a health insurer, health maintenance organization, or health care provider. The consumer members must be employees of businesses located within the community health purchasing alliance region.

(b) Three members representing state and local governments, one appointed by the President of the Senate, one appointed by the Speaker of the House of Representatives, and one appointed by the Governor. Members representing government must currently be, or in the past have been, in positions of government responsible for the purchasing of health care coverage for government employees.

(c) Eleven members representing business and industry, three appointed by the President of the Senate, three appointed by the Speaker of the House of Representatives, and five appointed by the Governor. Six of the business representatives must be representatives of businesses with 50 or fewer employees, with the appointing officers each appointing two such members.

(2) Each initial appointment is for a 3-year term, except that:

(a) The initial appointment of the consumer member appointed by the Governor, the one consumer member appointed by the Speaker of the House of Representatives, the representative of state or local government appointed by the Governor, one representative of business and industry appointed by the Governor, and two representatives of business and industry appointed by the President of the Senate, shall be for a term of 1 year from the date of initial appointment;

(b) The initial appointment of the consumer member appointed by the President of the Senate, the representative of state or local government appointed by the Speaker of the House of Representatives, one representative of business and industry appointed by the President of the Senate, and two representatives of business and industry appointed by the Speaker of the House of Representatives, shall be for a term of 2 years from the date of initial appointment; and

(c) The initial appointment of the representative of state or local government appointed by the President of the Senate, four representatives of business and industry appointed by the Governor, one representative of business and industry appointed by the President of the Senate, and one representative of business and industry appointed by the Speaker of the House of Representatives, shall be for a term of 3 years from the date of initial appointment.

(3) A member of an alliance board of directors may not be employed by, affiliated with, an agent of, or otherwise a representative of any health care provider or insurance carrier.

(4) The alliance board shall adopt bylaws. The bylaws must include a procedure for establishing qualifications for board membership and electing board members upon the expiration of the initial board mem-

bers' terms and for the election of board officers. The board shall meet at times and places as it determines necessary to operate the alliance in accordance with ss. 408.70-408.706.

(5) Each board member is accountable to the Governor for proper performance of his duties as a member of the board. The Governor may remove from office any board member for neglect of duty.

(6) To the greatest extent possible, a community health purchasing alliance should be representative of the racial, demographic, and gender mix of the community served by the alliance.

(7) The board may appoint an executive director to serve as the chief operating officer of the alliance, and other staff needed to administer the alliance. The executive director and other alliance staff serve at the pleasure of the board.

(8) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member of the board of directors, or its employees or agents, for any action taken by them in the performance of their powers and duties under ss. 408.70-408.706.

Section 39. Section 408.706, Florida Statutes, is created to read:

408.706 Community health purchasing alliances; accountable health partnerships.—

(1) An accountable health partnership may be created by health care providers, health maintenance organizations, and health insurers, for the purpose of providing health care services to alliance members.

(2) Each accountable health partnership that seeks to offer services to members of an alliance must first obtain agency designation. The agency shall adopt rules in accordance with ss. 408.70-408.706 for designating accountable health partnerships in each district. To qualify as an accountable health partnership, an applicant must submit information considered sufficient by the agency, in a format prescribed by the agency, to satisfactorily demonstrate that the partnership:

(a) Is licensed and in good standing with the department and the licensure agency for participating providers;

(b) Has demonstrated the capacity to administer the health plans it is offering;

(c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

(d) Has the ability, policies, and procedures to conduct utilization management;

(e) Has the ability to achieve, monitor, and evaluate the quality and cost-effectiveness of care provided by its provider network;

(f) Has the ability to assure enrollees adequate access to providers of health care, including geographic availability and adequate numbers and types;

(g) Has the ability and procedures to monitor access to its provider network;

(h) Has a satisfactory grievance procedure and the ability to respond to enrollees' calls, questions, and complaints;

(i) Has the ability to use medical outcome data to educate network providers, update utilization review procedures, and recommend modifications to benefit designs;

(j) Has the ability to recruit and retain health care practitioners who are minorities as defined in s. 288.703(3), with special emphasis on the recruitment and retention of African-American health care providers; and

(k) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting.

If an accountable health partnership is accredited by a nationally recognized accrediting body or federal agency whose standards are acceptable to the agency, or if it is qualified or accredited as a health maintenance organization, the accountable health partnership may be deemed to meet the requirements of paragraphs (a)-(h).

(3) The agency shall establish a designation fee to be paid by each accountable health partnership to cover the agency's cost in performing the designation review.

(4) An accountable health partnership shall:

(a) Require all providers that are part of the partnership to report medical outcomes in accordance with agency standards.

(b) Comply with all rating, underwriting, claims-handling, sales, solicitation, licensing, and unfair trade practices and other provisions of the Florida Insurance Code or of chapter 641.

(5) An accountable health partnership may provide services to more than one community health purchasing alliance.

(6) If an accountable health partnership elects to terminate its contract with an alliance member, the accountable health partnership must provide advance notice of its decision to the alliance at least 120 days prior to the nonrenewal of any health plan by the accountable health partnership.

(7) An accountable health partnership shall maintain records and submit reports to the alliance as required by ss. 408.70-408.706.

(8) An accountable health partnership shall use the services of a licensed agent for the solicitation of insurance or procurement of applications or any other activities for which a health insurance agent's license is required.

(9)(a) The agency shall suspend or revoke its designation of an accountable health partnership that fails to continue to meet the requirements of this section.

(b) The agency shall expedite proceedings to determine whether the designation of the accountable health partnership should be suspended or revoked.

Section 40. Community health purchasing alliances; assessment and participation study.—

(1) The Agency on Health Care Administration shall conduct a study that includes, but is not limited to, an assessment of community health purchasing alliances in relation to health care financing issues, the recovery of savings to increase health care coverages, cost shifting, 24-hour coverage, the effects of uninsurance on alliances, employer options under the alliances, accountable health partnership characteristics and requirements, enrollment and marketing requirements, community rating, and risk adjustment in premium allocation to the accountable health partnerships.

(2) The agency shall recommend to the Legislature the steps that must be taken, including federal and state regulatory and statutory reforms, to allow individuals who are not self-employed, self-insured employers, and other employers that are not small employers to participate in community health purchasing alliances.

(3) The agency shall include a report on the progress in implementing community health purchasing alliances, and the results of the study required by this section, in its final Florida Health Plan that is to be submitted to the Legislature by December 31, 1993.

Section 41. Community health purchasing alliances; antitrust study.—

(1) The Legislature recognizes that the health care reforms authorized by sections 408.70-408.706, Florida Statutes, require a different relationship between health insurers, hospitals, physicians, and other providers. The success of community health purchasing alliances depends on accountable health partnerships providing detailed information that can facilitate informed decisions by those who purchase health care. The Legislature intends to research antitrust laws, rules, and case law in order to determine their impact on community health purchasing alliances and accountable health partnerships in this state.

(2) Recognizing the need for more information on which to make future decisions, the Legislature directs the Agency for Health Care Administration, in consultation with the Department of Legal Affairs, the agency advisory council, and health care consumers, purchasers, providers, and insurers, to assess the effects of antitrust laws on community health purchasing alliances and accountable health partnerships. The findings and recommendations from this study must be provided by the agency in its final Florida Health Care Plan that is to be submitted to the Legislature by December 31, 1993.

(3) The antitrust study conducted by the agency must include, but need not be limited to, the following elements:

(a) A methodology, including regulation and state oversight, which would allow physicians, hospitals, insurers, and other providers to form accountable health partnerships in order to offer health care services to community health purchasing alliances and to purchasers of health care who are not alliance members.

(b) A methodology and guidelines that would prevent the formation of monopolies and oligopolies by accountable health partnerships, including limitations on the market share held by one or two accountable health partnerships.

(c) A working definition of a methodology to prevent predatory pricing and other anticompetitive activities such as price fixing and market allocation by insurers, physicians, hospitals, and other providers for the purpose of forcing providers out of business or to unfairly gain market share.

(d) A methodology to allow individual physicians and hospitals to come together in order to jointly offer services as part of an accountable health partnership to an alliance.

(e) Recommendations as to specific changes in federal and state antitrust laws which are required to facilitate the objectives set forth in sections 408.70-408.706, Florida Statutes.

(f) Recommendations on how to ensure a competitive marketplace despite the authorization of antitrust exemptions.

(g) An analysis and report on any other issues related to antitrust exemptions which meet the intent of this section.

And the title is amended as follows:

In title, on page 222, line 8, through page 223, line 26, strike all of said lines and insert:

liability defense; creating s. 408.70, F.S.; providing legislative intent regarding the need to reform the state's health care delivery system; proposing the creation of managed competition throughout the state; proposing the creation of community health purchasing alliances; creating s. 408.701, F.S.; providing definitions; creating s. 408.702, F.S.; establishing community health purchasing alliance regions; providing for the merger of certain alliances; providing for alliance standards; providing for voluntary membership; providing duties, powers, and responsibilities; providing for membership fees; creating s. 408.703, F.S.; providing community health purchasing alliance membership requirements for small employers; creating s. 408.704, F.S.; providing agency responsibilities with respect to community health purchasing alliances; authorizing the agency to contract with alliances and provide startup funds; requiring an annual review; requiring alliances to submit certain data to the agency; establishing an advisory data committee and specifying membership; requiring a report to the Legislature; requiring the submission of data by health care providers; requiring the agency to adopt and implement recommendations of the advisory data committee; establishing an appeals process for grievances; exempting certain records from public disclosure requirements; providing for future legislative review of this exemption under the Open Government Sunset Review Act; creating s. 408.7042, F.S.; providing requirements for the Division of State Health Purchasing of the agency in purchasing health care for state employees and their dependents; providing requirements for the agency in purchasing health care for Medicaid recipients and persons who participate in the MedAccess and Medicaid buy-in programs; creating s. 408.7045, F.S.; establishing community health purchasing alliance marketing requirements; creating s. 408.705, F.S.; providing for boards of directors for community health purchasing alliances; providing for membership, appointment, and terms; providing for staff; creating s. 408.706, F.S.; establishing standards for accountable health partnerships; providing for designation of accountable health partnerships by the agency; specifying standards and requirements; requiring the agency to conduct an assessment and a participation study of community health purchasing alliances; requiring the agency, in consultation with the Department of Legal Affairs, to assess the effects of antitrust laws on community health purchasing alliances and accountable health partnerships; providing for the

The vote was:

Yeas—22 Nays—14

Senator Grant moved the following amendments which were adopted:

Amendment 58—On page 71, lines 25-28, strike all of said lines and insert:

(8) "Business Health Coalition" means a group of employers organized to share information about health services and insurance coverage and to research, design and group purchase using the value purchasing method for such services on behalf of its members which enables the employers to obtain more cost effective care with assured quality outcomes at an affordable price for their employees.

Amendment 59—On page 74 and 75, lines 1-9 and 20-31 respectivly, strike all of said lines and insert:

(3) There shall be one Community Health Purchasing Alliance established in a particular district which must operate for the benefit of its members who are: small employers, as defined in S. 627.6699, their employees, and the dependents of such employees: the state on behalf of its employees and the dependents of such employees, and Medicaid recipients: and associate alliance members. The existence of a Community Health Purchasing Alliance in a particular district does not preclude the establishment or operation of any other association or organization created to provide managed care or health care group purchasing capability for their members. A Community Health Purchasing Alliance will provide oversight and coordination of its member purchases.

Senator Forman moved the following amendment which was adopted:

Amendment 60—On page 75, line 7, after "coalitions" insert: and the community organizational and planning skills of the area's local health council.

Senator Gutman moved the following amendment which was adopted:

Amendment 61—On page 75, line 11, after the period (.), insert: *The Community Health Purchasing Alliances shall not require that a small employer as defined in s.672.6699, F.S., pay any portion of the premium for employees or dependents of employees as a condition of participating in an alliance. If the small employer voluntarily contributes any portion of the premium of employees or dependents of the employees, the premium contribution level shall be established by the employer.*

Senator Myers moved the following amendment which was adopted:

Amendment 62—On page 72, line 16, strike all of said line and insert: state licensed or authorized facility, or licensed practitioner, or county public health unit established under Part I of Chapter 154, that delivers health

Senator Jones moved the following amendment which was adopted:

Amendment 63—On page 80, between lines 6 and 7, insert:

(c) One representative to be appointed by the Society of Ambulatory Surgical Centers.

(Renumber subsequent paragraphs.)

Senators Forman and Gutman offered the following amendment which was moved by Senator Forman and adopted:

Amendment 64—On page 80, between lines 17 and 18, insert:

(h) Two representatives from the Florida Hospice Organization

Senator Forman moved the following amendment which was adopted:

Amendment 65—On page 80, between lines 17 and 18, insert:

(g) A representative of the Statewide Health Council.

Senator Myers moved the following amendment which was adopted:

Amendment 66—On page 80, between lines 17 and 18, insert:

(g) the State Health Offider or his designee.

Senator Forman moved the following amendment which was adopted:

Amendment 67—On page 80, line 18, insert:

(g) One representative of optometry appointed ty the Florida Optometric Association.

Senator Gutman moved the following amendment which was adopted:

Amendment 68—On page 86, strike line 8, thru line 30 on page 87 and insert:

(j) The ability to recruit and retain health care providers who are minorities as defined in s. 288.703(3), with special emphasis on the recruitment and retention of African-American health care providers.

(k) The ability to recruit and retain alliance district health care providers in its provider network. For provider networks initially formed in an alliance district after July 1, 1993, an accountable health partnership shall make offers as to provider participation in its provider network to relevant alliance district health care providers for at least sixty percent of the available provider position. A provider who is made an offer may participate in an accountable health partnership as long as the provider abides by the terms and condition of the provider network contract, provides services at a rate or price equal to the rate or price negotiated by the accountable health partnership, and meets all of the accountable health partership's qualifications for participation in its provider networks including, but not limited to, network adequacy criteria. For purposes of this paragraph, "alliance district health care provider", means a health care provider who is licensed under chapters 458, 459, 460, 461, or 465 who has practiced in Florida for more than one year within the alliance district served by the accountable health partnership.

(1) If accredited by a nationally recognized accrediting body or federal agency whose standards are acceptable to the agency, or if qualified or accredited as a health maintenance organization or exclusive provider organization, a carrier may be deemed to meet the requirements of paragraphs (1)(b)-(h).

Senator Myers moved the following amendments which were adopted:

Amendment 69—On page 86, line 9, after "458" *insert: ,*

Amendment 70—On page 86, line 10 strike all of said line and insert: 459, 460 and 461, from the provider networks to review and make

Senator Forman moved the following amendment which was adopted:

Amendment 71—On page 89, line 18, after "chapter 461," insert: *chapter 463,*

Senator Myers moved the following amendments which were adopted:

Amendment 72—On page 92, lines 23 through 26, strike all of said lines and insert: *into the payment procedures, utilization review, administration, coverage, prepayment policies, and other operational and policy decisions, except prices or fees, to be made by Accountable Health Partnerships consistent with federal and state antitrust laws.*

Amendment 73—On page 93, line 8, insert a new subsection: *(5) No accountable Health Partnership shall be required to accept any recommendations of a provider network.*

Senator Williams moved the following amendments which were adopted:

Amendment 74—On page 93, line 30 strike "health insurance in this state" and insert: insurance in this state pursuant to Chapter 626, F.S.

Amendment 75—On page 95, between lines 13 and 14 insert: (3) The agency and participating community health purchasing alliances and accountable health partnerships may use the services of licensed insurance agents for the solicitation of insurance or procurement of applications or any other activities for which a health insurance agent's license is required pursuant to the Florida Insurance Code or HMO law.

Senator Myers moved the following amendment which was adopted:

Amendment 76—On page 89, line 5, after "not", strike: ~~deny or~~

Senator Gutman moved the following amendment which was adopted:

Amendment 77 (with Title Amendment)—On page 40, line 1, through page 41, line 14 and page 44, line 23, through page 45, line 3, strike all of those lines and insert:

Section 19. Section 455.201, Florida Statutes, 1992 Supplement, as amended by section 36 of chapter 92-33, Laws of Florida, and section 6 of chapter 92-149, Laws of Florida, is amended to read:

455.201 Professions and occupations regulated by Department of Professional Regulation ~~or Agency for Health Care Administration~~; legislative intent; requirements.—

(1) It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the Department of Professional Regulation ~~or the Agency for Health Care Administration~~ shall be entitled to do so as a matter of right if otherwise qualified.

(2) The Legislature further *intends* ~~believes~~ that such professions *should* ~~shall~~ be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions shall be regulated when:

(a) Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact *that* ~~which~~ may result from regulation.

(b) The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.

(c) Less restrictive means of regulation are not available.

(3) It is further *the* legislative intent that the use of the term "profession" with respect to those activities licensed and regulated by the Department of Professional Regulation ~~or the Agency for Health Care Administration~~ shall not be deemed to mean that such activities are not occupations for other purposes in state or federal law.

(4) No board, nor the department, ~~nor the Agency for Health Care Administration~~ shall create unreasonably restrictive and extraordinary standards that deter qualified persons from entering the various professions. No board, nor the department, shall take any action *that* ~~which~~ tends to create or maintain an economic condition that unreasonably restricts competition, except as specifically provided by law.

(5) Policies adopted by the department shall ensure that all expenditures are made in the most cost-effective manner to maximize competition, minimize licensure costs, and maximize public access to meetings conducted for the purpose of professional regulation. The long-range planning function of the department shall be implemented to facilitate effective operations and to eliminate inefficiencies.

Section 20. Section 455.203, Florida Statutes, 1992 Supplement, as amended by section 37 of chapter 92-33, Laws of Florida, and section 7 of chapter 92-149, Laws of Florida, is amended to read:

455.203 Department of Professional Regulation; ~~Agency for Health Care Administration;~~ powers and duties.—The Department of Professional Regulation ~~and the Agency for Health Care Administration, for the boards under their respective jurisdictions,~~ shall:

(1) Adopt rules establishing a procedure for the biennial renewal of licenses; provided, however, the department ~~or the Agency for Health Care Administration~~ may issue up to a 4-year license to selected licensees notwithstanding any other provisions of law to the contrary. Fees for such renewal *may* ~~shall~~ not exceed the fee caps for individual professions on an annualized basis as authorized by law.

(2) Appoint the executive director of each board *within the department*, subject to the approval of the board.

(3) Submit a biennial budget to the Legislature at a time and in the manner provided by law.

(4) Develop a training program for persons newly appointed to membership on any board. The program shall familiarize such persons with the substantive and procedural laws and rules and fiscal information relating to the regulation of the appropriate profession and with the structure of the department ~~or the Agency for Health Care Administration~~.

(5) Adopt all rules necessary to administer this chapter.

(6) Establish by rules procedures by which the department ~~and the Agency for Health Care Administration~~ shall use the expert or technical advice of the appropriate board for the purposes of investigation, inspection, evaluation of applications, other duties of the department, or any other areas the department may deem appropriate.

(7) Require all proceedings of any board or panel thereof *within the department* and all formal or informal proceedings conducted by ~~either~~ the department ~~or the Agency for Health Care Administration~~ or a hearing officer with respect to licensing or discipline to be electronically recorded in a manner sufficient to assure the accurate transcription of all matters so recorded.

(8) Select only those investigators, or consultants who undertake investigations, who meet criteria established with the advice of the respective boards.

Section 21. Section 455.205, Florida Statutes, 1992 Supplement, as amended by section 38 of chapter 92-33, Laws of Florida, is amended to read:

455.205 Contacting boards through department ~~or agency~~.—Each board under the jurisdiction of the Department of Professional Regulation may be contacted through the headquarters of the Department of Professional Regulation in the City of Tallahassee or at any regional office of the department. ~~Each board under the jurisdiction of the Agency for Health Care Administration may be contacted through the headquarters of the Agency for Health Care Administration in the City of Tallahassee.~~

Section 22. Section 455.207, Florida Statutes, 1992 Supplement, as amended by section 39 of chapter 92-33, Laws of Florida, and section 9 of chapter 92-149, Laws of Florida, is amended to read:

455.207 Boards; organization; meetings; compensation and travel expenses.—

(1) Each board within the department ~~and each board within the Agency for Health Care Administration~~ shall comply with the provisions of this section.

(2) The board shall annually elect from among its number a chairperson and vice chairperson.

(3) The board shall meet at least once annually and may meet as often as is necessary. The chairperson or a quorum of the board shall have the authority to call other meetings. A quorum shall be necessary for the conduct of official business by the board or any committee thereof. Unless otherwise provided by law, 51 percent or more of the appointed members of the board or any committee, when applicable, shall constitute a quorum. The vote of a majority of the members of the quorum shall be necessary for any official action by the board or committee. Three consecutive unexcused absences or absences constituting 50 percent or more of the board's meetings within any 12-month period shall cause the board membership of the member in question to become void, and the position shall be considered vacant. The board, or the department when there is no board, shall, by rule, define unexcused absences.

(4) Unless otherwise provided by law, a board member or former board member serving on a probable cause panel shall be compensated $50 for each day in attendance at an official meeting of the board and for each day of participation in any other business involving the board. Each board shall adopt rules defining the phrase "other business involving the board," but the phrase may not routinely be defined to include telephone conference calls. A board member also shall be entitled to reimbursement for expenses pursuant to s. 112.061. Travel out of state shall require the prior approval of the secretary.

(5) When two or more boards have differences between them, the boards may elect to, or the secretary may request that the boards, establish a special committee to settle those differences. The special committee shall consist of three members designated by each board, who may be members of the designating board or other experts designated by the board, and of one additional person designated and agreed to by the members of the special committee. In the event the special committee cannot agree on the additional designee, upon request of the special committee, the secretary may select the designee. The committee shall recommend rules necessary to resolve the differences. If a rule adopted pursuant to this provision is challenged, the participating boards shall share the costs associated with defending the rule or rules. The department shall provide legal representation for any special committee established pursuant to this section.

Section 23. Section 455.208, Florida Statutes, 1992 Supplement, as amended by section 40 of chapter 92-33, Laws of Florida, and section 10 of chapter 92-149, Laws of Florida, is amended to read:

455.208 Publication of information.—The department ~~of Professional Regulation, the Agency for Health Care Administration,~~ and the boards shall have the authority to advise licensees periodically, through the publication of a newsletter, about information that the department ~~of Professional Regulation, the Agency for Health Care Administration,~~ or the board determines is of interest to the industry. Unless otherwise prohibited by law, the department and the boards shall publish a summary of final orders resulting in fines, suspensions, or revocations, and any other information the department or the board determines is of interest to the public.

Section 24. Section 455.209, Florida Statutes, 1992 Supplement, as amended by section 41 of chapter 92-33, Laws of Florida, and section 11 of chapter 92-149, Laws of Florida, is amended to read:

455.209 Accountability and liability of board members.—

(1) Each board member shall be accountable to the Governor for the proper performance of duties as a member of the board. The Governor shall investigate any legally sufficient complaint or unfavorable written report received by the Governor or by the department or a board concerning the actions of the board or its individual members. The Governor may suspend from office any board member for malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform his official duties, or commission of a felony.

(2) Each board member and each former board member serving on a probable cause panel shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department ~~of Professional Regulation or the Agency for Health Care Administration, as appropriate,~~ or the Department of Legal Affairs shall defend any such member in any action against any board or member of a board arising from any such act or omission. In addition, the department or the Department of Legal Affairs may defend the member's company or business in any action against the company or business if the department or the Department of Legal Affairs determines that the actions from which the suit arises are actions taken by the member in the member's official capacity and were not beyond the member's statutory authority. In providing such defense, the department~~, the agency,~~ or the Department of Legal Affairs may employ or utilize the legal services of outside counsel.

Section 25. Section 455.211, Florida Statutes, 1992 Supplement, as amended by section 42 of chapter 92-33, Laws of Florida, and section 12 of chapter 92-149, Laws of Florida, is amended to read:

455.211 Board rules; final agency action; challenges.—

(1) The Secretary of Professional Regulation shall have standing to challenge any rule or proposed rule of a board ~~under its jurisdiction~~ pursuant to ss. 120.54 and 120.56. ~~The Director of Health Care Administration shall have standing to challenge any rule or proposed rule of any board under its jurisdiction, pursuant to ss. 120.54 and 120.56.~~ In addition to challenges for any invalid exercise of delegated legislative authority, the hearing officer, upon such a challenge by the secretary ~~of Professional Regulation or the Director of Health Care Administration~~, may declare all or part of a rule or proposed rule invalid if it:

(a) Does not protect the public from any significant and discernible harm or damages;

(b) Unreasonably restricts competition or the availability of professional services in the state or in a significant part of the state; or

(c) Unnecessarily increases the cost of professional services without a corresponding or equivalent public benefit.

However, there shall not be created a presumption of the existence of any of the conditions cited in this subsection in the event that the rule or proposed rule is challenged.

(2) In addition, either the secretary ~~of Professional Regulation, the Director of Health Care Administration,~~ or the board shall be a substantially interested party for purposes of s. 120.54(5). The board may, as an adversely affected party, initiate and maintain an action pursuant to s. 120.68 challenging the final agency action.

(3) No board created within the department shall have standing to challenge a rule or proposed rule of another board. However, if there is a dispute between boards concerning a rule or proposed rule, the boards may avail themselves of the provisions of s. 455.207(5).

Section 26. Section 43 of chapter 92-33. Laws of Florida, section 455.2141, Florida Statutes, as created by section 44 of chapter 92-33, Laws of Florida, and section 455.2173, Florida Statutes, as created by section 46 of chapter 92-33, Laws of Florida, are repealed.

Section 27. Section 455.2175, Florida Statutes, 1992 Supplement, as amended by section 47 of chapter 92-33, Laws of Florida, is amended to read:

455.2175 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed *under* ~~pursuant to~~ s. 455.227, the theft of an examination in whole or in part or the act of reproducing or copying any examination administered by the department ~~of Professional Regulation or the Agency for Health Care Administration~~, whether *the* ~~said~~ examination is reproduced or copied in part or in whole and by any means, shall constitute a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 28. Section 455.218, Florida Statutes, 1992 Supplement, as amended by section 48 of chapter 92-33, Laws of Florida, and section 16 of chapter 92-149, Laws of Florida, is amended to read:

455.218 Foreign-trained professionals; special examination and license provisions.—

(1) When not otherwise provided by law, ~~within their respective jurisdictions, the Agency for Health Care Administration and~~ the department shall, by rule, provide procedures under which exiled professionals may be examined within each practice act. A person shall be eligible for such examination if the person:

(a) Immigrated to the United States ~~after leaving the person's home country because of political reasons,~~ provided *the* ~~such~~ country is located in the Western Hemisphere ~~and lacks diplomatic relations with the United States~~;

(b) Applies to the department ~~of Professional Regulation or the Agency for Health Care Administration, as appropriate,~~ and submits a fee;

(c) Was a Florida resident immediately preceding the person's application;

(d) Demonstrates to the department ~~of Professional Regulation or the Agency for Health Care Administration~~, through submission of documentation verified by the applicant's respective professional association in exile, that the applicant was graduated with an appropriate professional or occupational degree from a college or university; however, the department ~~of Professional Regulation or the Agency for Health Care Administration~~ may not require receipt of any documentation from the Republic of Cuba as a condition of eligibility under this section;

(e) Lawfully practiced the profession for at least 3 years;

(f) Prior to 1980, successfully completed an approved course of study pursuant to chapters 74-105 and 75-177, Laws of Florida, *except for an applicant who seeks licensure for a profession regulated under chapter 464*; and

(g) Presents a certificate demonstrating the successful completion of a continuing education program which offers a course of study that will prepare the applicant for the examination offered under subsection (2). The department ~~and the Agency for Health Care Administration~~ shall develop rules *that establish the requirements for the content and administration of continuing education programs and rules* for the approval of such programs ~~for their respective boards~~.

(2) Upon request of a person who meets the requirements of subsection (1) and submits an examination fee, the department ~~of Professional Regulation or the Agency for Health Care Administration, for their respective boards,~~ shall provide a written practical examination which tests the person's current ability to practice the profession competently in accordance with the actual practice of the profession. Evidence of meeting the requirements of subsection (1) shall be treated by the department ~~of Professional Regulation or the Agency for Health Care Administration~~ as evidence of the applicant's preparation in the academic and preprofessional fundamentals necessary for successful professional practice, and the applicant shall not be examined by the department ~~of Professional Regulation or the Agency for Health Care Administration~~ on such fundamentals.

(3) The fees charged for the examinations offered under subsection (2) shall be established by the department ~~and the Agency for Health Care Administration, for their respective boards,~~ by rule and shall be sufficient to develop or to contract for the development of the examination and its administration, grading, and grade reviews.

(4) The department ~~of Professional Regulation and the Agency for Health Care Administration~~ shall *examine* ~~license~~ any applicant ~~within their respective boards~~ who meets the requirements of subsections (1) and (2). *Upon passing the examination and issuance of the license by the department, licensees* ~~All licenses so issued~~ are subject to the administrative requirements of this chapter and the respective practice act under which the license is issued. Each applicant so licensed is subject to all provisions of this chapter and the respective practice act under which *the* ~~his~~ license was issued.

(5) Upon a request by an applicant otherwise qualified under this section, the examinations offered under subsection (2) may be given in the applicant's native language, provided that any translation costs are borne by the applicant.

(6) The department ~~and the Agency for Health Care Administration, for their respective boards,~~ shall not issue an initial license to, or renew a license of, any applicant or licensee who is under investigation or prosecution in any jurisdiction for an action *that* ~~which~~ would constitute a violation of this chapter or the professional practice acts administered by the department ~~or agency~~ and the boards until such time as the investigation or prosecution is complete, at which time the provisions of the professional practice acts shall apply.

Section 29. Section 455.220, Florida Statutes, as created by section 49 of chapter 92-33, Laws of Florida, and section 455.2205, Florida Statutes, as created by section 50 of chapter 92-33, Laws of Florida, are repealed.

Section 30. Section 455.221, Florida Statutes, 1992 Supplement, as amended by section 51 of chapter 92-33, Laws of Florida, is amended to read:

455.221 Legal and investigative services.—

(1) The Department of Legal Affairs shall provide legal services to each board within the Department of Professional Regulation ~~or the Agency for Health Care Administration~~, but the primary responsibility of the Department of Legal Affairs *is* ~~shall be~~ to represent the interests of the citizens of the state by vigorously counseling the boards with respect to their obligations under the laws of the state. Subject to the prior approval of the Attorney General, any board may retain independent legal counsel to provide legal advice to the board on a specific matter. Fees and costs of such counsel ~~by the Department of Legal Affairs or independent legal counsel approved by the Attorney General~~ shall be paid from the Professional Regulation Trust Fund ~~or the Health Care Trust Fund, as appropriate~~.

(2) The Department of Professional Regulation ~~or the Agency for Health Care Administration~~ may employ or utilize the legal services of outside counsel and the investigative services of outside personnel. However, no attorney employed or utilized by the department *may* ~~of Professional Regulation or the Agency for Health Care Administration shall~~ prosecute a matter and provide legal services to the board with respect to the same matter.

Section 31. Section 455.223, Florida Statutes, 1992 Supplement, as amended by section 52 of chapter 92-33, Laws of Florida, is amended to read:

455.223 Power to administer oaths, take depositions, and issue subpoenas.—For the purpose of any investigation or proceeding conducted by the department ~~of Professional Regulation or the Agency for Health Care Administration~~, the department ~~or the agency~~ shall have the power to administer oaths, take depositions, make inspections when authorized by statute, issue subpoenas, which *must* ~~shall~~ be supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The department ~~of Professional Regulation or the Agency for Health Care Administration~~ shall exercise this power on its own initiative or whenever requested by a board or the probable cause panel of any board. Challenges to, and enforcement of, the subpoenas and orders shall be handled as provided in s. 120.58.

Section 32. Section 455.224, Florida Statutes, 1992 Supplement, as amended by section 53 of chapter 92-33, Laws of Florida, and section 20 of chapter 92-149, Laws of Florida, is amended to read:

455.224 Authority to issue citations.—

(1) Notwithstanding the provisions of s. 455.225, the board, or the department ~~or the Agency for Health Care Administration~~ when there is no board, shall adopt rules to permit the issuance of citations. The citation shall be issued to the subject and shall contain the subject's name and address, *the subject's* ~~his~~ license number if applicable, a brief factual

statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu of accepting the citation, to follow the procedure under s. 455.225. If the subject disputes the matter in the citation, the procedures set forth in s. 455.225 must be followed. However, if the subject does not dispute the matter in the citation with the department ~~or the agency, whichever has jurisdiction,~~ within 30 days after the citation is served, the citation shall become a final order of the board, *or the department when there is no board, and shall constitute discipline.* The penalty shall be a fine or other conditions as established by rule.

(2) The board, or the department ~~or the agency~~ when there is no board, shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare.

(3) The department ~~of Professional Regulation or the Agency for Health Care Administration~~ shall be entitled to recover the costs of investigation, in addition to any penalty provided according to board *or*,department~~, or agency~~ rule, as part of the penalty levied pursuant to the citation.

(4) A citation must be issued within 6 months after the filing of the complaint that is the basis for the citation.

(5) Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the subject's last known address.

(6) *The department has* ~~Within their respective jurisdictions, the Department of Professional Regulation and the Agency for Health Care Administration have~~ exclusive authority to, and shall adopt rules to, designate those violations for which the licensee is subject to the issuance of a citation and designate the penalties for those violations if any board fails to incorporate this section into rules by January 1, 1992. *Any board created on or after January 1, 1992, shall have 6 months to enact rules designating violations and penalties appropriate for citation offenses. Failure to enact such rules shall give the department exclusive authority to adopt rules as required for the implementation of this section. A board shall have continuing authority to amend its rules adopted by January 1, 1992, pursuant to this section.*

Section 33. Section 455.225, Florida Statutes, 1992 Supplement, as amended by section 54 of chapter 92-33, Laws of Florida, section 21 of chapter 92-149, Laws of Florida, and section 132 of chapter 92-279, Laws of Florida, is amended to read:

455.225 Disciplinary proceedings.—~~Disciplinary proceedings for each board shall be within the jurisdiction of the Department of Professional Regulation or the Agency for Health Care Administration, as appropriate.~~

(1) The department ~~of Professional Regulation or the Agency for Health Care Administration, for the boards under their respective jurisdictions,~~ shall cause to be investigated any complaint which is filed before it if the complaint is in writing, signed by the complainant, and legally sufficient. A complaint is legally sufficient if it contains ultimate facts *that* ~~which~~ show that a violation of this chapter, of any of the practice acts relating to the professions regulated by the department ~~or the agency~~, or of any rule *adopted* ~~promulgated~~ by the department~~, the agency,~~ or a regulatory board in the department ~~or the agency~~ has occurred. *In order to determine* ~~Prior to finding~~ legal sufficiency, the department ~~or the agency~~ may require supporting information or documentation ~~as necessary to determine legal sufficiency~~. The department ~~or the agency~~ may investigate ~~or continue to investigate~~, and the department~~, the agency,~~ or the appropriate ~~regulatory~~ board may take appropriate final action on, a complaint even though the original complainant withdraws it or otherwise indicates *a* ~~his~~ desire not to cause the complaint to be investigated or prosecuted to completion. The department ~~or the agency~~ may investigate an anonymous complaint if the complaint is in writing and is legally sufficient, if the alleged violation of law or rules is substantial, and if the department ~~or the agency~~ has reason to believe, after preliminary inquiry, that the alleged violations in the complaint are true. The department ~~or the agency~~ may investigate a complaint made by a confidential informant if the complaint is legally sufficient, if the alleged violation of law or rule is substantial, and if the department ~~or the agency~~ has reason to believe, after preliminary inquiry, that the allegations of the complainant are true. ~~Unless a complaint has been filed with the department or the agency, or the department or the agency has been specifically authorized by statute,~~ The department ~~or the agency~~ may ~~not~~ initiate an investigation *if* ~~unless~~ it has reasonable cause to believe that a licensee or a group of licensees has violated a Florida statute, a rule of the department, ~~a rule of the agency,~~ or a rule of a board. Except as provided in ss. 458.331(9), 459.015(9), 460.413(5), and 461.013(6), when an investigation of any *subject* ~~person~~ is undertaken, the department ~~or the agency~~ shall promptly furnish to the *subject* ~~person~~ or *subject's* ~~his~~ attorney a copy of the complaint or document which resulted in the initiation of the investigation. The *subject* ~~person~~ may submit a written response to the information contained in *the* ~~such~~ complaint or document within 20 days after service to the *subject* ~~person~~ of the complaint or document. The *subject's* ~~person's~~ written response shall be considered by the probable cause panel. *This right to respond shall not prohibit the department from issuing a summary emergency order if necessary to protect the public.*However, if the secretary, or the secretary's designee, and the chairman of the respective board or the chairman of its probable cause panel agree in writing that such notification would be detrimental to the investigation, the department ~~or the agency~~ may withhold notification. The department ~~or the agency~~ may conduct an investigation without notification to any *subject* ~~person~~ if the act under investigation is a criminal offense. ~~The department or the agency may delegate, by rule, its investigative function regarding a given practice act to the regulatory board having regulatory power over the practice.~~

(2) The department ~~of Professional Regulation and the Agency for Health Care Administration~~ shall allocate sufficient and adequately trained staff to expeditiously and thoroughly determine legal sufficiency and investigate all legally sufficient complaints. When its investigation is complete and legally sufficient, the department ~~or the agency~~ shall prepare and submit to the probable cause panel of the appropriate regulatory board the investigative report of the department ~~or the agency~~. The report shall contain the investigative findings and the recommendations of the department ~~or the agency~~ concerning the existence of probable cause. At any time after legal sufficiency is found, the department ~~or the agency~~ may dismiss any case, or any part thereof, if the department ~~or the agency~~ determines that there is insufficient evidence to support the prosecution of allegations contained therein. The department ~~or the agency~~ shall provide a detailed report to the appropriate probable cause panel prior to dismissal of any case or part thereof, and to the subject of the complaint after dismissal of any case or part thereof, under this section. For cases dismissed prior to a finding of probable cause, *the* ~~such~~ report is confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. The probable cause panel shall have access, upon request, to the investigative files pertaining to a case prior to dismissal of *the* ~~such~~ case. If the department ~~or the agency~~ dismisses a case, the probable cause panel may retain independent legal counsel, employ investigators, and continue the investigation and prosecution of the case as it deems necessary.

(3) As an alternative to the provisions of subsections (1) and (2), when a complaint is received, the department ~~or the agency~~ may provide a licensee with a notice of noncompliance for an initial offense of a minor violation. Each board, or the department ~~or the agency~~ if there is no board, shall establish by rule those minor violations under this provision that do not endanger the public health, safety, and welfare and which do not demonstrate a serious inability to practice the profession. Failure of a licensee to take action in correcting the violation within 15 days after notice may result in the institution of regular disciplinary proceedings.

(4) The determination as to whether probable cause exists shall be made by majority vote of a probable cause panel of the board, or by the department ~~of Professional Regulation or the Agency for Health Care Administration~~, as appropriate. Each regulatory board shall provide, by rule, that the determination of probable cause shall be made by a panel of its members or by the department ~~or the agency~~. *Each board may provide by rule for multiple probable cause panels composed of at least two members. Each board may provide by rule that one or more members of the panel or panels may be a former board member. The length of term or repetition of service of any such former board member on a probable cause panel may vary according to the direction of the board when authorized by board rule. Any probable cause panel must include one of the board's former or present consumer members, if one is available, is willing to serve, and is authorized to do so by the board chairman. Any probable cause panel must include a present board member. Any probable cause panel must include a former or present professional board member. However, any former professional board member serving on the probable cause panel must hold an active valid license for that profes-*

sion. ~~The panel, if any, shall be composed of board members, but not more than one of the panel members may be a lay member.~~ All proceedings of the panel are exempt from the provisions of s. 286.011 until *10 days after* probable cause has been found to exist by the panel or until the subject of the investigation waives his privilege of confidentiality. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. ~~In aid of its duty to determine the existence of probable cause,~~ The probable cause panel may make a reasonable request, and upon *the* ~~such~~ request the department ~~or the agency~~ shall provide such additional investigative information as is necessary to the determination of probable cause. A request for additional investigative information shall be made within 15 days from the date of receipt by the probable cause panel of the investigative report of the department ~~or the agency~~. The probable cause panel or the department ~~or the agency~~, as may be appropriate, shall make its determination of probable cause within 30 days after receipt by it of the final investigative report of the department ~~or the agency~~. The secretary may grant extensions of the 15-day and the 30-day time limits. If the probable cause panel does not find probable cause within the 30-day time limit, as may be extended, or if the probable cause panel finds no probable cause, the department ~~or the agency~~ may determine, within 10 days after the panel fails to determine probable cause or 10 days after the time limit has elapsed, that probable cause exists. *In lieu of a finding of probable cause, the probable cause panel, or the department when there is no board, may issue a letter of guidance to the subject.* If the probable cause panel finds that probable cause exists, it shall direct the department ~~or the agency~~ to ~~send the licensee a letter of guidance or to~~ file a formal complaint against the licensee. The department ~~or the agency~~ shall follow the directions of the probable cause panel regarding the filing of a formal complaint. If directed to do so, the department ~~or the agency~~ shall file a formal complaint against the ~~regulated professional or~~ subject of the investigation and prosecute that complaint pursuant to the provisions of chapter 120. However, the department ~~or the agency~~ may decide not to prosecute the complaint if it finds that probable cause had been improvidently found by the panel. In such cases, the department ~~or the agency~~ shall refer the matter to the board. The board may then file a formal complaint and prosecute the complaint pursuant to the provisions of chapter 120. The department ~~or the agency~~ shall also refer to the board any investigation or disciplinary proceeding not before the Division of Administrative Hearings pursuant to chapter 120 or otherwise completed by the department ~~or the agency~~ within 1 year of the filing of a complaint. A probable cause panel or a board may retain independent legal counsel, employ investigators, and continue the investigation as it deems necessary; all costs thereof shall be paid from ~~the Health Care Trust Fund or~~ the Professional Regulation Trust Fund~~, as appropriate~~. All proceedings of the probable cause panel shall be exempt from the provisions of s. 120.53(1)(d).

(5) A formal hearing before a hearing officer from the Division of Administrative Hearings shall be held pursuant to chapter 120 if there are any disputed issues of material fact. The hearing officer shall issue a recommended order pursuant to chapter 120. If any party raises an issue of disputed fact during an informal hearing, the hearing shall be terminated and a formal hearing pursuant to chapter 120 shall be held.

(6) The appropriate board, with those members of the panel, if any, who reviewed the investigation pursuant to subsection (4) being excused, *or the department when there is no board,* shall determine and issue the final order in each disciplinary case. Such order shall constitute final agency action. Any consent order or agreed settlement shall be subject to the approval of the department ~~or the agency~~.

(7) The department ~~of Professional Regulation or the Agency for Health Care Administration, as appropriate,~~ shall have standing to seek judicial review of any final order of the board, pursuant to s. 120.68.

(8) Any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(8) shall be conducted by the secretary ~~of Professional Regulation~~ or his designee, ~~or the Director of Health Care Administration or his designee, as appropriate,~~ who shall issue the final summary order.

(9) The department ~~of Professional Regulation or the Agency for Health Care Administration, as appropriate,~~ shall periodically notify the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any civil action or administrative proceeding or appeal.

(10) The complaint and all information obtained pursuant to the investigation by the department ~~of Professional Regulation or the Agency for Health Care Administration~~ shall be confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department ~~or the agency~~, or until the regulated professional or subject of the investigation waives his privilege of confidentiality, whichever occurs first. Upon completion of the investigation *and written request by the subject*, the department ~~or the agency~~ shall *provide the subject an opportunity to inspect or, at the subject's expense,* ~~upon written request,~~ forward *to the subject* a copy of the *department's* investigative file. *Notwithstanding the provisions of s. 455.241, the subject shall be entitled to inspect or receive a copy of any expert witness reports and patient records obtained by the department in connection with the investigation, provided the subject agrees in writing to maintain the confidentiality of any information received pursuant to this section until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 455.241. The subject* ~~to the subject, who~~ may file a written response to the information contained in the investigative file. Such response must be filed within 20 days, unless an extension of time has been granted by the department ~~or the agency~~. Nothing in this subsection shall be construed to prohibit the department ~~of Professional Regulation or the Agency for Health Care Administration~~ from providing such information to any law enforcement agency or to any other regulatory agency. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(11) A privilege against civil liability is hereby granted to any complainant or any witness with regard to information furnished with respect to any investigation or proceeding pursuant to this section, unless the complainant or witness acted in bad faith or with malice in providing such information.

(12)(a) No person who reports in any capacity, whether or not required by law, information to the *department* ~~Division of Health Quality Assurance of the Agency for Health Care Administration~~ with regard to the incompetence, impairment, or unprofessional conduct of any health care provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, or chapter 466 shall be held liable in any civil action for reporting against such health care provider if such person acts without intentional fraud or malice.

(b) No facility licensed under chapter 395, health maintenance organization certificated under part I of chapter 641, physician licensed under chapter 458, or osteopathic physician licensed under chapter 459 shall discharge, threaten to discharge, intimidate, or coerce any employee or staff member by reason of such employee's or staff member's report to the *department* ~~division~~ about a physician licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 who may be guilty of incompetence, impairment, or unprofessional conduct so long as such report is given without intentional fraud or malice.

(c) In any civil suit brought outside the protections of paragraphs (a) and (b), where intentional fraud or malice is alleged, the person alleging intentional fraud or malice shall be liable for all court costs and for the other party's reasonable attorney's fees if intentional fraud or malice is not proved.

Section 34. Section 455.227, Florida Statutes, 1992 Supplement, as amended by section 55 of chapter 92-33, Laws of Florida, and section 22 of chapter 92-149, Laws of Florida, is amended to read:

455.227 Grounds for discipline; penalties; enforcement.—

(1) The board shall have the power to revoke, suspend, or deny the renewal of the license, or to reprimand, censure, or otherwise discipline a licensee, if the board finds that:

(a) The licensee has made misleading, deceptive, untrue, or fraudulent representations in the practice of his profession;

(b) The licensee has intentionally violated any rule adopted by the board *or*; the department ~~of Professional Regulation, or the Agency for Health Care Administration, as appropriate~~;

(c) The licensee has been convicted of a felony which relates to the practice of his profession;

(d) The licensee has been adjudicated mentally incompetent;

(e) The license has been obtained by fraud or material misrepresentation of a material fact;

(f) The licensee has used a Class III or a Class IV laser device or product, as defined by federal regulations, without having complied with the rules promulgated pursuant to s. 501.122(2) governing the registration of such devices with the Department of Health and Rehabilitative Services;

(g) The licensee has failed to comply with the educational course requirements for human immunodeficiency virus and acquired immune deficiency syndrome; or

(h) The licensee has had a license or the authority to practice the regulated profession revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law. The licensing authority's acceptance of a relinquishment of licensure, stipulation, consent order, or other settlement, offered in response to or in anticipation of the filing of charges against the license, shall be construed as action against the license.

(2) In addition to, or in lieu of, any other discipline imposed pursuant to this section, the board may impose an administrative fine not to exceed $1,000 for each violation. In any case where the board imposes a civil penalty and the penalty is not paid within a reasonable time, such reasonable time to be prescribed in the rules of the board, the Department of Legal Affairs shall bring, upon request by the board, a civil action to recover the penalty.

(3) In addition to, or in lieu of, any other remedy or criminal prosecution, the department ~~of Professional Regulation or the Agency for Health Care Administration, as appropriate,~~ may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any of the provisions of this part, or any provisions of law with respect to professions regulated by the department ~~or the agency~~, and any board therein, or the rules adopted pursuant thereto.

(4) In the event the board, or the department when there is no board, determines that revocation of a license is the appropriate penalty, the revocation shall be permanent. However, the board may establish, by rule, requirements for reapplication by applicants whose licenses have been permanently revoked. Such requirements may include, but shall not be limited to, satisfying current requirements for an initial license.

Section 35. Section 455.2273, Florida Statutes, 1992 Supplement, as amended by section 56 of chapter 92-33, Laws of Florida, and section 23 of chapter 92-149, Laws of Florida, is amended to read:

455.2273 Disciplinary guidelines.—

(1) Each board, or the department when there is no board, shall adopt, by rule, and periodically review the disciplinary guidelines applicable to each ground for disciplinary action which may be imposed by the board, or the department when there is no board, pursuant to this chapter, the respective practice acts, and any rule of the board or department.

(2) The disciplinary guidelines shall specify a meaningful range of designated penalties based upon the severity and repetition of specific offenses, it being the legislative intent that minor violations be distinguished from those which endanger the public health, safety, or welfare; that such guidelines provide reasonable and meaningful notice to the public of likely penalties which may be imposed for proscribed conduct; and that such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board, or the department when there is no board, shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department ~~of Professional Regulation or the Agency for Health Care Administration, as appropriate~~, must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to ss. 120.54 and 120.56.

(5) The rules provided for in this section shall be promulgated no later than January 1, 1993.

(6) The hearing officer, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 36. Section 455.2275, Florida Statutes, 1992 Supplement, as amended by section 57 of chapter 92-33, Laws of Florida, and section 24 of chapter 92-149, Laws of Florida, is amended to read:

455.2275 Penalty for giving false information.—In addition to, or in lieu of, any other discipline imposed *under* ~~pursuant to~~ s. 455.227, the act of knowingly giving false information in the course of applying for or obtaining a license from the department ~~of Professional Regulation or the Agency for Health Care Administration,~~ or any board *within the department* ~~thereunder~~, with intent to mislead a public servant in the performance of his official duties, or the act of attempting to obtain or obtaining a license from ~~either~~ the department ~~or the agency~~, or any board *within the department* ~~thereunder~~, to practice a profession by knowingly misleading statements or knowing misrepresentations constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 37. Section 455.228, Florida Statutes, 1992 Supplement, as amended by section 58 of chapter 92-33, Laws of Florida, and section 26 of chapter 92-149, Laws of Florida, is amended to read:

455.228 Unlicensed practice of a profession; cease and desist notice; civil penalty; enforcement.—

(1) When the department ~~of Professional Regulation or the Agency for Health Care Administration~~ has probable cause to believe that any person not licensed by the department ~~or the agency~~, or the appropriate regulatory board within the department ~~or the agency~~, has violated any provision of this chapter or any statute that relates to the practice of a profession regulated by the department ~~or the agency~~, or any rule adopted pursuant thereto, the department ~~or the agency~~ may issue and deliver to *the* ~~such~~ person a notice to cease and desist from such violation. In addition, the department ~~or the agency~~ may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of a profession by employing *an* ~~such~~ unlicensed person. The issuance of a notice to cease and desist shall not constitute agency action for which a s. 120.57 hearing may be sought. For the purpose of enforcing a cease and desist order, the department ~~or the agency~~ may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of *the* ~~such~~ order. In addition to the foregoing remedies, the department ~~or the agency~~ may impose an administrative penalty not to exceed $5,000 per incident, *under* ~~pursuant to~~ the provisions of chapter 120. If the department ~~or the agency~~ is required to seek enforcement of the agency order for a penalty *under* ~~pursuant to~~ s. 120.58, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department ~~or the agency~~ may seek the imposition of a civil penalty through the circuit court for any violation for which the department ~~or the agency~~ may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than $500 and no more than $5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department ~~or the agency~~ prevails, may also award reasonable costs of investigation.

(3) The provisions of this section *apply only* ~~only apply~~ to the provisions of s. 455.217 and the professional practice acts administered by the Department of Professional Regulation ~~or the Agency for Health Care Administration~~.

Section 38. Section 455.2285, Florida Statutes, 1992 Supplement, as amended by section 59 of chapter 92-33, Laws of Florida, and section 28 of chapter 92-149, Laws of Florida, is amended to read:

455.2285 Annual report concerning finances, administrative complaints, disciplinary actions, and recommendations.—The Department of Professional Regulation *is* ~~and the Agency for Health Care Administration are each~~ directed to prepare and submit a report to the President of the Senate and Speaker of the House of Representatives by November 1 of each year, beginning in 1993. In addition to finances and any other information the Legislature may require, the report shall include statistics and relevant information, profession by profession, detailing:

(1) The revenues, expenditures, and cash balances for the prior year, and a review of the adequacy of existing fees.

(2) The number of complaints received and investigated.

(3) The number of findings of probable cause made.

(4) The number of findings of no probable cause made.

(5) The number of administrative complaints filed.

(6) The disposition of all administrative complaints.

(7) A description of disciplinary actions taken.

(8) The status of the development and implementation of rules providing for disciplinary guidelines pursuant to s. 455.2273.

(9) Such recommendations for administrative and statutory changes necessary to facilitate efficient and cost-effective operation of the department and the various boards.

Section 39. Section 455.229, Florida Statutes, 1992 Supplement, as amended by section 60 of chapter 92-33, Laws of Florida, and section 29 of chapter 92-149, Laws of Florida, is amended to read:

455.229 Public inspection of information required from applicants; exceptions; examination hearing.—

(1) All information required by the department ~~of Professional Regulation or the Agency for Health Care Administration~~ of any applicant shall be a public record and shall be open to public inspection *under* ~~pursuant to~~ s. 119.07, except financial information, medical information, school transcripts, examination questions, answers, papers, grades, and grading keys, which are confidential and exempt from s. 119.07(1) and shall not be discussed with or made accessible to anyone except members of the board, the department ~~of Professional Regulation or the Agency for Health Care Administration~~, and *its* staff ~~thereof~~, who have a bona fide need to know such information. Any information supplied to the department ~~of Professional Regulation or the Agency for Health Care Administration,~~ by any other agency which is exempt from the provisions of chapter 119 or is confidential shall remain exempt or confidential *under* ~~pursuant to~~ applicable law while in the custody of the department ~~or the agency~~. These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) The department ~~of Professional Regulation or the Agency for Health Care Administration~~ shall establish by rule the procedure by which an applicant, and the applicant's attorney, may review examination questions and answers. Examination questions and answers are not subject to discovery but may be introduced into evidence and considered only in camera in any administrative proceeding under chapter 120. If an administrative hearing is held, the department ~~or the agency~~ shall provide challenged examination questions and answers to the hearing officer. The examination questions and answers provided at the hearing are confidential and exempt from s. 119.07(1), unless invalidated by the hearing officer. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(3) Unless an applicant notifies the department ~~or the agency~~ at least 5 days prior to an examination hearing of the applicant's inability to attend, or unless an applicant can demonstrate an extreme emergency for failing to attend, the department ~~or the agency~~ may require an applicant who fails to attend to pay reasonable attorney's fees, costs, and court costs of the department ~~or the agency~~ for the examination hearing.

Section 40. Section 455.232, Florida Statutes, 1992 Supplement, as amended by section 61 of chapter 92-33, Laws of Florida, and section 30 of chapter 92-149, Laws of Florida, is amended to read:

455.232 Disclosure of confidential information.—

(1) No officer, employee, or person under contract with the department ~~of Professional Regulation or the Agency for Health Care Administration~~, or any board therein, or any subject of an investigation shall convey knowledge or information to any person who is not lawfully entitled to such knowledge or information about any public meeting or public record, which at the time such knowledge or information is conveyed is exempt from the provisions of s. 119.01, s. 119.07(1), or s. 286.011.

(2) Any person who willfully violates any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and may be subject to discipline pursuant to s. 455.227, and, if applicable, shall be removed from office, employment, or the contractual relationship.

Section 41. Section 455.241, Florida Statutes, 1992 Supplement, as amended by section 62 of chapter 92-33, Laws of Florida, and section 32 of chapter 92-149, Laws of Florida, is amended to read:

455.241 Patient records; report or copies of records to be furnished.—

(1) Any health care practitioner licensed by the department or a board within the department who makes a physical or mental examination of, or administers treatment or dispenses legend drugs to, any person shall, upon request of such person or the person's legal representative, furnish, in a timely manner, without delays for legal review, copies of all reports and records relating to such examination or treatment, including X rays and insurance information. However, when a patient's psychiatric, chapter 490 psychological, or chapter 491 psychotherapeutic records are requested by the patient or the patient's legal representative, the practitioner may provide a report of examination and treatment in lieu of copies of records. Upon a patient's written request, complete copies of the patient's psychiatric records shall be provided directly to a subsequent treating psychiatrist. The furnishing of such report or copies shall not be conditioned upon payment of a fee for services rendered.

(2) Except as otherwise provided in s. 440.13(2), such records may not be furnished to, and the medical condition of a patient may not be discussed with, any person other than the patient or *the patient's* ~~his~~ legal representative or other health care providers involved in the care or treatment of the patient, except upon written authorization of the patient. However, such records may be furnished without written authorization to any person, firm, or corporation which has procured or furnished such examination or treatment with the patient's consent or when compulsory physical examination is made pursuant to Rule 1.360, Florida Rules of Civil Procedure, in which case copies of the medical records shall be furnished to both the defendant and the plaintiff. Such records may be furnished in any civil or criminal action, unless otherwise prohibited by law, upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient or *the patient's* ~~his~~ legal representative by the party seeking such records. Except in a medical negligence action when a health care provider is or reasonably expects to be named as a defendant, information disclosed to a health care practitioner by a patient in the course of the care and treatment of such patient is confidential and may be disclosed only to other health care providers involved in the care or treatment of the patient, or if permitted by written authorization from the patient or compelled by subpoena at a deposition, evidentiary hearing, or trial for which proper notice has been given. The Department of Professional Regulation ~~or the Agency for Health Care Administration, as appropriate,~~ may obtain patient records pursuant to a subpoena without written authorization from the patient if the department ~~of Professional Regulation or the Agency for Health Care Administration~~ and the probable cause panel of the appropriate board, if any, find reasonable cause to believe that a practitioner has excessively or inappropriately prescribed any controlled substance specified in chapter 893 in violation of *this chapter or of any professional practice act of a profession regulated under the department* ~~s. 458.331(1)(q), s. 459.015(1)(u), s. 461.013(1)(p), s. 462.14(1)(q), s. 466.028(1)(q), or s. 474.214(1)(y), (z), (bb), or (ff)~~ or that a practitioner has practiced his profession below that level of care, skill, and treatment required as defined by *this chapter or by any professional practice act of a board regulated under the department.* ~~s. 458.331(1)(t), s. 459.015(1)(y), s. 460.413(1)(s), s. 461.013(1)(t), s. 462.14(1)(t), s. 463.016(1)(n), s. 464.018(1)(h), s. 466.028(1)(y), or s. 474.214(1)(o) or (r)~~; ~~provided~~, However, the patient record obtained by the department ~~or the agency~~ pursuant to this subsection shall be used solely for the purpose of the department ~~or the agency~~ and the ~~appropriate regulatory~~ board in disciplinary proceedings. The record shall otherwise be confidential and exempt from s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14. *This* ~~Nothing in this~~ section *does not* ~~shall be construed to~~ limit the assertion of the psychotherapist-patient privilege under s. 90.503 in regard to records of treatment for mental or nervous disorders by a medical practitioner licensed *under* ~~pursuant to~~ chapter 458 or chapter 459 who has primarily diagnosed and treated mental and nervous disorders for a period of not less than 3 years, inclusive of psychiatric residency. However, the practitioner shall release records of treatment for medical conditions even if the practitioner has also treated the patient for mental or nervous disorders. If the department ~~or the agency~~ has found reasonable cause under this section and the psychotherapist-patient privilege is asserted, the department ~~or the agency~~ may petition the circuit court for an in camera review of the records by expert medical practitioners appointed by the court to determine if the records or any part thereof are protected under the psychotherapist-patient privilege.

(3) All patient records obtained by the Department of Professional Regulation ~~or the Agency for Health Care Administration~~ and any other documents maintained by the department ~~or the agency~~ which identify the patient by name are confidential and exempt from s. 119.07(1) and shall be used solely for the purpose of the Department of Professional Regulation ~~or the Agency for Health Care Administration~~ and the appropriate regulatory board in its investigation, prosecution, and appeal of disciplinary proceedings. The records shall not be available to the public as part of the record of investigation for and prosecution in disciplinary proceedings made available to the public by the department ~~or the Agency for Health Care Administration~~ or the appropriate board. These exemptions are subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(4) A health care practitioner furnishing copies of reports or records pursuant to this section shall charge no more than the actual cost of copying, including reasonable staff time, or the amount specified in administrative rule by the appropriate board.

Section 42. Section 455.243, Florida Statutes, 1992 Supplement, as amended by section 63 of chapter 92-33, Laws of Florida, and section 35 of chapter 92-149, Laws of Florida, is amended to read:

455.243 Authority to inspect.—In addition to the authority specified in s. 465.017, duly authorized agents and employees of the department ~~of Professional Regulation and the Agency for Health Care Administration shall~~ have the power to inspect in a lawful manner at all reasonable hours:

(1) Any pharmacy; or

(2) Any establishment at which the services of a *licensee* ~~licensed practitioner~~ authorized to prescribe controlled substances specified in chapter 893 are offered,

for the purpose of determining if any of the provisions of *this* chapter *or any practice act of a professional regulated under the department* ~~458, chapter 459, chapter 461, chapter 466, or chapter 474~~ or any rule *adopted* ~~promulgated~~ thereunder is being violated; or for the purpose of securing such other evidence as may be needed for ~~administrative~~ prosecution ~~under chapter 458, chapter 459, chapter 461, chapter 466, or chapter 474~~.

Section 43. Section 455.245, Florida Statutes, 1992 Supplement, as amended by section 64 of chapter 92-33, Laws of Florida, and section 36 of chapter 92-149, Laws of Florida, is amended to read:

455.245 Health care practitioners; immediate suspension of license.—

(1) The department ~~of Professional Regulation or the Agency for Health Care Administration~~ shall issue an emergency order suspending the license of any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter 465, chapter 466, chapter 474, or chapter 484 who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, a felony under chapter 409 or chapter 893 or under 21 U.S.C. ss. 801-970 or under 42 U.S.C. ss. 1395-1396.

(2) If the board has previously found any physician or osteopathic physician in violation of the provisions of s. 458.331(1)(t) or s. 459.015(1)(y), in regard to his treatment of three or more patients, and the probable cause panel of the board finds probable cause of an additional violation of that section, then the *secretary* ~~Director of Health Care Administration~~ shall review the matter to determine if an emergency suspension or restriction order is warranted. ~~Nothing in~~ This section *does not* ~~shall be construed so as to~~ limit the *secretary's* authority ~~of the Secretary of Professional Regulation or the Director of Health Care Administration~~ to issue an emergency order.

Section 44. Subsection (2) of section 455.25, Florida Statutes, 1992 Supplement, is amended to read:

455.25 Disclosure of financial interest by production.—

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

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

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

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

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

Section 45. Section 455.26, Florida Statutes, 1992 Supplement, as amended by section 65 of chapter 92-33, Laws of Florida, and section 37 of chapter 92-149, Laws of Florida, is amended to read:

455.26 Impaired Practitioners Committee; duties.—

(1) There is created the Impaired Practitioners Committee to be composed of one representative *to be appointed by* ~~from~~ each *board* ~~practice licensed~~ under *the jurisdiction of the Division of Medical Quality Assurance within the department* ~~chapter 458, chapter 459, chapter 460, chapter 461, chapter 464, chapter 465, chapter 466, chapter 474, chapter 490, or chapter 491, to be appointed by the board under which the practitioner is licensed,~~ and of one addictionologist, one lay member having an appropriate background in the area of impairment, and a representative of the *department* ~~Agency for Health Care Administration~~, each to be appointed by the ~~Director of Health Care Administration, and of one representative of the Department of Professional Regulation appointed by the~~ Secretary of Professional Regulation. Section 455.207 applies to the activities of the committee.

(2) The committee shall:

(a) Establish policies and guidelines to be used in approving treatment providers for preventive and rehabilitative programs directed to impaired practitioners;

(b) Act as liaison between approved treatment providers and the department ~~of Professional Regulation and the Agency for Health Care Administration~~;

(c) Advise the department ~~and the agency~~ on the continuation and expansion of treatment programs for impaired practitioners; and

(d) Disseminate information concerning the impairment program.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 220, lines 11-13, strike all of those lines and insert: amending ss. 455.201, 455.203, 455.205, 455.207, 455.208, 455.209, 455.211, F.S.; conforming provisions to changes made by the act; repealing s. 43, ch. 92-33, Laws of Florida, relating to license renewal for certain medical professions; abrogating the repeal of s. 455.213(6) and (7), F.S.; repealing ss. 455.2141, 455.2173, F.S., relating to duties of the Agency for Health Care Administration with respect to licensing; amending ss. 455.2175, 455.218, F.S.; conforming provisions to changes made by the act; revising licensure requirements for certain foreign-trained professionals; repealing ss 455.220, 455.2205, F.S., relating to the Health Care Trust Fund; amending ss. 455.221, 455 223, 455.224, 455.225, 455.227, 455.2273, 455.2275, 455.228, 455.2285, 455.229, 455.232, 455.241, 455.243, 455.245, 455.26, F.S.; conforming provisions to changes made by the act; amending s. 240.4067, F.S., relating to

Senator Myers moved the following amendments which were adopted:

Amendment 78—On page 97, line 27, after "Physician" insert: *and physician assistant* "services"

Amendment 79—On page 97, line 28, after "physician" insert: *or a physician assistant*

Amendment 80—On page 98, line 5, after "(g)" insert: *, prenatal care*

SENATOR SCOTT PRESIDING

Senator Williams moved the following amendment which failed:

Amendment 81—On page 98, between lines 15 and 16 insert:

(d) Ambulatory outpatient services. Those services provided to a member in an ambulatory surgical center licensed under Chapter 395, up to a limit of $1,000 per calendar year per member, that are preventive, diagnostic, therapeutic or palliative.

(Renumber subsequent paragraphs.)

THE PRESIDENT PRESIDING

Senator Myers moved the following amendments which were adopted:

Amendment 82—On page 98, line 21, insert:

(e) Birth center services. Those services provided to a member in a birth center licensed under chapter 383, including but not limited to, prenatal, labor and delivery, postpartum, well-woman gynecological services, annual physicals, family planning, educational services, and any laboratory, drugs, or supplies, as appropriate. These services may be provided by physicians licensed under chapter 458 or chapter 459, nurse practitioners licensed under chapter 464, or midwives licensed unders chapter 467, according to their scope of practice.

Amendment 83—On page 98, line 26, after "physician" insert: *and physician assistants*

Motion

On motion by Senator Foley, the rules were waived and time of recess was extended until completion of timely filed amendments to **CS for SB's 1914, 2006, 1784 and 406.**

Senator Forman moved the following amendments which were adopted:

Amendment 84—On page 96, lines 8 and 9, strike "or United States legal permanent residents." and insert: persons residing in the United States under color of law.

Amendment 85—On page 100, line 7, strike "eyeglasses,"

Amendment 86—On page 103, lines 25 through page 104, line 14, strike all of said lines and insert:

(b) The agency shall adopt a fee schedule based on a resource-based relative value scale for pricing Medicaid physician services. Under this fee schedule, physicians shall be paid a dollar amount for each service based on the average resources required to provide the service, including, but not limited to, estimates of average physician time and effort, practice expense, and the costs of professional liability insurance. The fee schedule shall provide increased reimbursement for preventive and primary care services and lowered reimbursement for specialty services by using at least two conversion factors, one for cognitive services and another for procedural services. The fee schedule may not increase total Medicaid physician expenditures unless moneys are available.

Senator Myers moved the following amendments which were adopted:

Amendment 87—On page 105, line 16, after the period (.) insert: Reimbursement for prenatal and postpartal delivery management must be prorated when services are received by a Medicaid recipient in a licensed birth center.

Amendment 88—On page 106, between lines 22 and 23, insert:

(g) Any individual who is seeking treatment for a communicable disease.

Senators Myers and Dyer offered the following amendment which was moved by Senator Myers and adopted:

Amendment 89 (with Title Amendment)—On page 106, line 28, through page 109, line 13, strike all of those lines and insert:

(11) Payments made by the *agency* ~~department~~ to hospitals eligible to participate in this program shall be made in accordance with federal rules and regulations.

(a) If the Federal Government prohibits, restricts, or changes in any manner the methods by which funds are distributed for this program, the *agency may* ~~department shall~~ not distribute any additional funds and shall return all funds to the local government from which the funds were received, except as provided in paragraph (b).

(b) If the Federal Government imposes a restriction that still permits a partial or different distribution, the *agency* ~~department~~ may continue to disburse funds to hospitals participating in the disproportionate share program in a federally approved manner, provided:

1. Each local government which contributes to the disproportionate share program agrees to the new manner of distribution as shown by a written document signed by the governing authority of each local government; and

2. The Executive Office of the Governor, the Office of Planning and Budgeting, the House of Representatives, and the Senate are provided at least 7 days' prior notice of the proposed change in the distribution, and do not disapprove such change.

(c) No distribution shall be made under the alternative method specified in paragraph (b) unless all parties agree or unless all funds of those parties that disagree which are not yet disbursed have been returned to those parties.

(12) Notwithstanding the provisions of chapter 216, the Executive Office of the Governor is hereby authorized to establish sufficient trust fund authority to implement the disproportionate share program.

Section 133. Section 409.9117, Florida Statutes, is created to read:

409.9117 Primary care disproportionate share program.—

(1) If federal funds are available for disproportionate share programs in addition to those otherwise provided by law, there shall be created a primary care disproportionate share program.

(2) In the establishment and funding of this program, the agency shall use the following criteria in addition to those specified in s. 409.911, payments may not be made to a hospital unless the hospital agrees to:

(a) Cooperate with a Medicaid prepaid health plan, if one exists in the community.

(b) Assure the availability of primary and specialty care physicians to Medicaid recipients who are not enrolled in a prepaid capitated arrangement and who are in need of access to such physicians.

(c) Coordinate and provide primary care services free of charge, except copayments, to all persons with incomes up to 100 percent of the federal poverty level, and to provide such services based on a sliding fee scale to all persons with incomes up to 200 percent of the federal poverty level, except that eligibility may be limited to persons who reside within a more limited area, as agreed by the agency and the hospital.

(d) Contract with any federally qualified health center, if one exists within the agreed geopolitical boundaries, concerning the provision of primary care services, in order to guarantee delivery of services in a nonduplicative fashion, and to provide for referral arrangements, privileges, and admissions, as appropriate.

(e) Cooperate with the agency, the county, and other entities to assure the provision of certain public health services, case-management, referral and acceptance of patients, and sharing of epidemiological data, as the agency and the hospital find mutually necessary and desirable to promote and protect the public health within the agreed geopolitical boundaries.

(f) In cooperation with the county in which the hospital resides, develop a low-cost, outpatient, prepaid health care program to persons who are not eligible for the Medicaid program and who reside within the area.

(g) Provide inpatient services to residents within the area who are not eligible for Medicaid or Medicare, and who do not have private health insurance, regardless of ability to pay, on the basis of available space. However, the hospital may establish a bill collection program based on a person's ability to pay.

(h) Work with the Florida Healthy Kids Corporation, the Florida Health Care Purchasing Cooperative, the Florida Health Access Corporation, and business health coalitions as appropriate, to develop a feasibility study and plan to provide a low-cost, comprehensive health insurance plan to persons who reside within the area and who do not have access to such a plan.

(i) Work with public health officials and other experts to provide community health education and prevention activities designed to promote healthy lifestyles and appropriate use of health services.

(j) Work with the local health council to develop a plan for promoting access to affordable health care services for all persons who reside within the area, including, but not limited to, public health services, primary care services, inpatient services, and affordable health insurance generally.

Any hospital that fails to comply with any of the provisions of this subsection, or any other contractual condition, may not receive payments under this section until full compliance is achieved.

(Renumber subsequent sections.)

And the title is amended as follows:

In title, on page 11, line 21, after the semicolon insert: providing reimbursement under Medicaid for physician assistant services;

Senators Forman and Gutman offered the following amendment which was moved by Senator Forman and adopted:

Amendment 90—On page 113, line 16, insert:

7. terminally ill

(Renumber subsequent subparagraphs.)

Senator Forman moved the following amendment:

Amendment 91—On page 113, between lines 17 and 18, insert:

8. Persons in need of alcohol or other drug abuse treatment services.

(Renumber subsequent section.)

Further consideration of **CS for SB's 1914, 2006, 1784 and 406**, with pending **Amendment 91**, was deferred.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

The Governor advised that he had filed with the Secretary of State SB 34, CS for SB 132, CS for SB 224, CS for SB 512, CS for SB 578, CS for SB 586, CS for SB 1074 and CS for SB 1536 which he approved on April 1, 1993.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed HB 71, CS for HB's 411, HB 533, HB 747, HB 869, CS for HB 927, CS for HB 941, HB 991, HB 993, HB 1339, CS for HB 1363, CS for HB 1423, HB 1465, HB 1501, HB 1911, HB 1929, HB 2009, HB 2079, HB 2333, HB 2355; has passed by the required constitutional three-fifths vote of the membership HJR 1129; has passed as amended HB 109, CS for HB 253, CS for HB 393, CS for HB 463, HB 487, CS for HB 495, CS for CS for HB 497, CS for HB 537, CS for HB 571, CS for HB 703, CS for HB 729, CS for HB 767, CS for HB 881, HB 893, HB 897, CS for CS for HB 911, CS for HB 955, CS for HB 975, CS for HB 989, HB 1061, HB 1063, CS for HB 1117, CS for HB 1203, CS for HB 1235, CS for HB 1283, CS for HB 1293, CS for HB 1513, CS for HB 1573, HB 1633, CS for CS for HB 1635, HB 1697, HB 1851, HB 1901, HB 1943, CS for HB 1959, HB 1961, CS for HB 1973, HB 1977, HB 2019, CS for HB 2085, HB 2121, CS for HB 2125, HB 2165, HB 2177, HB 2185, CS for CS for HB 2203, HB 2205, HB 2331, HB 2335, HB 2345; has passed as amended by the required constitutional three-fifths vote of the membership CS for HJR 1579; has adopted HM 1981 and HM 2099 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Rudd and others—

HB 71—A bill to be entitled An act relating to state employment; amending s. 112.061, F.S.; increasing the mileage rate allowable for transportation by privately owned vehicles for official state travel; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Judiciary and Representatives Greene and Reddick—

CS for HB 411—A bill to be entitled An act relating to the Florida Uniform Land Sales Practices Law; amending s. 498.011, F.S.; revising provisions with respect to payment of per diem, mileage, and other expenses to employees of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation; amending s. 498.022, F.S.; providing additional unlawful acts under the Florida Uniform Land Sales Practices Law; amending s. 498.025, F.S.; revising provisions with respect to exemptions, conditions for exemption from the act, and additional exemptions from registration reporting provisions; providing for burden of proof with respect to exemptions; amending s. 498.027, F.S.; revising provisions with respect to applications for registration of subdivided lands; creating s. 498.028, F.S.; providing requirements with respect to contracts and conveyance instruments; amending s. 498.033, F.S.; revising provisions with respect to the registration of subdivided lands; providing for review and repeal; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By Representative Wallace and others—

HB 533—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.06, F.S.; providing for retroactive application of the exemption from said tax for certain promotional materials which are exported outside the state; providing an effective date.

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

By Representative Hawkins—

HB 747—A bill to be entitled An act relating to Collier County; amending ch. 78-494, Laws of Florida, relating to the Immokalee Water and Sewer District; providing for a change in the qualifications of board members; requiring board members to be registered voters and residents of the district; requiring a quorum of four members to transact business; authorizing the district director to hire, discipline, and terminate employees, and to raise the salary of district employees subject to the review and approval of the board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Geller—

HB 869—A bill to be entitled An act relating to the Pine Tree Water Control District, Broward County; amending chapter 85-391, Laws of Florida; providing that the Pine Tree Water Control District is an independent district as defined in chapter 189, Florida Statutes, 1992; providing that voters shall be landowners; providing that a member of the board shall be appointed by the City of Coral Springs City Commission, in lieu of appointment by the Broward County Commission; providing that the board shall be required to hold monthly meetings; providing that the board members shall be paid an amount not to exceed $100 a month; providing that an ad valorem tax shall not be levied and assessed in excess of 5 mills; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Health Care and Representatives Mackey and Graber—

CS for HB 927—A bill to be entitled An act relating to medical review committees; amending s. 766.101, F.S.; expanding the definition of the term "medical review committee" to include review committees of optometric service plan corporations; expanding the definition of the term "health care providers" to include optometrists; providing immunity from liability licensed optometrists for furnishing information during the quality assurance process; providing an effective date.

—was referred to the Committees on Commerce and Health Care.

By the Committee on Judiciary and Representative McClure and others—

CS for HB 941—A bill to be entitled An act relating to attorney's fees and costs in certain proceedings relating to juveniles; creating s. 39.017, F.S.; requiring that attorneys to represent parents or legal guardians in proceedings under parts II, III, IV, V, or VI of ch. 39, F.S., be appointed only upon a finding that the parent or legal guardian is indigent under s. 27.52, F.S.; providing for continuing jurisdiction to assess costs and attorney's fees against nonindigent parents and legal guardians; creating a lien on the real and personal property of parents and legal guardians who have had court-appointed attorneys and providing for enforceability of the lien; amending s. 27.56, F.S., relating to liens for payment of attorney's fees or costs, to conform; providing an effective date.

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

By Representative Clemons—

HB 991—A bill to be entitled An act relating to Bay County; adding section 10 to chapter 23183, Laws of Florida, 1945; providing for the appointment of the Board of Trustees of Bay Medical Center; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Posey—

HB 993—A bill to be entitled An act relating to Brevard County; authorizing the enactment of ordinances prohibiting the taking of fish from any residential, manmade saltwater canal with certain exceptions; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Sindler and others—

HB 1339—A bill to be entitled An act relating to Orange County, the West Orange Memorial Tax District; amending chapter 26066, Laws of Florida, 1949, as amended, substituting the name "West Orange Healthcare District" for the name "West Orange Memorial Hospital Tax District"; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Health Care and Representative Brennan—

CS for HB 1363—A bill to be entitled An act relating to advance directives for health care; amending s. 744.3115, F.S.; providing for court orders to modify or revoke certain authority of a surrogate; amending s. 744.345, F.S.; revising authority of guardians; amending s. 765.101, F.S.; revising definitions; amending s. 765.105, F.S.; providing additional grounds for review of a surrogate or proxy's decision; amending s. 765.106, F.S.; expanding preservation of rights; amending s. 765.110, F.S.; correcting a reference; amending s. 765.202, F.S.; modifying procedure for designating a health care surrogate and condition for seeking appointment of a proxy; amending s. 765.205, F.S.; relating to respective responsibilities of surrogate and guardian; amending s. 765.304, F.S.; authorizing the attending physician to proceed according to a living will when a surrogate has not been designated; providing procedures with regard to disputed decisions to withhold or withdraw life-prolonging procedures; amending s. 765.308, F.S.; providing procedure when a health care facility refuses to comply with the patient's wishes; amending s. 765.401, F.S.; providing that designation of a proxy does not preempt certain statutory designations relating to consent to medical treatment of minors; repealing s. 744.3215(4)(f), F.S., relating to right of persons determined incapacitated to remain as independent as possible; repealing s. 765.111, F.S., relating to effect of state and federal constitutions; repealing s. 765.306(2), F.S., relating to a rebuttable presumption in determination of a patient's condition; repealing s. 765.307, F.S., relating to do-not-resuscitate orders; providing an effective date.

—was referred to the Committees on Health Care and Judiciary.

By the Committee on Appropriations and Representative Geller—

CS for HB 1423—A bill to be entitled An act relating to debt collection agencies; creating a new part V of chapter 559, F.S.; creating the Florida Commercial Collection Practices Act; providing legislative intent; providing definitions; requiring commercial collection agencies to be registered by the Department of Banking and Finance; providing exemptions; providing procedures for registration; providing for fees; requiring a surety bond; providing for evidence of bond; providing for void registration; providing penalties; providing for future review and repeal; providing an appropriation; amending s. 559.55, F.S.; revising definitions; creating ss. 559.551, 559.552, 559.553, 559.555, 559.563, 559.565, 559.725, 559.730 and 559.785, F.S.; creating the Florida Consumer Collection Practices Act; providing for the relationship of state and federal law; requiring consumer collection agencies to be registered by the Department of Banking and Finance; providing exemptions; providing procedures and fees for registration; providing for void registration; providing for enforcement action against certain debt collection; amending ss. 559.715, 559.72, 559.77, and 559.78, F.S.; providing for consumer complaints and administrative duties; providing for administrative remedies; providing penalties; providing for judicial enforcement; providing for review and repeal; providing an appropriation; providing an effective date.

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

By Representative Jamerson—

HB 1465—A bill to be entitled An act relating to Pinellas County; amending chapter 73-595, Laws of Florida, as amended, relating to the Pinellas County Construction Licensing Board; amending the definition of "contractor" to include specified specialty contractors; authorizing the board to issue and serve subpoenas and to compel attendance of witnesses and the production of evidence; eliminating a $5 cap for annual renewal fee on inactive status; expanding the board's disciplinary power to include the power to require restitution and impose reasonable costs; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative King—

HB 1501—A bill to be entitled An act relating to weapons and firearms; amending s. 790.31, F.S.; defining "armor-piercing slug" and prohibiting manufacture, sale, delivery, and possession of such ammunition, for which criminal penalties and certain law enforcement exemptions are provided by law; providing an effective date.

—was referred to the Committee on Criminal Justice.

By Representative Geller—

HB 1911—A bill to be entitled An act relating to Broward County; amending chapter 65-1541, Laws of Florida, as amended, relating to the Downtown Development Authority of the City of Fort Lauderdale, Florida; amending section 9, chapter 65-1541, Laws of Florida, as amended; revising the terms of employment of the director; providing such position may be full or part time at the discretion of the board; requiring board approval for the director to conduct outside business activities; providing for severability; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representatives Ritchie and Kerrigan—

HB 1929—A bill to be entitled An act relating to Escambia County; amending ch. 83-405, Laws of Florida, as amended; revising percentages used to calculate an appropriation for the operating budget of the Civil Service Board; providing for certain discretionary action by the board; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Business and Professional Regulation; and Representatives Tobin and Wise—

HB 2009—A bill to be entitled An act relating to governmental accountability; repealing ss. 4 and 5, ch. 91-429, Laws of Florida, to rescind the scheduled repeal of ss. 11.61 and 11.611, F.S., which are the Regulatory Sunset Act and the Sundown Act, respectively; amending ss. 11.61 and 11.611, F.S.; granting the Speaker of the House of Representatives and the President of the Senate authority to determine the extent of Sunset and Sundown reviews within their respective houses of the Legislature; amending s. 11.62, F.S.; revising the Sunrise Act to require proponents of legislation that provides for the regulation of a profession or an occupation to provide specified information to certain legislative committees and to the appropriate regulatory agency; revising terminology, to conform; providing an effective date.

—was referred to the Committees on Commerce; Professional Regulation; Governmental Operations; and Rules and Calendar.

By the Committee on Governmental Operations and Representative Boyd—

HB 2079—A bill to be entitled An act relating to the Florida Healthy Kids Corporation; amending s. 624.91, F.S.; increasing the number of sites at which the corporation is authorized to operate; revising an exemption from public records requirements for certain student records obtained by the corporation; saving such exemption from repeal; providing for future review and repeal; providing an effective date.

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

By the Committee on Appropriations and Representative Long—

HB 2333—A bill to be entitled An act relating to trust funds; amending s. 215.32, F.S.; eliminating the authority of the Administration Commission and the Chief Justice to create trust funds, to conform to the requirements of the State Constitution; providing for the establishment of accounts within trust funds and for payment therefrom; conforming the list of funds exempt from automatic termination under requirements of the State Constitution; creating s. 215.3206, F.S.; providing for the review and termination or re-creation of trust funds; providing for transfer to general revenue of cash balances and revenues of terminated trust funds and for the payment of any outstanding debts thereof; requiring the Comptroller to provide the Legislature each year with a list of trust funds scheduled for termination and a list of trust funds exempt from automatic termination; amending s. 215.3207, F.S.; providing for establishment of trust funds by a three-fifths vote of each house of the Legislature and for a specified lifespan, to conform to the requirements of the State Constitution; creating s. 215.3208, F.S.; providing a schedule for the review of trust funds administered by specified agencies and branches of state government; providing for review of other trust funds; amending s. 240.213, F.S., relating to the self-insurance program of the Board of Regents, to conform; providing an effective date.

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

By Representative Trammell—

HB 2355—A bill to be entitled An act relating to Jackson County; amending ch. 57-1418, Laws of Florida; providing for the governing and administration of the Jackson County agricultural center; repealing ch. 63-1445 and ch. 77-573, Laws of Florida, relating to revenues of the county paid to the agricultural center; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Villalobos—

HJR 1129—A joint resolution proposing an amendment to Section 1 of Article VIII of the State Constitution relating to sheriffs, to provide that the Legislature may, by general law, establish qualifications for the office of sheriff.

—was referred to the Committees on Criminal Justice; and Rules and Calendar.

By Representative Bainter and others—

HB 109—A bill to be entitled An act relating to Lake County; providing career service status for certain employees of the Lake County Sheriff; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Governmental Operations and Representative Brown and others—

CS for HB 253—A bill to be entitled An act relating to public records and meetings; providing legislative findings; amending s. 119.011, F.S.; including the Department of Corrections within the definition of "criminal justice agency" for purposes of provisions regulating access to public records; amending s. 119.07, F.S.; revising the exemption from public records requirements for personal information relating to law enforcement officers, certain local government code inspectors, certain personnel of the Department of Health and Rehabilitative Services and the Department of Law Enforcement, firefighters, justices, and judges; revising the exemption from public records requirements for documents which reveal information relating to victims of crime; amending s. 281.301, F.S.; clarifying the exemptions from public records and public meetings requirements for information about certain security systems; authorizing the release of information under certain conditions; amending s. 320.025, F.S.; authorizing the Auditor General's Medicaid Fraud Control Unit to register vehicles under fictitious names; amending s. 946.517, F.S.; providing that all financial, industry, and corporate records of the corporation are open to the Auditor General, the Legislature, and the Comptroller; providing for public records exemption under certain circumstances; providing that the board of directors meetings are public meetings; providing an effective date.

—was referred to the Committee on Governmental Operations.

By the Committee on Corrections and Representative Crady—

CS for HB 393—A bill to be entitled An act relating to correctional education; amending s. 242.68, F.S.; revising provisions relating to the Board of Correctional Education; expanding duties of the board; requiring rules; requiring inmate educational assessments and individual plans; requiring contracts to be pursuant to chapter 287, F.S., and to demonstrate cost savings to the state; revising budget and funding provisions; requiring the development of a staffing and funding plan; expanding reporting duties; amending the class of included inmates; expanding required hours of instruction pursuant to s. 236.013, F.S.; expanding testing requirements; revising provisions relating to curricula; requiring certified instructors; expanding gain-time recommendations by the Board of Correctional Education for inmates participating in correctional educational programs; requiring quarterly status reports; reenacting ss.

20.315(13)(b) and 229.565(3), F.S., relating to the Department of Corrections and educational evaluation procedures, to incorporate said amendment in references thereto; providing for future review and repeal; providing effective dates.

—was referred to the Committee on Corrections, Probation and Parole.

By the Committee on Judiciary and Representatives Rush and Jacobs—

CS for HB 463—A bill to be entitled An act relating to media personnel; exempting from disclosure in legal proceedings or in investigations by state agencies the sources of information obtained by certain media personnel; providing exceptions; providing an effective date.

—was referred to the Committee on Judiciary.

By Representative Minton—

HB 487—A bill to be entitled An act relating to the Construction Industry Licensing Board, Palm Beach County; amending s. 13, ch. 67-1876, Laws of Florida, as amended; making exemptions for work on certain infrastructure consistent with state law; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Business and Professional Regulation; and Representative Armesto-Garcia—

CS for HB 495—A bill to be entitled An act relating to emergency planning; amending s. 393.067, F.S.; requiring the preparation and updating of a comprehensive emergency management plan for intermediate care facilities; amending s. 395.1055, F.S.; requiring the Agency for Health Care Administration to promulgate rules establishing minimum criteria for the preparation and annual update of a comprehensive emergency management plan; amending s. 400.23, F.S.; requiring the Agency for Health Care Administration to promulgate rules establishing minimum criteria for the preparation and annual update of a comprehensive emergency management plan; amending s. 400.441, F.S.; requiring the Department of Health and Rehabilitative Services to promulgate rules establishing minimum criteria for the preparation and annual update of a comprehensive emergency management plan; providing an effective date.

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

By the Committees on Finance and Taxation; and Tourism and Economic Development; and Representative Armesto-Garcia and others—

CS for CS for HB 497—A bill to be entitled An act relating to Cuba; creating the "1993 Free Cuba Act"; requiring the State Board of Administration to divest certain investments; prohibiting specified investments; allowing local governing authorities to revoke or refuse to renew an occupational license; amending s. 542.34, F.S.; revising provisions relating to discriminatory trade practices; authorizing the Governor to waive the requirements of the act under certain circumstances; providing an effective date.

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

By the Committee on Ethics and Elections; and Representative Sublette—

CS for HB 537—A bill to be entitled An act relating to elections; amending s. 98.211, F.S.; providing that the registration books are public records subject to inspection, examination, and duplication as provided by law; deleting provisions that restricted the furnishing of registration information to certain persons and entities; prohibiting the use of registration lists for commercial purposes; providing penalties; repealing s. 4, ch. 91-235, Laws of Florida, relating to an amendment to s. 98.211(2), F.S., with a future effective date, to conform; amending s. 99.061, F.S.; providing for the decertification of candidates who fail, within a specified time period, to correct errors in their qualifying papers or fees, who fail to qualify in accordance with any provision of the election code, or who intentionally fail to claim or pick up the notification of errors or omissions sent to them by registered mail; requiring qualifying fees to be paid by cashier's check purchased from campaign account funds under certain circumstances; amending s. 106.11, F.S., relating to expenditures from campaign accounts, to conform; amending s. 99.097, F.S.; authorizing minor party candidates to sign an oath of undue financial burden in lieu of paying the petition signature verification charges; amending s. 103.021, F.S.; providing for the designation and ballot requirements of a replacement for the vice presidential nominee of an independent candidate in the event of a vacancy in that nomination; prohibiting land trusts from making certain political contributions; amending s. 106.011; providing definitions; providing an effective date.

—was referred to the Committee on Executive Business, Ethics and Elections.

By the Committee on Insurance and Representative Geller—

CS for HB 571—A bill to be entitled An act relating to insurance; amending s. 324.201, F.S.; providing for the release of certain information to recovery agents or agencies; providing a procedure when a recovery agent or agency obtains a seized license plate; authorizing recovery agents to seize license plates in certain counties; providing for rules and for a contractual relationship with the Department of Highway Safety and Motor Vehicles; creating s. 626.7355, F.S.; providing for temporary customer representative licenses; creating s. 627.0662, F.S.; requiring certain insurers to deposit excess profits in a special account; amending s. 627.6472, F.S.; providing that a plan of operation for an exclusive provider provision may be filed and approved before providers enter into contracts with insurers; including motor vehicle insurers within the definitions of "insurer" and "health insurer" for certain purposes; creating s. 627.6585, F.S.; requiring group health insurance contracts to contain a specified incontestability clause; providing alternative language; amending s. 627.7263, F.S.; specifying conditions under which a renter's or lessee's coverage becomes primary; requiring certain notice; creating s. 627.7265, F.S.; specifying circumstances under which misrepresentations, omissions, concealments, or incorrect statements may prevent recovery under a motor vehicle insurance policy; providing circumstances under which rights to prevent recovery are waived; amending s. 627.7283, F.S.; specifying the time for refund of unearned portions of premiums; amending s. 627.7295, F.S.; specifying the period within which a new policy or binder may not be canceled; amending s. 627.732, F.S.; defining "recovery agent"; amending s. 627.733, F.S.; providing for disposition of fees with respect to certain license plates seized by recovery agents; amending s. 627.736, F.S.; creating a presumption relating to failure to provide notice of an accident; authorizing an insurer to issue certain policies limiting payment of medical benefits under certain circumstances; authorizing certain injured persons to receive health care services from any licensed health care provider; providing for limitation of reimbursement or payment of medical benefits; requiring personal injury protection insurers to provide certain notice; providing for future repeal and review; amending s. 627.739, F.S.; providing for application of a deductible amount; providing for receipt of certain benefits after a deductible is met; amending s. 627.8405, F.S.; prohibiting certain premium financing; amending s. 627.848, F.S.; providing for a cause of action by an insured against a premium finance company under certain circumstances; specifying certain proof of notice of intent to cancel or request for cancellation of certain contracts; providing circumstances for award of attorney's fees; amending s. 713.78, F.S.; requiring notice to insurers with respect to certain recovered, removed, or stored vehicles; specifying rights of insurers; providing circumstances for release of the vehicle to the insurer; amending s. 715.05, F.S.; providing for notice to the insurer of unclaimed motor vehicles; providing an effective date.

—was referred to the Committee on Commerce.

By the Committee on Health Care and Representative Graber and others—

CS for HB 703—A bill to be entitled An act relating to reproductive technology; amending s. 742.11, F.S.; providing for the status of certain children born from donated eggs or preembryos; changing the title of ch.

742, F.S.; creating s. 742.13, F.S.; providing definitions; creating s. 742.14, F.S.; providing for the relinquishment of rights by the donor of eggs, sperm, or preembryos; restricting compensation for such donation; creating s. 742.15, F.S.; requiring a contract before engaging in gestational surrogacy; specifying contract requirements and restrictions; creating s. 742.16, F.S.; requiring a petition for affirmation of parental status; providing for notice and hearing; specifying duties of the Department of Health and Rehabilitative Services regarding birth certificates; providing an exemption from public records law; providing for review and repeal; creating s. 742.17, F.S.; providing for the disposition of eggs, sperm, and preembryos under specified conditions; restricting rights of inheritance; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committee on Finance and Taxation; and Representative Chestnut and others—

CS for HB 729—A bill to be entitled An act relating to taxation; amending s. 212.0515, F.S.; revising the method for calculating the amount of sales tax to be paid on certain beverages sold in vending machines; amending s. 212.054, F.S.; revising provisions which specify requirements for the administration and collection of discretionary sales surtaxes; providing for application of such surtaxes to the sale of services; providing that the exemption for sales amounts above $5,000 does not apply to the sale of services; revising the conditions under which a transaction is deemed to occur in a county imposing the surtax; specifying when a surtax applies to dealers outside the county; providing for distribution of the proceeds of such surtaxes collected by a dealer located in a county that does not impose a surtax; specifying consequences if a county does not provide timely information to the Department of Revenue; amending s. 212.055, F.S.; removing the limitations on the length of time the local government infrastructure surtax may be levied, subject to an exception; removing the limitation on the period during which a referendum levying the surtax may be held; authorizing additional uses for surtax revenues; ratifying such uses of surtax revenues prior to July 1, 1993; providing effective dates.

(Substituted for **SB 1306** on the Special Order Calendar this day.)

By the Committee on Education and Representative Klein and others—

CS for HB 767—A bill to be entitled An act relating to education; amending s. 232.246, F.S.; providing for high school credit for student service work; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Higher Education and Representatives Hafner and Peeples—

CS for HB 881—A bill to be entitled An act relating to the State University System; amending s. 240.1201, F.S.; classifying certain persons as Florida residents for tuition purposes; amending s. 240.209, F.S.; revising the master planning process for the State University System; amending s. 240.2111, F.S.; revising provisions of the employee recognition program; deleting a reporting requirement; amending s. 240.2112, F.S.; revising provisions of the incentive efficiency program; amending s. 240.225, F.S.; deleting provisions relating to the requirement for approval of award of certain procurements; amending s. 240.227, F.S.; requiring the establishment of continuing education fees; amending s. 240.235, F.S.; revising provisions relating to tuition and fees for members of the Florida National Guard; providing for an intern participation program; amending s. 240.272, F.S.; revising provisions relating to the carryforward of unexpended funds; providing an effective date.

—was referred to the Committees on Education; Personnel, Retirement and Collective Bargaining; and Appropriations.

By Representative Jacobs—

HB 893—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; relating to the West Palm Beach Police Pension and Relief Fund; amending section 16 of chapter 24981, Laws of Florida, 1947, as amended; amending subsection (1), regarding the creation of the pension fund; amending subsection (2), regarding definitions; amending subsection (3), relating to the Board of Trustees and the payment of expenses and per diem for trustees; amending subsection (4), relating to professional and clerical services; amending subsection (5), regarding reports to the fund and other experience tables; amending subsection (6), relating to membership in the fund; amending subsection (7), regarding service credit; amending subsection (8), regarding requirements for retirement; providing for deferred retirement; providing for early retirement benefits; amending subsection (9), regarding calculations of benefits; relating to the payment of benefits; relating to forms of benefits and optional benefits; providing for designation of the beneficiary or beneficiaries; providing for payment of benefits in the event no beneficiary is named; incorporating subsection (10); providing for cost-of-living increases; amending subsection (11); providing for share accounts; adding a subsection (12); providing for a supplemental pension distribution; adding a new subsection (13); providing for a Deferred Retirement Option Plan; amending subsections (14), (15), and (16), regarding eligibility for disability benefits; regarding the final decision to award disability benefits; regarding minimum disability benefits; relating to the use of a medical committee; regarding the payment for medical examinations; regarding limitations on maximum disability benefits; providing for exclusions from disability pensions; providing for payment of disability retirement income; relating to the examination of a disability retirant; revising provisions for return to work after disability ends; amending subsection (17), regarding death benefits to beneficiaries; amending subsection (18), regarding workers' compensation offset; amending subsection (19), regarding members' contributions and refund of members' contributions; amending subsection (20), regarding sources of revenue; amending subsection (21), regarding investment provisions; providing for the payment of administrative expenses; amending subsection (22), regarding existing benefits; amending subsection (23), regarding the nonassignability of benefits; amending subsection (24), regarding subrogation rights; amending subsection (25), regarding applicability of ordinances and approval of changes to the Special Act; amending subsection (26); providing for review procedures; adding subsection (27); providing for lump-sum payments of small retirement income; adding subsection (28); providing for pickup or member contributions; adding subsection (29); providing for limitations on maximum pension benefits; adding subsection (31); providing miscellaneous requirements; repealing all laws in conflict herewith; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Klein—

HB 897—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending section 17 of chapter 24981, Laws of Florida, 1947, as amended, relating to the West Palm Beach Firemen's Relief and Pension Fund; amending provisions regarding the creation of pension funds; revising definitions and revising provisions relative to the Board of Trustees, membership in the Fund, and the payment of expenses and per diem for trustees; amending provisions relating to professional and clerical services; amending provisions regarding sources of revenue; amending provisions regarding the custodian of the Fund; amending provisions relating to requirements for retirement; amending provisions relating to the deposit of moneys and securities and to disbursements; providing for the payment of administrative expenses; amending provisions relating to service pensions; amending the vesting provisions for deferred retirement; amending provisions relating to the payment of benefits and to forms of benefits and optional benefits; providing for designation of the beneficiary or beneficiaries; providing for payment of benefits in the event no beneficiary is named; providing for refund of contributions; providing for share accounts; amending provisions regarding eligibility for disability benefits, the final decision to award disability benefits, and minimum disability benefits; amending provisions relating to the use of a medical committee; providing for exclusions from disability pensions; providing for payment of disability pen-

sions; amending provisions regarding limitations on maximum disability benefits; providing the normal form of disability retirement income; amending provisions relating to the examination of a disability retirant; revising provisions for return to work after disability ends; amending provisions regarding benefits to beneficiaries; amending provisions regarding the nonassignability of benefits; amending provisions regarding the transfer of funds; amending provisions regarding existing benefits; amending provisions regarding workers' compensation offset; amending provisions regarding actuarial valuations; providing for review procedures; providing for lump sum payment of small retirement income; providing for pick-up of employee contributions; providing restrictions on pension and disability benefits; providing for required distribution; declaring all laws in conflict repealed; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committees on Finance and Taxation; and Community Affairs; and Representative R. Saunders and others—

CS for CS for HB 911—A bill to be entitled An act relating to emergency management; amending s. 23.121, F.S.; revising policy and purpose of the Florida Mutual Aid Act; amending s. 23.1225, F.S.; expanding provisions with respect to mutual aid agreements; amending s. 23.1231, F.S.; revising powers and duties with respect to the Florida Mutual Aid Plan; amending s. 23.127, F.S.; expanding provisions with respect to mutual aid agreements between law enforcement agencies; creating s. 213.055, F.S.; authorizing refunds of certain taxes paid during a state of emergency; authorizing the extension of due dates; authorizing the waiver of interest on taxes due; amending s. 235.26, F.S.; requiring the Department of Education to determine amendments necessary to the State Uniform Building Code for Public Educational Facilities Construction for the purpose of incorporating public shelter design criteria; requiring submission of criteria and estimated costs to the Governor and the Legislature; requiring the State Board of Education to amend the uniform building code by a specified date; amending s. 240.295, F.S.; requiring the Board of Regents to assess public shelter space within existing facilities of the State University System; providing for a report; providing for public shelter construction under certain circumstances; creating s. 252.311, F.S.; providing legislative intent; amending s. 252.32, F.S.; clarifying policy and purpose with respect to emergency management; amending s. 252.34, F.S.; providing definitions; amending s. 252.36, F.S.; providing clarifying language with respect to the emergency management powers of the Governor; amending and renumbering s. 252.35, F.S.; creating the Division of Emergency Management within the Department of Community Affairs; providing duties and responsibilities of the division; providing for a state comprehensive emergency management plan; creating s. 252.365, F.S.; providing for designation of Emergency Coordination Officers; amending s. 252.37, F.S.; providing specified surcharges; providing for the deposit of funds in a specified account within the Grants and Donations Trust Fund of the Department of Community Affairs; providing for the distribution of funds; providing for rules; amending s. 252.38, F.S.; revising and clarifying the emergency management powers of political subdivisions; specifying emergency management powers of counties and municipalities; amending and renumbering s. 252.355, F.S.; requiring each local emergency management agency in the state to maintain a registry of disabled persons; specifying the purpose of such registries; requiring the Department of Health and Rehabilitative Services to provide registration information; providing an exemption from public records requirements for records and information relative to such registries; providing for future review and repeal; creating s. 252.385, F.S.; providing legislative intent with respect to safe public shelter space; providing for a survey program; providing for annual reports with respect to retrofitting of facilities; amending s. 252.40, F.S., relating to mutual-aid arrangements; requiring a report from the Governor; amending ss. 252.46, 252.47, and 252.50, F.S., to conform; amending s. 252.52, F.S., to conform; prohibiting professional malpractice claims against certain licensed professionals under certain circumstances; providing a limitation against such immunity from liability; creating s. 327.59, F.S., relating to evacuations of marinas; amending s. 393.067, F.S.; requiring the Department of Health and Rehabilitative Services and the Agency for Health Care Administration to adopt rules establishing minimum standards for the preparation and annual updating of a comprehensive emergency management plan with respect to residential facilities for persons with developmental disabilities; amending s. 395.1055, F.S.; providing for the inclusion of a comprehensive emergency management plan within rules governing hospital regulation; amending ss. 400.23 and 400.441, F.S.; revising provisions with respect to minimum standards for nursing home facilities and adult congregate living facilities; including the preparation and annual updating of a comprehensive emergency management plan within such minimum standards; amending s. 400.407, F.S.; correcting a cross reference; creating s. 408.0415, F.S.; providing for expedited licensure and relicensure of specified intermediate care facilities for the developmentally disabled; amending s. 409.905, F.S.; expanding provisions relating to mandatory Medicaid services to provide for payment for specified nursing facility services under certain circumstances; amending s. 409.908, F.S., relating to reimbursement to hospitals for the provision of skilled nursing services; amending s. 465.019, F.S.; authorizing the provision of dispensing and consulting services by Class II institutional pharmacies during a state of emergency; amending s. 465.0275, F.S.; providing exceptions to provisions regulating emergency prescription refills; amending s. 768.13, F.S.; adding declared states of emergency to the circumstances under which the good faith gratuitous rendering of emergency care or treatment is provided certain immunity from civil liability, and reenacting s. 401.265(3), F.S., relating to medical directors, to incorporate said amendment in a reference thereto; amending s. 624.5092, F.S.; requiring the Department of Revenue to administer, audit, and enforce the assessment and collection of the surcharge imposed by s. 252.37, F.S.; amending s. 374.976, F.S., relating to impacts of waterway development projects; authorizing inland navigation districts to waive certain rules for a project approved in a county recovering from a state of emergency; providing an appropriation; providing an effective date.

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

By the Committee on Agriculture and Consumer Services; and Representative Rojas and others—

CS for HB 955—A bill to be entitled An act relating to the Florida Motor Vehicle Repair Act; amending s. 559.901, F.S.; correcting a reference; amending s. 559.902, F.S.; providing for application; amending s. 559.903, F.S.; providing definitions; creating s. 559.904, F.S.; providing for motor vehicle repair shop registration; providing for an affidavit for exemption; providing fees; amending s. 559.907, F.S.; correcting a reference; amending s. 559.909, F.S.; revising provisions with respect to unlawful charges; amending s. 559.911, F.S.; providing for additional information on the required repair invoice; amending s. 559.915, F.S.; requiring the keeping of customer records for an additional time period; providing for access to records and inspection by the Department of Agriculture and Consumer Services; creating s. 559.916, F.S.; providing for required disclosure, signs, and notice to customers; amending s. 559.919, F.S.; correcting a reference; creating s. 559.920, F.S.; providing for unlawful acts and practices; renumbering and amending s. 559.923, F.S., relating to remedies; prescribing enforcement authorities; creating s. 559.9215, F.S.; providing for deposit of fees and fines; creating s. 559.922, F.S.; providing for financial assistance with respect to training; creating s. 559.9221, F.S.; creating a Motor Vehicle Repair Advisory Council; providing for memberships; prescribing duties of the council; amending s. 320.27, F.S.; revising the definition of "motor vehicle dealer"; prescribing grounds for denial, suspension or revocation of motor vehicle dealers' licenses; providing for injunctions; amending s. 320.60, F.S.; revising the definition of "motor vehicle dealer"; providing an appropriation; providing effective dates.

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

By the Committee on Judiciary and Representative Stafford—

CS for HB 975—A bill to be entitled An act relating to collateral sources of indemnity; amending s. 768.76, F.S.; providing exceptions to a definition of collateral source; requiring notice of tort claims be provided to certain collateral sources; requiring certain subrogation rights to be asserted within a certain time; specifying rights of reimbursement; providing for resolution of certain disputes; requiring collateral source providers to cooperate with claimants under certain circumstances; amending s. 641.31, F.S.; providing that certain reimbursement of health maintenance organizations be in accord with certain collateral source provisions; repealing s. 627.7372, F.S., relating to collateral sources of indemnity; providing an effective date.

—was referred to the Committees on Judiciary, Health Care and Commerce.

By the Committee on Criminal Justice and Representative Wise—

CS for HB 989—A bill to be entitled An act relating to DUI programs; creating s. 322.292, F.S.; describing the responsibility of the Department of Highway Safety and Motor Vehicles in the supervision of DUI programs; creating s. 322.293, F.S.; transferring the DUI Programs Coordination Office and the DUI Programs Coordination Trust Fund to the Department of Highway Safety and Motor Vehicles; providing for assessments against DUI offenders to be deposited in the DUI Programs Coordination Trust Fund; amending s. 316.193, F.S.; placing supervision of DUI programs under the department; requiring licensed substance abuse treatment providers; amending s. 322.095, F.S.; deleting reference to Traffic Court Review Committee; requiring certified instructors and an independent evaluation; amending s. 322.271, F.S.; transferring certain supervisory authority over persons under license revocation to the department; requiring specified supervision activities; requiring adoption of rules; repealing s. 25.387, F.S., relating to the DUI Programs Coordination Trust Fund; providing an effective date.

—was referred to the Committees on Transportation; Criminal Justice; Governmental Operations; Rules and Calendar; and Appropriations.

By Representative Hawkins—

HB 1061—A bill to be entitled An act relating to Collier County; amending ch. 90-465, Laws of Florida, as amended, which prohibits the taking of saltwater fish, except by hook and line, handheld cast nets, and with no more than five (5) crab traps, in the residential manmade saltwater canals in the unincorporated area of Collier County, to define those manmade saltwater canals within Collier County subject to the jurisdiction of the act; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Greene—

HB 1063—A bill to be entitled An act relating to the West Palm Beach Downtown Development Authority, Palm Beach County; amending chapter 67-2170, Laws of Florida, as amended; providing for an increase in board members; providing for mayoral appointment of board members; increasing the maximum millage rate for ad valorem taxation to 2 mills; providing representation requirements of the board members; providing for a referendum; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By the Committee on Business and Professional Regulation; and Representatives Bush and Armesto-Garcia—

CS for HB 1117—A bill to be entitled An act relating to telephone companies; amending s. 364.3377, F.S.; requiring telecommunications companies that provide operator services to ensure users of those services access to a live operator at the beginning and at anytime during the call processing; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Education and Representative Safley and others—

CS for HB 1203—A bill to be entitled An act relating to education; amending s. 230.2316, F.S.; revising provisions relating to the Dropout Prevention Act; providing for student support and assistance programs; revising components and requirements of various programs; revising provisions relating to implementation of programs; revising program plan review and approval procedures; deleting requirements for a dropout prevention manual; amending s. 229.592, F.S.; correcting cross references; authorizing the use of unobligated discretionary capital improvement millage to fund one-time expenditures for classroom materials; requiring the Commissioner of Education to appoint a task force to study and recommend alternatives to the current system of awarding graduation credits; requiring a report; providing an effective date.

—was referred to the Committees on Education and Appropriations.

By the Committee on Criminal Justice and Representative McAndrews—

CS for HB 1235—A bill to be entitled An act relating to criminal justice standards and training; amending s. 943.11, F.S.; increasing the membership of the Criminal Justice Standards and Training Commission; requiring the Governor to take certain action regarding the composition of such commission; amending s. 943.12, F.S.; creating s. 943.125, F.S.; expressing legislative direction and intent; requiring a report regarding feasibility and development status of law enforcement agency accreditation; providing duties of the commission relating to officer certification examinations; amending s. 943.13, F.S.; revising officers' minimum qualifications relating to basic training and the certification examination, and reenacting s. 943.173(2), F.S., relating to examinations, to incorporate said amendment in a reference thereto; amending s. 943.131, F.S.; revising provisions relating to temporary employment or appointment and training exemption, and reenacting ss. 258.024(1)(a)2. and 626 989(7), F.S., relating to park officers and insurance fraud investigators, to incorporate said amendment in a reference thereto; amending s. 943.133, F.S.; revising duties of the employing agency and authorizing electronic transmission of documents; amending s. 943.135, F.S.; providing duties of the employing agency and authorizing electronic transmission of documents; amending s. 943.139, F.S.; providing duties of the employing agency and authorizing electronic transmission of documents; amending s. 943.1395, F.S.; providing additional standards for reemployment or reappointment; creating s. 943.1397, F.S.; providing for officer certification examinations and examination fees; amending s. 943.14, F.S.; requiring criminal justice training courses to meet certain requirements; amending s. 943.16, F.S.; authorizing employing agencies to pay certain examination fees; amending s. 943.17, F.S.; requiring job-related officer certification examinations for each discipline; amending s. 943.25, F.S.; providing that officer certification examination fee revenues remain in the Criminal Justice Training Trust Fund; providing an effective date.

—was referred to the Committees on Criminal Justice; Personnel, Retirement and Collective Bargaining; and Appropriations.

By the Committee on Education and Representative Bush and others—

CS for HB 1283—A bill to be entitled An act relating to the Florida Martin Luther King, Jr., Institute for Nonviolence; providing legislative findings; creating the institute and providing for an advisory board; providing membership, terms, powers, and duties; authorizing the establishment of fellowships; providing an effective date.

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

By the Committee on Judiciary and Representative Clemons and others—

CS for HB 1293—A bill to be entitled An act relating to exemptions from legal process; amending s. 77.0305, F.S.; providing for garnishment of government employee wages; providing for moneys to be deposited in the Department of Banking and Finance Administrative Trust Fund; providing a limited waiver of sovereign immunity; amending s. 222.11, F.S.; providing definitions; providing limitations on wages exempt from garnishment or attachment; providing for tracing of head of family wages; creating s. 222.25, F.S.; providing an exemption for other individual property which is exempt from legal process; creating s. 222.29, F.S.; prohibiting exemptions for fraudulent transfers; creating s. 222.30, F.S.; defining fraudulent asset conversions; providing remedies for creditors concerning fraudulent asset conversions; providing a time limitation for bringing legal actions; providing an effective date.

—was referred to the Committees on Commerce and Appropriations.

By the Committee on Commerce and Representative King—

CS for HB 1513—A bill to be entitled An act relating to retail installment sales; amending s. 520.07, F.S.; authorizing certain provisions in retail installment contracts for motor vehicles; providing that a buyer may be required to post a bond or deposit installment payments into a court registry under certain circumstances; providing for applicability of the act; providing an effective date.

—was referred to the Committees on Commerce and Judiciary.

By the Committee on Judiciary and Representative Minton and Burke—

CS for HB 1573—A bill to be entitled An act relating to the State of Florida Guardian Ad Litem Program; amending ss. 61.402 and 415.503, F.S.; authorizing a security background investigation of certified guardians ad litem; providing an effective date.

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

By Representative Martinez and others—

HB 1633—A bill to be entitled An act relating to violent crime; creating s. 943.031, F.S.; creating the Florida Violent Crime Council and providing for membership, terms, meetings, duties, and annual reporting; providing for review and repeal; amending s. 943.04, F.S.; authorizing regional violent crime investigation teams; creating s. 943.042, F.S.; creating the Violent Crime Investigative Emergency Account within the Department of Law Enforcement Operating Trust Fund; authorizing local law enforcement agencies to donate forfeiture funds; amending s. 943.03, F.S.; authorizing an integrated violent crime information system; amending s. 943.051, F.S.; requiring that juveniles charged with certain offenses be fingerprinted; amending s. 39.039, F.S.; requiring the fingerprints of juveniles charged with certain offenses be submitted to the Department of Law Enforcement; amending s. 951.26, F.S.; authorizing county public safety coordinating councils to elect a chairman; amending s. 943.17, F.S.; requiring basic skills training on violent crime; amending s. 943.325, F.S.; authorizing DNA specimens for persons convicted of murder, and reenacting s. 760.40(2)(a), F.S., relating to genetic testing, to incorporate said amendment in a reference thereto; requiring a juvenile criminal history data base proposal; providing an effective date.

—was referred to the Committees on Criminal Justice; Governmental Operations; Finance, Taxation and Claims; and Appropriations.

By the Committees on Finance and Taxation; Governmental Operations; and Representative Mortham and others—

CS for CS for HB 1635—A bill to be entitled An act relating to contracts with private auditors; amending s. 213.28, F.S.; clarifying provisions providing for contracts by the Department of Revenue with certified public accountants to audit taxpayer accounts; including certain taxes; providing for approval of certain contracts by the head of the department; prohibiting fees based upon the amount of tax assessed or collected; requiring the department to establish certain procedures for selecting private auditors; requiring the department to establish certain training, certification, and review procedures; providing an effective date.

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

By Representative Warner—

HB 1697—A bill to be entitled An act relating to Martin County; providing non-probationary status for certain employees of the Martin County Sheriff; specifying rights of such employees; clarifying terms; specifying cause for suspension or dismissal; providing for transition, a complaint procedure, discipline, appeals and limitation on certain appeals, and procedures for appeal of disciplinary actions and complaints; providing for appointment of boards to hear appeals and procedures with respect thereto; providing for administration; providing an effective date.

Proof of publication of the required notice was attached.

—was referred to the Committee on Rules and Calendar.

By Representative Hawkins—

HB 1851—A bill to be entitled An act relating to exchange of public lands; providing that the Board of Trustees of the Internal Improvement Trust Fund convey to Collier County the Marco Island Airport; providing that the airport revert to the board if it ceases to be used as an airport; providing that the county convey to the board a parcel of its land holdings within Fakahatchee Strand State Preserve; providing for the closing of Janes Scenic Drive within the Fakahatchee Strand State Preserve; providing an effective date.

—was referred to the Committees on Natural Resources and Conservation; and Community Affairs.

By the Committee on Governmental Operations and Representatives Boyd and Tedder—

HB 1901—A bill to be entitled An act relating to statutorily required reports; amending s. 216.345, F.S.; removing the reporting requirement for membership dues payments; providing for a summary of such information; repealing s. 240.138, F.S.; removing the reporting requirement for foreign gifts received by universities and community colleges; repealing s. 240.2111(1)(c), F.S.; removing the requirement that universities report on employee recognition programs; amending s. 240.283, F.S.; providing that information relating to compensation for university employees be included in the legislative budget request; amending s. 240.311, F.S.; removing the reporting requirement for certain information from community colleges; amending ss. 240.331 and 240.3315, F.S.; correcting cross references; amending s. 240.335, F.S.; removing the reporting requirement regarding salary discrimination by community colleges; amending s. 255.05, F.S.; removing the reporting requirement for certain contractors' bond waiver requests; repealing s. 255.512, F.S.; removing the reporting requirement for information relating to the Division of Facilities Management of the Department of Management Services; amending s. 282.308, F.S.; removing the reporting requirement for certain State University System information relating to information technology expenditures; amending s. 370.13, F.S.; correcting a cross reference; repealing s. 370.141, F.S.; removing reporting and other requirements relating to seafood dealers; repealing s. 287.133(3)(a), F.S., relating to certain sworn statements used by public entities relating to contracts for the provision of goods and services; providing an effective date.

—was referred to the Committees on Governmental Operations; Natural Resources and Conservation; and Education.

By the Committee on Commerce and Representative Clemons and others—

HB 1943—A bill to be entitled An act relating to limited liability companies; amending ss. 473.309, 473.3101, and 473.321, F.S.; applying provisions related to practicing public accountancy to limited liability companies; providing requirements; prohibiting limited liability companies from practicing public accountancy under certain circumstances; revising chapter 608, F.S.; amending s. 608.401, F.S.; providing a short title, amending s. 608.402, F.S.; providing definitions; amending s. 608 404, F.S.; specifying the powers of limited liability companies; amending s. 608.405, F.S.; providing for formation of limited liability companies; amending s. 608.406, F.S.; providing requirements for names of limited liability companies; creating s. 608.4061, F.S.; providing for reservation of the name of a foreign limited liability company; creating s. 608.4062, F.S.; providing for registration of the name of a foreign limited liability company; amending s. 608.407, F.S.; specifying content of articles of organization; amending s. 608.408, F.S.; providing for execution of certificates or statements; creating s. 608.4081, F.S.; providing filing requirements; creating s. 608.4082, F.S.; providing duties of the Department of State; amending s 608.409, F.S.; specifying effect of issuance of certificate of organization; creating s. 608.4101, F.S.; requiring maintenance of certain records; amending s. 608.411, F.S.; providing for amendment to articles of organization; creating s. 608.412, F.S.; requiring filing of supplemental affidavit of capital contributions in specified circumstances; amending s. 608.415, F.S.; requiring limited liability companies to maintain registered office and registered agent; amending s. 608.416, F.S.; providing for change of registered office and change or resignation of registered agent; amending s. 608.4211, F.S.; specifying allowable contributions to capital and liability therefor; amending s. 608.422, F.S.; providing for management; creating s. 608.4225, F.S.; providing general standards for managers or managing members; amending s. 608.423, F.S.; providing for adoption of regulations; creating s. 608.4231, F.S.; providing for voting by members and managers; creating s. 608.4232, F.S.; providing for additional members; amending s. 608.424, F.S.; limiting ability to contract debt; amending s. 608.425, F.S.; providing for ownership of company

property; amending s. 608.426, F.S.; providing circumstances for distribution of property; creating s. 608.4261, F.S.; providing for sharing of profits and losses; amending s. 608.427, F.S.; providing for withdrawal or reduction of members' contributions to capital; creating s. 608.428, F.S.; specifying liability upon return of contribution; amending s. 608.432, F.S.; providing for transfer of members' interests; creating s. 608.433, F.S.; providing circumstances under which an assignee may become a member; creating s. 608.434, F.S.; specifying powers of the estate of a deceased or incompetent member; amending s. 608.436, F.S.; specifying liability of members and managers to creditors; creating s. 608.4362, F.S.; specifying liability of managers and managing members; creating s. 608.4363, F.S.; providing for indemnification; amending s. 608.441, F.S.; providing for dissolution; creating s. 608.4411, F.S.; providing for revocation of dissolution; creating s. 608.4421, F.S.; providing for disposition of claims against dissolved company; creating s. 608.4431, F.S.; specifying effect of dissolution; amending s. 608.444, F.S.; providing for distribution of assets upon dissolution; amending s. 608.445, F.S.; specifying content of articles of dissolution; amending s. 608.446, F.S.; providing for filing of articles of dissolution; amending s. 608.448, F.S.; specifying grounds for administrative dissolution; creating s. 608.4481, F.S.; providing procedures for and effects of administrative dissolution; creating s. 608.4482, F.S.; providing for reinstatement; creating s. 608.4483, F.S.; providing for appeal from denial of reinstatement; amending s. 608.449, F.S.; providing grounds for judicial dissolution; creating s. 608.4491, F.S.; providing procedure for judicial dissolution; creating s. 608.4492, F.S.; providing for receivership or custodianship; creating s. 608.4493, F.S.; providing for decree of dissolution; creating s. 608.4494, F.S.; requiring deposit of assets of dissolved company with the Department of Banking and Finance; creating s. 608.4511, F.S.; requiring filing of annual reports with the Department of State; amending s. 608.452, F.S.; specifying fees of the Department of State; amending s. 608.455, F.S.; providing for waiver of certain required notices; amending s. 608.471, F.S.; providing for determination of tax under chapter 220, F.S.; creating s. 608.501, F.S.; requiring a foreign limited liability company to obtain a certificate of authority prior to transacting business; creating s. 608.502, F.S.; specifying consequences of transacting business without authority; creating s. 608.503, F.S.; providing for application for certificate of authority; creating s. 608.504, F.S.; providing for amendment of certificate of authority; creating s. 608.505, F.S.; specifying effect of certificate of authority; creating s. 608.506, F.S.; providing requirements for name of foreign limited liability company; creating s. 608.507, F.S.; requiring registered office and registered agent; creating s. 608.508, F.S.; providing for change of registered office and registered agent; creating s. 608.509, F.S.; providing for resignation of registered agent; creating s. 608.5101, F.S.; providing for service of process; creating s. 608.511, F.S.; providing for withdrawal of foreign limited liability company; creating s. 608.512, F.S.; specifying grounds for revocation of authority to transact business; creating s. 608.513, F.S.; specifying procedure for and effect of revocation of authority; creating s. 608.5135, F.S.; providing for revocation and reinstatement of certificates of authority; creating s. 608.514, F.S.; providing for appeal from revocation; amending ss. 621.01, 621.02, 621.03, 621.04, 621.05, 621.06, 621.07, 621.08, 621.09, 621.10, 621.11, 621.12, 621.13, and 621.14, F.S.; broadening the scope of the Professional Service Corporation Act to include professional limited liability companies; providing intent; providing a short title; providing definitions; providing exemptions; providing for organization of corporations or limited liability companies to provide professional services; limiting rendition of professional services; specifying liability of officers, agents, employees, shareholders, and members; limiting business transactions and issuance and transfer of ownership interests; providing for administrative dissolution; restricting alienation of shares and ownership interests; requiring use of certain terms in the corporation's or company's name; specifying applicability of chapters 607 and 608, F.S.; providing a rule of construction; creating s. 621.051, F.S.; providing for organization of limited liability companies; repealing ss. 608.435, 608.442, 608.443, 608.451, 608.453, and 621.15, F.S., relating to liabilities of members, filing of statement of intent to dissolve, effect of statement of intent to dissolve, filings by the Department of State, miscellaneous charges, and applicability of ch. 67-590, Laws of Florida; providing an effective date.

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

By the Committees on Appropriations; and Employee and Management Relations; and Representative Davis and others—

CS for HB 1959—A bill to be entitled An act relating to the Florida Retirement System; amending s. 121.021, F.S.; redefining "compensation," to delete obsolete language; redefining "normal retirement date" to provide for retirement after 25 years of service, regardless of age, for members of the Special Risk Class; defining the term "effective date of retirement"; defining the term "local agency employer"; amending s. 121.052, F.S.; clarifying participation requirements with respect to the membership class of elected state and county officers; amending s. 121.055, F.S.; authorizing local agency employers, including community college boards of trustees, to elect to cover additional positions in the Senior Management Service Class, subject to certain limits and eligibility criteria; authorizing local participants to withdraw from the class and alternatively participate in an employer-provided annuity program, under certain circumstances; providing for expansion of the class to include specified positions in the judicial branch; authorizing state attorneys and public defenders to elect to cover additional positions in the class, subject to certain limits and eligibility criteria; authorizing judicial participants to withdraw from the class and alternatively participate in the Senior Management Optional Annuity Program; providing for purchase of additional retirement credit for service in the class occurring on or after February 1, 1987; providing a restriction upon removal of a position from the class; providing individual certificates for group annuity contracts in the Senior Management Service Optional Annuity Program; amending s. 121.091, F.S.; clarifying provisions relating to payment of benefits to beneficiaries upon the death of a member; amending s. 121.35, F.S.; providing individual certificates for group annuity contracts in the State University System Optional Retirement Program; amending s. 121.122, F.S.; correcting a reference; providing for adjustments in contribution rates for the Senior Management Service Class and the Regular Class; providing effective dates.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; and Appropriations.

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

HB 1961—A bill to be entitled An act relating to financial matters; amending ss. 159.811, 215.65, and 215.655, F.S.; amending s. 159.807, F.S.; limiting certain allocations from the state allocation pool under certain circumstances; revising provisions which specify requirements relating to fees collected by the Division of Bond Finance and expenses of the division; amending s. 215.44, F.S.; providing for the confidentiality of records of the State Board of Administration; providing for future review and repeal; amending s. 215.47, F.S., which specifies the securities eligible for investment by the State Board of Administration; providing additional eligible securities and revising limitations on investments; specifying certain fiduciary responsibility; providing an effective date.

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

By the Committees on Appropriations; and Employee and Management Relations; and Representative Davis and others—

CS for HB 1973—A bill to be entitled An act relating to state personnel; amending s. 20.22, F.S.; revising the name and functions of the Division of Personnel Management Services of the Department of Management Services; creating an Office of Labor Relations; amending s. 110.112, F.S.; revising language with respect to affirmative action and equal opportunity requirements; amending s. 110.1127, F.S.; revising provisions relating to employer background checks; amending s. 110.117, F.S.; specifying requirements for paid holidays; amending s. 110.122, F.S.; revising conditions under which terminal pay for accumulated sick leave is forfeited; amending s. 110.123, F.S.; creating a Health Insurance Advisory Council; providing for membership; providing responsibilities; providing for support; requiring a report; amending s. 110.209, F.S.; correcting a typographical error relating to pay additives; amending s. 110.211, F.S.; requiring applications for vacancies to be made to the employing agency; amending s. 110.2135, F.S.; providing exemptions from examination and hiring procedures; amending s. 110.219, F.S.; revising policies

with respect to attendance and leave; providing that the advertising, selection of contractors, and the awarding and administration of construction contracts may be governed by the provisions of chapter 255, F.S., under certain circumstances; providing legislative findings and intent related to the fitness-wellness program, extending such program an additional year; repealing s. 110.215, F.S., relating to examinations administered to deaf and blind persons; amending s. 281.02, F.S., to authorize the Division of Capital Police of the Department of Management Services to contract with other governmental entities; providing an effective date.

—was referred to the Committees on Personnel, Retirement and Collective Bargaining; Governmental Operations; and Appropriations.

By the Committee on Agriculture and Consumer Services; and Representative Harris—

HB 1977—A bill to be entitled An act relating to the Citrus Canker Eradication Program; amending s. 602.025, F.S.; stating legislative findings; clarifying language; directing the Auditor General to make certain audits; amending s. 602.055, F.S.; establishing a deadline for filing a release; providing for carrying forward certain funds; providing an appropriation from the Citrus Canker Eradication Trust Fund; providing for collection of due and unpaid excise taxes; providing for adjustment if moneys were not paid according to legislative intent; providing an appropriation from the Citrus Compensation Trust Fund; providing an effective date.

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

By the Committee on Finance and Taxation; and Representative Rush—

HB 2019—A bill to be entitled An act relating to taxation; amending s 212.06, F.S.; providing for retroactive application of the exemption from said tax for certain promotional materials which are exported outside the state; amending s. 199.052, F.S.; providing that failure to timely file a consolidated intangible personal property tax return does not prejudice a taxpayer's right to file such return under certain conditions; providing for retroactive effect; amending s. 624.509, F.S.; exempting certain commercial motor vehicle insurance premiums from insurance premimum tax; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; providing for retroactive effect; requiring certain studies; providing an effective date.

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

By the Committees on Appropriations; and Finance and Taxation; and Representatives Abrams and Rush—

CS for HB 2085—A bill to be entitled An act relating to taxation; amending s. 199.052, F.S.; providing that failure to timely file a consolidated intangible personal property tax return does not prejudice a taxpayer's right to file such return under certain conditions; providing for retroactive effect; amending s. 201.17, F.S.; revising the calculation of interest on documentary excise tax not paid; amending s. 203.01, F.S.; deleting liability for tax and criminal penalties for failure to collect tax; amending s. 212.031, F.S.; exempting certain property from taxation pursuant to a previously issued technical assistance advisement; amending s. 212.04, F.S.; exempting dues, membership fees, and admission charges imposed by government-owned zoos from the tax on admissions; amending s. 212.05, F.S.; exempting transactions in excess of $500 from the tax on the sale of coins; amending s. 212.0515, F.S.; revising the method for calculating the amount of sales tax to be paid on certain beverages sold in vending machines; amending s. 212.054, F.S.; providing for calculation and allocation of administrative costs of discretionary sales surtaxes; amending s. 212.055, F.S.; authorizing additional uses for local government infrastructure surtax revenues; ratifying such uses of surtax revenues prior to July 1, 1993; amending s. 212.06, F.S.; revising the amount and the method of adjustment of the indexed use tax on manufactured asphalt; amending s. 212.08, F.S.; providing an exemption for natural gas; providing for retroactive application of the exemption from sales and use tax for certain promotional materials which are exported outside the state; amending s. 212.14, F.S.; providing procedures and requirements for issuance of subpoenas and subpoenas duces tecum by the Department of Revenue; providing for enforcement; providing for service on third-party recordkeepers; providing requirements relating to right to stay compliance; providing for venue; amending s. 212.15, F.S.; revising penalties for the offense of theft of state funds in connection with failure to remit sales taxes; amending s. 212.18, F.S.; providing for the collective registration of certain places of business; providing fees; amending s. 212.183, F.S.; authorizing self-accrual of sales tax for certain commercial rentals; amending s. 213.10, F.S.; authorizing the department to use separate clearing trust funds; amending s. 213.27, F.S.; revising provisions which authorize the department to contract with debt collection agencies to collect delinquent taxes and with auditing agencies regarding taxes due from persons doing mail order business; deleting the requirement for notice by certified mail; authorizing the department to contract with individuals or businesses to identify intangible personal property tax liability and providing requirements with respect thereto; providing for confidentiality; providing a penalty; amending s. 213.28, F.S.; extending the application of provisions which authorize the department to contract with private auditors; prohibiting fees based upon the amount of tax assessed or collected; amending s. 220.13, F.S., relating to the definition of "adjusted federal income"; correcting a reference; amending ss. 403.718, 403.7185, and 403.7195, F.S.; revising provisions relating to determination of administrative costs for waste tire fees, lead-acid battery fees, and waste newsprint disposal fees; amending s. 624.5092, F.S.; revising provisions relating to penalties for underpayment of or failure to pay insurance premium taxes; providing for retroactive effect; amending s. 731.111, F.S.; revising provisions relating to filing of a claim against the estate of a decedent for estate taxes due; providing that sales of certain publications by a nonprofit association to its members are not subject to sales or use tax under certain conditions; providing for retroactive application to a specified period; amending section 336.025, F.S., revising provisions relating to local option fuel tax; providing effective dates.

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

By the Committee on Transportation and Representative Bronson and others—

HB 2121—A bill to be entitled An act relating to trucking; amending s. 316.003, defining the term "tandem axle"; amending s. 316.302, F.S.; revising language with respect to the Code of Federal Regulations concerning commercial motor vehicles; amending s. 316.515, F.S.; revising language with respect to maximum width, height, and length limitations for certain vehicles; amending s. 316.516, F.S.; revising language with respect to penalties for violation of width, height, and length limitation; providing for penalties by rule; amending s. 316.545, F.S.; revising language with respect to weight tolerance and the enforcement of weight laws; providing for weight inspection; amending s. 316.550, F.S.; prohibiting the operation of oversize or overweight vehicles without special permits; providing criteria to be contained in permits; providing penalties; providing for the disposition of penalties; amending s. 316.655, F.S.; conforming to the act with respect to penalties; amending s. 316.70, F.S.; providing a definition of "nonpublic-sector bus"; revising safety standards relating to nonpublic-sector buses; amending s. 322.53, F.S.; providing an additional exemption from commercial driver license requirements; providing effective dates.

—was referred to the Committees on Transportation and Appropriations.

By the Committees on Appropriations and Transportation and Representative Bronson and others—

CS for HB 2125—A bill to be entitled An act relating to transportation; creating the Florida Intermodal Surface Transportation Efficiency Act; repealing s. 338.2275(3)(j), F.S.; eliminating the Central Connector from a list of turnpike projects which are approved, subject to verification of economic feasibility; amending s. 163.3164, F.S.; providing definitions; amending s. 163.3177, F.S.; providing that exemptions from the requirement that adequate transportation facilities be available concurrent with the impacts of development may be granted by local governments under certain conditions; providing requirements with respect thereto; specifying that local governments are encouraged to adopt methodologies to encourage de minimis deviation from level of service standards on trans-

portation facilities, within certain limits; authorizing the designation of transportation concurrency management areas in a local government comprehensive plan and establishment of an areawide level of service in such areas; authorizing local governments to permit development to proceed notwithstanding failure to satisfy transportation concurrency requirements under certain circumstances; providing requirements relating to level of service standards; providing requirements for assessing transportation impacts in urban service areas; providing for a transportation element in the comprehensive plan; eliminating certain optional elements in the comprehensive plan; amending s. 334.03, F.S.; providing definitions with respect to the Florida Transportation Code; amending s. 339.155, F.S.; revising language with respect to transportation planning; amending s. 311.09, F.S.; revising language with respect to the annual legislative budget request of the Department of Transportation concerning the Florida Seaport Transportation and Economic Development Council; amending section 336.025, F.S., revising provisions relating to local option fuel tax; amending s. 339.135, F.S.; revising language with respect to the work program; providing for the request for additional transportation projects; amending s. 339.175, F.S.; revising provisions relating to transportation and metropolitan planning organizations; amending s. 479.01, F.S.; redefining the term "federal-aid primary highway system"; directing the department to make certain recommendations to the Legislature; amending s. 316.187, F.S.; revising language with respect to speed limits; amending s. 333.03, F.S.; revising language with respect to airport zoning regulations; amending s. 235.19, F.S.; revising language with respect to site planning and selection; amending s. 337.276, F.S.; revising language with respect to advanced acquisition of right-of-way; amending s. 339.135, F.S.; clarifying language with respect to amendments of the adopted work program; amending s. 336.025, F.S.; providing an additional authorized use for the revenues from the local option gas tax for county transportation systems; creating s. 337.1075, F.S.; providing for contracts for planning services; amending s. 316.2952, F.S.; providing for an additional permitted device upon a motor vehicle windshield; amending s. 316.1001, F.S.; providing an alternative enforcement mechanism for persons failing to pay a toll; amending s. 316.640, F.S.; directing the department to develop training and qualifications for toll enforcement officers; amending ss. 316.660, 318.14, 320.03, F.S.; providing conforming language; amending s. 318.18, F.S.; increasing the fine for a violation of s. 316.1001, F.S.; amending s. 322.27, F.S.; providing for points to be assessed for failure to pay a toll; amending s. 339.135, F.S.; deleting certain required monthly reports; amending s. 334.046, F.S.; revising language with respect to department program objectives; changing the timeframe for certain reports; creating s. 334.187, F.S.; providing for the guarantee of obligations to the department; creating s 339.2815, F.S.; providing for use of purchase orders; amending s 337 11, F.S.; revising language with respect to contracting authority of the department; amending s. 337.19, F.S.; providing a timeframe for certain suits filed against the department; amending s. 339.0805, F.S.; revising provisions relating to the disadvantaged business enterprise program within the Department of Transportation; amending ss. 339.12 and 339.121, F.S.; authorizing certain government entities to release control of certain contributions to the department; creating s. 334.049, F.S.; providing for patents, copyrights, and trademarks; providing for notice to the Department of State; providing for confidentiality; providing for review and repeal; amending s. 341.052, F.S.; authorizing the secretary of the department to waive certain provisions prohibiting public transit providers from using public transit block grant funds for certain purposes; providing for the supplementation of grants under certain circumstances; amending s. 341.031, F.S.; revising definitions; amending s. 341.051, F.S.; revising language with respect to funding by the department of public transit programs and projects; amending s. 341.303, F.S.; deleting a limitation on certain fund participation by the department; amending s. 341.3025, F.S.; revising language with respect to enforcement of multicounty public rail system fares; amending s. 337.25, F.S.; providing for outdoor advertising signs to be relocated; repealing s. 337.25(8), F.S., relating to sales of houses and other structures; amending s. 253.01, F.S.; revising a provision requiring the proceeds of sales of certain state lands to go into the Internal Improvement Trust Fund; amending s. 255.22, F.S.; providing for reconveyance of certain lands under specified circumstances; creating s. 255.5535, F.S.; providing for exemptions from asbestos survey requirements; amending s. 255.557, F.S.; providing for certain operation and maintenance plans; amending s. 338.251, F.S.; revising language with respect to the Toll Facilities Revolving Trust Fund; amending s. 335.10, F.S.; revising language with respect to civil liability for damage to roads; amending s. 339.04, F.S.; revising language with respect to the disposition of proceeds of sale or lease of realty by the department; amending s. 339.145, F.S.; revising language with respect to the Working Capital Trust Fund; amending s. 337.185, F.S.; revising language with respect to the State Arbitration Board; amending s. 479.01, F.S.; providing a definition of controlled area with respect to outdoor advertising; amending s. 479.07, F.S.; revising language with respect to signs for which permits are required; amending chapter 90-136, Laws of Florida, increasing a timeframe for certain fiscal impact reports with respect to the functional reclassification of public roads; amending s. 341.302, F.S.; revising language with respect to the rail program; authorizing the Department of Transportation to designate state roads as scenic highways; amending s. 334.045, F.S.; revising language with respect to transportation performance measures; removing a penalty for the failure of the department to meet or exceed performance goals; amending s. 334.044, F.S.; providing the department with additional powers; amending s. 338.231, F.S.; delaying a toll increase until July 1, 1995; amending Chapter 86-304, Laws of Florida; revising language with respect to uses of the Old Keys Bridges; amending s. 316.2397, F.S.; revising language with respect to lights on certain equipment and vehicles; amending s. 427.013, F.S.; creating new duties for the Transportation Disadvantaged Commission; amending s. 427.015, F.S.; revising language with respect to subcontracting of transportation services; amending 427.0155, F.S.; establishing that statewide criteria shall be used for executing contracts and that certain products developed by the Transportation Disadvantaged Commission will be used by the community transportation coordinator; amending s. 427.0157, F.S.; revising language with respect to coordinating board membership; amending s. 325.207, F.S.; allowing for the amendment of contracts; providing an effective date.

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

By the Committee on Governmental Operations and Representative Boyd—

HB 2165—A bill to be entitled An act relating to state purchasing and acquisition; amending s. 216.0158, F.S.; including evaluation costs associated with lease-purchase agreements in the 5-year plan for facility needs submitted by state agencies and the judicial branch; amending s. 255.248, F.S.; revising the definition of "state-owned office building" to include buildings subject to a lease-purchase agreement for purposes of provisions relating to responsibilities of the Division of Facilities Management and requirements relating to construction or lease of buildings by state agencies; amending s. 255.249, F.S.; providing duties of the division relating to buildings in the Florida Facilities Pool; directing the division to promulgate rules relating to lease-purchase acquisition of state-owned office buildings; amending s. 255.25, F.S.; providing authority of the division to approve lease-purchase for the acquisition of an existing office building; repealing s. 255.25001, F.S., which provides for a suspension or delay of certain functions, programs, and requirements relating to governmental operations for the Department of Management Services and the Department of Agriculture and Consumer Services; amending s. 283.33, F.S.; allowing blanket orders to be used for certain duplicating; amending s. 287.058, F.S., which provides requirements for contract documents; revising the threshold amounts for such requirements; amending s. 287.084, F.S.; allowing state agencies to award a preference to businesses in Florida under certain circumstances; providing effective dates.

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

By the Committee on Agency Rules, Select and Representative Mackey—

HB 2177—A bill to be entitled An act relating to administrative procedures; amending s. 120.52, F.S.; redefining the term "rule"; amending s. 120.53, F.S.; providing the procedure for notification of bid tabulations; amending s. 120.54, F.S.; revising language with respect to the impact of a proposed adoption, amendment, or repeal of a rule with respect to small business and small counties; amending s. 120.55, F.S.; authorizing, rather than requiring, the department to contract for the publication of the Florida Administrative Code; increasing the unencumbered balance allowed in the revolving trust fund; amending s. 120.68, F.S.; providing for the transfer and consolidation of appellate proceedings arising under the Administrative Procedure Act; providing legislative intent; expanding a pilot project to provide an electronic full text and retrieval system for recommended orders, final orders, and declaratory statements to include such other information as the Division of Administrative Hearings deems

important; directing the division to obtain appropriate hardware and software; providing that the system shall be the official reporter for the division; providing an effective date.

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

By the Committee on Ethics and Elections; and Representative Ascherl and others—

HB 2185—A bill to be entitled An act relating to the code of ethics for public officers and employees; amending s. 112.313, F.S.; revising provisions relating to conflicting employment or contractual relationships to modify applicability with respect to collective bargaining situations; including appointed state officers, certain legislative employees, specified employees of the State University System, and elected officers of school districts in provisions restricting postemployment representation of others before their former agencies; providing a definition and applicability; authorizing school districts to adopt resolutions regulating postemployment representation of others by former employees before their former agencies; providing penalties; authorizing agencies and political subdivisions of the state to adopt more stringent standards of conduct under certain circumstances; amending s. 112.3135, F.S.; prohibiting the appointment, employment, promotion, or advancement of any individual if such appointment, employment, promotion, or advancement is made by a collegial body of which a relative of the individual is a member; revising and providing definitions; providing penalties; amending s. 112.3144, F.S.; changing deadlines for the Commission on Ethics to prepare and submit to the Secretary of State the list of names, addresses, and offices held by every person required to file full and public disclosure of financial interests; amending s. 112.3145, F.S.; requiring local officers who do not permanently reside in any county in the state to file their statement of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters; changing deadlines for the Commission on Ethics to prepare and submit to the Secretary of State the list of names, addresses, and offices or positions held by every state officer, local officer, or specified employee; amending ss. 112.3148 and 112.3149, F.S., relating to requirements for gift receipt and reporting and for honoraria; revising the definitions of "lobbyist" to provide applicability with respect to agency registration systems; allowing water management districts to give certain gifts if a public purpose can be shown; revising the definition of "honorarium" to exclude event or meeting registration fees; amending s. 112.317, F.S.; increasing the cap on civil penalties applicable to ethics and financial disclosure violations; modifying the standard for awarding costs and attorney's fees; reenacting ss. 24.105(21)(b) and (c), 112.3145(6)(c) and (e), 112.322(2)(b), 287.175, and 350.043, F.S., relating to powers and duties of the Department of the Lottery, financial disclosure notice, powers and duties of the Commission on Ethics, penalties applicable to violations of provisions regulating state officer and employee transportation, and enforcement of provisions relating to the Public Service Commission, to incorporate the amendment to s. 112.317, F.S., in references thereto; amending s. 112.3185, F.S.; including the Public Service Commission under provisions applying restrictions on employees and former employees of agencies who participate or participated in the procurement of contractual services for their agencies; providing applicability; amending s. 112.324, F.S., relating to procedures on complaints of violations; requiring the public report on a dismissed complaint to state with particularity the reasons for dismissal; revising provisions relating to disciplinary officials or bodies and the public officers and employees subject to their disciplinary action; providing an effective date.

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

By the Committees on Appropriations; Finance and Taxation; and Aging and Human Services; and Representative Gordon—

CS for CS for HB 2203—A bill to be entitled An act relating to nursing homes and long-term care facilities; amending s. 400.011, F.S.; modifying purpose of provisions relating to regulation of nursing homes and related facilities; amending s. 400.021, F.S.; revising definitions; amending s. 400.022, F.S.; revising residents' rights; creating s. 400.0255, F.S.; establishing procedures for transfer or discharge of resident; providing for notice and hearings; providing for disposition of accrued charges; providing a public records exemption; providing for review and repeal; amending s. 400.051, F.S.; modifying exemptions; providing an exemption for certain existing facilities; amending s. 400.062, F.S., relating to licensure requirements; providing that funds collected may be used to reduce licensure fees; amending s. 400.0625, F.S.; clarifying minimum standards for certain laboratory test results; amending s. 400.071, F.S.; revising licensure application requirements; amending s. 400.111, F.S.; revising renewal requirements; amending s. 400.121, F.S.; providing conditions for suspension of licenses; providing for hearing; providing for receivership; amending s. 400.126, F.S.; revising provisions relating to receivership; increasing the allowable amount of expenditures to correct deficiencies; amending s. 400.141, F.S.; revising administration and management of facilities; providing for transfer of personnel records between facilities; amending s. 400.145, F.S.; revising requirements for furnishing copies of records of care and treatment; specifying copying charges; amending s. 400.151, F.S., relating to contracts; amending s. 400.162, F.S.; revising authority with respect to property and personal affairs of residents; amending s. 400.165, F.S.; revising requirements for itemized billings; amending s. 400.176, F.S.; increasing a fine for unlawful rebates; amending s. 400.19, F.S.; providing for right of entry and inspection of a district nursing home unit in a hospital and certain freestanding facilities licensed under ch. 395, F.S.; modifying an inspection requirement; authorizing verification of correction of deficiencies without reinspection, under certain circumstances; amending s. 400.191, F.S.; revising requirements for making reports and records available; amending s. 400.20, F.S.; deleting limitation on the number of facilities to be subject to an administrator's supervision; amending s. 400.211, F.S.; revising requirements for certification and employment of nursing assistants; providing for screening of personnel; amending s. 400.23, F.S.; revising rulemaking requirements; creating the Nursing Home Advisory Committee; providing membership and duties; revising procedures for evaluating and rating facilities; increasing penalties for deficiencies; deleting authority to delegate review of plans to a county or municipality; amending s. 400.317, F.S.; authorizing state and district ombudsman councils to seek immediate legal or administrative remedies, under certain conditions; renumbering and amending s. 400.3221, F.S., relating to emergency medication kits; creating s. 400.335, F.S.; requiring an audit of trust funds and related accounts by the Auditor General; creating s. 400.801, F.S.; providing for licensure of homes for special services; providing a fee; providing requirements and procedures; providing for violations; providing penalties; creating s. 400.805, F.S.; providing for licensure of transitional living facilities; providing fees; providing requirements and procedures; providing for violation; providing penalties; amending s. 408.035, F.S.; specifying additional criteria for review of certificate-of-need applications; amending s. 408.036, F.S.; providing that certain applications subject to expedited certificate-of-need review are subject to a specified base fee; amending s. 408.07, F.S.; revising the definition of "nursing home" for data collection purposes; amending ss. 400.023, 400.063, 400.102, 400.125, 400.179, 400.18, 400.25, 400.29, 400.33, and 400.331, F.S.; conforming language and references to transfer of responsibilities to the Agency for Health Care Administration; correcting cross references; deleting obsolete language; amending ss. 20.41, 393.0673, 393.0678, 397.021, 400.307, 400.308, and 413.602, F.S.; conforming language and correcting cross references; amending s. 413.614, F.S.; providing rulemaking authority of the Division of Vocational Rehabilitation of the Department of Labor and Employment Security, relating to transitional living facilities for spinal-cord-injured and head-injured persons; repealing s. 400.041, F.S., relating to nursing facility licensing categories; repealing s. 400.045, F.S., relating to transitional living facilities for spinal-cord-injured and head-injured persons; saving pt. I of ch. 400, F.S., from Sunset repeal; saving ss. 400.304 and 400.307, F.S., from Sundown repeal; providing for future review and repeal; providing effective dates.

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

By the Committee on Corrections and Representative Smith—

HB 2205—A bill to be entitled An act relating to correctional industry programs; amending part II of ch. 946, F.S., relating to leased or managed correctional industry programs; amending s. 946.501, F.S.; providing findings of fact regarding correctional industry programs and revising priorities; amending s. 946.502, F.S.; revising legislative intent with respect to operation of correctional industry programs; amending s. 946.503, F.S.; revising and adding definitions; amending s. 946.504, F.S.; revising provisions relating to organization of the corporation operating correctional industry programs; and revising provisions relating to the

lease of facilities; amending s. 946.505, F.S.; clarifying the reversionary interest of the state upon dissolution of the corporation or termination of a lease; amending s. 946.507, F.S.; prohibiting general revenue appropriations; amending s. 946.508, F.S.; renaming, and revising provisions relating to, the Correctional Industry Programs Revolving Trust Fund; amending s. 946.509, F.S.; requiring that property possessed or subsequently acquired by the corporation be insured; amending s. 946.512, F.S.; requiring the corporation to pay the department an amount of inmate compensation for purposes of court-ordered payments; amending s. 946.513, F.S.; expanding the time period an inmate may be employed; amending s. 946.515, F.S.; revising provisions relating to use of goods and services from correctional industry programs; prohibiting the corporation from selling or brokering any pass-through or other items that are not prison-made products or any services that are not performed by inmates; deleting provisions relating to similar products and services of comparable price; expanding the list of raw agricultural products that may be sold; requiring applicability of part I of ch. 287, F.S.; revising contract requirements; amending s. 946.516, F.S.; deleting a department reporting requirement and expanding the corporation's reporting duties; requiring the Auditor General to conduct annual financial and periodic performance audits; authorizing independent audits in certain circumstances; amending s. 946.517, F.S.; providing that all financial, industry, and corporate records of the corporation are open to the Auditor General, the Legislature, and the Comptroller; providing for public records exemption under certain circumstances; providing that the board of directors meetings are public meetings; amending ss. 946.5025, 946.5026, 946.506, 946.5095, 946.510, 946.511, 946.514, 946.518, and 946.21, F.S., relating to authorization of the corporation to enter into contracts, sovereign immunity in tort actions, modification or termination of a correctional industry program by the corporation, elimination of hazardous conditions, insurance by the Division of Risk Management, policies and procedures regarding provision of inmate labor, rights of inmates in correctional industry programs, sale of goods made by prisoners, and penalty for unlawfully selling prisoner-made goods, to conform to the act; deleting obsolete provisions; repealing s. 946.519, F.S., relating to use of goods and services produced in correctional work programs; amending s. 283.31, F.S.; requiring regular financial and performance audits of the corporation; amending s. 283.33, F.S.; deleting a provision that precluded applicability of part I of ch. 287, F.S., to purchases of printing by the corporation; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; Governmental Operations; and Appropriations.

By the Committee on Appropriations and Representative Long—

HB 2331—A bill to be entitled An act relating to the implementation of constitutional state planning and budgeting provisions; amending s. 186.002, F.S., relating to findings and intent; conforming terminology; amending s. 186.003, F.S.; defining "judicial branch" and revising the definitions of "state agency" and "state agency strategic plan"; amending s. 186.021, F.S.; providing for inclusion of the judicial branch in the preparation of strategic plans; amending s. 186.022, F.S.; revising the requirements of strategic plans; providing applicability; repealing s. 216.011(2)(c), F.S., relating to the definition of "emergency situation"; amending s. 216.052, F.S.; revising the procedure for submission and review of strategic plans and legislative budget requests; amending s. 216.162, F.S., relating to submission of the Governor's recommended budget to the Legislature; deleting reference to biennial submission; amending s. 216.178, F.S.; revising provisions relating to availability of the final budget report and the General Appropriations Act; amending s. 216.221, F.S.; revising procedures for the adjustment of budgets to avoid or eliminate deficits; prohibiting certain interpretations of certain provisions; providing an effective date.

—was referred to the Committee on Appropriations.

By the Committee on Appropriations and Representative Long—

HB 2335—A bill to be entitled An act relating to trust funds; abolishing trust funds within the State University System, the state courts system, the Justice Administrative Commission, and various state departments; providing for transfer of current balances to general revenue; renaming a trust fund within the Department of Community Affairs; providing for the paying of outstanding debts and obligations of the abolished trust funds and for the removal of the abolished trust funds from the various state accounting systems; repealing ss. 395.803 and 395.804, F.S., relating to the Medical Education and Tertiary Care Trust Fund; repealing s. 240.258, F.S., relating to the Florida Vietnam Veterans' Memorial Trust Fund; repealing s. 240.4985, F.S., relating to the Good-Gulfstream Trust Fund for Higher Education; amending s. 240.518, F.S.; changing the Historically Black College and University Trust Fund to the Historically Black College and University Program and providing for annual general revenue funding; repealing s. 240.415, F.S., relating to the Student Financial Aid Trust Fund; amending ss. 240.417 and 240.429, F.S., to conform; amending s. 163.517, F.S.; changing the Safe Neighborhoods Trust Fund to the Safe Neighborhoods Program; amending ss. 163.504, 163.508, and 163.519, F.S., to conform; repealing s. 945.32, F.S., relating to the Court-Ordered Payment Trust Fund; amending s. 945.31, F.S., to conform; amending s. 410.401, F.S.; eliminating the Alzheimer's Disease Research Trust Fund and providing for other funding and awarding of research grants related to Alzheimer's disease by the Department of Elderly Affairs; amending s. 513.045, F.S.; eliminating the Mobile Home and Recreational Vehicle Park Trust Fund and providing for deposit of permit fees in the County Health Unit Trust Fund; amending s. 513.055, F.S., to conform; amending s. 39.442, F.S.; eliminating the Child in Need of Services Trust Fund; amending s. 404.056, F.S.; eliminating the Radon Trust Fund and providing for deposit of the radon surcharge into the Radiation Protection Trust Fund; amending s. 553.98, F.S., to conform; amending s. 404.131, F.S.; eliminating the Low-Level Radioactive Waste Trust Fund and providing for deposit into the Radiation Protection Trust Fund of moneys collected in relation to the transport of low-level radioactive waste; amending s. 408.033, F.S.; eliminating the Local and State Health Trust Fund and transferring its depository duties to the Health Care Trust Fund; repealing s. 161.091, F.S., relating to the Beach Management Trust Fund; amending ss. 161.0535, 161.054, 161.101, 161.161, and 163.3184, F.S., to conform; providing for funding of beach management through general revenue; repealing s. 376.22, F.S., relating to the Port Trust Fund; amending s. 215.20, F.S., to conform; repealing s. 403.0615(4), F.S., relating to the Water Resources Restoration and Preservation Trust Fund; repealing s. 458.3125, F.S., relating to the Physician Training Trust Fund; amending s. 256.031, F.S.; eliminating the Flag Trust Fund; authorizing the Department of State to buy and sell flags and providing for deposit of the proceeds from such sale; amending s. 267.072, F.S.; eliminating the Museum of Florida History Trust Fund and transferring its functions to the Historic Preservation Trust Fund; amending ss. 267.061 and 267.0617, F.S., to conform; amending s. 550.2415, F.S.; eliminating the Research Trust Fund and transferring its functions to the Pari-mutuel Wagering Trust Fund; amending s. 290.034, F.S.; renaming the Community Development Support and Assistance Trust Fund as the Operating Trust Fund to function as the depository of funds appropriated to the Community Development Corporation Support and Assistance Program; amending ss. 290.033, 290.036, 290.037, 290.038, and 290.039, F.S., to conform; repealing s. 380.511, F.S., relating to the Florida Communities Trust Fund; amending s. 380.510, F.S.; transferring the duties of the Florida Communities Trust Fund to the Operating Trust Fund and providing additional duties relating to the Florida Communities Trust Act; amending ss. 320.08065 and 380.508, F.S., to conform; amending s. 252.84, F.S.; eliminating the Hazardous Materials Administration Trust Fund and transferring its duties to the Operating Trust Fund; amending ss. 252.82, 252.83, 252.86, and 252.91, F.S., to conform; amending s. 553.795, F.S.; eliminating the Building Inspector Certification Trust Fund and transferring its duties to the Operating Trust Fund; amending s. 189.427, F.S.; eliminating the Special District Administrative Trust Fund and transferring its duties to the Operating Trust Fund; amending s. 943.25, F.S.; eliminating the Trust Fund for Grant Matching and transferring its duties to the Operating Trust Fund; repealing s. 420.35, F.S., relating to the Florida Elderly Housing Trust Fund; amending s. 420.34, F.S.; providing that funding for the Elderly Homeowner Rehabilitation Program shall appropriated from the State Housing Trust Fund; amending ss. 409.504 and 409.506, F.S.; eliminating the Community Service Trust Fund and providing general revenue funding of the program for community services; amending s. 426.009, F.S.; eliminating the Handicapped and Elderly Security Assistance Trust Fund and providing for funding of the Handicapped and Elderly Security Assistance Program through the General Revenue Fund; amending ss. 426.003, 775.0836, and 939.015, F.S., to conform; repealing ss. 420.424(3) and 420.4255, F.S., relating to the Neighborhood Housing Services Grant Fund; amending ss. 239.505 and 420.429, F.S., to conform; repealing s. 186.911, F.S., relating to the Growth Management Trust Fund; amending s. 311.07, F.S.; changing the Florida Seaport Transportation and Economic Development Trust Fund to the Florida Seaport Transportation and Economic Development Program and providing for

funding through a designated program account in the State Transportation Trust Fund; amending s. 311.09, F.S., to conform; amending ss. 316.2124, 316.71, 318.1451, 320.08, 321.23, 322.025, 322.12, 322.17, 322.20, and 627.733, F.S.; eliminating the Accident Reports Trust Fund and transferring its duties to the Highway Safety Operating Trust Fund; amending s. 322.095, F.S.; eliminating the Drivers' Education Trust Fund and transferring its duties to the Highway Safety Operating Trust Fund; amending s. 320.03, F.S.; eliminating the Florida Real Time Vehicle Information System Trust Fund and transferring its duties to the Highway Safety Operating Trust Fund; amending ss. 215.20 and 325.214, F.S.; eliminating the Motor Vehicle Inspection Trust Fund and transferring its duties to the Highway Safety Operating Trust Fund; amending ss. 320.06, 320.0607, 320.0848, 320.089, 320.27, and 320.77, F.S.; eliminating the Motor Vehicle License Plate Replacement Trust Fund and transferring its duties to the Highway Safety Operating Trust Fund; amending s. 319.324, F.S.; eliminating the Odometer Fraud Prevention and Detection Trust Fund and transferring its duties to the Highway Safety Operating Trust Fund; amending s. 320.131, F.S.; providing for deposit of the proceeds from the sale of temporary motor vehicle license tags into the Highway Safety Operating Trust Fund rather than into the General Revenue Fund; amending s. 374.976, F.S., relating to the Florida Inland Navigation District; providing effective dates.

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

By the Committee on Business and Professional Regulation; and Representative Tobin and others—

HB 2345—A bill to be entitled An act relating to funeral, cemetery, and crematory services; merging chapter 470, F.S., relating to funeral directors, embalmers, and direct disposition, and chapter 639, F.S., relating to preneed funeral contracts, into chapter 497, F.S., relating to cemeteries, and placing them under the jurisdiction of the Department of Banking and Finance; creating s. 497.101, F.S.; providing a short title; amending and renumbering s. 470.001, F.S.; expanding legislative findings and intent; amending and renumbering s. 470.002, F.S.; revising and providing definitions; amending and renumbering s. 470.003, F.S.; renaming the Board of Funeral Directors and Embalmers as the Board of Funeral and Cemetery Services; providing procedure for appointment of members and for filling vacancies; providing qualifications for membership on the board; amending and renumbering s. 470.005, F.S.; providing rulemaking authority of the board and department; creating s. 497.111, F.S.; providing legislative intent with respect to the professions and occupations regulated by the department under the chapter; creating s. 497.113, F.S.; providing general powers and duties of the department with respect to such regulation; creating s. 497.115, F.S.; providing that the board may be contacted through the headquarters of the department in Tallahassee; creating s. 497.117, F.S.; providing for officers, meetings, official business, and compensation of the board; creating s. 497.119, F.S.; authorizing the board and department to publish an advisory newsletter; creating s. 497.121, F.S.; providing accountability and liability of board members; creating s. 497.123, F.S.; providing for board rules, final agency action, and challenges; creating s. 497.125, F.S.; providing general licensing provisions; creating s. 497.127, F.S.; providing general provisions relating to the procurement, administration, security, and recordkeeping requirements of examinations; providing exemptions from public records requirements relating to examination results and meetings held to create or review examination questions; providing for future review and repeal; creating s. 497.129, F.S.; prohibiting theft or reproduction of examinations and providing a penalty therefor; creating s. 497.131, F.S.; providing general requirements with respect to fees, receipts, disposition of such funds, and periodic management reports; creating s. 497.133, F.S.; providing for legal and investigative services, including duties of the Department of Legal Affairs with respect thereto; creating s. 497.135, F.S.; providing a mediation process applicable to certain violations of the chapter; creating s. 497.137, F.S.; providing for the issuance of citations applicable to certain violations of the chapter; creating s. 497.139, F.S.; providing powers to administer oaths and issue subpoenas; creating s. 497.141, F.S.; providing for the admission of financial examiners' worksheets, investigative reports, and other related documents as evidence under certain circumstances; creating s. 497.143, F.S.; providing for injunction; creating s. 497.145, F.S.; providing for cease and desist orders, civil penalties, and enforcement; creating s. 497.147, F.S.; providing disciplinary proceedings; providing exemptions from public records and public meetings requirements relating to probable cause investigations; providing for future review and repeal; creating s. 497.149, F.S.; providing disciplinary guidelines; creating s. 497.151, F.S.; prohibiting the giving of false information, misleading statements, or knowing misrepresentations relating to obtaining or attempting to obtain licensure under the chapter; providing a penalty; creating s. 497.153, F.S.; providing public access to records required by the department; providing exemptions from public records requirements relating to financial information, examination questions, answers, papers, grades, and grading keys, and challenged examination questions and answers; providing for future review and repeal; creating s. 497.155, F.S.; prohibiting the disclosure of confidential information; providing a penalty; amending and renumbering s. 470.006, F.S., relating to licensure as an embalmer by examination; revising examination and application fees; requiring submission of proof of completion of a board-approved course on communicable disease as a prerequisite to taking the examination; providing for provisional licensure under certain circumstances; amending and renumbering s. 470.007, F.S., relating to licensure as an embalmer by endorsement; revising examination and application fees; requiring submission of proof of completion of a board-approved course on communicable disease as a prerequisite to licensure by endorsement; authorizing renewal of temporary registration one time; amending and renumbering s. 470.008, F.S.; correcting a cross reference; renumbering s. 470.0085, F.S., relating to the embalmer apprentice program; creating s. 497.208, F.S.; describing the functions that constitute the practice of funeral directing; amending and renumbering s. 470.009, F.S.; revising requirements for licensure as a funeral director by examination; revising examination and application fees; requiring submission of proof of completion of a board-approved course on communicable diseases as a prerequisite to taking the examination; providing for provisional licensure under certain circumstances; amending and renumbering s. 470.011, F.S., relating to licensure as a funeral director by endorsement; revising examination and application fees; requiring submission of proof of completion of a board-approved course on communicable diseases as a prerequisite to licensure by endorsement; authorizing renewal of temporary registration one time; amending and renumbering ss. 470.012 and 470.013, F.S.; providing editorial changes; amending and renumbering s. 470.014, F.S.; amending and renumbering s. 470.015, F.S.; authorizing the board to prescribe by rule certain continuing education requirements for renewal of license of a funeral director or embalmer; amending and renumbering s. 470.016, F.S.; requiring a board-approved course on communicable diseases in addition to other continuing education requirements for reactivation of an inactive license; providing for automatic expiration of any license not renewed or reactivated after one renewal cycle; requiring certain fees for reactivation; creating s. 497.222, F.S.; prescribing authorized duties of direct disposers; amending and renumbering s. 470.017, F.S., relating to registration as a direct disposer; revising registration and application fees; requiring applicants to have completed a course on communicable diseases and a college credit course on state mortuary law; requiring registrations to have a recent photograph of the registrant; providing for the registration of certain applicants who are not high school graduates; amending and renumbering s. 470.018, F.S.; requiring the board to prescribe by rule continuing education requirements, including a board-approved course on communicable diseases, for renewal of registration as a direct disposer; amending and renumbering s. 470.019, F.S.; including a ground for disciplinary action against a direct disposer or direct disposal establishment relating to discipline by other jurisdictions for violations relating to the disposition of dead human bodies; creating s. 497.228, F.S.; providing for health and safety education; amending and renumbering s. 470.021, F.S., relating to standards, location, and registration of direct disposal establishments; revising registration and inspection fees; eliminating the prohibition against reinspection fees; providing for automatic expiration of registration under certain circumstances; requiring applicants to identify persons having ability to direct the management or policies of the establishment and persons having a specified ownership interest in the establishment; authorizing the board to deny, suspend, or revoke a registration based on the histories of person identified in the application; requiring certain display of the establishment name and the name of the direct disposer in charge; restricting the direct disposer in charge to one establishment; requiring prior notification to the board of any change in ownership, name, or direct disposer in charge; requiring a direct disposer in charge and providing the requirements thereof; requiring the establishment to transact its business under the name by which it is registered; creating s. 497.230, F.S.; providing for regulation of removal services, refrigeration facilities, and centralized embalming facilities; renumbering s. 470.022, F.S.; relating to direct disposing; amending and renumbering s. 470.023, F.S., relating to the penalty for the practice of direct disposition without registration; providing editorial changes; amending and renumbering s. 470.024, F.S., relating to

licensure as a funeral establishment; prescribing additional requirements for funeral establishments; revising licensure and inspection fees; providing for automatic expiration of license under certain circumstances; eliminating the prohibition against reinspection fees; requiring applicants to identify persons having ability to direct the management or policies of the establishment and persons having a specified ownership interest in the establishment; authorizing the board to deny, suspend, or revoke a registration based on the histories of persons identified in the application; requiring certain display of the establishment name and of the funeral director in charge; restricting the funeral director in charge to one establishment; amending and renumbering s. 470.025, F.S., relating to licensure as a cinerator facility; revising licensure and inspection fees; eliminating the prohibition against reinspection fees; requiring the board to establish by rule standards for cinerator facilities; expanding the contents of reports to the department; expanding facility inspection authorities to include the Department of Environmental Regulation; requiring applicants to identify persons having ability to direct the management or policies of the establishment and persons having a specified ownership interest in the facility; authorizing the board to deny, suspend, or revoke a license based on the histories of persons identified in the application; requiring certain display of the facility name and of the direct disposer in charge; requiring the facility to transact business in the name by which it is licensed; amending and renumbering s. 470.0255, F.S.; providing a time within which cremation must be performed; amending and renumbering s. 470.026, F.S.; transferring from the department to the board rulemaking and regulation of solicitation of goods and services; prohibiting at-need solicitation of burial rights, merchandise, and services; amending and renumbering s. 470.029, F.S.; requiring the reporting of cases embalmed and bodies handled directly to the department and eliminating the local registrar of vital statistics as an intermediary; amending and renumbering s. 470.031, F.S., relating to prohibitions and penalties; providing editorial changes; amending and renumbering s. 470.036, F.S., relating to disciplinary proceedings; revising and providing grounds for disciplinary action, including having been disciplined in another jurisdiction for a violation relating to the disposition of dead human bodies; authorizing assessment of costs associated with investigation and prosecution; providing that license revocation is permanent; creating s. 497.243, F.S.; providing for cash advance and escrow refund accounts for funeral establishments; amending and renumbering s. 470.038, F.S., relating to reciprocity; revising terminology; amending and renumbering s. 470.039, F.S., relating to exceptions to regulation; providing editorial changes; amending and renumbering s. 470.0395, F.S.; updating saving clauses; amending and renumbering s. 497.003, F.S.; exempting certain family cemeteries and certain mausoleums; applying to all cemeteries laws relating to solicitation of goods and services, illegal tying arrangements, and abandoned cemeteries; requiring certain exempt cemeteries to submit to investigation and mediation by the department; amending and renumbering s. 497.006, F.S., relating to licensure as a cemetery company; requiring applicants to provide information necessary to determine eligibility; requiring a financial statement attesting to a specified minimum net worth; raising the minimum amount care and maintenance trust funds must contain; revising the requirements of savings and loan associations certifying care and maintenance trust funds; amending and renumbering s. 497.007, F.S.; revising requirements relating to the purchase or acquisition of control of an existing cemetery; requiring a financial statement attesting to a specified minimum net worth; amending and renumbering s. 497.008, F.S.; revising provisions relating to change of control of an existing cemetery company; requiring a financial statement attesting to a specified minimum net worth; requiring an investigation rather than an initial filing fee; amending and renumbering s. 497.009, F.S., relating to annual license fees; increasing the late renewal fee and providing for timely submission of renewal applications and fees; amending and renumbering s. 497.021, F.S., relating to care and maintenance trust funds; revising provisions relating to the entities with which such trust funds may be established; providing requirements and investment restrictions of trustees; amending and renumbering s. 497.023, F.S.; deleting reference to monument maintenance fees; raising the minimum amount per grave space required to be deposited in a care and maintenance trust fund; revising deposit requirements for cemeteries losing their exempt status; eliminating a provision relating to minimum deposits in new trust funds; amending and renumbering s. 497.025, F.S., relating to liability; amending and renumbering s. 497.029, F.S.; revising deposit requirements of preconstruction trust funds to conform to other cemetery trust funds; amending and renumbering s. 497.031, F.S.; eliminating a penalty applicable to failure to display the cemetery license; amending and renumbering s. 497.033, F.S.; requiring preneed burial contracts to disclose certain information relating to the opening and closing of a burial space; requiring cemeteries offering preneed contracts to offer opening and closing of the burial space as part of the contract; amending and renumbering s. 497.035, F.S.; authorizing cemetery companies to keep financial records at a location other than the principal place of business; authorizing the board to prescribe the minimum information required to be kept; creating s. 497.331, F.S.; authorizing charges for opening and closing a grave, transferring burial rights, certain taxes, credit life and disability insurance, and interest on unpaid balances; amending and renumbering s. 497.041, F.S.; prohibiting cemetery companies from requiring monument dealers to obtain insurance, bond, or surety as a condition of access to the cemetery; eliminating monument maintenance fees; deleting a provision authorizing a cemetery company to charge a fee for marking the grave and inspecting a monument not installed by the cemetery company or its agents; amending and renumbering s. 497.044, F.S., relating to illegal tying arrangements; eliminating a cemetery company's right to require monument dealers to maintain certain insurance; creating s. 497.337, F.S.; requiring registration of brokers of burial rights; amending and renumbering s. 497.048, F.S.; prohibiting the sale of personal property and services by a cemetery company under certain circumstances; amending and renumbering s. 497.0484, F.S., relating to alternatives to deposits in a merchandise trust fund; transferring regulation from the department to the board; amending and renumbering s. 497.049, F.S., relating to proof of compliance with law applicable to existing merchandise trust funds, to conform; amending and renumbering s. 497.054, F.S., relating to penalties; amending and renumbering s. 497.056, F.S., relating to civil remedies; revising terminology; creating s. 497.515, F.S.; providing additional prohibited acts; amending and renumbering s. 497.057, F.S., relating to attorney's fees; amending and renumbering s. 497.061, F.S., relating to burial without regard to race or color; providing editorial changes; amending and renumbering s. 497.071, F.S., relating to abandoned cemeteries; providing editorial changes; creating s. 497.345, F.S.; providing procedures applicable to inactive cemeteries; amending and renumbering s. 497.091, F.S.; conforming terminology and correcting cross references; creating s. 497.349, F.S.; providing for registration of exempt cemeteries; creating s. 497.351, F.S.; providing for registration of monument establishments; amending and renumbering s. 639.085, F.S.; including preneed burial merchandise and service contracts under regulation of the chapter; amending and renumbering s. 639.087, F.S., relating to insurance business not authorized, to conform; amending and renumbering s. 639.09, F.S., relating to certificate of authority required to sell preneed contracts, to include reference to cemeteries; prohibiting the sale of preneed services, merchandise, or burial rights without a license or registration to sell on an at-need basis; amending and renumbering s. 639.10, F.S.; transferring from the department to the board rule and regulatory authority relating to certificates of authority; revising certification fees; revising the payee and depository of fees and other funds; amending and renumbering s. 639.105, F.S., relating to approval of forms; transferring responsibilities from the department to the board; amending and renumbering s. 639.107, F.S., relating to nonconforming contracts; correcting cross references; amending and renumbering s. 639.108, F.S., relating to the Preneed Funeral Contract Consumer Protection Trust Fund; transferring authority over the administration and regulation of the trust fund to the board; amending and renumbering s. 639.11, F.S., relating to disposition of proceeds received on preneed funeral and burial contracts; revising the amounts required to be deposited based on the merchandise or service sold or rented; providing for the holding of deposited funds in trust; providing for transfer of merchandise and burial rights; amending and renumbering s. 639.13, F.S.; revising provisions relating to cancellation of or default on preneed contracts; amending and renumbering s. 639.14, F.S.; relating to payment of funds upon death of named beneficiary; amending and renumbering s. 639.145, F.S., relating to evidence of financial responsibility as alternative to trust deposit; transferring from the department to the board such regulatory responsibility; amending and renumbering s. 639.149, F.S., relating to alternative preneed contracts; making the board the responsible regulatory party; amending and renumbering s. 639.15, F.S., relating to examinations and investigations; making the board the responsible regulatory party; authorizing the department to charge an examination fee and certain travel expenses; amending and renumbering s. 639.16, F.S., relating to grounds for discipline; making the board the responsible regulatory party; removing the requirement that certain violations be willful; amending and renumbering s. 639.162, F.S., relating to administrative fine in lieu of revocation or suspension of certificate of authority; making the board the responsible regulatory party; changing the fine depository; amending and renumbering s. 639.165, F.S., relating to dissolution or liquidation; making the board the responsible regulatory party; creating s. 497.439, F.S.; providing for registration of preneed sales

agents; amending and renumbering s. 639.21, F.S., relating to acceptability of funeral and burial merchandise; amending and renumbering s. 639.22, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices prohibited; amending and renumbering s. 639.23, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices defined; amending and renumbering s. 639.25, F.S., relating to hearings, witnesses, appearances, production of books, and service of process relating to unfair methods of competition or unfair or deceptive acts or practices; making the board the responsible regulatory party; amending and renumbering s. 639.30, F.S., relating to civil liability; providing editorial changes; amending ss. 245.07, 381.0098, 382.002, 403.703, 406.02, 455.2226, 501.022, 624.01, 626.785, 628.4615, and 732.919, F.S.; correcting cross references; repealing s. 20.30(4)(h), F.S., relating to the Board of Funeral Directors and Embalmers; repealing ss. 470.027, 470.028, 497.001, 497.002, 497.004, 497.005, 497.011, 497.012, 497.014, 497.015, 497.016, 497.018, 497.026, 497.043, 497.0435, 497.046, 639.055, 639.07, 639.08, 639.106, 639.17, 639.185, 639.20, 639.24, 639.26, 639.27, 639.28, 639.29, and 639.33, F.S., relating to various aspects of funeral, cemetery, and crematory regulation rendered redundant or unnecessary by the other provisions of this act; repealing s. 501.604(16), F.S., relating to exemptions to the Florida Telemarketing Act; repealing s. 624.523(1)(m), F.S., relating to the Insurance Commissioner's Regulatory Trust Fund; transferring the Board of Funeral Directors and Embalmers to the Department of Banking and Finance; providing for termination of present terms on the board; providing for appointment of new members and for qualifications and terms thereof; continuing the validity of licenses, registrations, and certificates of authority issued under chapters 470, 497, and 639, F.S.; providing for transfer of funds in the Preneed Funeral Contract Consumer Protection Fund to the Division of Finance of the Department of Banking and Finance; preserving the validity of any judicial or administrative proceedings pending on the effective date of the act and substituting the Department of Banking and Finance as a party in interest, if applicable; saving chapters 470, 497, and 639, F.S., from Sunset repeal; providing for type four transfer of positions and funding from the Department of Insurance to the Department of Banking and Finance; providing effective dates.

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

By the Committee on Ethics and Elections; and Representative Mortham and others—

CS for HJR 1579—A joint resolution proposing an amendment to Section 16 of Article III of the State Constitution relating to legislative and congressional redistricting.

—was referred to the Committee on Rules and Calendar.

By Representative Trammell—

HM 1981—A memorial to the Congress of the United States, urging Congress to take appropriate action to designate Liberty County as the site for a new Job Corps Training Center.

—was referred to the Committee on Rules and Calendar.

By Representative Wise and others—

HM 2099—A memorial to the Congress of the United States, urging the continuance of the Naval Aviation Depot Jacksonville.

—was referred to the Committee on Rules and Calendar.

RETURNING MESSAGES ON SENATE BILLS

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 148 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 148—A bill to be entitled An act relating to assault and battery; amending s. 784.07, F.S.; adding parole commissioners and parole examiners of the Parole Commission to the listing of law enforcement officers against whom commission of assault or battery results in a 1-degree upward reclassification of the offense; creating s. 784.075, F.S., relating to battery on a detention or commitment facility staff member; providing definitions; providing penalties; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 16, strike everything after the enacting clause and insert:

Section 1. Section 947.02, Florida Statutes, is amended to read:

947.02 Parole Commission; members, appointment.—

(1) The members of the Parole Commission shall be appointed by the Governor and Cabinet from a list of eligible applicants submitted by a parole qualifications committee. The appointments of members of the commission shall be certified to the Senate by the Governor and Cabinet for confirmation *and the membership of the commission shall include representation from minority persons as defined in s. 288.703.*

(2) A parole qualifications committee shall consist of five persons who are appointed by the Governor and Cabinet. One member shall be designated as chairman by the Governor and Cabinet. The committee shall provide for statewide advertisement and the receiving of applications for any position or positions on the commission and shall devise a plan for the determination of the qualifications of the applicants by investigations and comprehensive evaluations, including, but not limited to, investigation and evaluation of the character, habits, and philosophy of each applicant. Each parole qualifications committee shall exist for 2 years. If additional vacancies on the commission occur during this 2-year period, the committee may advertise and accept additional applications; however, all previously submitted applications shall be considered along with the new applications according to the previously established plan for the evaluation of the qualifications of applicants.

(3) *Within 90 days before an anticipated vacancy by expiration of term* ~~Whenever a vacancy occurs on the commission~~ pursuant to s. 947.03~~(3)~~ or *upon any other vacancy* ~~by reason of the resignation, retirement, or death of a commissioner~~, the Governor and Cabinet shall appoint a parole qualifications committee if one has not been appointed during the previous 2 years. The committee shall consider applications for the commission seat, *including the application of an incumbent commissioner if he applies,* according to the provisions of subsection (2). *The committee* ~~and~~ shall submit *a list* ~~the names~~ of three eligible applicants, *which may include the incumbent if the committee so decides,* without recommendation, to the Governor and Cabinet for appointment to the commission. *In the case of an unexpired term, the appointment must be* for the remainder of the unexpired term *and* ~~or~~ until a successor is appointed and qualified. If more than one seat is vacant, the committee shall submit *a list of* ~~the names of three~~ eligible applicants, *without recommendation, containing a number of names equal to three times the number of vacant seats* ~~for each seat~~; however, the names submitted shall not be distinguished by seat, and each submitted applicant shall be considered eligible for each vacancy.

~~(4) Whenever a vacancy occurs on the commission by reason of expiration of a commissioner's term, the Governor and Cabinet shall appoint a parole qualifications committee if one has not been appointed during the previous 2 years. The committee shall consider applications for the commission seat according to the provisions of subsection (2). If a commissioner whose term has expired or will expire does not seek reappointment, the terms of subsection (3) apply. If a commissioner whose term has expired or will expire seeks reappointment, the parole qualifications committee shall recommend to the Governor and Cabinet one of the following:~~

~~(a) That the incumbent member be reappointed to the commission. If the committee selects this option, only the name of the incumbent commissioner shall be submitted to the Governor and Cabinet.~~

~~(b) That the incumbent be considered along with other eligible persons. If the committee selects this option, the name of the incumbent and two eligible applicants shall be submitted to the Governor and Cabinet without recommendation.~~

~~(c) That the incumbent not be considered for reappointment. If the committee selects this option, the provisions of subsection (3) apply.~~

~~Except for a recommendation under paragraph (a), if two or more terms expire at the same time, the names submitted shall not be distinguished by seat, and each submitted applicant shall be considered eligible for each vacancy.~~

(4)~~(5)~~ Upon receiving a list of eligible persons from the parole qualifications committee, the Governor and Cabinet may reject the list. *If the list is rejected,* the committee shall reinitiate the application and examination procedure according to the provisions of subsection (2).

(5)~~(6)~~ The provisions of s. 120.53 and chapters 119 and 286 apply to all activities and proceedings of a parole qualifications committee.

Section 2. Subsection (1) of section 947.04, Florida Statutes, is amended to read:

947.04 Organization of commission; officers; offices.—

(1) *Before* ~~On~~ July 1 of each even-numbered year, the *Governor and Cabinet shall select* ~~members of the commission shall meet and select from their number~~ a chairman who shall serve for a period of 2 years and until a successor is *selected* ~~elected~~ and qualified. The *Governor and Cabinet* ~~commission~~ shall, at the same *time that a chairman is selected* ~~meeting at which it selects its chairman~~, select a vice chairman to serve *during the same 2-year period as the chairman,* in the absence of the chairman. The chairman may not succeed himself. The chairman, as chief administrative officer of the commission, has the authority and responsibility to plan, direct, coordinate, and execute the powers, duties, and responsibilities assigned to the commission, except those of granting and revoking parole as provided for in this chapter. Subject to approval by the Governor and the Cabinet, the chairman may assign consenting retired commissioners or former commissioners to temporary duty when there is a workload need. Any such commissioner shall be paid $100 for each day or portion of a day spent on the work of the commission and shall be reimbursed for travel expenses as provided in s. 112.061. The chairman is authorized to provide or disseminate information relative to parole by means of documents, seminars, programs, or otherwise as he determines necessary. The chairman shall establish, execute, and be held accountable for all administrative policy decisions. However, decisions to grant or revoke parole shall be made in accordance with the provisions of ss. 947.172, 947.174, and 947.23. The commissioners shall be directly accountable to the chairman in the execution of their duties as commissioners, and the chairman has authority to recommend to the Governor suspension of a commissioner who fails to perform the duties provided for by statute.

Section 3. Section 947.002, Florida Statutes, is amended to read:

947.002 Intent.—

(1) ~~The present system lacks objective criteria for paroling and, thus, is subject to allegations of arbitrary and capricious release and, therefore, potential abuses.~~ It is the *purpose* ~~intent~~ of this *chapter* ~~act~~ to establish an objective means for determining and establishing parole dates for inmates.

(2) Objective parole criteria will be designed to give primary weight to the seriousness of the offender's present criminal offense and his past criminal record. In considering the risk of recidivism, practice has shown that the best predictor is prior record.

~~(3) The functional reorganization of the commission shall begin on July 1, 1978. However, full implementation of objective parole guidelines shall be delayed until January 1, 1979, to provide sufficient time for integration of the full intent of this act.~~

(3)~~(4)~~ The chairman shall be the agency head. While the commission is responsible for making decisions on the granting and revoking of parole, the chairman shall establish, execute, and be held accountable for all administrative policy decisions. The routine administrative decisions are the full responsibility of the chairman.

(4)~~(5)~~ Hearing examiners are assigned on the basis of caseload needs as determined by the chairman.

(5)~~(6)~~ It is the intent of the Legislature that the decision to parole an inmate from the incarceration portion of his sentence is an act of grace of the state and shall not be considered a right.

Section 4. Subsection (1) of section 947.13, Florida Statutes, is amended to read:

947.13 Powers and duties of commission.—

(1) The commission shall have the powers and perform the duties of:

(a) Determining what persons shall be placed on parole, subject to the provisions of ss. 947.172 and 947.174.

(b) Fixing the time and conditions of parole, as provided in this chapter.

(c) Determining *whether a person has violated* ~~violations of~~ parole and *taking action with respect to such a violation* ~~what action shall be taken with reference thereto~~.

(d) Making such investigations as may be necessary.

(e) Reporting to the Board of Executive Clemency the circumstances, the criminal records, and the social, physical, mental, and psychiatric conditions and histories of persons under consideration by the board for pardon, commutation of sentence, or remission of fine, penalty, or forfeiture.

(f) Establishing the terms and conditions of persons released on conditional release under s. 947.1405, and determining subsequent ineligibility for conditional release due to a violation of the terms or conditions of conditional release and taking action with respect to such a violation.

(g) As the Control Release Authority, determining what persons will be released on control release under s. 947.146, establishing the time and conditions of control release, if any, and determining whether a person has violated the conditions of control release and taking action with respect to such a violation.

(h) Determining what persons will be released on conditional medical release under s. 947.149, establishing the conditions of conditional medical release, and determining whether a person has violated the conditions of conditional medical release and taking action with respect to such a violation.

Section 5. Section 947.141, Florida Statutes, is amended to read:

947.141 Violations of conditional release, *control release, or conditional medical release.*—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender released under s. 947.1405, *s. 947.146, or s. 947.149* has violated the terms and conditions of his release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee.

(2) Within 45 days after *notice to the Parole Commission of* the arrest of a releasee charged with a violation of the terms and conditions of conditional release, *control release, or conditional medical release,* the releasee must be afforded a hearing conducted by a commissioner or a duly authorized representative thereof. If the releasee elects to proceed with a hearing, he must be informed orally and in writing of the following:

(a) The alleged violation with which he is charged.

(b) His right to be represented by counsel.

(c) His right to be heard in person.

(d) His right to secure, present, and compel the attendance of witnesses relevant to the proceeding.

(e) His right to produce documents on his own behalf.

(f) His right of access to all evidence used against him and to confront and cross-examine adverse witnesses.

(g) His right to waive the hearing.

(3) Within a reasonable time following the hearing, the commissioner or his duly authorized representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A *panel of no fewer than two commissioners* ~~majority of the commission~~ shall enter an order determining whether the charge of violation of conditional release, *control release, or conditional medical release* has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the *panel may* ~~commission shall~~ revoke conditional release, *control release, or conditional medical release* and thereby return the releasee to prison to serve the sentence imposed upon him, reinstate the original order granting *the* ~~conditional~~ release, or enter such other order as it considers proper.

(4) Whenever a conditional release, *control release, or conditional medical release* is revoked by *a panel of no fewer than two commission-*

ers ~~the commission~~ and the releasee is ordered ~~by the commission~~ to be returned to prison, the releasee, by reason of his misconduct, may be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of his ~~conditional~~ release. *However, if a conditional medical release is revoked due to the improved medical or physical condition of the releasee, he shall not forfeit gain-time accrued before the date of his conditional medical release.* This subsection does not deprive the prisoner of his right to gain-time or commutation of time for good conduct, as provided by law, from the date on which he is returned to prison.

Section 6. Section 947.146, Florida Statutes, 1992 Supplement, is amended to read:

947.146 Control Release Authority.—

(1) There is created a Control Release Authority which shall be composed of the members of the Parole Commission and which shall have the same chairman as the commission. The authority shall utilize such commission staff as it determines is necessary to carry out its purposes.

(2) The authority *has* ~~shall have~~ as its primary purpose the implementation of a system of uniform criteria for the determination of the number and type of inmates who must be released into the community under control release in order to maintain the state prison system below *98* ~~97.5~~ percent of its lawful capacity as defined in s. 944.096. No inmate has a right to control release. Control release is an administrative function solely used to manage the state prison population within lawful capacity. *An inmate may not receive an advancement of his control release date by an award of control release award allotments for any period of time before the date the inmate becomes statutorily eligible for control release or before the subsequent date of establishment of his advanceable control release date.*

~~(3) There shall be no award of provisional credits by the secretary of the department pursuant to s. 944.277 unless either:~~

~~(a) The chairman of the Control Release Authority certifies in writing to the secretary of the department that the authority is unable to maintain the state prison system below 97.5 percent of its lawful capacity; or~~

~~(b) Based upon the failure of the authority to act, the state prison system reaches 98 percent of its lawful capacity as provided in s. 944.277.~~

(3)~~(4)~~ A panel of no fewer than two members of the authority shall establish a control release date for each parole ineligible inmate committed to the department and incarcerated within the state, within 90 days following notification by the department of receipt of the inmate *or within 90 days following the completion of proceedings revoking an offender's release and notification by the department of receipt of the inmate*, except an inmate who:

(a) Is serving a sentence *that* ~~which~~ includes a mandatory minimum provision for a capital offense, or *a mandatory minimum term of imprisonment of more than 5 years for a* drug trafficking offense, and has not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Is serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2);

(c) Is convicted, or has been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Is convicted, or has been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Is sentenced, has previously been sentenced, or has been sentenced at any time under *s. 775.084(1)(b) for a crime committed on or after October 1, 1988* ~~s. 775.084~~, or has been sentenced at any time in another jurisdiction as a *violent* habitual offender;

(h) Is convicted, or has been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Article V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Is convicted, or has been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or has ever been convicted of any degree of murder *or attempted murder* in another jurisdiction;~~.~~

(j) Is convicted, or has been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and is sentenced, or has been sentenced at any time, under s. 775.084 for such offense, or has been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k) Is serving a sentence for an offense committed on or after January 1, 1994, for drug trafficking for a level-9 offense, and the subtotal of the offender's sentence points is fully multiplied pursuant to s. 921.0014;

(l) Is serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender's sentence points is multiplied pursuant to s. 921.0014;

(m) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm or destructive device in which additional points are added to the subtotal of the offender's sentence points pursuant to s. 921.0014; or

(n) Is serving a sentence for an offense committed on or after January 1, 1994, for possession of a semiautomatic weapon, and additional points are added to the subtotal of the offender's sentence points pursuant to s. 921.0014.

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense. *The 90-day requirement for the establishment of a control release date for all eligible inmates for control release consideration does not apply to a person sentenced under s. 775.084(1)(a).*

(4)~~(5)~~ Control release dates shall be based upon a system of uniform criteria which shall include, but not be limited to, present offenses for which the person is committed, past criminal conduct, length of cumulative sentences, and age of the offender at the time of commitment, together with any aggravating or mitigating circumstances.

(5)~~(6)~~ For purpose of determining eligibility for control release, the mandatory minimum portion of a concurrent sentence will begin on the date the sentence begins to run as provided in s. 921.161. The mandatory minimum portions of consecutive sentences shall be served at the beginning of the maximum sentence as established by the Department of Corrections. With respect to offenders who have more than one sentence with a mandatory minimum portion, each mandatory minimum portion of consecutive sentences shall be served consecutively; provided, that in no case shall a sentence begin to run before the date of imposition of that sentence.

(6)~~(7)~~ The authority has the power and duty to:

(a) Extend or advance the control release date of any inmate for whom a date has been established, based upon one or more of the following:

1. Recently discovered information of:

a. Past criminal conduct;

b. Verified threats by inmates provided by victims, law enforcement, or the department;

c. Potential risk to or vulnerability of a victim;

d. Psychological or physical trauma to the victim due to the criminal offense;

e. Court-ordered restitution;

f.~~e.~~ History of abuse or addiction to a chemical substance verified by a presentence or postsentence investigation report;

g.~~d.~~ The inmate's ties to organized crime;

h.~~e.~~ A change in the inmate's sentence structure;

i.~~f.~~ Cooperation with law enforcement;

j.~~g.~~ Strong community support; and

k.~~h.~~ A documented mental condition as a factor for future criminal behavior.

2. The recommendation of the department regarding:

a. A medical or mental health-related condition; or

b. Institutional adjustment of the inmate, which may include refusal by the inmate to sign the agreement to the conditions of the release plan.

3. Lawful capacity of the state prison system.

(b) Authorize an individual commissioner to postpone a control release date for not more than 60 days without a hearing for any inmate who has become the subject of a disciplinary proceeding, a criminal arrest, an information, or an indictment; who has been terminated from work release; or about whom there is any recently discovered information as specified in paragraph (a).

(c)~~(b)~~ Determine the terms, conditions, and period of time of control release for persons released pursuant to this section.

(d)~~(c)~~ Determine violations of control release and what actions shall be taken with reference thereto.

(e)~~(d)~~ Provide for victim input into the decisionmaking process *which may be used by the authority as aggravation or mitigation in determining which persons shall be released* ~~for placing persons~~ on control release.

(f)~~(e)~~ Make such investigations as may be necessary for the purposes of establishing, modifying, or revoking a control release date.

(g)~~(f)~~ Contract with a public defender or private counsel for representation of indigent persons charged with violating the terms of control release.

(h)~~(g)~~ Create a periodic review process for inmates whose original control release dates are established at the maximum category.

(i)~~(h)~~ Adopt such rules as the authority deems necessary for implementation of the provisions of this section.

(7) If the population of the state correctional system, as defined in s. 944.02, exceeds 99 percent of lawful capacity, the Secretary of Corrections shall notify the chairman of the Parole Commission and certify to the chairman the lawful capacity of the state correctional system and the current population. Upon receiving such certification, the chairman of the Parole Commission shall advise the Governor that a state of emergency exists. When the Governor verifies the state of emergency to the Control Release Authority by letter, the Control Release Authority shall establish emergency control release dates for inmates who are ineligible for parole, who are excluded from control release under paragraphs (3)(a), (b), (g), or (h), and who the authority determines are the most suitable for release. Under no circumstances shall an inmate convicted of a capital felony be eligible for emergency control release.

(a) The authority shall extend or advance emergency control release dates pursuant to subsection (6) and subsections (9)-(12).

(b) The authority shall maintain the inmate population below 100 percent of lawful capacity by releasing inmates on emergency control release as well as control release as otherwise provided in this section.

(c) A state of emergency ceases to exist when the inmate population drops below 98 percent of lawful capacity and remains below that level for 30 consecutive days without requiring the release of inmates through the establishment of additional emergency control release dates.

(d) Nothing in this subsection prohibits the establishment of a control release date under other provisions of this section or creates any right to an early release for any inmate. An inmate has no right to be reviewed for the establishment of an emergency control release date. The establishment of emergency control release dates under this subsection is solely an administrative function used to manage the prison population within lawful capacity.

(e) When a state of emergency ceases to exist pursuant to paragraph (c), all emergency control release dates must be suspended and no inmate is eligible for release under any previously established emergency control release date.

(8) The Department of Corrections shall select and contract with public or private organizations for the provision of basic support services for inmates whose term of control release supervision does not exceed *180* ~~90~~ days. Basic support services shall include, but not be limited to, substance abuse counseling, temporary housing, family counseling, and employment support programs.

(9) The authority shall examine such records as it deems necessary of the department, the Department of Health and Rehabilitative Services, the Department of Law Enforcement, and any other such agency for the purpose of either establishing, modifying, or revoking a control release date. The victim impact statement shall be included in such records for examination. Such agencies shall provide the information requested by the authority for the purposes of fulfilling the requirements of this section.

(10) The authority shall determine the appropriate terms, conditions, and lengths of supervision, if any, for persons placed on control release, except that such lengths of supervision shall be determined as provided in s. 947.24 and *may* ~~shall~~ not exceed the maximum period for which the person has been sentenced. If the person's conviction was for a controlled substance violation, the conditions *must* ~~shall~~ include a requirement that the person submit to random substance abuse testing intermittently throughout the term of supervision, *and, when warranted, a requirement that the person participate in substance abuse assessment and substance abuse treatment services* upon the direction of the correctional probation officer as defined in s. 943.10(3). *If* ~~In the event~~ any inmate placed on control release supervision is also subject to probation or community control, the department shall supervise such person according to the conditions imposed by the court, and the authority shall defer to such supervision. *If the court revokes the probation or community control, the authority, as the result of the revocation, may vacate the grant of control release and resulting deferred control release supervision or take other action it considers appropriate.* If the term of control release supervision exceeds that of the probation or community control, then supervision shall revert to the authority's conditions upon expiration of the probation or community control.

(11) If an inmate is released on control release supervision subject to a detainer for a pending charge and the pending charge results in a new commitment to incarceration before expiration of the terms of control release supervision, the authority may vacate the grant of control release and resulting deferred control release supervision or take other action it considers appropriate.

(12)~~(11)~~ *When the authority has reasonable grounds to believe that an offender released under this section has violated the terms and conditions of control release, such offender shall be subject to the provisions of s. 947.141 and shall be subject to forfeiture of gain-time pursuant to s. 944.28(1).*

(13)~~(12)~~ If it is discovered that any control releasee was placed on control release by error or while statutorily ineligible for such release, his order of control release may be vacated and the Control Release Authority may cause a warrant to be issued for the arrest and return of the control releasee to the custody of the Department of Corrections for service of the unserved portion of his sentence or combined sentences.

Section 7. *All offenders designated for early release by the Control Release Authority who are serving a mandatory minimum sentence of 5 years or less for a drug trafficking offense under s. 893.135, Florida Statutes, or who are sentenced, or have previously been sentenced at any*

time under s. 775.084(1)(a), Florida Statutes, where the primary offense at conviction was one involving drug possession, purchase, sale, manufacture, delivery, or trafficking, may be released into supervision pursuant to s. 948.001(3), Florida Statutes.

Section 8. *(1) Any inmate who is sentenced under s. 775.084(1)(a), Florida Statutes, and whose primary offense at conviction is for burglary as provided in s. 810.02, Florida Statutes, shall only be placed in an advanceable category as the result of a critical depletion transfer.*

(2) A critical depletion transfer occurs whenever the release of eligible inmates under control release depletes the total number of eligible inmates with advanceable control release dates to less than 4,000, and inmates in the nonadvanceable subdivision Maximum A category are transferred to the advanceable category with the control release date established at the tentative release date in compliance with the following specifications and criteria:

(a) The number transferred shall be equal to the minimum number needed to return the pool of inmates with control release dates established at tentative release dates or earlier to 4,020.

(b) Those inmates who are closest to their tentative release dates or presumptive release dates shall be eligible for transfer.

(c) Inmates shall be ineligible for transfer if subject to disciplinary proceedings during the 60 days prior to the transfer action.

(d) Inmates selected for transfer shall have their control release dates reestablished at their current tentative release date or presumptive release date, whichever is earlier.

Section 9. *Effective on June 1, 1995:*

(1) The amendments to paragraphs (a) and (g) of subsection (3) of s. 947.146, Florida Statutes, 1992 Supplement, contained in this act shall be null and void and those paragraphs shall revert to the language existing in those paragraphs on January 1, 1993.

(2) Section 7 of this act is repealed.

(3) Section 8 of this act is repealed.

Section 10. *Before the release under s. 947.146, Florida Statutes, of any inmate sentenced as a habitual felony offender pursuant to this act, the Control Release Authority shall develop a uniform procedure for the award of control release dates to inmates sentenced under s. 775.084(1)(a), Florida Statutes. The procedure must give priority consideration for early release to habitualized offenders who have been in the state prison system on their current commitment for the longest period of time. It is the intent of the Legislature that the habitual felony offender serve at least a significant portion of the court-imposed sentence before release.*

Section 11. *Section 944.277, Florida Statutes, as amended by section 12 of chapter 92-310, Laws of Florida, and s. 944.598, Florida Statutes, as amended by section 10 of chapter 92-47, Laws of Florida, are repealed.*

Section 12. Subsection (1) of section 947.165, Florida Statutes, is amended to read:

947.165 Objective parole guidelines.—

(1) The commission shall develop and implement objective parole guidelines which shall be the criteria upon which parole decisions are made. The objective parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of offense and the likelihood of favorable parole outcome. The guidelines shall require the commission to aggravate or aggregate each consecutive sentence in establishing the presumptive parole release date. Factors used in arriving at the salient factor score and the severity of offense behavior category shall not be applied as aggravating circumstances. *If* ~~In the event~~ the sentencing *judge* ~~court~~ files a written objection to the parole release of an inmate as provided for in *s. 947.1745(6)* ~~s. 947.1745(4)~~, such objection may be used by the commission as a basis to extend the presumptive parole release date.

Section 13. Subsection (1) of section 947.173, Florida Statutes, is amended to read:

947.173 Review of presumptive parole release date.—

(1) An inmate may request one review of his *initial* presumptive parole release date established according to ~~the provisions of~~ s. 947.16(1)~~, s. 947.174, or s. 947.1745~~ if the inmate shows cause in writing, with individual particularities, within 60 days *after* ~~of~~ the date the inmate is notified of the decision on the presumptive parole release date.

Section 14. Section 947.1745, Florida Statutes, is amended to read:

947.1745 Establishment of effective parole release date.—If the inmate's institutional conduct has been satisfactory, the presumptive parole release date shall become the effective parole release date as follows:

(1) Within 90 days *before* ~~prior to~~ the presumptive parole release date, a hearing examiner shall conduct a final interview with the inmate in order to establish an effective parole release date *and parole release plan.* If it is determined that the inmate's institutional conduct has been unsatisfactory, a statement to this effect shall be made in writing with particularity and shall be forwarded to a panel of no fewer than two commissioners appointed by the chairman. ~~Within 30 days after receipt of the recommendation, the panel shall determine whether or not to authorize the effective parole release date; and the inmate shall be notified of such decision in writing within 30 days of the decision by the panel.~~

(2) If the panel finds that the inmate's parole release plan is unsatisfactory, this finding may constitute new information and good cause in exceptional circumstances as described in s. 947.173, under which the panel may extend the presumptive parole release date for not more than 1 year. The panel may review any subsequently proposed parole release plan at any time.

(3) Within 30 days after receipt of the inmate's parole release plan, the panel shall determine whether to authorize the effective parole release date. The inmate must be notified of the decision in writing within 30 days after the decision by the panel.

(4)~~(2)~~ *If* ~~When~~ an effective date of parole has been established, release on that date *is* ~~shall be~~ conditioned upon the completion of a satisfactory plan for parole supervision. An effective date of parole may be delayed for up to 60 days by a commissioner without a hearing for the development and approval of release plans.

(5)~~(3)~~ An effective date of parole may be delayed by a commissioner for up to 60 days without a hearing based on:

(a) New information not available at the time of the effective parole release date interview.

(b) Unsatisfactory institutional conduct which occurred subsequent to the effective parole release date interview.

(c) The lack of a verified parole release plan.

(6)~~(4)~~ Within 90 days before the effective parole release date interview, the commission shall send written notice to the sentencing *judge* ~~court~~ of any inmate who has been scheduled for an effective parole release date interview. *If the sentencing judge is no longer serving, the notice must be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the sentencing judge.* Within 30 days after receipt of the commission's notice, the sentencing *judge, or the designee,* ~~court~~ shall send to the commission notice of objection to parole release, *if* ~~provided~~ the *judge* ~~court~~ objects to such release. If there is objection by the *judge* ~~court~~, such objection may constitute good cause in exceptional circumstances as described in s. 947.173, and the commission may schedule a subsequent review within 2 years, extending the presumptive parole release date beyond that time. With any subsequent review the same procedure outlined above will be followed. If the *judge* ~~court~~ remains silent with respect to parole release, the commission may authorize an effective parole release date. ~~The provisions of~~ This subsection *applies if* ~~shall be applicable in the event~~ the commission desires to consider the establishment of an effective release date without delivery of the effective parole release date interview. Notice *of the effective release date must be sent* to the sentencing *judge* ~~court shall be sent~~, and either the *judge's* ~~court's~~ response to the notice must be received or the time period allowed for such response must elapse before the commission *may* ~~can~~ authorize an effective release date.

Section 15. Section 947.24, Florida Statutes, is amended to read:

947.24 Discharge from parole *supervision or release supervision.*—

(1) When a person is placed on parole, *control release, or conditional release,* the commission shall determine the period of time the person *will* ~~shall~~ be *under* ~~on~~ parole *supervision or release supervision* in the following manner:

(a) If the person is being paroled *or released under supervision from* ~~on~~ a single or concurrent sentence, the period of time the person *will* ~~shall~~ be *under* ~~on~~ parole *supervision or release supervision may* ~~shall~~ not exceed 2 years unless the commission designates a longer period of time, in which case it *must* ~~will~~ advise the parolee *or releasee* in writing of the reasons for the extended period. In any event, the period of parole *supervision or release supervision may* ~~shall~~ not exceed the maximum period for which the person has been sentenced.

(b) If the person is being paroled *or released under supervision from* ~~on~~ a consecutive sentence or sentences, the period of time the person *will* ~~shall~~ be *under* ~~on~~ parole *supervision or release supervision will* ~~shall~~ be for the maximum period for which the person was sentenced.

(2) The commission shall review the progress of each person who has been placed on parole, *control release, or conditional release after 2 years of supervision in the community and biennially thereafter. Such review must include consideration of whether to modify the reporting schedule, thereby authorizing the* ~~paroled~~ *person under parole supervision or release supervision* to submit reports quarterly, semiannually, or annually. The commission, after having retained jurisdiction of a person for a sufficient length of time to evidence satisfactory rehabilitation and cooperation, may further modify the terms and conditions of the person's parole, *control release, or conditional release,* may discharge the person from parole *supervision or release supervision,* may relieve the person from making further reports, or may permit the person to leave the state or country, upon *finding* ~~determining~~ that such action is in the best interests of the person and ~~of~~ society.

(3) This section does not affect the rights of a parolee to request modification of the terms and conditions of parole *under* ~~pursuant to~~ s. 947.19.

Section 16. Subsection (2) of section 948.15, Florida Statutes, is amended to read:

948.15 Misdemeanor probation services.—

(2) Any private entity providing services for the supervision of misdemeanor probationers must contract with the county in which the services are to be rendered. *In a county with a population of less than 70,000, the county court judge, or the Administrative Judge of the county court in a county that has more than one county court judge, must approve the contract.* Terms of the contract *must* ~~shall~~ state, but are not limited to:

(a) The extent of the services to be rendered by the entity providing supervision or rehabilitation.

(b) Staff qualifications and criminal record checks of staff in accordance with essential standards established by the American Correctional Association as of January 1, 1991.

(c) Staffing levels.

(d) The number of face-to-face contacts with the offender.

(e) Procedures for handling the collection of all offender fees and restitution.

(f) Procedures for handling indigent offenders which ensure placement irrespective of ability to pay.

(g) Circumstances under which revocation of an offender's probation may be recommended.

(h) Reporting and recordkeeping requirements.

(i) Default and contract termination procedures.

(j) Procedures that aid offenders with job assistance.

In addition, the entity shall supply the chief judge's office with a quarterly report summarizing the number of offenders supervised by the private entity, payment of the required contribution under supervision or rehabilitation, and the number of offenders for whom supervision or rehabilitation will be terminated. All records of the entity *must* ~~shall~~ be open to inspection upon the request of the county, the court, the Auditor General ~~of the State of Florida~~ or agents thereof.

Section 17. *1993 Revision of the Sentencing Guidelines; legislative intent.—This revision of the sentencing guidelines may be cited as the "Safe Streets Initiative of 1993," and is designed to emphasize incarceration in the state prison system for violent offenders and nonviolent offenders who have repeatedly committed criminal offenses and have demonstrated an inability to comply with less restrictive penalties previously imposed.*

Section 18. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 775.084, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 775.084, F.S., for present text.)

775.084 Habitual felony offenders and habitual violent felony offenders; enhanced sentencing.—

(1) HABITUAL FELONY OFFENDERS.—A person who is convicted of a primary offense as defined in s. 921.0011(4) that is scored at offense level 4 or higher on the offense severity ranking chart pursuant to s. 921.0012 and who has four or more convictions in his prior record as described in s. 921.0011(5) that are, were, or would have been scored at offense level 4 or higher is a habitual felony offender and the subtotal sentence points are multiplied by 1.5, at the discretion of the court.

(2) VIOLENT HABITUAL FELONY OFFENDERS.—A person who is convicted of a primary offense as defined in s. 921.0011(4) that is scored at offense level 7 or higher on the offense severity ranking chart pursuant to s. 921.0012 and who has one or more convictions in his prior record as described in s. 921.0011(5) that are, were, or would have been scored at offense level 7 or higher is a violent habitual felony offender and the subtotal sentence points are multiplied by 2, at the discretion of the court.

(3) HABITUAL OFFENDER FINDING.—In order to find that an offender is a habitual offender, the court must find that:

(a) The felony for which the defendant is to be sentenced was committed within 5 years after the date of the conviction of the last qualifying felony or within 5 years after the defendant's release, on parole or otherwise, from a prison sentence or other commitment imposed as a result of a prior conviction for a qualifying felony, whichever is later.

(b) The defendant has not received a pardon on the ground of innocence for any qualifying felony.

(c) A conviction of a qualifying felony has not been set aside in any post-conviction proceeding.

(4) CONVICTION.—

(a) "Conviction," for the purposes of this section, includes a sentence of probation or community control, whether or not adjudication is withheld.

(b) In order to be counted as a prior qualifying felony, the felony must have resulted in a conviction sentenced separately prior to the current offense and sentenced separately and subsequent to any other preceding conviction for a qualifying felony.

Section 19. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, *and* conspiracy~~, generally~~.—

(1) *A person who* ~~Whoever~~ attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such ~~an~~ offense, but fails in the perpetration or is intercepted or prevented in the execution *thereof* ~~of the same~~, commits the offense of criminal attempt, *ranked for purposes of sentencing* ~~and shall, when no express provision is made by law for the punishment of such attempt, be punished~~ as provided in subsection (4). ~~The offense of~~ Criminal attempt *includes* ~~shall include~~ the act of an adult who, with intent to commit an offense prohibited by law, allures, seduces, coaxes, or induces a child under the age of 12 to engage in an offense prohibited by law.

(2) *A person who* ~~Whoever~~ solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such

offense commits the offense of criminal solicitation, *ranked for purposes of sentencing* ~~and shall, when no express provision is made by law for the punishment of such solicitation, be punished~~ as provided in subsection (4).

(3) *A person who* ~~Whoever~~ agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy and shall, when no express provision is made by law for the punishment of such conspiracy, be punished as provided in subsection (4).

(4)(a) Except as otherwise provided in paragraphs (b) and (c) and s. 921.0012, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked on the offense severity ranking chart in s. 921.0012 two levels below the offense attempted, solicited, or conspired to is, was, or would have been ranked on the offense severity ranking chart.

(b) If the offense attempted, solicited, or conspired to is, was, or would have been ranked in level 1 or level 2 on the offense severity level ranking chart in s. 921.0012, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

~~(4) Whoever commits the offense of criminal attempt, criminal solicitation, or criminal conspiracy shall be punished as follows:~~

~~(a) If the offense attempted, solicited, or conspired to is a capital felony, the person convicted is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(b) If the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the person convicted is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(c) If the offense attempted, solicited, or conspired to is a felony of the second degree or a burglary that is a felony of the third degree, the person convicted is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

~~(d) If the offense attempted, solicited, or conspired to is a felony of the third degree, the person convicted is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(e) If the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the person convicted is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.~~

(5) It is a defense *to a charge of criminal attempt, criminal solicitation, or criminal conspiracy* ~~under this section~~ that, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose, the defendant:

(a) Abandoned his attempt to commit the offense or otherwise prevented its commission;

(b) After soliciting another person to commit an offense, persuaded such other person not to do so or otherwise prevented commission of the offense; or

(c) After conspiring with one or more persons to commit an offense, persuaded such persons not to do so or otherwise prevented commission of the offense.

Section 20. Effective upon this act becoming a law and applicable to sentencing for offenses committed on or after October 1, 1993, section 921.001, Florida Statutes, 1992 Supplement, is amended to read:

921.001 Sentencing Commission *and sentencing guidelines generally.*—

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that violent criminal offenders are appropriately incarcerated, has determined that it is in the best interest of the state to develop, implement, and revise a uniform sentencing policy in cooperation with the Supreme Court. In furtherance of this cooperative effort, *the Legislature* ~~there is~~ created a Sentencing Commission, ~~which shall be~~ responsible for the initial development of a statewide system of sentencing guidelines, *evaluating.* ~~The commission shall evaluate~~ *these guidelines periodically,* and *recommending* ~~recommend such changes~~ on a continuing basis *changes* ~~as are~~ necessary to ensure incarceration of:

(a) Violent criminal offenders; and

(b) Nonviolent criminal offenders who commit repeated acts of criminal behavior and who have demonstrated an inability to comply with less restrictive penalties previously imposed for nonviolent criminal acts.

(2)(a) The commission *is* ~~shall be~~ composed of 17 members, consisting of: two members of the Senate ~~to be~~ appointed by the President of the Senate; two members of the House of Representatives ~~to be~~ appointed by the Speaker of the House of Representatives; the Chief Justice of the Supreme Court or a member of the Supreme Court designated by the Chief Justice; three circuit court judges, one county court judge, and one representative of the victim advocacy profession, ~~to be~~ appointed by the Chief Justice of the Supreme Court; the Attorney General or his designee; and the secretary of the Department of Corrections or his designee. The following members *are* ~~shall be~~ appointed by the Governor: one state attorney recommended by the Florida Prosecuting Attorneys Association; one public defender recommended by the Public Defenders Association; one private attorney recommended by the President of The Florida Bar; and two persons of the Governor's choice. The Chief Justice or the member of the Supreme Court designated by the Chief Justice *serves* ~~shall serve~~ as chairman of the commission.

(b) The members of the commission appointed by the Governor and the members from the Senate and the House of Representatives ~~shall~~ serve 2-year terms. The members appointed by the Chief Justice of the Supreme Court ~~shall~~ serve at his pleasure.

(c) Membership on the commission *does* ~~shall~~ not disqualify a member from holding any other public office or from being employed by a public entity. The Legislature finds and declares that the commission serves a state, county, and municipal purpose and that service on the commission is consistent with a member's principal service in a public office or in public employment.

(d) Members of the commission ~~shall~~ serve without compensation but *are* ~~shall be~~ entitled to be reimbursed for per diem and travel expenses as provided for in s. 112.061.

(e) The office of the State Courts Administrator shall act as staff for the commission and *shall* provide all necessary data collection, analysis, and research, and support services.

(3)*(a)* The commission shall meet annually or at the call of the chairman to review sentencing practices and recommend modifications to the guidelines. In *recommending modifications to* ~~modifying~~ the sentencing guidelines, the commission shall take into consideration *the existing* ~~current~~ sentencing and release practices and correctional resources, including the capacities of local and state correctional facilities, in addition to other relevant factors.

(b) For *the* ~~this~~ purpose *of assisting the commission in recommending modifications to the sentencing guidelines,* the *Department of Corrections* ~~commission~~ is authorized to collect and evaluate data on sentencing practices in the state from each of the judicial circuits *and provide technical assistance to the commission upon request. The Department of Corrections shall, no later than October 1 of each year, provide the commission with a yearly report detailing the rate of compliance of each judicial circuit in providing scoresheets to the department.*

(4) The purpose of the sentencing guidelines is to establish a uniform set of standards to guide the sentencing judge in the sentence decisionmaking process. The guidelines represent a synthesis of current

sentencing theory, historical sentencing practices, and a rational approach to managing correctional resources. The sentencing guidelines are intended to eliminate unwarranted variation in the sentencing process by reducing the subjectivity in interpreting specific offense-related and offender-related criteria and in defining the relative importance of those criteria in the sentencing decision.

(a) The sentencing guidelines embody the principles that:

1. Sentencing is neutral with respect to race, gender, and social and economic status.

2. The primary purpose of sentencing is to punish the offender. Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.

3. The penalty imposed is commensurate with the severity of the primary offense and the circumstances surrounding the primary offense.

4. The severity of the sentence increases with the length and nature of the offender's prior record.

5. The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time.

6. Departures from the recommended sentences established in the guidelines are articulated in writing and made only when circumstances or factors reasonably justify the aggravation or mitigation of the sentence. The level of proof necessary to establish facts that support a departure from the sentencing guidelines is a preponderance of the evidence.

7. Use of incarcerative sanctions is prioritized toward offenders convicted of serious offenses and certain offenders who have long prior records, in order to maximize the finite capacities of state and local correctional facilities.

(b)~~(4)(a)~~ The guidelines *enacted effective October 1, 1983, apply* ~~shall be applied~~ to all felonies, except capital felonies, committed on or after October 1, 1983;~~,~~ and to all felonies, except capital felonies and life felonies, committed prior to *that date and* ~~October 1, 1983,~~ for which sentencing occurs after such date when the defendant affirmatively selects to be sentenced pursuant to *such* ~~the~~ provisions ~~of this act~~. *The 1993 guidelines apply to sentencing for all felonies, except capital felonies, committed on or after October 1, 1993, and to sentencing for all felonies, except capital felonies, committed before October 1, 1993, for which sentencing occurs after such date when the defendant affirmatively selects to be sentenced pursuant to the 1993 guidelines.*

(c)~~(b)~~ The commission shall, no later than October 1 of each year, make a recommendation to the members of the Supreme Court, the President of the Senate, ~~and~~ the Speaker of the House of Representatives, *and the chairpersons of the relevant substantive committees of both houses* on the need for changes in the guidelines. Upon receipt of such recommendation, the Supreme Court may revise the statewide sentencing guidelines to conform them with all or part of the commission recommendation. Such revision shall be submitted by the Supreme Court to the President of the Senate, ~~and~~ the Speaker of the House of Representatives, *and the chairpersons of the relevant substantive committees of both houses* no later than *December 1* ~~February 1~~ of each year following the receipt of the recommendations of the commission. However, such revision *is* ~~shall become~~ effective only upon the subsequent adoption by the Legislature of legislation implementing the guidelines as then revised. The court may also revise the statewide sentencing guidelines if it certifies that the revisions are necessary to conform the guidelines to previously adopted statutory revisions.

(d) The commission, with the assistance of the Department of Corrections, shall estimate how sentencing score thresholds and weights assigned to the sentencing factors will affect the rates of incarceration and the levels of prison population and shall submit to the Legislature, by October 1 of each year, recommended sentencing score thresholds, recommended weights assigned to the sentencing factors, and a recommended appropriation for state correctional resources that is sufficient to fund the estimated prison population.

~~(e) The Division of Economic and Demographic Research of the Joint Legislative Management Committee shall prepare alternative proposals which revise the statewide sentencing guidelines and submit such proposals to the Senate Committee on Corrections, Probation, and Parole; the Senate Committee on Criminal Justice; the House Committee on Corrections; the House Committee on Criminal Justice; and to the Sentencing Guidelines Commission by November 1, 1991. The commission is hereby ordered to develop revised statewide sentencing guidelines and provide them to the members of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives by January 1, 1992, which emphasize incarceration for violent offenders and alternatives to incarceration for nonviolent offenders. In developing revised sentencing guidelines, the commission shall consider present and future state prison resources so that available spaces for incarceration are used as specified in paragraphs (1)(a) and (b).~~

~~(d) In developing revised sentencing guidelines to meet the requirements of paragraphs (1)(a) and (b) and (4)(c), the commission shall:~~

~~1. Rank the gravity of offenses to reflect judgments about harm or potential harm to the community, the culpability of the offender, and the physical injury to the victim.~~

~~2. Develop a scoring system to assign weight to such offender characteristics as the nature and extent of prior criminal convictions, the juvenile record, the offender's legal status at the time of the offense, whether extended periods of crime-free behavior will diminish the weight given to earlier convictions, and how multiple convictions arising out of a single criminal episode should be counted.~~

~~3. Define a dispositional policy to determine which offenders should go to state prison and which should be sanctioned in other ways.~~

~~4. Establish a durational policy to set the lengths of sentences.~~

~~5. Develop policy and procedure to govern when a judge may depart from the guidelines to impose a more severe or less severe sanction.~~

(5) Sentences imposed by trial court judges *under the 1993 revised sentencing guidelines on or after October 1, 1993,* must be ~~in all cases~~ within *the 1993 guidelines unless there is a departure sentence with written findings* ~~any relevant minimum and maximum sentence limitations provided by statute and must conform to all other statutory provisions~~. *If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence under the guidelines must be imposed, absent a departure. If a departure sentence, with written findings, is imposed, such sentence must be within any relevant maximum sentence limitations provided in s. 775.082.* The failure of a trial court to impose a sentence within the sentencing guidelines *is* ~~shall be~~ subject to appellate review pursuant to Chapter 924. *However, the extent of a departure from a guidelines sentence is not subject to appellate review.* ~~However, any person sentenced for a felony offense committed after October 1, 1988, whose presumptive sentence is any nonstate prison sanction may be sentenced to community control or to a term of incarceration not to exceed 22 months. Such sentence is not subject to appeal. However, before imposing such sentence, the court shall give due consideration to the criteria in s. 921.005(1). The extent of departure from a guideline sentence shall not be subject to appellate review.~~

(6) A court may impose a departure sentence outside the sentencing guidelines ~~A departure sentence shall be~~ based upon circumstances or factors which reasonably justify the aggravation or mitigation of the sentence *in accordance with s. 921.0016.* The level of proof necessary to establish facts supporting a departure from a sentence under the guidelines is a preponderance of the evidence. When multiple reasons exist to support a departure from a guidelines sentence, the departure shall be upheld when at least one circumstance or factor justifies the departure regardless of the presence of other circumstances or factors found not to justify departure.

~~(6) The sentencing guidelines shall provide that~~ Any *sentence* ~~sentences~~ imposed outside the range recommended by the guidelines *must* be explained in writing by the trial court judge.

(7) ~~A court may impose~~ A sentence *may be imposed* outside the guidelines *based on* ~~when~~ credible facts, which may include an oral or written statement submitted by the victim or next of kin pursuant to s. 921.143, proven by a preponderance of the evidence, *which* demonstrate that the victim suffered excessive physical or emotional trauma at the hands of the defendant*; and*; such departure is not barred because victim injury has been utilized in the calculation of the guidelines sentence.

~~(8) For purposes of the statewide sentencing guidelines, if the conviction is for an offense described in chapter 794, chapter 800, or s. 826.04 and such offense includes sexual penetration, the sexual penetration must receive the score indicated for penetration or slight injury, regardless of whether there is evidence of any physical injury. If the conviction is for an offense described in chapter 794, chapter 800, or s. 826.04 and such offense does not include sexual penetration, the sexual contact must receive the score indicated for contact but no penetration, regardless of whether there is evidence of any physical injury. If the victim of an offense described in chapter 794, chapter 800, or s. 826.04 suffers any physical injury as a direct result of the primary offense or any other offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.~~

(8)~~(9) A trial court may impose~~ A sentence *may be imposed* outside the guidelines *based on* ~~when~~ credible facts, proven by a preponderance of the evidence, *which* demonstrate that the defendant's prior record, including offenses for which adjudication was withheld~~,~~ and the current criminal offense for which the defendant is being sentenced, indicate an escalating pattern of criminal conduct. The escalating pattern of criminal conduct may be evidenced by a progression from nonviolent to violent crimes, ~~or~~ a progression of increasingly violent crimes, *or a pattern of increasingly serious criminal activity.*

(9)~~(10)~~ The Sentencing Commission and the office of the State Courts Administrator shall conduct ongoing research on the impact of *the* sentencing guidelines ~~adopted by the commission on sentencing practices~~, the use of imprisonment and alternatives to imprisonment, and plea bargaining. The commission, with the aid of the office of the State Courts Administrator, the Department *of Corrections*, and the Parole Commission, shall estimate the impact of any proposed *changes to the* sentencing guidelines on future rates of incarceration and levels of prison population,~~. Such estimates shall be~~ based in part on historical data of sentencing practices which have been accumulated by the office of the State Courts Administrator and on Department *of Corrections* records reflecting average time served for offenses covered by the proposed *changes to the* guidelines. ~~Projections of impact shall be reviewed by~~ The commission *shall review the projections of impact and shall make them* ~~and made~~ available to other appropriate agencies of state government, including the Legislature, by *October 1* ~~December 15~~ of each year.

(10)(a)~~(11)~~ A person who is convicted of a crime committed on or after October 1, 1983, *but before October 1, 1993, may* ~~shall~~ be released from incarceration only:

1.~~(a)~~ Upon expiration of his sentence;

2.~~(b)~~ Upon expiration of his sentence as reduced by accumulated gain-time;

3.~~(c)~~ As directed by an executive order granting clemency;

4.~~(d)~~ Upon attaining the provisional release date;

5.~~(e)~~ Upon placement in a conditional release program pursuant to s. 947.1405; or

6.~~(f)~~ Upon the granting of control release pursuant to s. 947.146.

(b) A person who is convicted of a crime committed on or after October 1, 1993, may be released from incarceration only:

1. Upon expiration of his sentence;

2. Upon expiration of his sentence as reduced by accumulated meritorious or incentive gain-time;

3. As directed by an executive order granting clemency;

4. Upon attaining the provisional release date.

5. Upon placement in a conditional release program pursuant to s. 947.1405; or

6. Upon the granting of control release pursuant to s. 947.146.

(11)~~(12)~~ A person who is convicted of a crime committed on or after December 1, 1990, and who receives a control release date may not refuse to accept the terms or conditions of control release.

Section 21. Subsection (1) of section 924.06, Florida Statutes, is amended to read:

924.06 Appeal by defendant.—

(1) A defendant may appeal from:

(a) A final judgment of conviction when probation has not been granted under chapter 948, except as provided in subsection (3);

(b) An order granting probation under chapter 948;

(c) An order revoking probation under chapter 948;

(d) A sentence, on the ground that it is illegal; or

(e) A sentence imposed outside the range recommended by the guidelines authorized by *chapter 921* ~~s. 921.001~~.

Section 22. Section 924.07, Florida Statutes, is amended to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(a) An order dismissing an indictment or information or any count thereof or dismissing an affidavit charging the commission of a criminal offense, the violation of probation, the violation of community control, or the violation of any supervised correctional release.

(b) An order granting a new trial.

(c) An order arresting judgment.

(d) A ruling on a question of law when the defendant is convicted and appeals from the judgment. Once the state's cross-appeal is instituted, the appellate court shall review and rule upon the question raised by the state regardless of the disposition of the defendant's appeal.

(e) The sentence, on the ground that it is illegal.

(f) A judgment discharging a prisoner on habeas corpus.

(g) An order adjudicating a defendant insane under the Florida Rules of Criminal Procedure.

(h) All other pretrial orders, except that it may not take more than one appeal under this subsection in any case.

(i) A sentence imposed outside the range recommended by the guidelines authorized by *chapter 921* ~~s. 921.001~~.

(j) A ruling granting a motion for judgment of acquittal after a jury verdict.

(k) An order or ruling suppressing evidence or evidence in limine at trial.

(2) An appeal under this section shall embody all assignments of error in each pretrial order that the state seeks to have reviewed. The state shall pay all costs of such appeal except for the defendant's attorney's fee.

Section 23. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, subsection (3) of section 958.04, Florida Statutes, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(3) The provisions of this section shall not be used to impose a greater sentence than the maximum recommended range as established by statewide sentencing guidelines pursuant to *chapter 921* ~~s. 921.001~~ unless reasons are explained in writing by the trial court judge which reasonably justify departure. A sentence imposed outside of such guidelines shall be subject to appeal pursuant to s. 924.06 or s. 924.07.

Section 24. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 921.0011, Florida Statutes, is created to read:

921.0011 Definitions.—As used in this chapter, the term:

(1) "Additional offense" means any offense other than the primary offense for which an offender is convicted and that is pending before the court for sentencing at the time of the primary offense.

(2) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

(3) "Legal status violation" includes:

(a) An escape from incarceration.

(b) Flight to avoid prosecution.

(c) Failure to appear for a criminal proceeding.

(d) Violation of any condition of a supersedeas bond.

(4) "Primary offense" means the offense at conviction pending before the court for sentencing for which the total sentence points recommend a sanction that is as severe as, or more severe than the sanction recommended for any other offense committed by the offender and pending before the court at sentencing. Only one count of one offense before the court for sentencing shall be classified as the primary offense.

(5) "Prior record" means a conviction for a crime committed by the offender, as an adult or a juvenile, prior to the time of the primary offense. Convictions by federal, out-of-state, military, or foreign courts, and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law, are included in the offender's prior record. Convictions for offenses committed by the offender more than 10 years before the primary offense are not included in the offender's prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense. Juvenile dispositions of offenses committed by the offender within 3 years before the primary offense are included in the offender's prior record when the offense would have been a crime had the offender been an adult rather than a juvenile.

(6) "Release program" includes:

(a) Parole.

(b) Control release.

(c) Probation.

(d) Community control.

(e) Pretrial intervention or diversion.

(f) Provisional release supervision.

(g) Conditional release supervision.

(h) Supervised community release supervision.

(i) Conditional medical release supervision.

(7) "Victim injury" means the physical injury or death suffered by a person as a direct result of the primary offense, or any offense other than the primary offense, for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense. If the conviction is for an offense involving sexual contact which includes sexual penetration, the sexual penetration must be scored as a severe injury regardless of whether there is evidence of any physical injury. If the conviction is for an offense involving sexual contact which does not include sexual penetration, the sexual contact must be scored as a moderate injury regardless of whether there is evidence of any physical injury. If the victim of an offense involving sexual contact suffers any physical injury as a direct result of the primary offense or any other offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.

Section 25. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 921.0012, Florida Statutes, is created to read:

921.0012 Sentencing guidelines offense levels; offense severity ranking chart.—A single offense severity ranking chart must be used to compute a sentence score for each felony offender. The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense.

OFFENSE SEVERITY RANKING CHART

Florida Statute	*Felony Degree*	*Description*
		LEVEL 1
24.118(3)(a)	*3rd*	*Counterfeit or altered state lottery ticket.*
212.054(2)(b)	*3rd*	*Discretionary sales surtax; limitations, administration, and collection.*
212.15(2)(b)	*3rd*	*Failure to remit sales taxes, amount greater than $100 but less than $20,000.*
319.30(5)	*3rd*	*Sell, exchange, give away certificate of title or identification number plate.*
319.35(1)(a)	*3rd*	*Tamper, adjust, change, etc., an odometer.*
320.26(1)(a)	*3rd*	*Counterfeit, manufacture, or sell registration license plates or validation stickers.*
322.212(1)	*3rd*	*Possession of forged, stolen, counterfeit, or unlawfully issued driver's license.*
322 212(4)	*3rd*	*Supply or aid in supplying unauthorized driver's license.*
322.212(5)	*3rd*	*False application for driver's license.*
370.13(4)(a)	*3rd*	*Molest any stone crab trap, line, or buoy which is property of licenseholder.*
370.135(1)	*3rd*	*Molest any blue crab trap, line, or buoy which is property of licenseholder.*
372.663(1)	*3rd*	*Poach any alligator or crocodilia.*
409.325(2)	*3rd*	*Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than $200*
409.325(3)(a)	*3rd*	*Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.*
443.071(1)	*3rd*	*False statement or representation to obtain or increase unemployment compensation benefits.*
458.327(1)(a)	*3rd*	*Unlicensed practice of medicine.*
466.026(1)(a)	*3rd*	*Unlicensed practice of dentistry or dental hygiene.*
509.151(1)	*3rd*	*Defraud an innkeeper, food or lodging value greater than $300.*
517.302(1)	*3rd*	*Violation of the Florida Securities and Investor Protection Act.*
562.27(1)	*3rd*	*Possess still or still apparatus.*
713.69	*3rd*	*Tenant removes property upon which lien has accrued, value more than $50.*
812.014(2)(d)	*3rd*	*Petit theft (3rd conviction); theft of any property not specified in other paragraphs of subsection (2).*
812.081(2)	*3rd*	*Unlawfully makes or causes to be made a reproduction of a trade secret.*
815.04(4)(a)	*3rd*	*Offense against intellectual property (i.e. computer programs, data).*
817.52(2)	*3rd*	*Hiring with intent to defraud, motor vehicle services.*
826.01	*3rd*	*Bigamy.*
828.122(3)	*3rd*	*Fighting or baiting animals.*
831.04(1)	*3rd*	*Any erasure, alteration etc., of any replacement deed, map, plat, or other document listed in s. 92.28.*
831.31(1)(a)	*3rd*	*Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.*
832.041(1)	*3rd*	*Stopping payment with intent to defraud $150 or more.*
832.05(2)(b)	*3rd*	*Knowing, making, issuing worthless (4)(c)checks $150 or more or obtaining property in return for worthless check $150 or more.*
838.015(3)	*3rd*	*Bribery.*
838.016(1)	*3rd*	*Public servant receiving unlawful compensation.*
838.15(2)	*3rd*	*Commercial bribe receiving.*
838.16	*3rd*	*Commercial bribery.*
843.18	*3rd*	*Fleeing by boat to elude a law enforcement officer.*
847.011(1)(a)	*3rd*	*Sell, distribute, etc., obscene, lewd etc., material (2nd conviction).*
849.01	*3rd*	*Keeping gambling house.*
849.09(1)(a)-(d)	*3rd*	*Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.*
849.23	*3rd*	*Gambling-related machines; "common offender" as to property rights.*
849.25(2)	*3rd*	*Engaging in bookmaking.*
860.08	*3rd*	*Interfere with a railroad signal.*

860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

LEVEL 2

403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.
590.28(1)	3rd	Willful, malicious, or intentional burning.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(a)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.60(6)(b)	3rd	Possess two or more false credit cards.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826 04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills or promissory note.
831.08	3rd	Possession of 10 or more forged notes.
831.09	3rd	Uttering forged bills; passes as bank bill or promissory note.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	Falsely impersonating an officer.
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

LEVEL 3

39.061	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328 05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.08(2)(c)	3rd	Trespass on property armed with firearm or dangerous weapon.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)1.	3rd	Grand theft; $5,000 or more but less than $10,000.
815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.
893.13(2)(d)2.	2nd	Purchase s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.
893.13(6)(a)	3rd	Possession of cocaine.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

LEVEL 4

231 06(2)	3rd	Battery of school employee.
240 381(2)	3rd	Battery of community college security officer.
381.0025(4)(b)	3rd	Battery of HRS employee.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
790.01(2)	3rd	Carrying a concealed firearm.
810.02(3)	3rd	Burglary of an unoccupied conveyance or structure; unarmed; attempted burglary.
810.06	3rd	Burglary; possession of tools.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014(2)(c)	3rd	Grand theft, 3rd degree, a will, 2.-8.firearm, motor vehicle, livestock, etc.

817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).
893.13(2)(c)2.	2nd	Purchase of cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.
893.13(2)(d)1.	1st	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs) within 200 feet of university, public housing facility, or public park.
914.14(1)(b)	3rd	Witnesses accepting bribes to withhold testimony, information, document, or thing.
914.22(1)(a)	3rd	Force, threaten, etc., witness to withhold testimony, documents, or objects.
914 22(1)(f)	3rd	Force, threaten, bribe, etc., witness to testify falsely.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.

LEVEL 5

316.027(2)	3rd	Accidents involving death or personal injuries, failure to stop; leaving scene.
322.34(3)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
415.111(5)	3rd	Exploit an aged person or disabled adult by the improper or illegal use of funds, assets, property, power of attorney, or guardianship.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to his person; resist arrest with violence.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
951.075	2nd	Prisoner commits assault or battery.

LEVEL 6

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
775.087(2)(a)2.		Battery upon law enforcement officer or firefighter while possessing firearm.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
787.02(1)(a)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.041(2)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful carnal intercourse with unmarried person under 18 of previous chaste character.
810.02(3)	2nd	Burglary of occupied structure or unoccupied dwelling; not armed, no assault.
812.014(2)(b)	2nd	Property stolen over $20,000 and less than $100,000, grand theft in 2nd degree.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do bodily injury.
843.12	3rd	Aids or assists person to escape.
893.13(2)(c)1.	1st	Purchase cocaine (or other s. 893.03(1)(a), (b), or (d) or (2)(a) or (b) drugs) within 1,000 feet of a school.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951 22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.

LEVEL 7

316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
415.111(3)	2nd	Knowingly abuse or neglect aged or disabled adult resulting in bodily harm or disability.
782.07	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
796.03	2nd	Procuring any person under 16 years for prostitution.

800.04	*2nd*	*Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.*
806.01(2)	*2nd*	*Maliciously damage structure by fire or explosive.*
810.02(3)	*2nd*	*Burglary of occupied conveyance or dwelling.*
812.014(2)(a)	*1st*	*Property stolen, valued at $100,000 or more; 1st degree grand theft.*
812.019(2)	*1st*	*Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.*
827.04(1)	*3rd*	*Deprive child of necessities causing great bodily harm or disfigurement.*
893.13(1)(c)1.	*1st*	*Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.*
893.13(4)(a)	*1st*	*Deliver to minor cocaine (or other s. 893.03 (1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).*
893.135(1)(a)1.	*1st*	*Trafficking in cannabis, more than 100 lbs., less than 2,000 lbs.*
893.135(1)(b)1.a.	*1st*	*Trafficking in cocaine, more than 28 grams, less than 200 grams.*
893.135(1)(c)1.a.	*1st*	*Trafficking in illegal drugs, more than 4 grams, less than 14 grams.*
893.135(1)(d)1.	*1st*	*Trafficking in phencyclidine, more than 28 grams, less than 200 grams.*
893.135(1)(e)1.	*1st*	*Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.*
893.135(1)(f)1.	*1st*	*Trafficking in amphetamine, more than 14 grams, less than 28 grams.*

LEVEL 8

316.193(3)(c)3.	*2nd*	*DUI manslaughter.*
782.04(4)	*2nd*	*Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.*
794.011(5)	*2nd*	*Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.*
806.01(1)	*1st*	*Maliciously damage dwelling or structure by fire or explosive, believing person in structure.*
810.02(2)(a)	*1st,PBL*	*Burglary with assault or battery.*
810.02(2)(b)	*1st,PBL*	*Burglary; armed with explosives or dangerous weapon.*
812.13(2)(b)	*1st*	*Robbery with a weapon.*
827.03(1)(a)	*2nd*	*Commits aggravated battery on a child.*
893.13(1)(b)	*1st*	*Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).*
893.13(2)(b)	*1st*	*Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).*
893.13(6)(c)	*1st*	*Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).*
893.135(1)(a)2.	*1st*	*Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.*
893.135(1)(b)1.b.	*1st*	*Trafficking in cocaine, more than 200 grams, less than 400 grams.*
893.135(1)(c)1.b.	*1st*	*Trafficking in illegal drugs, more than 14 grams, less than 28 grams.*
893.135(1)(d)2.	*1st*	*Trafficking in phencyclidine, more than 200 grams, less than 400 grams.*
893.135(1)(e)2.	*1st*	*Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.*
893.135(1)(f)2.	*1st*	*Trafficking in amphetamine, more than 28 grams, less than 200 grams.*
895.03(1)	*1st*	*Use or invest proceeds derived from pattern of racketeering activity.*
895.03(2)	*1st*	*Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.*
895.03(3)	*1st*	*Conduct or participate in any enterprise through pattern of racketeering activity.*

LEVEL 9

782.04(1)	*1st*	*Attempted premeditated murder.*
782.04(3)	*1st,PBL*	*Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.*
784.07(3)	*Life*	*Attempted murder of law enforcement officer engaged in duty.*
787.01(1)(a)1.	*1st,PBL*	*Kidnapping; hold for ransom or reward or as a shield or hostage.*
787.01(1)(a)2.	*1st,PBL*	*Kidnapping with intent to commit or facilitate commission of any felony.*
787.02(3)(a)	*1st*	*False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.*
790.161	*1st*	*Attempted capital firearms offense.*
794.011(2)	*1st*	*Attempted sexual battery; victim less than 12 years of age.*
794.011(2)	*Life*	*Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.*
794.011(4)	*1st*	*Sexual battery; victim 12 years or older, certain circumstances.*
794.041(2)(b)	*1st*	*Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.*
812.13(2)(a)	*1st,PBL*	*Robbery with firearm or other deadly weapon.*
893.135	*1st*	*Attempted capital trafficking offense.*
893.135(1)(a)3.	*1st*	*Trafficking in cannabis, more than 10,000 lbs.*
893.135(1)(b)1.c.	*1st*	*Trafficking in cocaine, more than 400 grams, less than 150 kilograms.*
893.135(1)(c)1.c.	*1st*	*Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.*
893.135(1)(d)3.	*1st*	*Trafficking in phencyclidine, more than 400 grams.*
893.135(1)(e)3.	*1st*	*Trafficking in methaqualone, more than 25 kilograms.*
893.135(1)(f)3.	*1st*	*Trafficking in amphetamine, more than 200 grams.*

LEVEL 10

782.04(2)	*1st,PBL*	*Unlawful killing of human; act is homicide, unpremeditated.*
787.01(1)(a)3.	*1st,PBL*	*Kidnapping; inflict bodily harm upon or terrorize victim.*
787.01(3)(a)	*Life*	*Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.*
794.011(3)	*Life*	*Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.*

Section 26. Effective October 1, 1993, and applicable to sentencing, for offenses committed on or after that date, section 921.0013, Florida Statutes, is created to read:

921.0013 Sentencing guidelines; ranking unlisted felony offenses.—A felony offense not listed in s. 921.0012 is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. Prior to the time the Legislature ranks an offense which has not been ranked, the severity level is within the following parameters:

(1) A felony of the third degree within offense level 1.

(2) A felony of the second degree within offense level 4.

(3) A felony of the first degree within offense level 7.

(4) A felony of the first degree punishable by life within offense level 9.

(5) A life felony within offense level 10.

Section 27. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 921.0014, Florida Statutes, is created to read:

921.0014 Sentencing guidelines; worksheet computations; scoresheets.—

(1) The sentencing guidelines worksheet is used to compute the subtotal and total sentence points. If two or more sentencing enhancements are applicable, only the enhancement with the highest multiplier is used in the total sentence points computation. The worksheet is used as follows:

FLORIDA SENTENCING GUIDELINES WORKSHEET
OFFENSE SCORE

Primary Offense

Level	Sentence Points		Total
10	84	=	
9	66	=	
8	54	=	
7	42	=	
6	36	=	
5	28	=	
4	22	=	
3	16	=	
2	10	=	
1	4	=	
		Total	

Additional Offenses

Level	Sentence Points		Counts	Total
10	12.0	x	____	=
9	10.8	x	____	=
8	9.6	x	____	=
7	8.4	x	____	=
6	7.2	x	____	=
5	5.4	x	____	=
4	3.6	x	____	=
3	2.4	x	____	=
2	1.2	x	____	=
1	0.7	x	____	=
M	0.2	x	____	=
			Total	

Victim Injury

Level	Sentence Points		Number	Total
Death	60	x	____	=
Severe	40	x	____	=
Sexual penetration	40	x	____	=
Moderate	18	x	____	=
Sexual contact	18	x	____	=
Slight	4	x	____	=
			Total	

Primary Offense +Additional Offenses +Victim Injury =

TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	Sentence Points		Number	Total
10	8.0	x	____	=
9	7.2	x	____	=
8	6.4	x	____	=
7	5.6	x	____	=
6	4.8	x	____	=
5	3.6	x	____	=
4	2.4	x	____	=
3	1.6	x	____	=
2	0.8	x	____	=
1	0.5	x	____	=
M	0.2	x	____	=
			Total	

Legal Status Violation

Sentence Points	Total
4	____

Release Program Violation

Sentence Points	Total
4 for each violation, up to a total of 12	____

Prior Record Score + Legal Status Violation + Release Program Violation = TOTAL PRIOR RECORD SCORE

TOTAL OFFENSE SCORE
TOTAL PRIOR RECORD SCORE
FIREARM OR DESTRUCTIVE DEVICE
SEMIAUTOMATIC WEAPON
SUBTOTAL

VIOLENT HABITUAL OFFENDER (no)(yes) (× multiplier)
HABITUAL OFFENDER (no)(yes)(× multiplier)
DRUG TRAFFICKER (no)(yes) (× multiplier)
LAW ENF. PROTECT. (no)(yes) (× multiplier)

TOTAL

WORKSHEET KEY:

Recommended Sentences:

If the total sentence points are less than or equal to 40, the recommended sentence shall not be a state prison sentence.

If the total sentence points are greater than 40 and less than or equal to 52, the decision to incarcerate in a state prison is left to the discretion of the court.

If the total sentence points are greater than 52, the sentence must be a state prison sentence calculated by total sentence points. A state prison sentence is calculated as follows:

State prison months = total sentence points minus 28

The recommended sentence length in state prison months may be increased by up to, and including, 25 percent or decreased by up to, and including, 25 percent, at the discretion of the court. If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence recommended under the guidelines must be imposed absent a departure.

Legal status violation includes escape from incarceration, flight to avoid prosecution, failure to appear for a criminal proceeding, and violation of any condition of a supersedeas bond.

Release program violation includes violation of any condition of parole, control release, probation, community control, pretrial intervention or diversion, provisional release supervision, conditional release supervision, supervised community release supervision, or conditional medical release supervision.

Possession of a firearm or destructive device: If the offender is convicted of committing or attempting to commit any felony while having in his possession a firearm as defined in s. 790.001(6), an additional 18 sentence points are added to the offender's subtotal sentence points.

Possession of a semiautomatic weapon: If the offender is convicted of committing or attempting to commit any felony while having in his possession a semiautomatic firearm as defined in s. 775.087(2) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are added to the offender's subtotal sentence points.

If two or more of the following sentencing enhancements are applicable, only the enhancement with the highest multiplier is used:

Violent habitual offender: If the primary offense is level 7 or higher, and the offender has one or more convictions in his prior record of a level 7 or higher offense, then the subtotal sentence points are multiplied by 2.0, at the discretion of the court.

Habitual offender: If the primary offense is level 4 or higher, and the offender has four or more convictions in his prior record of level 4 or higher offenses, then the subtotal sentence points are multiplied by 1.5, at the discretion of the court.

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, then the subtotal sentence points are multiplied, at the discretion of the court, with any input from the state attorney pursuant to s. 893.135(4), as follows: for a level 7 or level 8 offense, by 1.5; for a level 9 offense, by 2.0.

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), then the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 775.087(2)(a)2. or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(6) or (7), then the subtotal sentence points are multiplied by 1.5.

(2) A single guidelines scoresheet shall be prepared for each defendant. The scoresheet must cover all the defendant's offenses pending before the court for sentencing. Either office of the state attorney or the Probation Services Office, or both where appropriate, shall prepare the scoresheet and the scoresheet must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet must be approved by sentencing judge.

(3) The Department of Corrections shall develop and submit the revised sentencing guidelines scoresheet to the Sentencing Commission by June 1, 1993. Following the Supreme Court's approval of the revised procedures, the Department of Corrections shall produce and provide the revised scoresheets to the clerks of the circuit courts by no later than September 30, 1993.

(4) Beginning October 1, 1993, the clerks of the circuit courts for the individual counties shall distribute sufficient copies of the sentencing guidelines scoresheets to those persons charged with the responsibility for preparing sentencing guidelines scoresheets, either the office of the state attorney or the Probation Services Office, or both where appropriate.

(5) The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the guidelines scoresheet utilized in each guidelines sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(6) A copy of the individual offender's sentencing guidelines scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure, must be attached to the copy of the uniform judgment and sentence form provided to the Department of Corrections.

Section 28. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 921.0016, Florida Statutes, is created to read:

921.0016 Recommended sentences; departure sentences; aggravating and mitigating circumstances.—

(1)(a) The recommended guidelines sentence provided by the total sentence points is assumed to be appropriate for the offender.

(b) A trial court judge may impose a state prison sentence which varies upward or downward by up to, and including, 25 percent from the recommended guidelines state prison sentence without issuing a written statement delineating the reasons for the variation.

(c) A state prison sentence which varies upward or downward from the recommended guidelines prison sentence by more than 25 percent is a departure sentence and must be accompanied by a written statement delineating the reasons for the departure, filed within 15 days after the date of sentencing. A written transcription of orally stated reasons for departure from the guidelines at sentencing is permissible if it is filed by the court within 15 days after the date of sentencing.

(d) The imposition of a split sentence of incarceration followed by community control or probation does not by itself constitute a departure from sentencing guidelines. For the purpose of determining the maximum sentence authorized by law, any community control portion of a split sentence does not constitute a term of imprisonment.

(e) A departure sentence must be within any relevant maximum sentence limitations provided by s. 775.082.

(2) A departure from the recommended guidelines sentence is discouraged unless there are circumstances or factors which reasonably justify the departure. Aggravating and mitigating factors to be considered include, but are not limited to, those listed in subsections (3) and (4). The failure of a trial court to impose a sentence within the sentencing guidelines is subject to appellate review under chapter 924, but the extent of departure from a guidelines sentence is not subject to appellate review.

(3) Aggravating circumstances under which a departure from the sentencing guidelines is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The offense was one of violence and was committed in a manner that was especially heinous, atrocious, or cruel.

(c) The offenses before the court for sentencing arose out of separate episodes; the primary offense is scored at offense level 4 or higher; and the defendant has committed five or more offenses within a 30-day period that have resulted in convictions.

(d) The primary offense is scored at offense level 3 and the defendant has committed eight or more offenses within a 30-day period that have resulted in convictions.

(e) The offense before the court for disposition was committed within 6 months after the defendant was released from state prison.

(f) The defendant occupied a leadership role in a criminal organization.

(g) The offense was committed by a public official under color of office.

(h) The defendant knew the victim was a law enforcement officer at the time of the offense; the offense was a violent offense; and that status is not an element of the primary offense.

(i) The offense created a substantial risk of death or great bodily harm to many persons or to one or more small children.

(j) The victim was especially vulnerable due to age or physical or mental disability.

(k) The offense was motivated by prejudice based on race, color, ancestry, ethnicity, religion, sexual orientation, or national origin of the victim.

(l) The victim suffered extraordinary physical or emotional trauma or permanent physical injury, or was treated with particular cruelty.

(m) The victim was physically attacked by the defendant in the presence of one or more members of the victim's family.

(n) The offense resulted in substantial economic hardship to a victim and consisted of an illegal act or acts committed by means of concealment, guile, or fraud to obtain money or property, to avoid payment or loss of money or property, or to obtain business or professional advantage, when two or more of the following circumstances were present:

1. The offense involved multiple victims or multiple incidents per victim;

2. The offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

3. The defendant used position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationship; or

4. The defendant was in the past involved in other conduct similar to that involved in the current offense.

(o) The offense was committed in order to prevent or avoid arrest, to impede or prevent prosecution for the conduct underlying the offense, or to effect an escape from custody.

(p) The defendant is not amenable to rehabilitation or supervision, as evidenced by an escalating pattern of criminal conduct as described in s. 921.001(8).

(q) The defendant induced a minor to participate in any of the offenses pending before the court for disposition.

(r) The primary offense is scored at offense level 7 or higher and the defendant has been convicted of one more offense that scored, or would have scored, at an offense level 8 or higher.

(4) Mitigating circumstances under which a departure from the sentencing guidelines is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.

(c) The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.

(d) The defendant requires specialized treatment for addiction, mental disorder, or physical disability, and the defendant is amenable to treatment.

(e) The need for payment of restitution to the victim outweighs the need for a prison sentence.

(f) The victim was an initiator, willing participant, aggressor, or provoker of the incident.

(g) The defendant acted under extreme duress or under the domination of another person.

(h) Before the identity of the defendant was determined, the victim was substantially compensated.

(i) The defendant cooperated with the state to resolve the current offense or any other offense.

(j) The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.

(k) At the time of the offense the defendant was too young to appreciate the consequences of the offense.

(l) The defendant is to be sentenced as a youthful offender.

Section 29. Section 921.0017, Florida Statutes, is created to read:

921.0017 Credit upon recommitment of offender serving split sentence.—If probation or community control is revoked and the offender is serving a split sentence pursuant to s. 948.01, upon recommitment to the Department of Corrections, the court shall order credit for time served without considering any type of gain-time awarded during prior service of the incarcerative portion of the split sentence, nor any type of sentence reduction granted to avoid prison overcrowding, including, but not limited to, administrative gain-time, provisional credits, or control release. The court shall determine the amount of jail-time credit to be awarded for time served between the date of arrest as a violator and the date of recommitment and shall direct the Department of Corrections to compute and award credit for all other time served previously on the prior sentence for the offense for which the offender is being recommitted. This section does not affect or limit the department's authority to forfeit gain time pursuant to the provisions of s. 944.28(1).

Section 30. *Notwithstanding ss. 921.0015 and 921.001(4)(c), Florida Statutes, the Department of Corrections shall develop and submit the sentencing guidelines scoresheet to the Sentencing Commission no later than June 1, 1993. Pursuant to the revision of chapter 921, Florida Statutes, by this act, the Sentencing Commission shall prepare, adopt, and, no later than July 1, 1993, submit to the Supreme Court for its approval procedures for implementing the 1993 revised sentencing guidelines in strict accordance with chapter 921, Florida Statutes, as revised by this act, applicable to sentencing for offenses committed on or after October 1, 1993. The Supreme Court shall have the new procedures in place no later than September 1, 1993.*

Section 31. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Article V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer ~~by imposing a mandatory minimum sentence without possibility of early release through any gain-time, provisional release credits, conditional release supervision, supervised community release, transition assistance program, or parole during the mandatory minimum portion of the sentence~~, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release ~~shall be imposed~~.

(2) For murder in the second degree as described in s. 782.04(2) and (3), a sentence *pursuant to the sentencing guidelines* ~~of imprisonment for 25 years before eligibility for release shall be imposed~~.

(3) For murder in the third degree as described in s. 782.04(4), a sentence *pursuant to the sentencing guidelines* ~~of imprisonment for 15 years before eligibility for release shall be imposed~~.

(4) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence *pursuant to the sentencing guidelines* ~~of imprisonment for 10 years before eligibility for release shall be imposed~~.

(5) For kidnapping as described in s. 787.01, a sentence *pursuant to the sentencing guidelines* ~~of imprisonment for 15 years before eligibility for release shall be imposed~~.

(6) For aggravated battery as described in s. 784.045, a sentence *pursuant to the sentencing guidelines* ~~of imprisonment for 3 years before eligibility for release shall be imposed~~.

(7) For aggravated assault as described in s. 784.021, a sentence *pursuant to the sentencing guidelines* ~~of imprisonment for 1 year before eligibility for release shall be imposed~~.

~~Any person convicted of an offense under this section is ineligible to receive provisional release credits during any portion of his sentence.~~ Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 32. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 775.087, Florida Statutes, is amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

(2)(a) Any person who is convicted of:

1. Any murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, or aircraft piracy, or any attempt to commit the aforementioned crimes; or

2. Any battery upon a law enforcement officer or firefighter while the officer or firefighter is engaged in the lawful performance of his duties

and who had in his possession a "firearm," as defined in s. 790.001(6), or "destructive device," as defined in s. 790.001(4), shall be sentenced *pursuant to the sentencing guidelines* ~~to a minimum term of imprisonment of 3 calendar years~~. Any person who is convicted of any of the crimes listed

in this paragraph or the sale, manufacture, delivery, purchase, or possession with intent to distribute any controlled substance and who had in his possession a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 shall be sentenced *pursuant to the sentencing guidelines* ~~to a minimum term of imprisonment of 8 calendar years. Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall the defendant be eligible for parole or statutory gain-time under s. 944.275, prior to serving such minimum sentence.~~

(b) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 33. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 775.0875, Florida Statutes, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084~~, and shall serve a sentence of imprisonment for a mandatory minimum period of 3 calendar years before eligibility for release~~.

(2) A person who violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer commits a crime which shall be reclassified as follows:

(a) In the case of a life felony, to a capital felony.

(b) In the case of a felony of the first degree, to a life felony.

(c) In the case of a felony of the second degree, to a felony of the first degree.

(d) In the case of a felony of the third degree, to a felony of the second degree.

(e) In the case of a misdemeanor, to a felony of the third degree.

(3) A person who possesses a firearm which he knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 34. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 784.08, Florida Statutes, 1992 Supplement, is amended to read:

784.08 Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence.—

(1) A person who is convicted of an aggravated assault or aggravated battery upon a person 65 years of age or older shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of 3 calendar years~~ and fined not more than $10,000 and shall also be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

(2) Whenever a person is charged with committing an assault or aggravated assault or a battery or aggravated battery upon a person 65 years of age or older, regardless of whether he knows or has reason to know the age of the victim, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

(b) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.

(c) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(d) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

(3) Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 35. Effective October 1, 1993, and applicable to offenses committed on or after that date, section 790.161, Florida Statutes, is amended to read:

790.161 Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do, felony; penalties.—A person who willfully and unlawfully makes, possesses, throws, projects, places, discharges, or attempts to make, possess, throw, project, place, or discharge any destructive device:

(1) Commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084.

(2) If the act is perpetrated with the intent to do bodily harm to any person, or with the intent to do property damage, or if the act results in a disruption of governmental operations, commerce, or the private affairs of another person, commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.084~~, and the person shall be required to serve a term of imprisonment of not less than 5 calendar years before becoming eligible for parole~~.

(3) If the act results in bodily harm to another person or in property damage, commits a felony of the first degree, punishable as provided in s. 775.082 or s. 775.084~~, and the person shall be required to serve a term of imprisonment of not less than 10 calendar years before becoming eligible for parole~~.

(4) If the act results in the death of another person, commits a capital felony, punishable by death. In the event the death penalty in a capital felony is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, the court having jurisdiction over a person previously sentenced to death for a capital felony shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment, and such person shall be required to serve a term of imprisonment of not less than 25 calendar years before becoming eligible for parole.

Section 36. Effective October 1, 1993, and applicable to offenses committed on or after that date, section 790.165, Florida Statutes, is amended to read:

790.165 Planting of "hoax bomb" prohibited; penalties.—

(1) For the purposes of this section, "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive, or contains no destructive device or explosive as was represented.

(2) Any person who manufactures, possesses, sells, or delivers a hoax bomb or mails or sends a hoax bomb to another person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who, while committing or attempting to commit any felony, possesses, displays, or threatens to use any hoax bomb commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~Any person violating the provisions of this subsection shall be sentenced to a minimum term of imprisonment of 3 calendar years.~~ Notwithstanding the provisions of s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld. However, the state attorney or defense attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals.

(4) The provisions of subsection (2) shall not apply to any law enforcement officer, fireman, person, or corporation licensed pursuant to chapter 493, or member of the armed forces of the United States while engaged in training or other lawful activity within the scope of his

employment, or to any person properly authorized to test a security system, or to any security personnel, while operating within the scope of their employment, including, but not limited to, security personnel in airports and other controlled access areas, or to any member of a theatrical company or production utilizing a hoax bomb as property during the course of a rehearsal or performance.

Section 37. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 790.221, Florida Statutes, is amended to read:

790.221 Possession of short-barreled rifle, short-barreled shotgun, or machine gun; penalty.—

(1) It is unlawful for any person to own or to have in his care, custody, possession, or control any short-barreled rifle, short-barreled shotgun, or machine gun which is, or may readily be made, operable; but this section shall not apply to antique firearms.

(2) A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~Upon conviction thereof he shall be sentenced to a mandatory minimum term of imprisonment of 5 years.~~

(3) Firearms in violation hereof which are lawfully owned and possessed under provisions of federal law are excepted.

Section 38. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 893.13, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 893.13, F.S., for present text).

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, it is unlawful to sell or deliver in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, shall be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(d) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 200 feet of the real property comprising a public housing facility, within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution, or within 200 feet of any public park. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, shall be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(2)(a) Except as authorized by this chapter and chapter 499, it is unlawful for any person to purchase, or possess with intent to purchase, a controlled substance. Any person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, it is unlawful to purchase in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as authorized by this chapter, it is unlawful for any person to purchase, or possess with intent to purchase, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully purchased, shall be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(d) Except as authorized by this chapter, it is unlawful for any person to purchase, or possess with intent to purchase, a controlled substance in, on, or within 200 feet of the real property comprising a public housing facility, within 200 feet of the real property comprising a public or private college, university, or other postsecondary educational institution, or within 200 feet of any public park. Any person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully purchased, shall be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(3) Any person who delivers, without consideration, not more than 20 grams of cannabis, as defined in this chapter, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For the purposes of this paragraph, "cannabis" does not include the resin extracted from the plants of the genus Cannabis or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(4) Except as authorized by this chapter, it is unlawful for any person 18 years of age or older to deliver any controlled substance to a person under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of such a substance, or to use such person to assist in avoiding detection or apprehension for a violation of this chapter. Any person who violates this provision with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence shall not be suspended or deferred, nor shall the person so convicted be placed on probation.

(5) It is unlawful for any person to bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. Any person who violates this provision with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6)(a) It is unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice or to be in actual or constructive possession of a controlled substance except as otherwise authorized by this chapter. Any person who violates this provision commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the offense is the possession of not more than 20 grams of cannabis, as defined in this chapter, that person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. For the purposes of this subsection, "cannabis" does not include the resin extracted from the plants of the genus Cannabis, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

(c) Except as provided in this chapter, it is unlawful to possess in excess of 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof. Any person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Notwithstanding any provision to the contrary of the laws of this state relating to arrest, a law enforcement officer may arrest without warrant any person who he has probable cause to believe is violating the provisions of this chapter relating to possession of cannabis.

(7)(a) It is unlawful for any person:

1. To distribute or dispense a controlled substance in violation of the provisions of this chapter relating thereto.

2. To refuse or fail to make, keep, or furnish any record, notification, order form, statement, invoice, or information required under this chapter.

3. To refuse an entry into any premises for any inspection or to refuse to allow any inspection authorized by this chapter.

4. To distribute a controlled substance named or described in s. 893.03(1) or (2) except pursuant to an order form as required by s. 893.06.

5. To keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

6. To use to his own personal advantage, or to reveal, any information obtained in enforcement of this chapter except in a prosecution or administrative hearing for a violation of this chapter.

7. To withhold information from a practitioner from whom he seeks to obtain a controlled substance or a prescription for a controlled substance that the person has received a controlled substance or a prescription for a controlled substance of like therapeutic use from another practitioner within the last 30 days.

8. To possess a prescription form which has not been completed and signed by the practitioner whose name appears printed thereon, unless the person is that practitioner, is an agent or employee of that practitioner, is a pharmacist, or is a supplier of prescription forms who is authorized by that practitioner to possess those forms.

9. To acquire or obtain, or attempt to acquire or obtain, possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

10. To affix any false or forged label to a package or receptacle containing a controlled substance.

11. To furnish false or fraudulent material information in, or omit any material information from, any report or other document required to be kept or filed under this chapter or any record required to be kept by this chapter.

(b) Any person who violates the provisions of subparagraphs 1.-8. of paragraph (a) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083; except that, upon a second or subsequent violation, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who violates the provisions of subparagraphs 9.-11. of paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Notwithstanding any provision to the contrary of the laws of this state:

(a) The court may assess for drug abuse programs as provided in s. 893.165 any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of this chapter punishable as a criminal offense, in addition to any fine and other penalty provided by law, an amount up to the amount of the fine authorized for the violation.

(b) The court may assess any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of this section, without regard to whether adjudication was withheld, in addition to any fine and other penalty provided or authorized by law, an amount of $100, to be paid to the clerk of the court, who shall forward it to the Operating Trust Fund of the Department of Law Enforcement to be used by the statewide criminal analysis laboratory system for the purposes specified in s. 943.361.

The court is authorized to order a defendant to pay an additional assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

(9) The provisions of subsections (1) through (7) are not applicable to the delivery to, or actual or constructive possession for medical or scientific use or purpose only of controlled substances by persons included in any of the following classes, or to the agents or employees of such persons, for use in the usual course of their business or profession or in the performance of their official duties:

(a) Pharmacists.

(b) Practitioners.

(c) Persons who procure controlled substances in good faith and in the course of professional practice only, by or under the supervision of pharmacists or practitioners employed by them, or for the purpose of lawful research, teaching, or testing, and not for resale.

(d) Hospitals that procure controlled substances for lawful administration by practitioners, but only for use by or in the particular hospital.

(e) Officers or employees of state, federal, or local governments acting in their official capacity only, or informers acting under their jurisdiction.

(f) Common carriers.

(g) Manufacturers, wholesalers, and distributors.

(h) Law enforcement officers for bona fide law enforcement purposes in the course of an active criminal investigation.

Section 39. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 100 pounds of cannabis is guilty of a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 100 pounds, but less than 2,000 pounds, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 5 calendar years~~ and ~~to~~ pay a fine of $50,000.

3. Is 10,000 pounds or more, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 15 calendar years~~ and ~~to~~ pay a fine of $200,000.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine as described in s. 893.03(2)(a)4. or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 5 calendar years~~ and ~~to~~ pay a fine of $100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 15 calendar years~~ and ~~to~~ pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 150 kilograms or more of cocaine as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine, punishable by a term of life imprisonment without the possibility of parole. However, if, in addition to the acts specified above, that person:

a. Intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results; or

b. Is determined to have had a highly culpable mental state which may be taken into account when making a capital sentencing judgment when the defendant's conduct causes its natural, though also not inevitable, lethal result,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Such person shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this section, a highly culpable mental state is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 10 calendar years~~ and ~~to~~ pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 25 calendar years~~ and ~~to~~ pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of 30 kilograms or more of any morphine, opium, or any salt, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs, punishable by a term of life imprisonment without the possibility of parole. However, if, in addition to the acts specified above, that person:

a. Intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results; or

b. Is determined to have had a highly culpable mental state which may be taken into account when making a capital sentencing judgment when the defendant's conduct causes its natural, though also not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Such person shall also be sentenced to pay the maximum fine provided under subparagraph 1. For the purposes of this section, a highly culpable mental state is represented by a reckless disregard for human life implicit in knowingly engaging in criminal activities known to carry a grave risk of death.

(d) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), is guilty of a felony of the first degree, which felony shall be known as "trafficking in phencyclidine." If the quantity involved:

1. Is 28 grams or more, but less than 200 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $50,000.

2. Is 200 grams or more, but less than 400 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 5 calendar years~~ and ~~to~~ pay a fine of $100,000.

3. Is 400 grams or more, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 15 calendar years~~ and ~~to~~ pay a fine of $250,000.

(e) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), is guilty of a felony of the first degree, which felony shall be known as "trafficking in methaqualone." If the quantity involved:

1. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $50,000.

2. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 5 calendar years~~ and ~~to~~ pay a fine of $100,000.

3. Is 25 kilograms or more, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 15 calendar years~~ and ~~to~~ pay a fine of $250,000.

(f) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of amphetamine as described in s. 893.03(2)(c)2. or methamphetamine as described in s. 893.03(2)(c)3. or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine is guilty of a felony of the first degree, which felony shall be known as "trafficking in amphetamine." If the quantity involved:

1. Is 14 grams or more, but less than 28 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 3 calendar years~~ and ~~to~~ pay a fine of $50,000.

2. Is 28 grams or more, but less than 200 grams, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 5 calendar years~~ and ~~to~~ pay a fine of $100,000.

3. Is 200 grams or more, such person shall be sentenced *pursuant to the sentencing guidelines* ~~to a mandatory minimum term of imprisonment of 15 calendar years~~ and ~~to~~ pay a fine of $250,000.

(2) A person acts knowingly under subsection (1) if that person intends to sell, purchase, manufacture, deliver, or bring into this state, or to actually or constructively possess, any of the controlled substances listed in subsection (1), regardless of which controlled substance listed in subsection (1) is in fact sold, purchased, manufactured, delivered, or brought into this state, or actually or constructively possessed.

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld~~, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section~~.

(4) The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of his accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances. The arresting agency shall be given an opportunity to be heard in aggravation or mitigation in reference to any such motion. Upon good cause shown, the motion may be filed and heard in camera. The judge hearing the motion may reduce or suspend the sentence if he finds that the defendant rendered such substantial assistance.

(5) Any person who agrees, conspires, combines, or confederates with another person to commit any act prohibited by subsection (1) is guilty of a felony of the first degree and is punishable as if he had actually committed such prohibited act. Nothing in this subsection shall be construed to prohibit separate convictions and sentences for a violation of this subsection and any violation of subsection (1).

Section 40. Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, section 893.20, Florida Statutes, is amended to read:

893.20 Continuing criminal enterprise.—

(1) Any person who commits three or more felonies under this chapter in concert with five or more other persons with respect to whom such person occupies a position of organizer, a supervisory position, or any other position of management and who obtains substantial assets or resources from these acts is guilty of engaging in a continuing criminal enterprise.

(2)~~(a)~~ A person who commits the offense of engaging in a continuing criminal enterprise is guilty of a life felony, punishable *pursuant to the sentencing guidelines* ~~by a term of imprisonment for life or by a term of imprisonment of not less than 25 years~~ and by a fine of $500,000.

~~(b) A violation of this section is exempt from the application of sentencing guidelines pursuant to s. 921.001.~~

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence may not be suspended, deferred, or withheld~~, nor is such person eligible for parole or provisional credits under s. 944.277 prior to serving the mandatory minimum term of imprisonment prescribed in this section~~.

(4) This section does not prohibit separate convictions and sentences for violation of this section and for felony violations of this chapter.

(5) This section must be interpreted in concert with its federal analog, 21 U.S.C. s. 848.

Section 41. Section 944.275, Florida Statutes, is amended to read:

944.275 Gain-time.—

(1) The department is authorized to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services.

(2)(a) The department shall establish for each prisoner sentenced to a term of years a "maximum sentence expiration date," which shall be the date when the sentence or combined sentences imposed on a prisoner will expire. In establishing this date, the department shall reduce the total time to be served by any time lawfully credited.

(b) When a prisoner with an established maximum sentence expiration date is sentenced to an additional term or terms without having been released from custody, the department shall extend the maximum sentence expiration date by the length of time imposed in the new sentence or sentences, less lawful credits.

(c) When an escaped prisoner or a parole violator is returned to the custody of the department, the maximum sentence expiration date in effect when the escape occurred or the parole was effective shall be extended by the amount of time the prisoner was not in custody plus the time imposed in any new sentence or sentences, but reduced by any lawful credits.

(3)(a) The department shall also establish for each prisoner sentenced to a term of years a "tentative release date" which shall be the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited as described in this section. The initial tentative release date shall be determined by deducting basic gain-time granted from the maximum sentence expiration date. Other gain-time shall be applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, shall be applied to make the tentative release date proportionately later.

(b) When an initial tentative release date is reestablished because of additional sentences imposed before the prisoner has completely served all prior sentences, any gain-time granted during service of a prior sentence and not forfeited shall be applied.

(c) The tentative release date may not be later than the maximum sentence expiration date.

(4)(a) As a means of encouraging satisfactory behavior, the department shall grant basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining basic gain-time.

2. Basic gain-time for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities, the department may grant up to 20 days of incentive gain-time, which shall be credited and applied monthly.

(c) An inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his sentence may be granted meritorious gain-time of from 1 to 60 days.

(d) Notwithstanding paragraph (b), the education program manager shall recommend, and the Department of Corrections may grant, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a general educational development certificate or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section.

(5) When a prisoner is found guilty of an infraction of the laws of this state or the rules of the department, gain-time may be forfeited according to law.

(6)(a) Basic gain-time under this section shall be computed on and applied to all sentences imposed for offenses committed on or after July 1, 1978, *and before October 1, 1993.*

(b) ~~On the effective date of the act,~~ All incentive and meritorious gain-time *is* ~~shall be~~ granted according to *this section* ~~the provisions of this act~~.

(c) All additional gain-time previously awarded under former subsections (2) and (3) and all forfeitures ordered prior to the effective date of *the* ~~this~~ act *that created this section* shall remain in effect and be applied in establishing an initial tentative release date.

(7) The department shall *adopt* ~~promulgate~~ rules to implement the granting, forfeiture, ~~and~~ restoration, *and deletion* of gain-time.

Section 42. *Notwithstanding the holdings in Overstreet v. Blum, 227 So.2d 197 (Fla. 1969); Hecht v. Shaw, 112 Fla. 762, 151 So.333 (1933); and Van Pelt v. Hilliard, 75 Fla. 792, 78 So.693 (1918), to the effect that, as a general rule, a cross reference to a specific statute incorporates the language of the referenced statute as it existed at the time the reference was enacted unaffected by any subsequent amendments to or repeal of the incorporated statute, the Legislature intends that each reference to s. 775.084, Florida Statutes, appearing in each of the following sections of the Florida Statutes, refer to s. 775.084, Florida Statutes, as substantially reworded by this act, and that is hereby declared by the Legislature to be the meaning of each such reference:*

Florida Statute Section	*Relating to*
11.05	*Oath by lobbyist; penalty for false swearing.*
11.143	*Standing or select committees; powers.*
24.118	*Other prohibited acts; penalties.*
39.001	*Short title, purposes, and intent.*
48.021	*Process; by whom served.*
48.31	*Removal of certified process servers; false return of service.*
63.212	*Prohibited acts; penalties for violation.*
92.525	*Verification of documents; perjury by false written declaration, penalty.*
103.121	*Powers and duties of executive committees.*
104.011	*False swearing.*
104.041	*Fraud in connection with casting vote.*
104.051	*Violations; neglect of duty; corrupt practices.*
104.061	*Corruptly influencing voting.*
104.13	*Intermingling ballots.*
104.15	*Person knowing he is not qualified elector voting at any election.*
104.16	*Voting fraudulent ballot.*
104.17	*Voting in person after casting absentee ballot.*
104.18	*Casting more than one ballot at any election.*
104.21	*Changing electors' ballots.*
104.22	*Stealing and destroying records, etc., of election.*
104.23	*Disclosing how elector votes.*
104.30	*Voting machine; unlawful possession; tampering.*
106.26	*Powers of commission; rights and responsibilities of parties; findings by commission.*
106.29	*Reports by political parties; assessment on contributions.*
110.1127	*Employee security checks.*
116.34	*Facsimile signatures.*
117.05	*Use of notary commission; unlawful use; notary fee; seal; duties; employer liability; name change; advertising; photocopies; penalties.*
117.105	*False or fraudulent acknowledgements; penalty.*
138.11	*Unlawful use of money in election to change county seat.*
192.037	*Fee time-share real property; taxes and assessments; escrow.*
198.38	*False return; penalty.*
198.40	*Failure to pay tax, evasion of tax, etc.; penalty.*
199.282	*Penalties for violation of this chapter.*
201.18	*Penalties for illegal use of stamps.*
206.04	*License number and cards; penalties.*
206.11	*Penalties.*
206.18	*Discontinuance or transfer of business; liability of tax, procedure; penalty for violation.*
206.426	*Resale and exemption certificates; offenses; penalties.*
206.56	*Unlawful use of tax collected; theft of state funds.*
206.87	*Levy of tax.*
207.007	*Offenses; penalties and interest.*
210.18	*Penalties for tax evasion; reports by sheriffs.*
210.65	*Penalties for tax evasion.*
211.25	*Tax crimes; punishment for violation of this part.*
211.335	*Tax crimes; punishment for violation of this part.*
212.054	*Discretionary sales surtax; limitations, administration, and collection.*
212.085	*Fraudulent claim of exemption; penalties.*
212.15	*Taxes declared state funds; penalties for failure to remit taxes; due and delinquent dates; judicial review.*
212.62	*Motor fuel and special fuel sales tax; tax upon ultimate consumer; determination; notification.*
218.386	*Bonds; finder's fees prohibited.*
220.181	*Enterprise zone jobs credit.*
220.903	*Willful failure to pay over.*
231.06	*Assault or battery upon district school board employee; penalties.*
240.381	*Assault or battery upon community college security officers; penalties.*
240 5337	*Entry into agent contracts by student athletes.*
255 518	*Obligations; purpose, terms, approval, limitations.*
287 094	*Minority business enterprise programs; penalty for false representation.*
298.66	*Obstruction of drainage canals, etc., prohibited; damages; penalties.*
316.027	*Accidents involving death or personal injuries.*
316.193	*Driving under the influence; penalties.*
316.545	*Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.*
319.30	*Definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.*
319.33	*Offenses involving vehicle identification numbers, applications, certificates, papers; penalty.*
319.35	*Unlawful acts in connection with motor vehicle odometer readings; penalties.*
320.26	*Counterfeiting license plates, validation stickers, mobile home stickers, cab cards, trip permits, or special temporary operational permits prohibited; penalty.*
322.212	*Unauthorized possession of, and other unlawful acts in relation to, driver's license or identification card.*
325.216	*Violations; penalties.*
326.005	*Escrow depository, closing transactions.*
327.29	*Crimes relating to registration decals; penalties.*
327.30	*Collisions, accidents, and casualties.*
328.05	*Crimes relating to certificates of title to, or other indicia of ownership of, vessels; penalties.*
328 07	*Hull identification number required.*
328 13	*Manufacturer's statement of origin to be furnished.*
329.10	*Aircraft registration.*
329.11	*Aircraft identification numbers; penalties.*
330.40	*Aircraft fuel tanks.*
337.135	*Socially and economically disadvantaged business enterprises; punishment for false representation.*
341.329	*Bonds; project financing.*
367.081	*Rates; procedure for fixing and changing.*

370.036	*Dredge or fill activities, records; penalty.*
370.0605	*Saltwater fishing license required; fees.*
370.135	*Blue crab; regulation.*
370.142	*Spiny lobster trap certificate program.*
370.15	*Shrimp; regulation.*
370.17	*Sponges; regulation.*
372.0725	*Killing or wounding of any species designated as endangered, threatened, or of special concern; criminal penalties.*
372.663	*Illegal killing, possessing, or capturing of alligators or other crocodilia eggs; confiscation of equipment.*
372.671	*Florida or wild panther; killing prohibited; penalty.*
372.99	*Illegal taking and possession of deer and wild turkey; evidence; penalty.*
376.07	*Regulatory powers of department.*
376.12	*Liabilities and defenses of terminal facilities and vessels.*
376.3071	*Inland Protection Trust Fund; creation; purposes; funding.*
377.2409	*Geophysical activities; confidential information; penalties.*
380.0668	*Bonds; purpose, terms, approval, limitations.*
381.0041	*Donation and transfer of human tissue; testing requirements.*
390.001	*Termination of pregnancies.*
391.205	*License required; fee; exemption; display.*
393.0674	*Penalties.*
394.457	*Operation and administration.*
394.458	*Introduction or removal of certain articles unlawful; penalty.*
396.0427	*Penalties.*
397.056	*False information or lack of probable cause to secure an order to treatment; penalty.*
397.0716	*Penalties.*
400.407	*License required; fee, display.*
400.427	*Property and personal affairs of residents.*
400.497	*Rules establishing minimum standards; screening of home health agency personnel.*
401.41	*Penalties.*
402.3025	*Public and nonpublic schools.*
402.319	*Penalties.*
404.161	*Penalties.*
409.175	*Licensure of family foster homes, residential child-caring agencies, and child-placing agencies.*
409.176	*Registration of residential child-caring agencies.*
409.325	*Fraud.*
409.920	*Medicaid provider fraud.*
415.111	*Penalties relating to abuse, neglect, or exploitation of aged person or disabled adult.*
420.509	*Bonds; purpose, terms, approval, limitations.*
440.10	*Liability for compensation.*
440.37	*Misrepresentation; fraudulent activities; penalties.*
440.381	*Application for coverage; reporting payroll; payroll audit procedures; penalties.*
443.071	*Penalties.*
450.151	*Hiring and employing; infliction of pain or suffering penalty.*
455.2175	*Penalty for theft or reproduction of an examination.*
455.2275	*Penalty for giving false information.*
458.327	*Penalty for violations.*
458.347	*Physician assistants.*
459.013	*Penalty for violations.*
459.022	*Physician assistants.*
460.411	*Violations and penalties.*
460 4165	*Chiropractic physician's assistants.*
461 012	*Violations and penalties.*
462 17	*Penalty for offenses relating to naturopathy.*
463.015	*Violations and penalties.*
464.016	*Violations and penalties.*
465.015	*Violations and penalties.*
466.026	*Prohibitions; penalties.*
466.0285	*Proprietorship by nondentists.*
468.366	*Penalties for violations.*
468.453	*Registration.*
468.454	*Contracts.*
474.213	*Prohibitions; penalties.*
483.325	*Criminal penalties.*
489.133	*Pollutant storage systems specialty contractors; definitions; certification; restrictions.*
491.0112	*Sexual misconduct by a psychotherapist; penalties.*
493.6405	*Sale of motor vehicle, mobile home, or motorboat by a licensee; penalty.*
494.0018	*Penalties.*
496.413	*Contributions solicited for or accepted on behalf of a named individual.*
496.417	*Criminal penalties.*
497.054	*Penalties.*
498.022	*Jurisdiction over fraudulent acts.*
498.059	*Penalties.*
499.03	*Possession of new drugs or legend drugs without prescriptions unlawful; exemptions and exceptions.*
499.06	*Embargoing, detaining, or destroying article or processing equipment which is in violation of law or rule.*
499.063	*Seizure; procedure; prohibition on sale or disposal of article; penalty.*
499.75	*Penalties.*
500.174	*Seizure; procedure; prohibition on sale or disposal of article; penalty.*
501.019	*Health studios; penalties.*
501.055	*Home solicitation sale; penalties.*
501.1375	*Deposits received for purchase of residential dwelling units; placement in escrow required; exceptions.*
501.623	*Criminal penalties.*
509.151	*Obtaining food or lodging with intent to defraud; penalty.*
509.506	*Trust accounts.*
513.121	*Obtaining accommodations in a recreational vehicle park with intent to defraud; penalty; rules of evidence.*
517.302	*Criminal penalties; alternative fine; Anti-Fraud Trust Fund; time limitation for criminal prosecution.*
527.02	*License; penalty; fees.*
538.04	*Recordkeeping requirements; penalties.*
538.23	*Violations and penalties.*
542.28	*Civil investigative demand.*
550.24	*Conniving to prearrange result of race; using medication or drugs on horse or dog; penalty.*
550.35	*Transmission of racing and jai alai information.*
550.361	*Bookmaking on the grounds of a permitholder; penalties; reinstatement; duties of track employees; penalty; exceptions.*
552.22	*Penalties.*
559.815	*Penalties.*
561.24	*Licensing manufacturers as distributors or registered exporters prohibited; procedure for issuance and renewal of distributors' licenses and exporters' registrations.*
562.23	*Conspiracy to violate Beverage Law; penalty.*
562.27	*Seizure and forfeiture.*
562.32	*Moving or concealing beverage with intent to defraud state of tax; penalty.*
562.34	*Containers; seizure and forfeiture.*
562.45	*Penalties for violating Beverage Law; local ordinances.*
562.451	*Moonshine whiskey; ownership, possession, or control prohibited; penalties; rule of evidence.*
562.455	*Adulterating liquor; penalty.*
567.14	*Penalty for violation.*
585.145	*Control of animal diseases.*
585.19	*Duty of practitioners of veterinary medicine and owners of animals to report dangerous transmissible diseases or pests; penalty.*
585.85	*Prohibited transportation of certain animals and animal products.*
586.15	*Penalty for violation.*
590.14	*Penalties.*
590.25	*Penalty for preventing or obstructing extinguishment of woods fires.*
590.30	*Penalties for violating ss. 590 28 and 590.29.*
593.116	*Penalty for violation.*
607.0505	*Registered agent; duties.*
609.06	*Penalties.*

620.192	*Registered agent; duties.*
624.401	*Certificate of authority required.*
624.424	*Annual statement and other information.*
626.561	*Reporting and accounting for funds.*
626.8473	*Escrow; trust fund.*
626.9541	*Unfair methods of competition and unfair or deceptive acts or practices defined.*
628.255	*Person with effective control cannot receive commission unless contract approved; penalties.*
628.271	*Office and records; penalty for unlawful removal of records.*
628.461	*Acquisition of controlling stock.*
628.4615	*Specialty insurers; acquisition of controlling stock, ownership interest, assets, or control; merger or consolidation.*
628.803	*Sanctions.*
629.401	*Insurance exchange.*
639.17	*Penalty.*
641.432	*Providers of service; penalty for unauthorized use of providers; interference with judgment prohibited.*
641.52	*Suspension, revocation of certificate; administrative fine; notice of action to the Department of Insurance; penalty for use of unlicensed providers.*
655.0322	*Prohibited acts and practices; criminal penalties.*
655.057	*Records; limited restrictions upon public access.*
655.059	*Access to books and records; confidentiality; penalty for disclosure.*
655.922	*Banking business by unauthorized persons; use of name.*
687.071	*Criminal usury, loan sharking; shylocking.*
687.146	*Criminal penalties.*
703.19	*Filing untrue copies of abstracts ordered filed for use of public.*
705.102	*Reporting lost or abandoned property.*
713.245	*Conditional payment bond.*
713.345	*Moneys received for real property improvements; penalty for misapplication.*
713.69	*Unlawful to remove property upon which lien has accrued.*
713.78	*Liens for recovering, towing, or storing vehicles.*
715.07	*Vehicles parked on private property; towing*
718.202	*Sales or reservation deposits prior to closing*
719.202	*Sales or reservation deposits prior to closing*
721.08	*Escrow accounts; nondisturbance instruments; alternate security arrangements.*
721.09	*Reservation agreements; escrows.*
721.13	*Management.*
765.310	*Falsification, forgery, or willful concealment, cancellation, or destruction of declaration or revocation; penalties.*
767.13	*Attack or bite by dangerous dog; penalties; confiscation; destruction.*
775.0842	*Persons subject to career criminal prosecution efforts.*
775.0846	*Wearing bulletproof vest while committing certain offenses.*
777.03	*Accessory after the fact.*
782.04	*Murder.*
782.07	*Manslaughter.*
782.071	*Vehicular homicide.*
782.072	*Vessel homicide.*
782.08	*Assisting self-murder.*
782.09	*Killing of unborn child by injury to mother.*
782.11	*Unnecessary killing to prevent unlawful act.*
784.021	*Aggravated assault.*
784.045	*Aggravated battery.*
784.048	*Stalking; definitions; penalties.*
784.05	*Culpable negligence.*
787.01	*Kidnapping; kidnapping of child under age 13, aggravating circumstances.*
787.02	*False imprisonment; false imprisonment of child under age 13, aggravating circumstances.*
787.03	*Interference with custody.*
787.04	*Removing minors from state or concealing minors contrary to state agency order or court order.*
790.01	*Carrying concealed weapons.*
790.0655	*Purchase and delivery of handguns; mandatory waiting period; exceptions; penalties.*
790.07	*Persons engaged in criminal offense, having weapons.*
790.115	*Possessing or discharging weapons or firearms on school property prohibited; penalties; exceptions.*
790.145	*Crimes in pharmacies; possession of weapons; penalties.*
790 15	*Discharging firearm in public.*
790 1615	*Unlawful throwing, projecting, placing, or discharging of destructive device or bomb that results in injury to another; penalty.*
790.162	*Threat to throw, project, place, or discharge any destructive device, felony; penalty.*
790.163	*False report about planting bomb or explosive; penalty.*
790.164	*False reports of bombing or arson against state-owned property; penalty; reward.*
790.19	*Shooting into or throwing deadly missiles into dwellings, public or private buildings, occupied or not occupied; vessels, aircraft, buses, railroad cars, streetcars, or other vehicles.*
790.23	*Felons; possession of firearms or electric weapons or devices unlawful; exception; penalty.*
790.27	*Alteration or removal of firearm serial number or possession, sale, or delivery of firearm with serial number altered or removed prohibited; penalties.*
790.29	*Paramilitary training; teaching or participation prohibited.*
790.31	*Armor-piercing or exploding ammunition or dragon's breath shotgun shells, bolo shells, or flechette shells prohibited.*
794.011	*Sexual battery.*
794.041	*Sexual activity with child by or at solicitation of person in familial or custodial authority; penalties.*
794.05	*Carnal intercourse with unmarried person under 18 years.*
796.03	*Procuring person under age of 16 for prostitution.*
796.04	*Forcing, compelling, or coercing another to become a prostitute.*
796.05	*Deriving support from the proceeds of prostitution.*
800.04	*Lewd, lascivious, or indecent assault or act upon or in presence of child.*
806.01	*Arson.*
806.031	*Arson resulting in injury to another; penalty.*
806.10	*Preventing or obstructing extinguishment of fire.*
806.101	*False alarms of fires.*
806.111	*Fire bombs.*
806.13	*Criminal mischief.*
806.14	*Art works in public buildings; willful damage; unauthorized removal; penalties.*
810.02	*Burglary.*
810.06	*Possession of burglary tools.*
810.08	*Trespass in structure or conveyance.*
810.09	*Trespass on property other than structure or conveyance.*
810.095	*Trespass on school property with firearm or other weapon prohibited.*
812.014	*Theft.*
812.019	*Dealing in stolen property.*
812.13	*Robbery.*
812.15	*Unauthorized reception of cable television services; penalties.*
812.155	*Hiring, leasing, or obtaining personal property or equipment with the intent to defraud; failing to return hired or leased personal property or equipment; rules of evidence.*
812.16	*Operating chop shops; definitions; penalties; restitution; forfeiture.*
815.04	*Offenses against intellectual property.*
815.05	*Offenses against computer equipment or supplies.*
815.06	*Offenses against computer users.*
817.025	*Home or private business invasion by false personation; penalties.*
817.034	*Florida Communications Fraud Act.*
817.12	*Penalty for violation of s. 817.11.*
817.15	*Making false entries, etc., on books of corporation.*

817.19	*Fraudulent issue of certificate of stock of corporation.*
817.20	*Issuing stock or obligation of corporation beyond authorized amount.*
817.22	*Making false invoice to defraud insurer.*
817.23	*Making false affidavit to defraud insurer.*
817.233	*Burning to defraud the insurer.*
817.234	*False and fraudulent insurance claims.*
817.24	*Unlawful to add or alter or deface existing brand.*
817.26	*Fraudulently changing marks on animal.*
817.29	*Cheating.*
817.34	*False entries and statements by investment companies offering stock or security for sale.*
817.37	*Touting; defining; providing punishment; ejection from racetracks.*
817.482	*Possessing or transferring device for theft of telecommunications service; concealment of destination of telecommunications service.*
817.52	*Obtaining vehicles with intent to defraud, failing to return hired vehicle, or tampering with mileage device of hired vehicle.*
817.54	*Obtaining of mortgage, mortgage note, promissory note, etc., by false representation.*
817.562	*Fraud involving a security interest.*
817.5621	*Unlawful subleasing of a motor vehicle.*
817.563	*Controlled substance named or described in s. 893.03; sale of substance in lieu thereof.*
817.564	*Imitation controlled substances defined; possession and distribution prohibited.*
817.611	*Traffic in counterfeit credit cards.*
817.67	*Penalties.*
817.705	*Waivers; burden of proof; penalties.*
823.04	*Animals suffering from disease or pests.*
823.06	*Doors of public buildings to open outward.*
823.09	*Violation of s. 823.07; penalty.*
826.01	*Bigamy; punishment.*
826.03	*Knowingly marrying husband or wife of another.*
826.04	*Incest.*
827.03	*Aggravated child abuse.*
827.04	*Child abuse.*
827.071	*Sexual performance by a child; penalties.*
827.08	*Misuse of child support money.*
828.122	*Fighting or baiting animals; offenses, penalties.*
828.125	*Killing or aggravated abuse of registered breed horses or cattle, offenses; penalties*
831.01	*Forgery.*
831.02	*Uttering forged instruments.*
831.04	*Penalty for changing or forging certain instruments of writing.*
831.07	*Forging bank bills or promissory notes.*
831.08	*Possessing certain forged notes or bills.*
831.09	*Uttering forged bills.*
831.10	*Second conviction of uttering forged bills.*
831.11	*Bringing into the state forged bank bills.*
831.13	*Having in possession uncurrent bills.*
831.14	*Uttering uncurrent bills.*
831.15	*Counterfeiting coin; having 10 or more such coins in possession with intent to utter.*
831.29	*Making or having instruments and material for counterfeiting drivers' licenses.*
831.31	*Counterfeit controlled substance; sale, manufacture, delivery, or possession with intent to sell, manufacture, or deliver.*
832.041	*Stopping payment with intent to defraud.*
832.05	*Giving worthless checks, drafts, and debit card orders; penalty; duty of drawee; evidence; costs; complaint form.*
832.062	*Prosecution for worthless checks, drafts, or debit card orders given to pay any tax or associated amount administered by the Department of Revenue.*
836.05	*Threats; extortion.*
836.10	*Written threats to kill or do bodily injury; punishment.*
837.02	*Perjury in official proceedings.*
837.021	*Perjury by contradictory statements.*
838.015	*Bribery.*
838.016	*Unlawful compensation or reward for official behavior.*
838.021	*Corruption by threat against public servant.*
838.12	*Bribery in athletic contests.*
838.15	*Commercial bribe receiving.*
838.16	*Commercial bribery.*
839.17	*Misappropriation of moneys by commissioners to make sales.*
839.25	*Official misconduct.*
843.01	*Resisting officer with violence to his person.*
843.025	*Depriving officer of means of protection or communication.*
843.081	*Prohibited use of certain lights; penalty.*
843.09	*Escape through voluntary action of officer.*
843.11	*Conveying tools into jail to aid escape; forcible rescue.*
843.12	*Aiding escape.*
843.14	*Compounding felony.*
843.15	*Failure of defendant on bail to appear.*
843.18	*Boats; fleeing or attempting to elude a law enforcement officer.*
843.19	*Injuring or killing police dog or police horse prohibited; penalty.*
847.011	*Prohibition of certain acts in connection with obscene, lewd, etc., materials; penalty.*
847.012	*Prohibition of sale or other distribution of harmful materials to persons under 18 years of age; penalty.*
847.0145	*Selling or buying of minors; penalties.*
847.07	*Wholesale promotion of obscene materials; penalties.*
849.01	*Keeping gambling houses, etc.*
849.04	*Permitting minors and persons under guardianship to gamble.*
849.09	*Lottery prohibited; exceptions.*
849.0931	*Bingo authorized; conditions for conduct; permitted uses of proceeds; limitations.*
849.10	*Printing lottery tickets, etc., prohibited.*
849.23	*Penalty for violations of ss. 849.15-849.22.*
849.25	*"Bookmaking" defined; penalties; exceptions.*
856.04	*Desertion; withholding support; proviso.*
859.01	*Poisoning food or water.*
859.05	*Narcotics not to be sold except on prescription.*
860.05	*Unauthorized person interfering with railroad train, cars, or engines.*
860.08	*Interference with railroad signals prohibited; penalty.*
860.09	*Interference with railroad track and other equipment prohibited; penalties.*
860.11	*Injuring railroad structures; driving cattle on tracks.*
860.121	*Crimes against railroad vehicles; penalties.*
860.13	*Operation of aircraft while intoxicated or in careless or reckless manner; penalty.*
860.16	*Aircraft piracy; penalty.*
860.20	*Outboard motors; identification numbers.*
861.03	*Injuries to dams.*
861.06	*Obstructing harbors.*
870.01	*Affrays and riots.*
870.03	*Riots and routs.*
872.02	*Injuring or removing tomb or monument; disturbing contents of grave or tomb; penalties.*
872.05	*Unmarked human burials.*
873.01	*Purchase or sale of human organs and tissue prohibited.*
873.05	*Advertising or sale of human embryos prohibited.*
876.02	*Criminal anarchy, Communism, and other specified doctrines; prohibitions.*
876.03	*Unlawful assembly for purposes of anarchy, Communism, or other specified doctrines.*
876.23	*Subversive activities unlawful; penalty.*
876.24	*Membership in subversive organization; penalty.*
876.32	*Treason.*
876.33	*Misprision of treason.*
876.34	*Combination to usurp government.*
876.35	*Combination against part of the people of the state.*
876.36	*Inciting insurrection.*
876.39	*Intentionally defective workmanship.*

877.08	*Coin-operated vending machines and parking meters; defined; prohibited acts, penalties.*
877.18	*Identification card or document purporting to contain applicant's age or date of birth; penalties for failure to comply with requirements for sale or issuance.*
893.1351	*Lease or rent for the purpose of trafficking in a controlled substance.*
893.147	*Use, possession, manufacture, delivery, or advertisement of drug paraphernalia.*
893 149	*Unlawful possession of listed chemical.*
895 04	*Criminal penalties and alternative fine.*
896.101	*Offense of conduct of financial transaction involving proceeds of unlawful activity; penalties.*
905.395	*Unlawful acts related to disclosure of proceedings; penalty.*
914.14	*Witnesses accepting bribes.*
914.22	*Tampering with a witness, victim, or informant.*
914.23	*Retaliating against a witness, victim, or informant.*
916.175	*Escape from treatment program; penalty.*
916.178	*Introduction or removal of certain articles unlawful; penalty.*
918.12	*Tampering with jurors.*
918 13	*Tampering with or fabricating physical evidence.*
921 18	*Sentence for indeterminate period for noncapital felony.*
934.03	*Interception and disclosure of wire, oral, or electronic communications prohibited.*
934.04	*Manufacture, distribution, or possession of wire, oral, or electronic communication intercepting devices prohibited.*
934.21	*Unlawful access to stored communications; penalties.*
934.43	*Criminal disclosure of subpoena, order, or authorization.*
943.0585	*Court-ordered expunction of criminal history records.*
943.059	*Court-ordered sealing of criminal history records.*
944.33	*Failure of inspector to make report; false report; penalty.*
944.35	*Authorized use of force; malicious battery prohibited; reporting required; penalties.*
944.36	*Permitting inmates to escape.*
944.40	*Escapes; penalty.*
944.42	*Assault by prisoner serving less than life sentence; penalty.*
944.44	*Holding persons as hostages; penalty.*
944.45	*Mutiny, riot, strike; penalty.*
944.46	*Harboring, concealing, aiding escaped prisoners; penalty.*
944.47	*Introduction, removal, or possession of certain articles unlawful; penalty.*
951.075	*Assault, battery, or assault and battery in a county or municipal jail or detention facility; penalty.*
951.22	*County detention facilities; contraband articles.*
960.18	*Penalty for fraud.*

Section 43. *The Division of Statutory Revision of the Joint Legislative Management Committee is directed to prepare for introduction during the 1994 Regular Session of the Legislature a reviser's bill which reenacts all sections of the Florida Statutes listed in section 42 of this act that are not repealed during the 1993 Regular Session of the Legislature, and any sections of the Florida Statutes enacted in the 1992 and 1993 Sessions of the Legislature that are not listed in section 42 of this act and that contain references to s. 775.084, Florida Statutes, to reflect the intent to adopt the "Safe Streets Initiative of 1993."*

Section 44. *The Division of Statutory Revision of the Joint Legislative Management Committee is directed to prepare for introduction during the 1994 Regular Session of the Legislature a reviser's bill to conform all cross references to s. 893.13, Florida Statutes, to the amendment to that section in this act.*

Section 45. *The Inspector General of the Department of Corrections shall determine, by July 1, 1993, the maximum monthly average number of sentenced felony offenders who served a term of imprisonment in each county's jail facilities during calendar year 1992. Further, for calendar years 1988 through 1992, the Inspector General shall determine the annual average growth rate for the number of sentenced felony offenders serving a term of imprisonment in each county's jail facilities. By August 1, 1993, the Inspector General shall notify each county of: the county's maximum monthly average number of sentenced felony offenders; and the county's average annual growth rate, as determined in this section. Additionally, by August 1, 1993, the Inspector General shall notify the Senate Committee on Corrections, the Senate Committee on Criminal Justice, the House Committee on Corrections, and the House Committee on Criminal Justice of each county's maximum monthly average number of sentenced felony offenders and each county's average growth rate.*

Section 46. *Effective October 1, 1993, and applicable to sentencing for offenses committed on or after that date, the number of sentenced felony offenders serving a term of imprisonment in each county's jail facilities shall not exceed that county's maximum monthly average number, adjusted annually for growth.*

Section 47. Section 242.68, Florida Statutes, 1992 Supplement, is amended to read:

(Substantial rewording of section. See s. 242.68, F.S., 1992 Supp., for present text.)

242.68 Education for state prisoners; Correctional Education School Authority; Board of Correctional Education.—

(1) There is hereby created a Correctional Education School Authority attached to the Department of Corrections which shall be composed of the educational facilities of all institutions operated by the Department of Corrections and shall be supervised by a Board of Correctional Education. Library services and facilities, and maintenance of facilities, that house the education programs shall continue to be assigned to the Department of Corrections, which shall also be responsible, in consultation with the Correctional Education School Authority, for renovation and new construction of correctional education facilities. All education-related positions, including central office administrative positions, shall be assigned to the school authority.

(2)(a) There is hereby established a Board of Correctional Education attached to the Department of Corrections, which shall be composed of eight voting members. Membership shall be as follows:

1. Two voting ex officio members, who shall be the Commissioner of Education or designee and the Secretary of Corrections or designee.

2. Six voting members appointed by the Governor and confirmed by the Senate in regular session as follows: one member who is trained in vocational education and training; one member who is trained in adult basic education; one member who is trained in special education; one member who has business experience in the private sector; one member who is a teacher certified by the Department of Education, who is currently teaching adult education or special education in the Florida public school system; and one member who is a former inmate of the Florida prison system and who has completed requirements for a general educational development certificate or vocational certificate. The Commissioner of Education and the Secretary of Corrections may submit recommendations for appointment to the Governor for his consideration. The Governor may remove any member for cause and shall fill vacancies as appropriate.

(b) Members of the board shall serve without compensation but shall be reimbursed for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061.

(c) Members shall be appointed for terms of 4 years each, except for initial appointments and whenever a vacancy occurs other than by expiration of a term. Initial terms shall be as follows: two members shall be appointed for 2-year terms and three members shall be appointed for 4-year terms. Whenever a vacancy occurs other than by expiration, the Governor shall appoint a member for the remainder of that term.

(d) No appointed member shall serve more than two terms, regardless of length.

(e) Members of the board shall elect a chair annually. No board member may serve more than two consecutive terms as chair. The Secretary of Corrections or his designee and the Commissioner of Education or his designee shall not serve as chairman of the board.

(f) The board is vested with the authority and responsibility to manage and operate the correctional education program as provided by law. The Department of Corrections and the Department of Education shall cooperate and render assistance as may be necessary to enable the board to discharge its responsibilities. Resources of the departments may be used to support the operation of the education programs as agreed by the departments and the board. The Correctional Education School Authority shall operate its education programs in accordance with applicable provisions of the Florida school laws and rules of the State Board of Education except as expressly exempted by the State Board of Education.

(g) The responsibilities of the board shall be to:

1. Adopt and enforce all necessary rules for the management and operation of education programs within the Department of Corrections. In adopting rules the board shall consider the Department of Corrections operating procedures and goals of correctional education Rules adopted by the board shall not conflict with Department of Corrections rules relating to security or any applicable rules adopted by the Department of Education.

2. Develop, update, and maintain for public inspection written cooperative agreements with the Department of Corrections and the Department of Education outlining the duties and responsibilities of the school authority and its staff, the Department of Corrections, and the Department of Education.

3. Develop and maintain written procedures for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the Department of Corrections. The information collected shall include, but shall not be limited to, assessment of the inmate's areas of educational or vocational interest, vocational skills, and level of education.

4. Develop rules to implement appropriate testing and assessment procedures, in cooperation with the Department of Corrections, for identifying and recommending which inmates will benefit from correctional education. These procedures shall use Department of Education-approved assessment tests based on assessment of the inmate's academic and vocational needs, the inmate's level of interest, and the length of time the inmate is expected to remain in prison.

5. Develop rules, in cooperation with the Department of Corrections, to ensure that inmates who are identified as likely to benefit from correctional education are assigned to correctional facilities offering correctional education courses.

6. In cooperation with the Department of Corrections, develop rules for the school authority staff concerning the behavioral control of inmates while in education programs and the reporting of behavioral problems.

7. Ensure that the Department of Education, pursuant to s. 229.565, annually monitors and assesses one-third of inmate education program services and reports the results of such evaluation to the board for inclusion in the board's annual report of its activities.

8. Establish and adopt criteria to annually evaluate the Director of Correctional Education and set the compensation and salary of the director. The annual evaluation and any merit increases as a result thereof shall be approved by the Office of the Governor.

9. Adopt rules governing the compensation and salary of teachers and other education personnel.

10. Visit and inspect institutional education programs at reasonable intervals and report the results of such inspections in the board's annual report of its activities.

11. Approve education programs of the appropriate levels and types in the correctional institutions and adopt rules for the admission of inmate students thereto.

12. Pursuant to the provisions of chapter 287, enter into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out its duties and responsibilities regarding the education of inmates and ensure that agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards. Agreements and contracts for instructional services shall expressly prescribe the qualifications of and the board's expectations for instructors and the educational objectives to be met. All tangible personal property purchased with state funds shall become the property of the state and shall be subject to chapter 273. No contract for the provision of educational services shall be made or entered into by the board, the director, or any other agency representative unless the contract clearly demonstrates a cost savings to the state.

13. Review and approve the budget request for the correctional education program. The approved budget shall be forwarded directly to the Office of the Governor for inclusion in the Governor's budget recommendations.

14. Promulgate rules which establish cost centers for each program offered. Such expenditures shall be reported by individual program in the annual report required by subparagraph 17., and shall clearly indicate expenditures of funds by category.

15. Review and approve the 5-year comprehensive plan for correctional education and update the plan annually.

16. Annually establish goals and measurable objectives relating to all phases of the correctional education program and report attainment thereof, if any, in the board's annual report of its activities.

17. Report the board's annual activities to the Secretary of Corrections, the Commissioner of Education, the Governor, and the Legislature.

18. Develop and maintain complete and reliable statistics on the number of general educational development (GED) certificates, literacy certificates, and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses. Such reports shall clearly indicate the type of certificate earned and the number of individual inmates earning such certificates and shall also indicate an unduplicated count of inmates earning certificates. The compiled statistics shall be summarized and analyzed in the annual report of correctional education activities required by subparagraph 17.

19. Develop and implement rules for selecting programs to add to or delete from the vocational curriculum. The procedure shall include a labor market analysis which demonstrates the projected demand for certain occupations and the projected supply of potential employees, and an analysis of a survey of female inmates incarcerated within the Department of Corrections to assess female vocational preferences. Said survey shall be conducted by the authority no later that July 1, 1993 and the board shall evaluate the results to determine the feasibility of adding vocational education programs or replacing existing programs in female institutions which have been identified as giving those female inmates an equal opportunity to participate in vocational programs traditionally offered only to male inmates. In conducting labor market analyses, the board shall evaluate the feasibility of adding vocational education programs which have been identified by the Department of Labor and Employment Security or a regional coordinating council as being in undersupply in this state. All program changes made during any one fiscal year shall be included in the annual report of correctional education activities required by subparagraph 17.

20. Develop rules for the selection and deletion of academic and vocational programs. The rules shall be in accordance with accepted Department of Education standards. Academic programs shall meet minimum Department of Education standards to the extent possible. A list of specified facilities offering academic and vocational training programs through the authority shall be listed in the annual report required by subparagraph 17.

21. Develop and implement rules for the establishment and maintenance of academic and vocational curriculum committees which shall meet annually and recommend to the board such modifications in curricula as may be necessary and recommend the selection of textbooks and equipment essential for the operation of its educational programs. The curriculum committees shall have, as part of their membership, at least one academic teacher, one vocational teacher, one teacher certified in special education, and one instructional administrator. Any recommendations having a fiscal impact upon the agency shall be included in the board's annual legislative budget request.

22. Ensure that correctional education programs comply with the policies set by the board and with public policies and goals and objectives of the state, which include, in the following order of priority:

a. Providing every inmate who has an expectation of release from custody within 10 years and whose length of time in prison is sufficient for educational programming with the opportunity to achieve functional literacy, specifically the ability to read and write the English language and the ability to perform routine mathematical functions prior to release or expiration of sentence.

b. Providing every inmate who has an expectation of release from custody within 10 years and whose length of time in prison is sufficient for educational programming, and who has demonstrated the intellectual capacity to benefit therefrom, with the opportunity to obtain the equivalent of a public high school education. The highest priority in achieving this goal shall be focused on those institutions housing first time offenders and youthful offenders as defined in chapter 958.

c. Ensuring that every inmate who has an expectation of release from custody within 10 years and whose length of time in prison is sufficient for educational programming be released possessing at least entry-level marketable vocational skills in one or more occupational fields for which there is a demonstrable demand in the economy of this state. No inmate shall be allowed to earn more than one certificate in any vocational discipline as long as there are inmates on waiting lists for those vocational programs. Waiting lists for each vocational program shall be maintained by the authority.

d. Providing that inmates who demonstrate college-level aptitudes be provided the opportunity to participate in college-level academic programs approved by the board, which may be offered within correctional facilities. Associated costs shall be borne by the inmate.

23. Ensure, in cooperation with the Department of Corrections, that every inmate who has 2 years or more remaining to serve on the sentence when received at an institution and who lacks basic and functional literacy skills attends not fewer than 800 hours of instruction in a correctional adult basic education program. The basic and functional literacy level of an inmate shall be determined by the average composite test score obtained on a test approved for this purpose by the State Board of Education. Such testing shall be provided in accordance with procedures developed by the publisher of the approved tests.

a. Upon completion of the 800 hours of instruction, the inmate shall be retested and, if a composite test score of functional literacy is not attained, the authority is authorized to require the inmate to remain in the instructional program.

b. Highest priority of inmate participation shall be focused on youthful offenders, first time offenders, and those inmates nearing release from the correctional system.

c. An inmate shall be required to attend the 800 hours of adult basic education instruction unless the inmate:

(I) Is serving a life sentence or is under sentence of death.

(II) Is specifically exempted for security or health reasons.

(III) Is housed at a community correctional center, road prison, work camp, or vocational center.

(IV) Attains a functional literacy level after attendance in fewer than 800 hours of adult basic education instruction.

(V) Is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.

(VI) Has previously participated in and completed the program.

(VII) Has a verified high school diploma or its equivalent.

(VIII) Has been evaluated by education staff as not able to benefit from additional instruction.

d. The Correctional Education School Authority shall provide classes to accommodate those inmates assigned to correctional or public work programs after normal working hours. The authority shall not be required to provide the classes if specified funding is not appropriated for this purpose by the Legislature.

e. If an inmate attends and actively participates in the 800 hours of instruction, the supervising teacher shall recommend, and the Department of Corrections may grant, a one-time award of up to 30 additional days of incentive gain-time, which must be credited and applied as provided by law. Active participation means, at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work at an academic level of average or above.

f. Notwithstanding s. 944.275(4)(b), the education program manager or supervising teacher shall recommend, and the department may grant, a one time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a general educational development certificate or vocational certificate. Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section. The criteria for earning a recommendation for incentive gain-time for a general educational development certificate or a vocational certificate shall be established by rule.

24. Recommend to the Department of Corrections the award of additional incentive gain-time for inmates who receive a general educational development certificate or vocational certificate in accordance with s. 944.275(4)(d).

25. In consultation with the Department of Corrections, develop rules which determine conditions under which an inmate may be removed from an education program or the classroom. Department of Corrections managers are prohibited from taking inmates out of education programs or classrooms unless such conditions exist.

(3) The Board of Correctional Education is created as a body corporate with all powers of a body corporate for all the purposes created by or that may exist under this chapter and shall:

(a) Have a corporate seal.

(b) Employ personnel or contract with education providers or other authorized entities or agents as may be necessary in its judgment and may fix their compensation.

(c) Have power to contract and be contracted with, to sue and be sued, and to plead and be impleaded in all courts of law and equity.

(d) Receive donations.

(e) Have final rulemaking authority.

(4) There is hereby established the position of Director of Correctional Education who shall be appointed by the Governor and shall serve at the discretion of the Governor. The Governor may remove the director for cause. A vacancy in the position of director shall be filled from a list of three qualified applicants submitted by the board. The director shall:

(a) Supervise the administration of the school authority.

(b) Develop standardized correctional education curricula which shall be approved by the Department of Education. Any modified curricula shall clearly indicate the areas modified and shall be expressly approved in writing by the Department of Education. All available educational programs shall be reported in the annual report required by subparagraph (2)(g)17.

(c) Ensure that correctional education programs provide minimum performance standards, basic functional literacy skills, and marketable vocational skills which are in accordance with established Department of Education standards.

(d) After consultation with the regional education program administrator and the institution superintendent, recommend the education program manager or institution supervising teacher, who shall be the chief education administrator responsible for the daily operation and administration of the institution educational program, to the board for appointment. After consultation with the institution supervising teacher, the regional education program administrator, and the institution superintendent, approve all staff responsible for providing education programs.

(e) Ensure that all education, counseling and administrative staff managing educational programs, are certified in accordance with the Department of Education standards.

(f) Develop and revise annually a compensation and classification plan for correctional educators which is competitive with school district salaries and includes a step pay plan. The director shall administer the compensation and classification plan for instructional personnel within the rules and policies established by the board, subject only to the approval of the State Board of Education. The director shall administer the compensation and classification plan for administrative and noninstructional personnel within the rules and policies established by the board, subject only to the approval of the Department of Management Services.

(g) Implement procedures regarding the testing of all offenders committed to the custody of the Department of Corrections, except offenders who are specifically excluded from the testing requirement. The test shall be administered in accordance with acceptable Department of Education testing standards.

(h) Annually update the 5-year comprehensive plan for correctional education. The plan shall require the director to:

1. Develop measurable objectives.

2. Develop quality control mechanisms.

(i) Annually develop goals and measurable objectives relating to all phases of the correctional education program.

(j) Develop a staffing and funding formula for correctional education which shall be submitted to the Legislature for approval. The formula shall include differential funding levels for various types of programs, shall be based on the number of full-time equivalent students, shall be based on information obtained as a result of unscheduled attendance counts taken by an independent source once per quarter, and shall provide the basis for the legislative budget request. For purposes of this section, a full-time equivalent student shall be calculated in accordance with the provisions set forth in s. 236.013, and rules established by the Department of Education. The funding formula shall include the procedure to document daily attendance and shall require that attendance records be retained a minimum of 3 years for audit purposes. Funds generated by the formula per full-time equivalent student shall not exceed the level of state funding per full-time equivalent student generated through the Florida Education Finance Program or Florida Community College Program Fund for students enrolled in comparable education programs provided by public school districts and community colleges. Funds appropriated for education shall be used solely for that purpose and shall not be transferred to any other budget entity for a purpose other than education.

(k) Prepare the legislative budget request for the entire correctional education program and submit it to the Board of Correctional Education for approval. The director shall be responsible for all expenditures pursuant to appropriations and board rules.

(l) Maintain procedures to secure appropriate entitlement funds from federal and state grant sources to supplement the annual legislative appropriation. These funds shall be utilized expressly for correctional education programs approved by the board and both acquisition and detailed expenditures of those funds shall be accurately reported in the authority's annual report pursuant to subparagraph (2)(g)17.

(m) Be responsible, along with the Board of Correctional Education, for all academic education and vocational training programs within the jurisdiction of the authority as provided by law.

(n) Assess and identify, within 60 days after admission at the receiving facility, inmates who have special education needs and develop and implement an individual education plan whereby those special needs will be addressed. Monthly statistics shall be collected on the number of inmates who are 21 years of age and under and in need of special education, and such statistics shall be reported to the Legislature and the Department of Education.

(5) The Correctional Education School Authority and the Board of Correctional Education are subject to the provisions of chapter 120, except that curricula established pursuant to this section shall not be a rule.

(6) Pursuant to rules adopted by the board, educational services may be contracted for to provide every inmate with the opportunity to: achieve functional literacy; develop marketable entry-level vocational skills; or develop abilities to live in a law-abiding and democratic society. The contract must be with a school district, community college, or licensed accredited private postsecondary educational institution. Contracts for these services must show cost estimates; course titles; course descriptions; number of inmate students to be served; total instructional hours per week per course; number of full-time equivalent students per course; full-time equivalent unit cost; description, quantity, and cost of miscellaneous goods or services; and total cost of services with total full-time equivalent students by program. The contract must name the correctional institution and the educational provider. No contract shall be made unless the positions specified in the contract cannot be filled by Correctional Education School Authority instructors.

(a) The educational provider shall agree in the contract to:

1. Designate a liaison person.

2. Provide an educational package that includes instruction by instructors approved by the authority having mastery of the courses or skills being taught.

3. Arrange for qualified substitutes for absent instructors.

4. Require instructors to assume instructional and supervisory responsibilities for inmates in their classes.

5. Provide the correctional institution's education program manager or supervising teacher with reports on inmate progress and performance.

6. Coordinate teaching schedules that take into consideration the institution's inmate schedule.

7. Comply with Department of Corrections and Correctional Education School Authority written rules and reasonable directives, and local policies of the institution, regarding security and safety.

8. Not discriminate against student inmates because of race, color, religion, sex, or national origin.

9. Submit education reports provided for in the contract.

(b) The Correctional Education School Authority and correctional institution shall agree in the contract to:

1. Provide an education program manager or supervising teacher to coordinate the educational programs with the educational provider.

2. Provide a sufficient number of properly selected eligible students for membership in each course.

3. Provide institutional orientation for educational provider staff.

4. Supply all classroom and shop laboratory facilities and standard utilities, including water, lights, phones, heat, and air conditioning.

5. Provide janitorial and maintenance services.

6. Provide for the safety of all instructors.

7. Provide adequate library services.

(c) The parties shall agree on other supplies, services, consumables, laboratory materials, and textbooks as necessary. Both parties shall agree that the education program manager or supervising teacher is responsible for coordination of the education program and shall participate in selecting and evaluating instructional personnel sent in to serve the institutions and collaborate in developing operational procedures for efficient management of the education programs. The contract must be signed by the Director of Correctional Education and the superintendent of the correctional institution or designee; the college president or school superintendent, as applicable, or designee; the education program manager; and the educational provider's dean or director. The contract shall conform with the provisions required by subparagraph (2)(g)12.

(7) Beginning June 1, 1993, the Board of Correctional Education shall be required to provide quarterly status reports to the Speaker of the House of Representatives and the President of the Senate of its activities showing substantial progress toward meeting all of the requirements of this section.

Section 48. For the purpose of incorporating the amendment to section 242.68, Florida Statutes, 1992 Supplement, in references thereto, the subdivisions of Florida Statutes set forth below are reenacted to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(13) DEPARTMENTAL BUDGETS.—

(b) To fulfill this responsibility, the secretary shall have the authority to review, amend, and approve the biennial budget requests of all departmental activities. Departmental activities do not include the Correctional Education School Authority. The budget procedure for the authority shall be pursuant to s. 242.68. Recommendations on departmental budget priorities shall be furnished to the secretary by the Assistant Secretary for Operations, the Assistant Secretary for Management and Budget, the Assistant Secretary for Programs, and the Assistant Secretary for Health Services.

229.565 Educational evaluation procedures.—

(3) EDUCATION EVALUATION.—The Commissioner of Education shall periodically examine and evaluate procedures, records, and programs in each district to determine compliance with law and rules established by the state board and in each correctional institution operated by the Department of Corrections to determine compliance with law and rules established by the Board of Correctional Education pursuant to s. 242.68. Such evaluations shall include, but not be limited to:

(a) Reported full-time equivalent membership in each program category.

(b) The organization of all special programs to ensure compliance with law and the criteria established and approved by the state board pursuant to the provisions of this section and s. 230.23(4)(m).

(c) The procedures for identification and placement of students in educational alternative programs for students who are disruptive or unsuccessful in a normal school environment and for diagnosis and placement of students in special programs for exceptional students, to determine that the district is following the criteria for placement established by rules of the state board and the procedures for placement established by that district school board.

(d) Procedures for screening, identification, and assignment of instructional strategies of the Florida Primary Education Program, or an approved alternative program as provided in s. 230.2312, and any other provisions of the program.

(e) An evaluation of the standards by which the school district evaluates basic and special programs for quality, efficiency, and effectiveness.

(f) Determination of the ratio of administrators to teachers in each school district.

(g) Compliance with the cost accounting and reporting requirements of s. 237.34 and the extent to which the percentage expenditure requirements therein are being met.

(h) Clearly defined data collection and documentation requirements, including specifications of which records and information need to be kept and how long the records need to be retained. The information and documentation needs for evaluation shall be presented to the school districts and explained well in advance of the actual audit date.

(i) Determination of school district achievement in meeting the performance standards specified in s. 232.2454(1).

Section 49. *(1) Subsection (3) of section 1 of chapter 87-50, Laws of Florida, is hereby repealed.*

(2) Section 242.68, Florida Statutes, as amended by this act, is repealed July 1, 1994, and shall be reviewed by the Legislature prior to that date.

Section 50. Section 946.501, Florida Statutes, is amended to read:

946.501 Findings of fact.—

(1) It is the finding of the Legislature that correctional *industry* ~~work~~ programs of the Department of Corrections are uniquely different from other programs operated or conducted by other departments in that it is essential to the state that the *industry* ~~work~~ programs provide inmates with useful activities *and skills* that can lead to meaningful employment after release in order to assist in reducing the return of inmates to the system.

(2) It is further the finding of the Legislature that the mission of a correctional *industry* ~~work~~ program is, in order of priority:

(a) To *serve the rehabilitative goals of the state by providing* ~~provide~~ a joint effort between the department, the correctional *industry* ~~work~~ programs, and other vocational training programs to reinforce relevant education, training, and postrelease job placement and help reduce recommitment.

(b) To serve the security goals of the state through the reduction of idleness of inmates and the provision of an incentive for good behavior in prison.

(c) To reduce the cost of state government by producing quality prison-made products as economically as possible so as to make such products available for purchase by governmental entities on a competitive bid basis.

(d)~~(c)~~ To reduce the cost of state government by operating *industries* ~~enterprises~~ primarily with inmate labor, which enterprises do not ~~seek to~~ unreasonably compete with private enterprise.

~~(d) To serve the rehabilitative goals of the state by duplicating, as nearly as possible, the operating activities of a free enterprise type of profitmaking enterprise.~~

(3) It is further the finding of the Legislature that a program which duplicates as closely as possible free-world production and service operations in order to aid inmates in adjustment after release and to *train* ~~prepare~~ inmates for gainful employment is in the best interests of the state, inmates, and the general public.

Section 51. Section 946.502, Florida Statutes, is amended to read:

946.502 Legislative intent with respect to operation of correctional *industry* ~~work~~ programs.—

(1) It is the intent of the Legislature that *the* ~~a~~ nonprofit corporation *which was* ~~be~~ organized in *1981 shall* ~~order to~~ lease and manage the correctional *industry* ~~work~~ programs of the Department of Corrections.

(2) It is further the intent of the Legislature that~~,~~ once one such nonprofit corporation is organized as set forth in subsection (1)~~,~~ no other nonprofit corporation be organized for the purpose of carrying out the provisions of *ss. 946.501-946.517* ~~ss. 946.502-946.517~~. In carrying out the provisions of *ss. 946.501-946.517* ~~ss. 946.502-946.517~~, the corporation is not an "agency" within the meaning of s. 20.03(11).

~~(3) It is further the intent of the Legislature that, by July 1, 1985, the corporation shall have leased all correctional work programs from the department.~~

(3)~~(4)~~ It is further the intent of the Legislature that the state shall have *a reversionary interest in all funds, buildings, land, furnishings, equipment, and other chattels subsequently purchased or otherwise acquired by the corporation, and* a continuing interest in assuring continuity and stability in the operation of correctional *industry* ~~work~~ programs and that this act be construed in furtherance of such *intent* ~~goals~~.

~~(5) It is further the intent of the Legislature that, although the state has a continuing interest in correctional work programs, such programs can best operate independently of state government.~~

(4)~~(6)~~ It is further the intent of the Legislature that the corporation *shall develop* ~~will devise~~ and operate correctional *industry* ~~work~~ programs to utilize inmates of all custody levels, with specific emphasis on reducing idleness among close custody inmates.

Section 52. Section 946.5025, Florida Statutes, is amended to read:

946.5025 Authorization of corporation to enter into contracts.—The corporation established under this chapter is authorized to enter into contracts with any county or municipal authority that operates a correctional facility to operate correctional *industry* ~~work~~ programs. The corporation shall have the same powers, privileges, and immunities in carrying out such contract as it has under this chapter.

Section 53. Section 946.5026, Florida Statutes, 1992 Supplement, is amended to read:

946.5026 Sovereign immunity in tort actions.—The provisions of s. 768.28 *are* ~~shall be~~ applicable to the corporation established pursuant to s. 946.504(1), which is deemed to be a corporation primarily acting as an instrumentality of the state.

Section 54. Section 946.503, Florida Statutes, is amended to read:

946.503 Definitions to be used with respect to correctional *industry* ~~work~~ programs.—As used in *ss. 946.501-946.517* ~~ss. 946.502-946.517~~, the term:

(1) "Corporation" means the private nonprofit corporation established pursuant to s. 946.504(1) to carry out the provisions of *ss. 946.501-946.517* ~~ss. 946.502-946.517~~.

(2) "Correctional *industry* ~~work~~ program" means any ~~program presently a part of the~~ prison industries program operated by the *corporation* ~~department or any other correctional work program carried on~~ at any state correctional facility presently or in the future, but the term does not include any program authorized by s. 945.091 or s. 946.40.

(3) "Department" means the Department of Corrections.

(4) "Facilities" means *all* the buildings, land, *furnishings,* equipment, and other chattels *possessed or subsequently acquired by the corporation, whether or not actually* used in the operation of *correctional* ~~an~~ industry *programs* ~~program~~.

(5) "Inmate" means any person incarcerated within any state correctional facility.

(6) "Assembly" means the process of uniting or combining articles or components, including ancillary finished components or assemblies, so as to produce a significant change in form or utility, without necessarily changing or altering the component parts.

(7) "Labor-intensive manufacture" means a manufacturing activity in which the ratio of the value of direct inmate labor to the value of the product prior to shipment exceeds 20 percent.

(8) "Manufacture" means the process of fabricating from raw or prepared materials, so as to impart to those materials new forms, qualities, properties, or combinations.

(9) "Prison-made products" means specific products that require labor-intensive manufacture or assembly employing inmates for not less than 80 percent of the hours of direct labor required for the production of the product.

(10) "Pass-through products" means any products, supplies, materials, goods, merchandise, equipment, or other items which are not prison-made products as defined in subsection (9).

Section 55. Section 946.504, Florida Statutes, 1992 Supplement, is amended to read:

946.504 Organization of corporation to operate correctional *industry* ~~work~~ programs; lease of facilities.—

(1) The department shall lease the buildings, land, furnishings, equipment, and other chattels used *by* ~~in~~ the ~~operation of each~~ correctional *industry programs* ~~work program operated by the department~~ to *the* ~~a nonprofit~~ corporation, the *board of directors* ~~members~~ of which *shall be* ~~are~~ appointed by the Governor and confirmed by the Senate. The same appointment process shall be followed to fill any vacancy. The corporation *is* ~~shall be~~ organized pursuant to chapter 617 and shall possess all the powers granted by that chapter. ~~The private nonprofit corporation organized pursuant to former s. 945.135 need not be reorganized if the previous organization was essentially in compliance~~ *The corporation shall comply* with the provisions of *ss. 946.501-946.517* ~~ss. 946.502-946.517~~.

(2) No sublease for land from any other agency of state government shall be in excess of that amount for which the department is obligated to pay under any lease agreement with any other agency of state government.

(3) The corporation shall negotiate with the Department of Management Services to reach and enter into an agreement for the lease of each correctional *industry* ~~work~~ program proposed by the corporation. The facilities to be leased and the amount of rental for such facilities shall be agreed upon by the Department of Management Services and the corporation, with consultation with the department. The length of such lease shall be mutually agreed upon among the department, the Department of Management Services, and the corporation; however, the initial lease may not exceed 7 years. The department shall continue to manage and operate the various correctional work programs until the lease between the department and the corporation is effective.

(4) If the department leases a single correctional *industry* ~~work~~ program at any correctional institution to the corporation, the corporation shall lease all such correctional *industry* ~~work~~ programs at that institution. Any rent paid by the corporation to the department shall be deposited in a Correctional Programs Trust Fund for enhancement of education and training, postrelease job placement, and other correctional purposes related to the purposes of *ss. 946.501-946.517* ~~ss. 946.502-946.517~~.

(5)(a) Prior to entering into any lease or other separate contract or agreement between the department and the corporation, the department shall determine that:

1. The *board of directors* ~~members~~ of the corporation were appointed by the Governor and confirmed by the Senate;

2. The articles of incorporation of the corporation have been approved by the Governor; and

3. The articles of incorporation contain a provision that prohibits any director from voting on any matter that comes before the board of directors that would result in a direct monetary gain to any director or any entity in which any director has an interest.

(b) The lease must be submitted to the Attorney General for his approval as to form and legality.

(c) All leases of land shall be subject to the approval of the Board of Trustees of the Internal Improvement Trust Fund.

~~(6)(a) Upon the effective date of each lease of each correctional work program, the department shall cause to be remitted to the corporation all funds appropriated for, associated with, or budgeted for the operation of that correctional work program, as agreed upon among the department, the Department of Management Services, and the corporation.~~

~~(b) No operating loss of any type may be transferred to the corporation.~~

~~(7) When it leases any correctional work program, the corporation shall exercise a reasonable effort to employ the personnel of the department who are currently involved in the correctional work programs being leased to the corporation.~~

Section 56. Section 946.505, Florida Statutes, is amended to read:

946.505 Reversion upon dissolution of corporation or termination of lease.—In the event the corporation is dissolved or its lease of any correctional *industry* ~~work~~ program expires or is otherwise terminated, all property relating to such correctional *industry* ~~work~~ program ~~which ceases to function because of such termination or dissolution~~, including all funds, buildings, land, furnishings, equipment, and other chattels *possessed or* subsequently ~~purchased or otherwise~~ acquired by the corporation in connection with its continued operation of that program, automatically reverts to full ownership by the department unless the corporation intends to utilize such property in another correctional *industry* ~~work~~ program *operated by the corporation.* Such a reversionary ownership interest of the state in any and all ~~such after acquired~~ property *possessed or subsequently acquired* by the corporation is in furtherance of the goals established in s. 946.502~~(4)~~, and such a present ownership interest by the state is a continuing and insurable state interest.

Section 57. Section 946.506, Florida Statutes, is amended to read:

946.506 Modification or termination of correctional *industry* ~~work~~ program by the corporation.—Nothing contained in *ss. 946.501-946.517* ~~ss. 946.502-946.517~~ may be interpreted to prevent the corporation from modifying, altering, or terminating any correctional *industry* ~~work~~ program, once assumed, so long as the corporation is otherwise carrying out the provisions of *ss. 946.501-946.517* ~~ss. 946.502-946.517~~.

Section 58. Section 946.507, Florida Statutes, is amended to read:

946.507 ~~Powers of~~ Corporation; appropriation of general revenue funds *prohibited.*—~~In addition to the powers conferred under chapter 617 and ss. 946.502-946.517, the corporation has the power to request a one-time appropriation of general revenue funds for the purposes of renovation of, addition to, or construction of facilities or correctional work programs at the various correctional institutions.~~ For the purposes of this section, it is the intent of the Legislature that no ~~additional~~ general revenue funds be appropriated to the corporation or to the Department of Corrections on behalf of the corporation.

Section 59. Section 946.508, Florida Statutes, is amended to read:

946.508 Correctional *Industry Programs* ~~Work Program~~ Revolving Trust Fund.—

(1) There is created a Correctional *Industry Programs* ~~Work Program~~ Revolving Trust Fund for the use of the nonprofit corporation created pursuant to s. 946.504(1). Such use shall be limited to renovation of, addition to, or construction of facilities or correctional *industry* ~~work~~ programs at the various correctional institutions.

(2)~~(a) The total funds appropriated in the one-time appropriation authorized in s. 946.507 shall be the only funds placed in the trust fund by the Legislature through appropriation. However,~~ The corporation may place other moneys generated from its operations in the trust fund for the purposes specified in this section. This account shall be a separate fund in the State Treasury and shall be administered by the Executive Office of the Governor.

~~(b) Any funds remaining in the Department of Corrections Correctional Work Program Trust Fund created by s. 946.30 shall be transferred to the trust fund created by this section on July 1, 1985.~~

(3) The ownership of any permanent enhancements made to facilities or *industry* ~~work~~ programs is vested in the Department of Corrections.

Section 60. Section 946.509, Florida Statutes, is amended to read:

946.509 Insurance of property *possessed,* leased, or acquired by the corporation.—

(1) The Florida Fire Insurance Trust Fund created under s. 284.01 shall insure all property eligible for coverage under part I of chapter 284 which is leased by the department to the corporation or which is *possessed or* subsequently acquired ~~and owned~~ by the corporation and subject to the reversionary ownership interest of the state established in s. 946.505.

(2) Coverage under the Florida Fire Insurance Trust Fund of property leased to or otherwise *possessed or* acquired by the corporation shall be secured and maintained through the existing policy and account of the Department of Corrections with the Division of Risk Management of the Department of Insurance. All matters, including premium calculations, assessments and payments, retrospective premium adjustments, reporting requirements, and other requirements, concerning coverage of such property under the Florida Fire Insurance Trust Fund shall be conducted as if all such property were owned solely by the department.

Section 61 Section 946.5095, Florida Statutes, is amended to read:

946.5095 Elimination of hazardous conditions.—Pursuant to ~~the applicable provisions of~~ part I of chapter 284, whenever state-insured property leased to or otherwise held by the corporation is inspected by the Division of Risk Management and any condition is found to exist which, in the opinion of the division, is hazardous from the standpoint of destruction by fire or other insurable causes, the corporation shall either promptly repair the property to eliminate any observed hazard or otherwise promptly remove the hazardous condition at its own expense.

Section 62. Section 946.510, Florida Statutes, is amended to read:

946.510 Insurance by Division of Risk Management.—Pursuant to the applicable provisions of chapter 284, the Division of Risk Management of the Department of Insurance is authorized to insure the corporation under the same general terms and conditions as the Department of Corrections was insured by the division prior to the corporation leasing the correctional *industry* ~~work~~ programs as authorized by this chapter.

Section 63. Section 946.511, Florida Statutes, is amended to read:

946.511 Provision of inmate labor to operate correctional *industry* ~~work~~ programs; policies and procedures.—

(1) Inmates shall be evaluated and identified during the reception process to determine basic literacy, employment skills, academic skills, vocational skills, and remedial and rehabilitative needs. The evaluation shall prescribe education, work, and work-training for each inmate. Assignment to programs shall be based on the evaluation and the length of time the inmate will be in the custody of the department. Assignment to programs shall be reviewed every 6 months to ensure proper placement based on bed space availability. Assignment of inmates to correctional *industry* ~~work~~ programs, institutional labor, and public agency work programs shall be governed by the following objectives and priorities:

(a) Inmates shall be assigned to meet the needs of the work requirements of the Department of Corrections, including existing Department of Transportation contracts.

(b) Inmates shall be assigned to correctional education and the corporation operating the correctional industry program.

(c) Inmates shall be assigned to meet all other work requirements of the department, including public works.

(2) The corporation shall establish policies and procedures relating to the use of inmates in its correctional *industry* ~~work~~ program, which shall be submitted to the department for approval. Any policies and procedures *approved prior to* ~~in effect on~~ the effective date of this act do not require approval.

Section 64. Section 946.512, Florida Statutes, is amended to read:

946.512 Inmate compensation plan.—The corporation shall establish a compensation plan which provides for a specific amount to be paid to the department *by the corporation* to be credited to an account for an inmate performing labor and a portion shall be used to make any court-ordered payments, including restitution to the victim, and a specific amount to be paid to the department's Grants and Donations Trust Fund. Such funds, excluding victim restitution payments, court-ordered payments, and the amount credited to the account of the inmate, shall be deposited in the department's Grants and Donations Trust Fund. The funds shall be appropriated annually.

Section 65. Section 946.513, Florida Statutes, is amended to read:

946.513 Private employment of inmates; disposition of compensation received.—

(1) Notwithstanding the provisions of any other law, an inmate may be employed by the corporation or by any other private entity operating on the grounds of a correctional institution prior to the last *36* ~~24~~ months of his confinement. Compensation received for such employment shall be credited by the department to an account for the inmate and shall be used to make any court-ordered payments, including restitution to the victim. The department rules shall provide that a portion of such compensation be credited by the department in the manner provided in s. 946.512.

(2) No inmate is eligible for unemployment compensation, whether employed by the corporation or by any other private enterprise operating on the grounds of a correctional institution or elsewhere, when such employment is part of a correctional *industry* ~~work~~ program or *work* ~~work release~~ program of either the corporation or the department.

Section 66. Section 946.514, Florida Statutes, is amended to read:

946.514 Civil rights of inmates; inmates not state employees; liability of corporation for inmate injuries.—

(1) Nothing contained in *ss. 946.501-946.517* ~~ss. 946.502-946.517~~ is intended to restore in whole or in part the civil rights of inmates.

(2) No inmate compensated under *ss. 946.501-946.517* ~~ss. 946.502-946.517~~ or by the corporation or the department shall be considered as an employee of the state, the department, or the corporation.

(3) The corporation is liable for inmate injury to the extent specified in s. 768.28; however, the members of the board of directors are not individually liable to any inmate for any injury sustained in any correctional *industry* ~~work~~ program operated by the corporation.

Section 67. Section 946.515, Florida Statutes, 1992 Supplement, is amended to read:

946.515 Use of goods and services produced in correctional *industry* ~~work~~ programs.—

(1) Any *prison-made product or* service *performed by inmates* ~~or item manufactured, processed, grown, or produced by the corporation~~ in a correctional *industry* ~~work~~ program may be furnished or sold to any legislative, executive, or judicial agency of the state, any political subdivision, any other state, any foreign government, or any agency of the Federal Government, or to any contract vendor for such agencies or any subcontractor of the contract vendor. *Except as provided in subsection (2), the corporation may not sell or broker any pass-through products, supplies, materials, goods, merchandise, equipment, or other items that are not prison-made products as defined in s. 946.503, and may not sell or broker any services that are not performed by inmates.*

(2) *The corporation may sell food products and blankets which are considered to be pass-through products to state and county penal institutions or facilities, to state mental health institutions, and to educational institutions, but these institutions are not required to purchase such products from the corporation.* ~~No similar product or service of comparable price and quality found necessary for use by any state agency may be purchased from any source other than the corporation if the corporation certifies that the product is manufactured by, or the service is provided by, inmates and the product or service meets the comparable performance specifications and comparable price and quality requirements as specified under s. 287.042(1)(f) or as determined by an individual agency as provided in this section. The purchasing authority of any such state agency may make reasonable determinations of need, price, and quality with reference to products or services available from the corporation. In the event of a dispute between the corporation and any purchasing authority based upon price or quality under this section or s. 287.042(1)(f), either party may request a hearing with the Division of Purchasing and if not resolved, either party may request a proceeding pursuant to s. 120.57, which shall be referred to the Division of Administrative Hearings within 60 days after such request, to resolve any dispute under this section. No party is entitled to any appeal pursuant to s. 120.68.~~

(3) Raw agricultural products *grown, raised, or produced by inmates,* including, but not limited to, sugar cane, vegetables, beef, *pork, poultry,* and dairy products, may be sold to private entities or may be sold or disposed of as provided in *subsection* ~~subsections~~ (1) ~~and (2)~~.

(4) The provisions of part I of chapter 287 ~~do not~~ apply to any purchases of commodities or contractual services made by any state agency from the corporation. *However, if the corporation's bid is of equal quality and service and the price is within 5 percent of the lowest responsible bid, then the corporation shall be awarded the bid.*

(5) In addition, the corporation may contract to provide inmate services ~~or inmate goods~~ to private enterprise, where such services ~~or goods~~ are *performed by inmates* under the direct supervision of the corporation and, further, where it is determined by the Governor that such services ~~or goods~~ do not unreasonably compete with other businesses in this state.

(6) If, pursuant to a contract between any legislative, executive, or judicial agency of the state and any private contract vendor, a product or service is required by the Department of Management Services or on behalf of any state agency, ~~is certified by or is available from the corporation identified in this chapter, and has been approved in accordance with subsection (2),~~ the contract must contain the following language:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT *MAY* ~~SHALL~~ BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2), AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

(7) The provisions of ss. 946.21 and 946.518 do not apply to this section.

Section 68. Section 946.516, Florida Statutes, is amended to read:

946.516 Report to Governor and Legislature by the corporation; ~~Department of Corrections report;~~ report to Governor and Legislature by Auditor General.—

(1)*(a)* The corporation shall submit to the Governor and the Legislature, on or before January 1 of each year, a report on the status of the correctional *industry* ~~work~~ programs, including, but not limited to:~~,~~

1. The programs and funds which have been transferred to the corporation.~~,~~

2. A breakdown of any industries closed, transferred, or merged.

3. A breakdown of any new industries opened. ~~the programs and funds to be taken over within the next year and~~

4. The proposed use of ~~the~~ profits from ~~such~~ programs.~~,~~

5. A breakdown of the amount of noninmate labor used, *including noninmate supervisors, training officers, and other noninmate personnel utilized in an administrative capacity.*

6. Work subcontracted to other vendors.~~,~~

7. Use of consultants, *including engineering, architectural, legal, accounting, public relations, and data processing services.*

8. ~~and finished goods purchased for resale, and~~ The number of *workstations* ~~inmates working~~ in *each* ~~the~~ correctional *industry* ~~work~~ *program during the reporting period, by industry.*

9. A breakdown of the number of inmates working in each industry, by custody classification and length of sentence ~~programs at the time of such report~~. In addition, the corporation shall submit to the department, the Governor, and the Legislature, *on or before January 1 of each year,* an annual independently audited financial statement and such other information as may be requested by the Legislature, together with recommendations relating to provisions for reasonable tax incentives to private enterprises which employ inmates, parolees, or former inmates who have participated in correctional *industry* ~~work~~ programs.

(2) *For those inmates who have participated in a correctional industry program, the corporation* ~~The department~~ shall include, as a portion of its annual report, a report on postrelease job placement, ~~and~~ the rate of *recidivism, a breakdown of inmates employed upon or after release through the efforts of the corporation in its job placement service, including type and length of training provided by the corporation, the specific type of job obtained, and a breakdown of any other types of postrelease assistance rendered by the corporation* ~~subsequent contact with the correctional system for those inmates who have participated in the correctional work programs operated by the corporation and by the department~~.

(3) ~~Beginning January 1, 1984,~~ The Auditor General shall conduct an annual financial audit of the corporation. *The Auditor General shall also conduct periodic performance audits of the corporation. All audits shall contain the information required by s 283 31. If by July 1, in any fiscal year, the corporation has not been notified that a financial audit for that fiscal year will be performed by the Auditor General pursuant to this section, the corporation shall require that an annual audit of its accounts and records be completed within 6 months after the end of that fiscal year, by an independent certified public accountant retained by the corporation and paid from the corporation's funds. Financial audits of the corporation performed by any independent certified public accountant shall be performed in accordance with the rules of the Auditor General.* ~~in conjunction with an independent audit conducted by the auditors of the corporation. The Auditor General shall also conduct a biennial performance audit of the corporation for the period beginning January 1, 1983, through January 1, 1985, and, thereafter, upon the request of the Joint Legislative Auditing Committee.~~

Section 69. Section 946.517, Florida Statutes, is amended to read:

946.517 Reports of the corporation; public records.—Each report of the corporation to the state or to the department is a public record, unless such report would not be a public record if prepared by the department. *All financial, industry, and corporate records of the corporation shall be available, upon request, to the Auditor General, the Legislature, and the office of the Comptroller. However, any records which are exempt from the provisions of s. 119.07(1) by law shall remain exempt when such records are in the custody of the Auditor General, the Legislature, and the office of the Comptroller. All board of directors meetings of the corporation shall be open to the public.*

Section 70. Section 946.518, Florida Statutes, is amended to read:

946.518 Sale of goods made by prisoners; when prohibited, when permitted.—

(1) No goods, wares, or merchandise manufactured or mined in whole or in part by prisoners (except prisoners on parole or probation) shall be sold or offered for sale in this state by any person or by any federal authority or state or political subdivision thereof; however, nothing in this section and s. 946.21 shall be construed to forbid the sale, exchange, or disposition of such goods within the limitations set forth in s. 946.515 ~~or s. 946.519~~.

(2) When, in the planning of the rehabilitation program of the Department of Corrections through its recreational facilities, plans are

made for prisoners to engage in hobbies and hobbycrafts after their normal working hours and when they are not required by the superintendent ~~or warden~~ of a state prison or correctional institution to be on their assigned duties, they may make items of a hobby or hobbycraft nature which may be disposed of by the prisoner through the institutional canteen or commissary to persons visiting the institution.

Section 71. Section 946.21, Florida Statutes, is amended to read:

946.21 Penalty for *unlawfully* selling goods made by prisoners.—*Any violation of s. 946.518(1) is* ~~Every person violating the provisions of s. 946.518 shall be guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 72. *Section 946.519, Florida Statutes, is hereby repealed.*

Section 73. Section 283.31, Florida Statutes, is amended to read:

283.31 Records of executive agency publications.—Each agency shall maintain a record of any publication the printing of which costs in excess of the threshold amount provided in s. 287.017 for CATEGORY THREE, at least part of which is paid for by state funds appropriated by the Legislature. Such record shall also contain the following: written justification of the need for such publication, purpose of such publication, legislative or administrative authority, sources of funding, frequency and number of issues, and reasons for deciding to have the publication printed in-house, by another agency or the Legislature, or purchased on bid. In addition, such record shall contain the comparative costs of alternative printing methods when such costs were a factor in deciding upon a method. Compliance with the provisions of this section shall be included within the scope of audits performed by the Auditor General on each agency, and such audits shall be performed not less than once every 3 years. The *financial* ~~Auditor General shall also conduct a financial related~~ and performance *audits* ~~audit~~ of the corporation operating the correctional industry program *required by s. 946.516.* ~~Such audit shall be conducted once every 3 years, and the first audit shall be for the period July 1, 1988, through June 30, 1990, to be completed prior to the 1991 regular legislative session. Such audit~~ shall include a review of the printing that the corporation has done for state agencies. This review shall include the cost of materials used, the cost of labor, the cost of overhead, the amount of profit made by the corporation for such printing, and whether the state agencies that contract with the corporation for printing are prudently determining the price paid for such printing. Such audits shall be completed no later than the first day of the regular legislative session.

Section 74. Section 283.33, Florida Statutes, is amended to read:

283.33 Printing of publications; lowest bidder awards.—

(1) Publications may be printed and prepared in-house, by another agency or the Legislature, or purchased on bid, whichever is more economical and practicable as determined by the agency. An agency may contract for binding separately when more economical or practicable, whether or not the remainder of the printing is done in-house. A bidder may subcontract for binding and still be considered a qualified bidder or offeror, notwithstanding s. 287.012*(13)*~~(10)~~.

(2) All printing of publications that cost in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO and purchased by agencies shall be let upon contract to the lowest responsive bidder, who shall furnish all materials used in printing.

(3) Contracts for printing of publications shall be for a definite term and for a definite number of copies.

(4) Except as otherwise provided for in this part, a contract for printing of a publication shall be subject to the provisions of s. *287.057* ~~287.062~~ and, when applicable, *to* the definitions in s. 287.012, and shall be considered a commodity for that purpose.

~~(5) The provisions of s. 946.515(4) shall not apply to purchases of printing.~~

Section 75. Except as otherwise provided herein, this act shall take effect upon becoming a law.

And the title is amended as follows:

Strike the entire title, and insert: A bill to be entitled An act relating to criminal justice; amending s. 947.02, F.S.; providing procedures for filling of vacancies; amending s. 947.04, F.S.; requiring the Governor and Cabinet to select a chairman; amending s. 947.002, F.S.; deleting obsolete provisions relating to the organization of the commission; amending s. 947.13, F.S.; clarifying the powers and duties of the commission in establishing terms and conditions of inmates released under conditional release, control release, or conditional medical release; amending s. 947.141, F.S.; providing additional duties of the commission in determining violations of control release and conditional medical release; authorizing such determinations to be made by a panel of no fewer than two commissioners; amending s. 947.146, F.S.; providing that an inmate may not receive control release award allotments before he is statutorily eligible for control release or before the date his advanceable control release date is established; providing for certain persons convicted of drug trafficking offenses and sentenced to less than a specified term of imprisonment to be eligible for control release; providing for certain persons sentenced as habitual felony offenders to be eligible for control release; excluding certain persons from control release consideration; providing for the Control Release Authority to establish a control release date for offenders whose release has been revoked; providing additional circumstances under which the authority may extend, advance, or postpone an inmate's control release date; providing circumstances under which the authority may vacate a grant of control release; providing for future abrogation of certain amendments to s. 947.146, F.S.; increasing the threshold capacity of the correctional system above which inmates will be given control release; providing that certain offenders who are eligible for control release may be released into supervision; providing for critical depletion transfers of certain offenders; providing for the expiration of such provisions; providing for the emergency release of prisoners; increasing the threshold capacity of the correctional system above which inmates will be granted emergency release; providing emergency control release dates for certain parole ineligible inmates; requiring the Control Release Authority to develop uniform procedures for awarding control release to certain habitual offenders; repealing s. 944.277, F.S., relating to provisional release credits; repealing s. 944.598, F.S., relating to the emergency release of inmates; amending s. 947.165, F.S.; conforming terminology and a cross reference to changes made by the act; amending s. 947.173, F.S.; limiting review by the commission of an inmate's presumptive parole release date; amending s. 947.1745, F.S.; providing circumstances under which the commission may extend an inmate's presumptive parole release date; amending s. 947.24, F.S.; providing requirements for discharging persons from supervision pursuant to control release or conditional release; amending s. 948.15, F.S.; requiring a judge of the county court to approve any contract for probation supervision services entered into by the board of county commissioners and a private entity; creating the "Safe Streets Initiative of 1993"; providing legislative intent; amending s. 775.084, F.S.; redefining and providing for enhanced sentencing of habitual felony offenders and habitual violent felony offenders; stating legislative intent that all cross references to s. 775.084, F.S., refer to that section as amended and enumerating said references; amending s. 777.04, F.S., relating to criminal attempts, criminal solicitation, and criminal conspiracy, to conform to the sentencing guidelines revision; amending s. 921.001, F.S.; providing the purpose of and additional requirements for the sentencing guidelines that are recommended to the Supreme Court by the Sentencing Commission; requiring the commission, with the Department of Corrections, to estimate rates of incarceration in the state correctional system and make funding and other recommendations to the Legislature; deleting obsolete provisions pertaining to alternative sentencing guideline recommendations; providing that a departure sentence must be within any relevant statutory maximum sentence; amending ss. 924.06, 924.07, and 958.04, F.S., relating to appeal by defendant, appeal by the state, and judicial disposition of youthful offenders, to conform; creating s. 921.0011, F.S.; providing definitions; creating s. 921.0012, F.S.; providing sentencing guidelines offense levels based on severity rankings for specified crimes, including drug trafficking; providing multipliers for drug trafficking, habitual offender, and Law Enforcement Protection Act violation; providing additional points for possession of a firearm or destructive device, and providing for scoring criminal attempt, solicitation, or conspiracy; creating s. 921.0013, F.S.; providing requirements for ranking unlisted felony offenses; creating s. 921.0014, F.S.; providing sentencing guidelines worksheet computations; creating s. 921.0016, F.S.; providing nonexclusive aggravating and mitigating circumstances supporting departure by increasing or decreasing the length of the guidelines sentence; requiring the Sentencing Commission to adopt procedures for implementing revised sentencing guidelines; creating s. 921.0017, F.S.; providing for credit for time served upon recommitment of offender serving split sentence; providing timeframes for the new scoresheets; amending ss. 775.0823, 775.087, 775.0875, 784.08, 790.161, 790.165, 790.221, 893.13, 893.135, and 893.20, F.S., relating to violent offenses committed against certain law enforcement officials, possession of a firearm or

destructive device, unlawful taking of a law enforcement officer's firearm, assault or battery on persons 65 years of age or older, unlawful activities involving destructive devices, planting of hoax bombs, unlawful possession of certain guns, controlled substances violations, trafficking violations, and continuing criminal enterprise; deleting provisions relating to mandatory minimum sentences and certain release, to conform to the sentencing guidelines revision; amending s. 944.275, F.S.; prohibiting the granting of basic gain-time for offenses committed after a specified date; listing statutory cross references to s. 775.084, F.S., and providing directives to the Division of Statutory Revision; directing the Inspector General of the Department of Corrections to determine the maximum monthly average number of sentenced felony offenders for each county; providing that the number of sentenced felony offenders incarcerated in each county's jail facilities shall not exceed such number, adjusted for growth; amending s. 242.68, F.S.; revising provisions relating to the Board of Correctional Education; expanding duties of the board; requiring rules; requiring inmate educational assessments and individual plans; requiring contracts to be pursuant to chapter 287, F.S., and to demonstrate cost savings to the state; revising budget and funding provisions requiring the development of a staffing and funding plan; expanding reporting duties; amending the class of included inmates; expanding required hours of instruction pursuant to s. 236.013, F.S.; expanding testing requirements; revising provisions relating to curricula; requiring certified instructors; expanding gain-time recommendations by the Board of Correctional Education for inmates participating in correctional education programs; requiring quarterly status reports; reenacting ss. 20.315(13)(b) and 229.565(3), F.S., relating to the Department of Corrections and educational evaluation procedures, to incorporate said amendment in references thereto; providing for future review and repeal; renaming part II of ch. 946, F.S., as "Leased or Managed Correctional Industry Programs"; amending s. 946.501, F.S.; providing findings of fact regarding correctional industry programs and revising priorities; amending s. 946.502, F.S.; revising legislative intent with respect to operation of correctional industry programs; amending s. 946.503, F.S.; revising and adding definitions; amending s. 946.504, F.S.; revising provisions relating to organization of the corporation operating correctional industry programs; and revising provisions relating to the lease of facilities; amending s. 946.505, F.S.; clarifying the reversionary interest of the state upon dissolution of the corporation or termination of a lease; amending s. 946.507, F.S.; prohibiting general revenue appropriations; amending s. 946.508, F.S.; renaming, and revising provisions relating to, the Correctional Industry Programs Revolving Trust Fund; amending s. 946.509, F.S.; requiring that property possessed or subsequently acquired by the corporation be insured; amending s. 946.512, F.S.; requiring the corporation to pay the department an amount of inmate compensation for purposes of court-ordered payments; amending s. 946.513, F.S.; expanding the time period an inmate may be employed; amending s. 946.515, F.S.; revising provisions relating to use of goods and services from correctional industry programs; prohibiting the corporation from selling or brokering any pass-through or other items that are not prison-made products or any services that are not performed by inmates; deleting provisions relating to similar products and services of comparable price; expanding the list of raw agricultural products that may be sold; requiring applicability of part I of ch. 287, F.S.; revising contract requirements; amending s. 946.516, F.S.; deleting a department reporting requirement and expanding the corporation's reporting duties; requiring the Auditor General to conduct annual financial and periodic performance audits; authorizing independent audits in certain circumstances; amending s. 946.517, F.S.; providing that all financial, industry, and corporate records of the corporation are open to the Auditor General, the Legislature, and the Comptroller; providing for confidentiality under certain circumstances; providing that the board of directors meetings are public meetings; amending ss. 946.5025, 946.5026, 946.506, 946.5095, 946.510, 946.511, 946.514, 946.518, and 946.21, F.S., relating to authorization of the corporation to enter into contracts, sovereign immunity in tort actions, modification or termination of a correctional industry program by the corporation, elimination of hazardous conditions, insurance by the Division of Risk Management, policies and procedures regarding provision of inmate labor, rights of inmates in correctional industry programs, sale of goods made by prisoners, and penalty for unlawfully selling prisoner-made goods, to conform to the act; deleting obsolete provisions; repealing s. 946.519, F.S., relating to use of goods and services produced in correctional work programs; amending s. 283.31, F.S.; requiring regular financial and performance audits of the corporation; amending s. 283.33, F.S.; deleting a provision that precluded applicability of part I of ch. 287, F.S., to purchases of printing by the corporation; providing effective dates.

On motion by Senator Wexler, the Senate refused to concur in the House amendment and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendments CS for SB 158 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 158—A bill to be entitled An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; providing legislative intent; providing definitions; specifying duties and powers of the Department of Health and Rehabilitative Services; providing conditions for the installation of onsite sewage treatment and disposal systems; renaming the Advisory Review Variance Board as the Variance Review and Advisory Committee; providing for a Research Review and Advisory Committee; specifying membership and duties; providing enforcement authority for right of entry and citations; providing a fine; providing a criminal penalty; creating s. 381.00655, F.S.; providing requirements for connection to a central sewerage system; amending s. 381.0066, F.S.; modifying fee ranges; specifying fees for certain permits; amending ss. 381.006, 381.0064, 381.0067, 489.551, 489.553, F.S.; incorporating conforming changes; providing for a rule adoption technical advisory panel; specifying membership; providing for subsequent repeal and review of ss. 381.0065(3)(j), 381.0065(4)(l), and 381.0066(2)(k), F.S., relating to onsite sewage treatment and disposal system research; repealing s. 46, ch. 83-310, Laws of Florida; abrogating the repeal of ss. 381.0065, 381.0066, F.S., under the Regulatory Sunset Act; providing an effective date.

House Amendment 1—On page 22, line 11, after "availability." insert: *If the owner of an onsite sewage treatment and disposal system has not connected to an available publicly owned or investor-owned sewerage system within the time required by this subsection, the publicly owned or investor-owned sewerage system may charge the owner any connection fees, customer charges, or minimum billing charges as if the owner had connected to the available sewerage system on the last day of the notification period. Such charges may be collected or enforced as permitted by applicable tariffs or rules and regulations of the sewerage system or as otherwise permitted by law.*

House Amendment 2—On page 22, line 11, after "availability." insert: *Nothing in this section shall operate to impair contracts or other binding obligations relating to payment schedules in existence as of the effective date of this act.*

On motions by Senator Gutman, the Senate concurred in **House Amendment 2** and refused to concur in **House Amendment 1** and the House was requested to recede.

CS for SB 158 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—38 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for CS for SB 162 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 162—A bill to be entitled An act relating to hospices; creating s. 400.6005, F.S.; providing legislative intent; amending s. 400.601, F.S.; providing definitions; amending s. 400.602, F.S.; restricting use of the word "hospice"; prohibiting hospices from using substantially similar names; requiring 60 days notice to agency of name change; requiring certain hospice inpatient care components to be licensed and to obtain a certificate of need and meet institutional standards; providing that certain services do not constitute a hospice; amending s. 400.605, F.S.; providing for administration by the Agency for Health Care Administration; creating s. 400.6052, F.S.; directing the Department of Elderly Affairs to adopt rules; providing for an interagency agreement; providing for assistance to hospices; amending s. 400.6055, F.S.; providing for agency inspections; transferring, renumbering, and amending s. 400.606,

F.S.; prescribing geographic area for hospice services; providing clarifying language; revising cross-references; amending s. 400.607, F.S.; increasing administrative fine cap; adding reckless conduct as a ground for agency action; deleting requirement that outpatient hospice care be available within 12 months of licensure; providing for injunctions; creating s. 400.6085, F.S.; providing general requirements for contracting for hospice services; amending s. 400.609, F.S.; providing components of hospice services; clarifying scope of home care; deleting requirement for outpatient care as a component of hospice; creating s. 400.6095, F.S.; providing for patient admission, assessment, plan of care; amending s. 400.610, F.S.; providing for hospice management; specifying responsibility of board of directors or governing body; requiring each hospice to develop and implement a quality assurance and utilization review plan; creating s. 400.6105, F.S.; providing for staffing and personnel; amending s. 400.611, F.S.; providing for confidentiality of patient records; repealing s. 400.6015, F.S., which relates to exemptions from hospice laws; repealing s. 400.603, F.S., which relates to certificates of need; repealing s. 400.608, F.S., which relates to general requirements for hospice programs; repealing s. 400.613, F.S., which relates to patient record information; repealing s. 400.614, F.S., which provides for certain prohibited acts and provides a criminal penalty; reviving and readopting part V, ch. 400, F.S., which regulates hospices, notwithstanding repeal scheduled under the Regulatory Sunset Act; providing an effective date.

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

Section 1. Section 400.6005, Florida Statutes, is created to read:

400.6005 Legislative findings and intent.—The Legislature finds that terminally ill individuals and their families, who are no longer pursuing curative medical treatment, should have the opportunity to select a support system that permits the patient to exercise maximum independence and dignity during the final days of life. The Legislature finds that hospice care provides a cost-effective and less intrusive form of medical care while meeting the social, psychological, and spiritual needs of terminally ill patients and their families. The intent of this part is to provide for the development, establishment, and enforcement of basic standards to ensure the safe and adequate care of persons receiving hospice services.

Section 2. Section 400.601, Florida Statutes, is amended to read:

400.601 Definitions.—*As* ~~When~~ used in this *part, the term* ~~act, unless the context otherwise requires~~:

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

~~(1) "Autonomous" means a separate and distinct operational entity which functions under its own administration and bylaws, either within or independently of a parent organization.~~

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

(2)~~(3)~~ "Hospice" means *a* ~~an autonomous,~~ centrally administered~~,~~ *corporation not for profit* ~~nonprofit~~, as defined in chapter 617, ~~medically directed, nurse-coordinated program~~ providing a continuum of *palliative and supportive* ~~home, outpatient, and homelike inpatient~~ care for the terminally ill patient and his family. ~~It employs an interdisciplinary team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social, and economic stresses which are experienced during the final stages of illness and during dying and bereavement. This care is available 24 hours a day, 7 days a week, and is provided on the basis of need regardless of inability to pay.~~

(3)~~(4)~~ "Hospice care team" means an interdisciplinary team *of qualified professionals and volunteers who, in consultation with the patient, the patient's family, and the patient's primary or attending physician, collectively assess, coordinate, and provide the appropriate palliative and supportive care to hospice patients and their families.* ~~which is a working unit composed by the integration of the various helping professions and lay persons providing hospice care. Such team shall, as a minimum, consist of a physician licensed pursuant to chapter 458 or chapter 459, a nurse licensed pursuant to chapter 464, a social worker, a member of the clergy or a counselor, and volunteers.~~

(4) "Hospice residential unit" means a homelike living facility, other than a facility licensed under other parts of this chapter or under chapter 395, that is operated by a hospice for the benefit of its patients and is considered by a patient who lives there to be his primary residence.

(5) "Hospice services" means items and services furnished to *a patient and family* ~~an individual~~ by a hospice, or by others under arrangements with such a program, in a place of temporary or permanent residence used as the *patient's* ~~terminally ill individual's~~ home for the purpose of maintaining *the patient* ~~that individual~~ at home; or, if the *patient* ~~terminally ill individual~~ needs short-term institutionalization, the services shall be furnished in cooperation with those contracted institutions or in the *hospice* inpatient facility ~~of the hospice program~~.

~~(6) "Medically directed" means that the delivery of medical care is directed by a hospice physician licensed pursuant to chapter 458 or chapter 459 who is employed by the hospice for the purposes of providing ongoing palliative care as a participating care giver on the hospice care team.~~

(6)~~(7)~~ "Palliative care" means *services or interventions which are not curative but are provided for* the reduction or abatement of pain and *human suffering* ~~other troubling symptoms by appropriate coordination of all elements of the hospice care team needed to achieve needed relief of distress~~.

(7)~~(8)~~ "Patient" means the terminally ill individual receiving hospice services.

(8) "Plan of care" means a written assessment by the hospice of each patient's and family's needs and preferences, and the services to be provided by the hospice to meet those needs.

(9) "Terminally ill" *means that the patient has a medical prognosis that his or her life expectancy is 1 year or less if the illness runs its normal course* ~~refers to a medical prognosis of limited expected survival, of 1 year or less at the time of referral to a hospice, of an individual who is experiencing an illness for which therapeutic strategies directed toward cure and control of the disease alone outside the context of symptom control are no longer appropriate~~.

Section 3. Section 400.602, Florida Statutes, is amended to read:

400.602 Licensure required; *prohibited acts; exemptions;* display, transferability of license.—

(1)*(a)* It is unlawful to operate or maintain a hospice without first obtaining a license ~~therefor~~ from the *agency* ~~department~~.

(b) It is unlawful for any person or legal entity not licensed as a hospice under this part to use the word "hospice" in its name, or to offer or advertise hospice services or hospicelike services in such a way as to mislead a person to believe that the offeror is a hospice licensed under this part.

(2) Services provided by a hospital, nursing home, or other health care facility, health care provider, or caregiver, or under the Community Care for the Elderly Act, do not constitute a hospice unless the facility, provider, or caregiver establishes a separate and distinct administrative program to provide home, residential, and homelike inpatient hospice services.

(3)(a) A separately licensed hospice may not use a name which is substantially the same as the name of another hospice licensed under this part.

(b) A licensed hospice which intends to change its name or address must notify the agency at least 60 days before making the change.

(4)~~(2)~~ The license shall be displayed in a conspicuous place inside the hospice program office; shall be valid only in the possession of the person or public agency to which it is issued; shall not be subject to sale, assignment, or other transfer, voluntary or involuntary; and shall not be valid for any hospice other than the hospice for which originally issued.

(5)~~(3)~~ Notwithstanding *s. 400.601(2)* ~~any provision of s. 400.601(3)~~, any hospice operating in corporate form exclusively as a hospice, incorporated on or before July 1, 1978, may be transferred to a for-profit or not-for-profit entity~~, and may transfer the license to that entity~~.

Section 4. Section 400.605, Florida Statutes, is amended to read:

400.605 Administration; forms; fees; rules; inspections; fines.—The administration of this act is vested in the *agency* ~~Department of Health and Rehabilitative Services~~, which shall:

(1) Prepare and furnish all forms necessary under the provisions of this *part* ~~act~~ in relation to applications for licensure or *licensure* renewals ~~thereof~~.

(2) Collect *from the applicant* ~~in advance (and the applicant so served shall pay to it in advance)~~ at the time of filing an application for a license or at the time of renewal of a license a fee which must be reasonably calculated to cover the cost of regulation under this part, but may not exceed $600 per program. *All fees collected under this part shall be deposited in the Health Care Trust Fund for the administration of this part.*

(3) Issue hospice licenses to all applicants which meet the provisions of this part and applicable rules.

(4)~~(3)~~ *In consultation with the Department of Health and Rehabilitative Services and the Department of Elderly Affairs adopt* ~~Promulgate~~ applicable rules ~~and standards~~ in furtherance of the purpose of this *part* ~~act~~ and ~~may~~ amend such rules as may be necessary. The rules shall include~~, but not be limited to,~~ the following:

(a) The qualifications of professional and ancillary personnel *to ensure the provision of appropriate and adequate hospice care.* ~~in order to adequately furnish hospice care;~~

(b) Standards for *the administrative management of the hospice.* ~~the organization and quality of patient care;~~

(c) Standards for hospice services that ensure the provision of quality patient care.

(d)~~(c)~~ Procedures for maintaining *and assuring confidentiality of patient records.*~~; and~~

(e)~~(d)~~ Provision for contractual arrangements for the inpatient component of hospice care and for other professional and ancillary hospice services.

(f) Standards for hospice care provided in hospice residential units and freestanding inpatient facilities that are not otherwise licensed medical facilities.

(5)~~(4)~~ Conduct annual licensure inspections of all licensees, *except that licensure inspections may be conducted biennially for hospices with a 3-year record of substantial compliance.*

(6) Conduct such inspections and investigations as are necessary in order to determine the state of compliance with the provisions of this part and adopted rules. The right of inspection shall also extend to any program which the agency has reason to believe is offering or advertising itself as a hospice without a license, but no inspection may be made without the permission of the owner or person in charge thereof unless a warrant is first obtained from a circuit court authorizing such inspection. Application for a license or license renewal made pursuant to this part shall constitute permission for an inspection of the hospice for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application.

(7)~~(5)~~ Impose administrative fines ~~pursuant to this act, not to exceed $1,000 per fine,~~ for any violation of the provisions of this *part* ~~act~~.

Section 5. Section 400.606, Florida Statutes, is amended to read:

400.606 License; application; renewal; conditional license or permit*; certificate of need.*—

(1) *A license* ~~An~~ application shall be filed on a form prescribed by the *agency* ~~department~~ and shall be accompanied by the appropriate license fee as well as satisfactory proof that the hospice is in compliance with this *part* ~~act~~ and any rules *adopted by the agency* ~~and minimum standards promulgated hereunder~~ and proof of financial ability to operate and conduct the hospice in accordance with the requirements of this *part* ~~act~~. The initial application shall be accompanied by a plan for the delivery of home, *residential,* ~~outpatient,~~ and *homelike* inpatient hospice *services* ~~care~~ to terminally ill persons and their families. Such plan shall contain, but not be limited to:

(a) The estimated average number of terminally ill persons to be served monthly.~~;~~

(b) The geographic area in which hospice services will be available.~~;~~

(c) A listing of services which are or will be provided, either directly by the applicant or through contractual arrangements with existing providers.~~;~~

(d) Provisions for the implementation of hospice home care within 3 months of licensure.~~;~~

(e) Provisions for the implementation of hospice ~~outpatient and~~ homelike inpatient care within 12 months of licensure.~~;~~

(f) The number and disciplines of professional staff to be employed.

(g)~~(f)~~ The name and qualifications of any existing or potential contractee.~~;~~

(h) A plan for attracting and training volunteers.

(i)~~(g)~~ The projected annual operating cost of the hospice.~~; and~~

(j)~~(h)~~ A statement of financial resources and personnel available to the applicant to deliver hospice care.

If the applicant is an existing health care provider, the application shall be accompanied by a copy of the most recent profit-loss statement and, if applicable, the most recent licensure inspection report.

(2) A license issued for the operation of a hospice ~~program~~, unless sooner suspended or revoked, shall expire automatically 1 year from the date of issuance. Sixty days prior to the expiration date, *a hospice wishing to renew its license shall submit* an application for renewal *to the agency* ~~shall be submitted to the department~~ on forms furnished by the *agency. The agency shall renew* ~~department; and~~ the license ~~shall be renewed~~ if the applicant has first met the requirements established under this *part* ~~act~~ and all *applicable* rules ~~promulgated hereunder~~ and has provided the information described in subsection (1) in addition to the application. However, the application for license renewal shall be accompanied by an update of the plan for delivery of hospice care only if information contained in the plan submitted pursuant to subsection (1) is no longer applicable.

(3) A hospice ~~program~~ against which a revocation or suspension proceeding is pending at the time of license renewal may be issued a conditional license *by the agency* effective until final disposition ~~by the department~~ of such proceeding. If judicial relief is sought from the final *agency action* ~~disposition~~, the court having jurisdiction may issue a conditional permit for the duration of the judicial proceeding.

(4) The *agency* ~~department~~ shall not issue a license to a hospice which fails to receive a certificate of need under the provisions of ss. *408.031-408.045* ~~381.701-381.715~~.

(5) A freestanding hospice facility that is primarily engaged in providing inpatient and related services and that is not otherwise licensed as a health care facility shall be required to obtain a certificate of need. However, a freestanding hospice facility with six or fewer beds shall not be required to comply with institutional standards such as, but not limited to, standards requiring sprinkler systems, emergency electrical systems, or special lavatory devices.

Section 6. Section 400.607, Florida Statutes, is amended to read:

400.607 Denial, suspension, or revocation of license; imposition of administrative fine; grounds*; injunctions.*—

(1) The *agency* ~~department~~ may deny, revoke, or suspend a license or impose an administrative fine, which may not exceed *$5,000* ~~$1,000~~ per violation, in the manner provided in chapter 120.

(2) Any of the following actions by a *licensed* hospice ~~program~~ or any of its employees shall be grounds for action by the *agency* ~~department~~ against a hospice ~~program~~:

(a) A violation of the provisions of this *part* ~~act~~ or *applicable rules* ~~of any standard or rule promulgated hereunder~~.

(b) An intentional or negligent act materially affecting the health or safety of a patient.

(3) If, 3 months after the date of obtaining a license ~~pursuant to s. 400.606~~, or at any time thereafter, a hospice does not have in operation the home-care component of hospice care, the *agency* ~~department~~ shall immediately revoke the license of such hospice.

(4) If, 12 months after the date of obtaining a license pursuant to s. 400.606, or at any time thereafter, a hospice does not have in operation the ~~outpatient and homelike~~ inpatient components of hospice care, the *agency* ~~department~~ shall immediately revoke the license of such hospice.

(5) The agency may institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this part or any rule adopted pursuant to this part.

(6) The remedies set forth in this section are independent of and cumulative to other remedies provided by law.

Section 7. Section 400.6085, Florida Statutes, is created to read:

400 6085 Contractual services.—A hospice may contract out for some elements of its services. However, the core services, as set forth in s. 400.609(1), shall be provided directly by the hospice. Any contract entered into between a hospice and a health care facility or service provider must specify that the hospice retains the responsibility for planning, coordinating, and prescribing hospice care and services for the hospice patient and family. A hospice that contracts for any hospice service is prohibited from charging fees for services provided directly by the hospice care team that duplicate contractual services provided to the patient and family.

(1) A contract for hospice services, including inpatient services, must:

(a) Identify the nature and scope of services to be provided.

(b) Require that direct patient care shall be maintained, supervised, and coordinated by the hospice care team.

(c) Limit the services to be provided to only those expressly authorized by the hospice in writing.

(d) Delineate the roles of hospice staff and contract staff in the admission process and patient assessment.

(e) Identify methods for ensuring continuity of hospice care.

(f) Plan for joint quality assurance.

(g) Specify the written documentation, including patient records, required of contract staff.

(h) Specify qualifications of persons providing the contract services.

(i) Specify the effective dates for the contract.

(2) With respect to contractual arrangements for inpatient hospice care:

(a) Licensed beds designated for inpatient hospice care through contract between an existing health care facility and a hospice shall not be required to be delicensed from one type of health care in order to enter into a contract with a hospice, nor shall the physical plant of any facility licensed pursuant to chapter 395 or part I of this chapter be required to be altered, except that a homelike atmosphere may be required.

(b) Hospices contracting for inpatient care beds shall not be required to obtain an additional certificate of need for the number of such designated beds. Such beds shall remain licensed to the health care facility and be subject to the appropriate inspections.

(c) Staffing standards for inpatient hospice care provided through a contract may not exceed the staffing standards required under the license held by the contractee.

(d) Under no circumstances may a hospice place a patient requiring inpatient care in a health care facility that is under a moratorium, has had its license revoked, or has a conditional license, accreditation, or rating. However, a hospice may continue to provide care or initiate care for a terminally ill person already residing in such a facility.

Section 8. Section 400.609, Florida Statutes, 1992 Supplement, is amended to read:

400.609 *Hospice services* ~~Components of hospice programs of care.~~—Each hospice ~~program~~ shall *provide a continuum of hospice services* ~~consist of three components or modes of care~~ which afford the *patient* ~~terminally ill individual~~ and the family of the *patient* ~~terminally ill individual~~ a range of service delivery which can be tailored to specific needs and preferences of the patient and family at any point in time *throughout the length of care for the terminally ill patient and during the bereavement period. These services must be available 24 hours a day, 7 days a week, and shall include*~~. These three components are~~:

(1) CORE SERVICES.—The hospice care team shall provide the following core services: physician services, nursing services, social work services, pastoral or counseling services, dietary counseling, home health aide services, and bereavement counseling services. Each hospice must also provide or arrange for such additional services as are needed to meet the palliative and support needs of the patient and family. These services may include, but are not limited to, physical therapy, occupational therapy, speech therapy, massage therapy, infusion therapy, provision of medical supplies and durable medical equipment, day care, homemaker and chore services, and funeral services.

(2)~~(1)~~ HOSPICE HOME CARE.—*Hospice care and services provided in a private home* ~~This form of delivery of services~~ shall be the primary form of care. *The goal of hospice home care shall be to provide adequate training and support to encourage self-sufficiency and allow patients and families to maintain the patient comfortably at home for as long as possible.* The services of the hospice home care program shall be of the highest quality and shall be provided by the *hospice care team* ~~interdisciplinary, interactive qualified hospice team members~~.

(3) HOSPICE RESIDENTIAL CARE.—Hospice care and services, to the extent practicable and compatible with the needs and preferences of the patient, may be provided by the hospice care team to a patient living in an adult congregate living facility, nursing home, hospice residential unit, or other nondomestic place of permanent or temporary residence.

(4)~~(2)~~ ~~INPATIENT~~ HOSPICE *INPATIENT* CARE.—The inpatient component of care is *a short-term* ~~an~~ adjunct to hospice home care and shall ~~primarily~~ be used only for *pain control, symptom management, or respite care* ~~short-term stays~~. *The total number of inpatient days for all hospice patients in any 12-month period may not exceed 20 percent of the total number of hospice days for all the hospice patients of the licensed hospice. Hospice inpatient care shall be under the direct administration of the hospice, whether the inpatient facility is a free-standing hospice facility or part of a facility licensed pursuant to chapter 395 or part I of this chapter.* The facility or rooms within a facility used for the hospice inpatient component of care shall be arranged, administered, and managed in such a manner to provide privacy, dignity, comfort, warmth, and safety for the terminally ill patient and the family. Every possible accommodation shall be made to create as homelike an atmosphere as practicable. To facilitate overnight family visitation within the facility, rooms shall be limited to no more than double occupancy; and, whenever possible, both occupants shall be hospice patients. There shall be a continuum of care and a continuity of caregivers between the hospice home program and the inpatient aspect of care to the extent practicable and compatible with the preferences of the patient and his family. Fees charged for *hospice* inpatient ~~hospice~~ care, whether provided directly by the hospice or through contract, shall be made available upon request to the Agency for Health Care Administration. The hours for daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice ~~program~~.

(5) BEREAVEMENT COUNSELING.—The hospice bereavement program shall be a comprehensive program, under professional supervision, that provides a continuum of formal and informal supportive services to the family for a minimum of 1 year after the patient's death. Nothing in this subsection constitutes an additional exemption from the provisions of chapter 490 or chapter 491.

~~(3) OUTPATIENT HOSPICE CARE.—The hospice outpatient service shall meet the same standards of quality as applied to inpatient care and hospice home care, considering the inherent differences between inpatients and outpatients with respect to their needs and modes of treatment. The hours for daily operation and the location of the place where the services are provided shall be determined, to the extent practicable, by the accessibility of such services to the patients and families served by the hospice program.~~

Section 9. Section 400.6095, Florida Statutes, is created to read:

400.6095 Patient admission; assessment; plan of care; discharge; death.—

(1) Each hospice shall make its services available to all terminally ill persons and their families without regard to age, gender, national origin, sexual orientation, disability, diagnosis, cost of therapy, ability to pay, or life circumstances. A hospice shall not impose any value or belief system on its patients or their families and shall respect the values and belief systems of its patients and their families.

(2) Admission to a hospice program shall be made upon a diagnosis and prognosis of terminal illness by a physician licensed pursuant to chapter 458 or chapter 459 and shall be dependent on the expressed request and informed consent of the patient.

(3) At the time of admission, the hospice shall inquire whether advance directives have been executed pursuant to chapter 765, and if not, provide information to the patient concerning the provisions of that chapter. The hospice shall also provide the patient with information concerning patient rights and responsibilities pursuant to s. 381.026.

(4) The admission process shall include a professional assessment of the physical, social, psychological, spiritual, and financial needs of the patient. This assessment shall serve as the basis for the development of a plan of care.

(5) Each hospice, in collaboration with the patient and the patient's primary or attending physician, shall prepare and maintain a plan of care for each patient, and the care provided to a patient must be in accordance with the plan of care. The plan of care shall be made a part of the patient's medical record and shall include, at a minimum:

(a) Identification of the primary caregiver, or an alternative plan of care in the absence of a primary caregiver, to ensure that the patient's needs will be met.

(b) The patient's diagnosis, prognosis, and preferences for care.

(c) Assessment of patient and family needs, identification of the services required to meet those needs, and plans for providing those services through the hospice care team, volunteers, contractual providers, and community resources.

(d) Plans for instructing the patient and family in patient care.

(e) Identification of the nurse designated to coordinate the overall plan of care for each patient and family.

(6) The hospice shall provide an ongoing assessment of the patient and family needs, update the plan of care to meet changing needs, coordinate the care provided with the patient's primary or attending physician, and document the services provided.

(7) In the event a hospice patient chooses to be discharged or transferred to another hospice, the hospice shall arrange for continuing care and services and complete a comprehensive discharge summary for the receiving provider.

(8) The death of a person enrolled as a hospice patient shall be considered an attended death for the purposes of s. 406.11(1)(a)5. However, a hospice shall report the death to the medical examiner if any unusual or unexpected circumstances are present.

Section 10. Section 400.610, Florida Statutes, is amended to read:

400.610 Administration and management of a hospice ~~program~~.—

(1) A hospice ~~program~~ shall have a clearly defined organized governing body, consisting of a minimum of seven persons who are representative of the *general population of the community served. The governing body shall have autonomous authority and responsibility for the operation of the hospice and shall meet at least quarterly. The governing body shall:* ~~local community at large, which has autonomous authority for the conduct of the hospice program. This body is not required to meet more often than quarterly.~~

(a) Adopt an annual plan for the operation of the hospice, which shall include a plan for providing for uncompensated care and philanthropic community activities.

(b) Prepare a disaster preparedness plan.

(c) Adopt an annual budget.

(d) Appoint a director who shall be responsible for the day-to-day management and operation of the hospice and who shall serve as the liaison between the governing body and the hospice staff.

(e) Undertake such additional activities as necessary to ensure that the hospice is complying with the requirements for hospice services as set forth in this part.

(2) Each hospice shall develop and implement a comprehensive quality assurance and utilization review plan to be used for ongoing internal evaluation of the appropriateness and effectiveness of the hospice services provided. Each hospice shall take the corrective actions identified by the review and report a summary of these actions to the governing body at least annually.

(3) Each hospice shall ensure that adequate policies, procedures, and systems are developed and implemented to provide effective delivery of services.

~~(2) The hospice program shall have a director, administrator, or manager who shall be responsible for the overall coordination and administration of the hospice program.~~

~~(3) A hospice program is not required to establish more than one committee, exclusive of a hospice care team and a governing body. No committee is required to meet more often than quarterly.~~

Section 11. Section 400.6105, Florida Statutes, is created to read:

400.6105 Staffing and personnel.—

(1) Each hospice shall have a medical director licensed pursuant to chapter 458 or chapter 459 who shall have responsibility for directing the medical care and treatment of hospice patients.

(2) Each hospice shall employ a full-time registered nurse licensed pursuant to chapter 464 who shall coordinate the implementation of the plan of care for each patient.

(3) A hospice shall employ a hospice care team or teams who shall participate in the establishment and ongoing review of the patient's plan of care, and be responsible for and supervise the delivery of hospice care and services to the patient. The team shall, at a minimum, consist of a physician licensed pursuant to chapter 458 or chapter 459, a nurse licensed pursuant to chapter 464, a social worker, and a pastoral or other counselor. The composition of the team may vary for each patient and, over time, for the same patient to ensure that all the patient's needs and preferences are met.

(4) A hospice must maintain a trained volunteer staff for the purpose of providing both administrative support and direct patient care.

(5) A hospice may contract with other persons or legal entities to provide additional services beyond those provided by the hospice care team or, to supplement the number of persons on the hospice care team, to ensure that the needs of patients and their families are met. Persons hired on contract shall have the same qualifications as are required of hospice personnel.

(6) Each hospice shall provide ongoing training and support programs for hospice staff and volunteers.

Section 12. Section 400.611, Florida Statutes, is amended to read:

400.611 Interdisciplinary records of care*; confidentiality.—*

(1) An up-to-date, interdisciplinary record of care being given and patient and family status shall be kept. Records shall contain pertinent past and current medical, nursing, social, and other therapeutic information and such other information that is necessary for the safe and adequate care of the patient ~~and the family~~. Notations regarding all aspects of care for the patient and family shall be made in the record. When services are terminated, the record shall show the date and reason for termination.

(2) Patient records shall be retained for a period of 5 years after termination of hospice services, unless otherwise provided by law. In the case of a patient who is a minor, the 5-year period shall begin on the date the patient reaches or would have reached the age of majority.

(3) Patient records of care are confidential. A hospice may not release a record or any portion thereof, unless:

(a) A patient or legal guardian has given express written informed consent;

(b) A court of competent jurisdiction has so ordered; or

(c) A state or federal agency, acting under its statutory authority, requires submission of aggregate statistical data. Any information obtained from patient records by a state agency pursuant to its statutory authority is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

Section 13. *Sections 400.6015, 400.603, 400.6055, 400.608, and 400.614, Florida Statutes, and s. 400.613, Florida Statutes, as amended by chapter 90-347, Laws of Florida, are hereby repealed.*

Section 14. *Notwithstanding the provisions of the Regulatory Sunset Act or of any other provision of law which provides for review and repeal in accordance with s. 11.61, Florida Statutes, and except as otherwise provided herein, part V of chapter 400, Florida Statutes, shall not stand repealed on October 1, 1993, and shall continue in full force and effect as amended herein.*

Section 15. This act shall take effect October 1, 1993.

And the title is amended as follows:

Strike the entire title and insert: An act relating to hospices; creating s. 400.6005, F.S.; providing legislative intent; amending s. 400.601, F.S.; providing definitions; amending s. 400.602, F.S.; restricting the use of the word "hospice"; providing exemptions; prohibiting hospices from using substantially similar names; requiring certain notice of name or address change; amending s. 400.605, F.S.; directing the Agency for Health Care Administration to develop certain standards; providing for agency inspections and investigations; amending s. 400.606, F.S.; requiring license applicant to provide list of staff and plan for training volunteers; requiring freestanding inpatient facility to have certificate of need; amending s. 400.607, F.S.; increasing the maximum amount of an administrative fine; revising grounds for agency action; deleting requirement that outpatient care be provided; providing for injunction; creating s. 400.6085, F.S.; providing requirements for contracting for hospice services; amending s. 400.609, F.S.; providing description of hospice services; clarifying scope of home, residential, and inpatient care; deleting outpatient care; providing for other hospice care settings and bereavement counseling; creating s. 400.6095, F.S.; providing for patient admission, assessment, plan of care, discharge, and death; amending s. 400.610, F.S.; revising requirements for hospice administration and management; requiring a quality assurance and utilization review plan; creating s. 400.6105, F.S.; providing for staffing and personnel; amending s. 400.611, F.S.; providing for retention and confidentiality of patient records, providing for review and repeal; repealing ss. 400.6015, 400.603, 400.6055, 400.608, 400.613, and 400.614, F.S., relating to exemptions for hospice laws, certificates of need, rights of inspection, general requirements for hospice programs, patient record information, and prohibited acts and penalty; providing an effective date.

Senator Gutman moved the following amendments which were adopted:

Senate Amendment 1 to House Amendment 1—On page 5, strike line 20 and insert: entity, and may transfer the license to that entity.

Senate Amendment 2 to House Amendment 1—In title, on page 22, strike all of lines 14-16 and insert: amending s. 400.605, F.S.; providing for deposit of fees in the Health Care Trust Fund; directing the Agency for Health Care Administration to develop certain standards in consultation with Department of Health and Rehabilitative Services and the Department of Elderly Affairs; providing for agency

Senate Amendment 3 to House Amendment 1—In title, on page 23, line 19, after the semicolon (;) insert: continuing in full force and effect the provisions of part V of chapter 400, F.S.;

House Amendment 1 as amended was adopted.

On motions by Senator Gutman, the Senate concurred in **House Amendment 1** as amended and requested the House to concur in the Senate amendments to the House amendment.

CS for CS for SB 162 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment CS for SB 166 and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 166—A bill to be entitled An act relating to migrant farmworker housing; amending s. 381.008, F.S.; providing definitions; amending s. 381.0081, F.S.; providing fines and other penalties with respect to migrant labor camp and residential migrant housing permits; providing criminal penalties for unlawful establishment or operation; providing for seizure and forfeiture and for allocation of proceeds; creating the Task Force on Farmworker Housing Compliance; providing duties and responsibilities; amending s. 381 0082, F.S.; incorporating technical revisions; amending s. 381.0083; deleting limitations on municipalities prohibiting the construction or operation of residental housing; amending s. 381.0084, F.S.; specifying application fees for migrant labor camp and residential migrant housing; amending s. 381.0086, F.S.; authorizing a variance process for migrant farmworker housing standards; amending s. 381.0087, F.S.; providing for enforcement; amending s. 381.0088, F.S , authorizing right of entry for inspection of facilities; creating s. 381.00897, F.S.; providing for right of access to migrant labor camps and residential migrant housing; authorizing civil action; providing civil liability; providing rules; creating s. 381.00893, F.S.; providing for an administrative complaint process; creating s. 381.00895, F.S.; prohibiting discriminatory conduct against certain residents; creating s. 381.00896, F.S.; prohibiting discriminatory conduct with respect to housing facilities; amending s. 509.013, F.S.; providing an exclusion from regulation as a public lodging establishment; repealing s. 10 of ch. 83-249, Laws of Florida; abrogating the repeal of ss. 381.008-381.0088, F.S., relating to migrant farmworker housing, notwithstanding the repeal of those sections scheduled under the Regulatory Sunset Act; providing an effective date.

House Amendment 1—On page 6, line 25, strike "*$500*" and insert: *$1,000*

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

CS for SB 166 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—38 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 326 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 326—A bill to be entitled An act relating to aquaculture; amending s. 597.001, F.S., relating to the short title of the "Florida Aquaculture Policy Act"; revising a reference; amending s. 597.0021, F.S., relating to legislative intent; revising a reference; revising a legislative finding; amending s. 597.003, F.S., relating to powers and duties of the Department of Agriculture and Consumer Services; revising language; amending s. 597.005, F.S., relating to the Aquaculture Review Council; deleting obsolete language; revising responsibilities; amending s. 597.006, F.S., relating to the Aquaculture Interagency Coordinating Council; eliminating the Department of Health and Rehabilitative Services as a coordinating agency for aquaculture; deleting obsolete language; revising composition and responsibilities; amending s. 597.007, F.S.; providing for regulation of certain aquaculture activities by the water management districts; authorizing the districts to issue exemptions or general permits for aquaculture activities meeting specified water-quality standards; saving ss. 597.0021(5), 597.005, and 597.006, F.S., from Sundown repeal; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 9, line 11, through page 10, line 5, strike all of said lines and renumber subsequent sections.

And the title is amended as follows:

On page 1, lines 20-25, strike all of said lines and insert: saving ss.

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

SB 326 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 692 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 692—A bill to be entitled An act relating to developments of regional impact; reenacting s. 380.0651(4), F.S., a temporary law that provides for the aggregation of two or more developments as a single development for the purpose of reviewing a development of regional impact, to continue the effectiveness of that provision indefinitely; providing an effective date.

House Amendment 1 (with Title Amendment)—On page 1, line 12, insert:

Section 1. Subsections (3) and (4) of section 380.0555, Florida Statutes, are amended to read:

380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.—

(3) DESIGNATION.—Franklin County, as described in s. 7.19, less all federally owned lands, ~~and~~ less all lands lying east of the line formed by the eastern boundary of State Road 319 running from the Ochlockonee River to the intersection of State Road 319 and State Road 98 and thence due south to the Gulf of Mexico, *and less any lands removed under subsection (4)* is hereby designated an area of critical state concern on June 18, 1985. State road, for the purpose of this section, shall be defined as in s. 334.03. For the purposes of this act, this area shall be known as the Apalachicola Bay Area.

(4) REMOVAL OF DESIGNATION.—The state land planning agency *may* ~~, 3 years following June 18, 1985, shall~~ recommend to the Administration Commission the removal of the designation *from all or part of the area* specified in subsection (3), if it determines that all local land development regulations and local comprehensive plans and the administration of such regulations and plans are adequate to protect the Apalachicola Bay Area, continue to carry out the legislative intent set forth in subsection (2), and are in compliance with the principles for guiding development set forth in subsection (8). If the Administration Commission concurs with the recommendations of the state land planning agency to remove *any area from* the designation, it shall, within 45 days *after* ~~of~~ receipt of the recommendation, initiate rulemaking to remove the designation. The state land planning agency shall ~~thereafter~~ make *recommendations to the Administration Commission* ~~the above determination~~ annually~~, until such time as the designation is removed~~.

(Renumber subsequent sections)

And the title is amended as follows:

On page 1, line 3, after the semicolon (;), insert: amending s. 380.0555, F.S.; providing for the removal of areas from designation as an area of critical state concern under the Apalachicola Bay Area Protection Act;

On motion by Senator Brown-Waite, the Senate concurred in the House amendment.

SB 692 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1330 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1330—A bill to be entitled An act relating to education; creating s. 231.263, F.S.; creating a recovery network program for educators who are impaired as a result of alcohol abuse, drug abuse, or a mental condition; providing an implementation date; providing eligibility for participation; providing for staff; providing for treatment contracts; providing procedures; providing an exemption from public records requirements for certain disclosed information and providing for review and repeal of the exemption; providing for determination of ineligibility for further assistance; providing for funds to implement this act; providing for rules; providing for review and repeal; providing an effective date.

House Amendment 1—On page 7, line 11, strike July 1 and insert: June 30

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

SB 1330 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—34 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed with amendment SB 1640 and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 1640—A bill to be entitled An act relating to public fairs and expositions; amending s. 616.001, F.S.; revising and providing definitions; amending s. 616.07, F.S.; providing that directors and trustees of fair associations incorporated under ch. 616, F.S., are not personally liable for debts of the association; amending s. 616.08, F.S.; providing additional powers of fair associations; renumbering and amending s. 616.091, F.S., relating to trade standards for operation at public fairs and expositions; renumbering and amending s. 616.0915, F.S., relating to safety standards for operation at public fairs and expositions; providing for revocation of permit or imposition of an administrative fine for operating an amusement device or amusement attraction following an accident resulting in a serious injury or death; exempting amusement attractions from nondestructive tests for metal fatigue; revising provisions regulating companies engaged in the rental of amusement devices and amusement attractions to provide certain minimum thresholds for regulation at public events; amending s. 616.11, F.S.; authorizing fair associations to contract with the state or any of its agencies or subdivisions for property or services; amending s. 616.13, F.S.; requiring persons engaged in the business of providing temporary amusement devices and amusement attractions within 5 miles of a fair association under certain circumstances to pay a specified daily license tax; amending s. 616.15, F.S.; increasing all fair associations' fee for a permit from the department; amending s. 616.17, F.S.; authorizing the Department of Agriculture and Consumer Services to waive minimum exhibit requirements under certain circumstances; amending s. 616.251, F.S.; clarifying that the authority is under the jurisdiction of the state; conforming changes; amending s. 616.252, F.S.; increasing and revising the membership of the authority; conforming changes; amending s. 616.255, F.S.; requiring the authority to develop a master plan for certain purposes; conforming changes; amending s. 616.263, F.S.; requiring specified information to be included in the authority's annual report; conforming changes; amending ss. 616.01, 616.02, 616.03, 616.04, 616.05, 616.051, 616.06, 616.09, 616.101, 616.12, 616.121, 616.14, 616.15, 616.19, 616.21, 616.22, 616.23, 616.253, 616.254, 616.256, 616.257, 616.258, 616.259, 616.260, 616.261, 616.262, and 616.265, F.S.; providing conforming changes; renumbering and amending s. 616.266, F.S., relating to trespass; renumbering and amending ss. 616.27 and 616.28, F.S., relating to rules and enforcement, respectively; dividing ch. 616, F.S., into parts; saving ss. 616.21(2) and 616.251, F.S., from Sundown repeal; repealing s. 92, ch. 92-291, Laws of Florida, relating to future repeal of s. 616.0915, F.S.; providing an effective date.

House Amendment 1—On page 25, line 17, through page 26, line 16, strike all of said lines and insert:

(b) A permanent amusement device *or amusement attraction* must be inspected by the department at the time of application for the initial permit. However, a permanent facility that employs in-house, full-time safety inspectors who meet the requirements of the department may provide the department with an affidavit stating that all devices or attractions on the premises have been inspected and tested as required by the department. Thereafter, as a requirement for the issuance of each subsequent permit, it must be inspected at least annually, *or more often as required by the American Society for Testing and Materials, Committee F-24, or the manufacturer of the amusement device.* ~~by a professional mechanical engineer licensed by the State of Florida or another state with comparable standards for licensure.~~ *The inspection shall be performed by a professional engineer experienced in materials testing and licensed by the state in which the inspection is performed or by a qualified inspector for the manufacturer of the amusement device or an inspector for the insurance underwriter, who is an employee or an agent of the insurance underwriter of the amusement device. Prior to an inspector for the manufacturer or an inspector for the insurance underwriter becoming eligible to inspect amusement devices, the inspector must document to the department the following qualifications:*

1. A minimum of five years experience in the amusement ride field, at least two of which were involved in actual ride inspection with a manufacturer, government agency, park, carnival, or insurance underwriter;

2. At least eighty hours of formal education from a nationally recognized school for amusement ride safety during the past five years; and

3. Maintain forty hours per year of continuing education at a school approved by the department, these continuing education hours to include in-service industry or manufacturer updates and seminars.

The inspection shall, at a minimum, comply with the requirements of the department and shall include, *for each permanent amusement device,* some form of nondestructive test for metal fatigue recognized by the American Society for Non-Destructive Testing. An affidavit of the annual inspection must be filed with the department.

(c) A temporary amusement device or amusement attraction, upon first entry into the state, must be inspected by the department for the permit to be issued. Thereafter, as a requirement for issuance of each subsequent permit, it must be inspected at least annually, *or more often as required by the American Society for Testing and Materials, Committee F-24, or the manufacturer of the amusement device.* ~~by a professional mechanical engineer licensed by the State of Florida or another state with comparable standards for licensure.~~ *The inspection shall be performed by a professional engineer experienced in materials testing and licensed by the state in which the inspection is performed or a qualified inspector for the manufacturer of the amusement device or an inspector for the insurance underwriter, who is an employee or an agent of the insurance underwriter of the amusement device. Prior to an inspector for the manufacturer or an inspector for the insurance underwriter becoming eligible to inspect amusement devices, the inspector must document to the department the following qualifications:*

1. A minimum of five years experience in the amusement ride field, at least two of which were involved in actual ride inspection with a manufacturer, government agency, park, carnival, or insurance underwriter;

2. At least eighty hours of formal education from a nationally recognized school for amusement ride safety during the past five years; and

3. Maintain forty hours per year of continuing education at a school approved by the department, these continuing education hours to include in-service industry or manufacturer updates and seminars.

The inspection shall, at a minimum, comply with the requirements of the department and shall include, *for each temporary amusement device,* some form of nondestructive test for metal fatigue recognized by the American Society for Non-Destructive Testing. An affidavit of the annual inspection must be filed with the department.

House Amendment 2—On page 47, line 7, strike "ex officio" and insert: *as a voting member*

On motions by Senator Foley, the Senate concurred in the House amendments.

SB 1640 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives returns, as requested, HB 1037.

John B. Phelps, Clerk

Reconsideration

On motión by Senator McKay, the Senate reconsidered the vote by which—

HB 1037—A bill to be entitled An act relating to designation of state buildings; designating the conservatory on the University Park Campus of Florida International University as the Herbert and Nicole Wertheim Conservatory; designating the student center on the North Miami Campus as the Gregory B. Wolfe Building; designating the South Manatee Community College Campus as the Kingsbury Curtis Community College Campus; authorizing Florida International University to erect appropriate markers; providing an effective date.

—passed March 24.

Senator McKay moved the following amendment which was adopted by two thirds vote:

Amendment 1—On page 2, strike all of lines 10 and 11

On motion by Senator McKay, **HB 1037** as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 3, 4 and 5; refused to concur in Senate Amendment 2 and requests the Senate to recede; has passed CS for HB 2197, as further amended and requests the Senate to concur.

John B. Phelps, Clerk

CS for HB 2197—A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.401, F.S.; providing legislative findings; amending s. 400.402, F.S.; revising definitions; amending s. 400.404, F.S.; revising exemptions; amending s. 400.407, F.S.; providing penalties for neglect; providing for care of residents designated as being mentally ill; revising requirements for existing facilities requesting to provide extended congregate care services; requiring annual monitoring of facilities with substantiated complaints; revising a restriction on facilities providing limited mental health services; providing for biennial license fees; providing a duplicate license fee; amending s. 400.408, F.S.; providing penalties for referral to an unlicensed facility, a facility whose license is under denial or has been suspended or revoked, or a facility that has a moratorium on admissions; amending s. 400.411, F.S.; providing an additional license application requirement; amending s. 400.412, F.S.; requiring a corrective action plan prior to transfer of ownership; amending s. 400.414, F.S.; providing additional grounds for license suspension, denial, or revocation, or administrative fine; providing for hearing; requiring provision of specified information to the Division of Hotels and Restaurants of the Department of Business Regulation; amending s. 400.415, F.S.; providing for moratorium on admissions after license denial, suspension, or revocation; amending s. 400.4174, F.S.; requiring certain notice of confirmed reports of child abuse or neglect by a facility owner or employee; amending s. 400.4176, F.S.; increasing time period for notice of change of facility administrator; amending s. 400.418, F.S.; providing use of fees and fines; amending s. 400.419, F.S.; providing penalties for certain action by an administrator; providing an additional classification of violations; providing a penalty; providing for dissemination of information on facilities with violations; providing a fee; amending s. 400.42, F.S.; authorizing acceptance of third-party supplementation under specified circumstances; amending s. 400.422, F.S.; providing certain notice of receivership proceedings; revising provisions relating to

CS for SB 1582

Yeas—37

Mr. President	Dudley	Johnson	Silver
Bankhead	Dyer	Jones	Sullivan
Beard	Foley	Kirkpatrick	Thomas
Boczar	Grant	Kiser	Turner
Brown-Waite	Gutman	Kurth	Weinstein
Burt	Harden	McKay	Wexler
Casas	Hargrett	Meadows	Williams
Crist	Holzendorf	Myers	
Dantzler	Jenne	Scott	
Diaz-Balart	Jennings	Siegel	

Nays—None

CS for SB 1600

Yeas—38

Bankhead	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

Nays—None

SB 1640

Yeas—37

Mr. President	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Weinstein
Casas	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams
Dantzler	Hargrett	Meadows	
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

Nays—None

CS for SB 1666

Yeas—36

Mr. President	Dudley	Jenne	Myers
Bankhead	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Casas	Gutman	Kiser	Turner
Crist	Harden	Kurth	Weinstein
Dantzler	Hargrett	McKay	Wexler
Diaz-Balart	Holzendorf	Meadows	Williams

Nays—None

CS for SB 1666—After Reconsideration

Yeas—35

Mr. President	Burt	Diaz-Balart	Forman
Beard	Casas	Dudley	Grant
Boczar	Crist	Dyer	Grogan
Brown-Waite	Dantzler	Foley	Gutman
Harden	Jones	Myers	Turner
Hargrett	Kirkpatrick	Siegel	Weinstein
Holzendorf	Kurth	Silver	Wexler
Jennings	McKay	Sullivan	Williams
Johnson	Meadows	Thomas	

Nays—None

CS for SB 1666—After Reconsideration

Yeas—38

Mr. President	Dudley	Jennings	Siegel
Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Casas	Gutman	McKay	Wexler
Crist	Harden	Meadows	Williams
Dantzler	Hargrett	Myers	
Diaz-Balart	Holzendorf	Scott	

Nays—None

CS for SB 1668

Yeas—32

Mr. President	Diaz-Balart	Jenne	Siegel
Bankhead	Dyer	Jennings	Silver
Beard	Foley	Johnson	Sullivan
Boczar	Forman	Jones	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	McKay	Weinstein
Casas	Harden	Meadows	Wexler
Crist	Hargrett	Myers	Williams

Nays—2

Dantzler Holzendorf

CS for SB 1710

Yeas—36

Mr. President	Dudley	Holzendorf	Myers
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Grogan	Kiser	Turner
Crist	Gutman	Kurth	Weinstein
Dantzler	Harden	McKay	Wexler
Diaz-Balart	Hargrett	Meadows	Williams

Nays—None

CS for SB 1814

Yeas—35

Mr. President	Dantzler	Jenne	Scott
Bankhead	Diaz-Balart	Jennings	Siegel
Beard	Dudley	Johnson	Silver
Boczar	Dyer	Jones	Sullivan
Brown-Waite	Foley	Kirkpatrick	Thomas
Burt	Forman	Kiser	Turner
Casas	Grant	Kurth	Weinstein
Childers	Gutman	McKay	Williams
Crist	Harden	Myers	

Nays—3

Holzendorf Meadows Wexler

expenditures to correct or eliminate deficiencies; amending s. 400.424, F.S.; requiring contract notice of a facility's policy on advance deposits; providing for disposition of personal belongings after termination date; specifying time period for refunds; providing a penalty; providing for disposition of fines; revising requirement for physical examination; amending s. 400.4255, F.S.; expanding authorized use of licensed personnel; providing for use of certified nursing assistants; amending s. 400.426, F.S.; revising provisions relating to assessment of appropriateness of placement and requirements for continued residency; requiring certain agreement or notice prior to moving a resident to another facility; amending s. 400.427, F.S.; modifying provisions relating to personal affairs of residents; prohibiting payment of benefits to an owner, administrator, or staff member without resident's consent; providing a penalty for certain misuse of a resident's personal needs allowance; amending s. 400.428, F.S.; revising the resident bill of rights; providing for extended visiting hours; requiring a grievance procedure; requiring telephone access to advocacy or special interest groups; requiring monitoring visits to facilities with certain violations; amending s. 400.431, F.S.; providing for relocation of residents receiving services from the Department of Health and Rehabilitative Services when a facility discontinues operation; extending period for return of payments by such a facility; amending s. 400.434, F.S.; authorizing inspection of facilities after license suspension or revocation; providing restrictions; amending s. 400.435, F.S.; providing copies of inspection reports to certain persons; amending s. 400.441, F.S.; revising rules relating to minimum standards for fire safety, food service inspection, and use of restraints; providing for distinct standards for facilities of different sizes; providing a restriction; amending s. 400.442, F.S.; requiring a corrective action plan for deficiencies in provision of medication; amending s. 400.444, F.S.; conforming terminology; amending s. 400.447, F.S.; deleting restrictions on advertising while under construction; providing a penalty for certain advertising violations; amending s. 400.452, F.S.; revising core educational requirements for staff; amending ss. 400.417, 400.4195, 400.421, 400.429, 400.4445, and 400.453, F.S.; conforming language to transfer of responsibilities to the Agency for Health Care Administration from the Department of Health and Rehabilitative Services; amending s. 509.032, F.S.; providing duties of the Division of Hotels and Restaurants of the Department of Business Regulation relating to inspection of public lodging establishments; amending s. 651.011, F.S.; correcting a cross reference; providing an appropriation; saving pt. II of ch. 400, F.S., from Sunset repeal; providing for future review and repeal; providing an effective date.

On motion by Senator McKay, the Senate refused to recede from **Senate Amendment 2.** The action of the Senate was certified to the House.

RETURNING MESSAGES—FINAL ACTION

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed CS for CS for SB 42, CS for SB 198, CS for SB 322, SB 482, CS for SB 520, SB 676, SB 710, CS for SB 884, SB 938, SB 1006, CS for SB 1038, SB 1062, SB 1086, CS for CS for SB 1244, CS for SB 1680, CS for SB 1818, SB 1912, CS for SB 1958, CS for SB 2008 and SB 2020.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments and passed as amended CS for HB 679, CS for HB 707, HB 1047, HB 1805 and HB 1927.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

CS for SB 158

Yeas—38

Mr. President	Boczar	Burt	Crist
Beard	Brown-Waite	Casas	Dantzler
Diaz-Balart	Harden	Kiser	Sullivan
Dudley	Hargrett	Kurth	Thomas
Dyer	Holzendorf	McKay	Turner
Foley	Jenne	Meadows	Weinstein
Forman	Jennings	Myers	Wexler
Grant	Johnson	Scott	Williams
Grogan	Jones	Siegel	
Gutman	Kirkpatrick	Silver	

Nays—None

CS for CS for SB 162

Yeas—36

Mr. President	Dyer	Jennings	Scott
Beard	Foley	Johnson	Siegel
Boczar	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Grogan	Kiser	Thomas
Casas	Gutman	Kurth	Turner
Dantzler	Harden	McKay	Weinstein
Diaz-Balart	Hargrett	Meadows	Wexler
Dudley	Holzendorf	Myers	Williams

Nays—None

CS for SB 166

Yeas—38

Mr. President	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

Nays—None

SB 326

Yeas—37

Mr. President	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Casas	Gutman	McKay	Wexler
Crist	Harden	Meadows	Williams
Dantzler	Hargrett	Myers	
Diaz-Balart	Holzendorf	Scott	
Dudley	Jennings	Siegel	

Nays—None

CS for SB 640

Yeas—32

Mr. President	Diaz-Balart	Jenne	Meadows
Bankhead	Dudley	Jennings	Myers
Beard	Dyer	Johnson	Scott
Brown-Waite	Foley	Jones	Siegel
Burt	Forman	Kirkpatrick	Silver
Casas	Grant	Kiser	Turner
Crist	Harden	Kurth	Weinstein
Dantzler	Hargrett	McKay	Wexler

Nays—5

Boczar	Sullivan	Williams
Holzendorf	Thomas	

House Amendment 1—On page 25, line 17, through page 26, line 16, strike all of said lines and insert:

(b) A permanent amusement device *or amusement attraction* must be inspected by the department at the time of application for the initial permit. However, a permanent facility that employs in-house, full-time safety inspectors who meet the requirements of the department may provide the department with an affidavit stating that all devices or attractions on the premises have been inspected and tested as required by the department. Thereafter, as a requirement for the issuance of each subsequent permit, it must be inspected at least annually, *or more often as required by the American Society for Testing and Materials, Committee F-24, or the manufacturer of the amusement device.* ~~by a professional mechanical engineer licensed by the State of Florida or another state with comparable standards for licensure.~~ *The inspection shall be performed by a professional engineer experienced in materials testing and licensed by the state in which the inspection is performed or by a qualified inspector for the manufacturer of the amusement device or an inspector for the insurance underwriter, who is an employee or an agent of the insurance underwriter of the amusement device. Prior to an inspector for the manufacturer or an inspector for the insurance underwriter becoming eligible to inspect amusement devices, the inspector must document to the department the following qualifications:*

1. A minimum of five years experience in the amusement ride field, at least two of which were involved in actual ride inspection with a manufacturer, government agency, park, carnival, or insurance underwriter;

2. At least eighty hours of formal education from a nationally recognized school for amusement ride safety during the past five years; and

3. Maintain forty hours per year of continuing education at a school approved by the department, these continuing education hours to include in-service industry or manufacturer updates and seminars.

The inspection shall, at a minimum, comply with the requirements of the department and shall include, *for each permanent amusement device,* some form of nondestructive test for metal fatigue recognized by the American Society for Non-Destructive Testing. An affidavit of the annual inspection must be filed with the department.

(c) A temporary amusement device or amusement attraction, upon first entry into the state, must be inspected by the department for the permit to be issued. Thereafter, as a requirement for issuance of each subsequent permit, it must be inspected at least annually, *or more often as required by the American Society for Testing and Materials, Committee F-24, or the manufacturer of the amusement device.* ~~by a professional mechanical engineer licensed by the State of Florida or another state with comparable standards for licensure.~~ *The inspection shall be performed by a professional engineer experienced in materials testing and licensed by the state in which the inspection is performed or a qualified inspector for the manufacturer of the amusement device or an inspector for the insurance underwriter, who is an employee or an agent of the insurance underwriter of the amusement device. Prior to an inspector for the manufacturer or an inspector for the insurance underwriter becoming eligible to inspect amusement devices, the inspector must document to the department the following qualifications:*

1. A minimum of five years experience in the amusement ride field, at least two of which were involved in actual ride inspection with a manufacturer, government agency, park, carnival, or insurance underwriter;

2. At least eighty hours of formal education from a nationally recognized school for amusement ride safety during the past five years; and

3. Maintain forty hours per year of continuing education at a school approved by the department, these continuing education hours to include in-service industry or manufacturer updates and seminars.

The inspection shall, at a minimum, comply with the requirements of the department and shall include, *for each temporary amusement device,* some form of nondestructive test for metal fatigue recognized by the American Society for Non-Destructive Testing. An affidavit of the annual inspection must be filed with the department.

House Amendment 2—On page 47, line 7, strike "ex officio" and insert: *as a voting member*

On motions by Senator Foley, the Senate concurred in the House amendments.

SB 1640 passed as amended and was ordered engrossed and then enrolled. The action of the Senate was certified to the House. The vote on passage was:

Yeas—37 Nays—None

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives returns, as requested, HB 1037.

John B. Phelps, Clerk

Reconsideration

On motión by Senator McKay, the Senate reconsidered the vote by which—

HB 1037—A bill to be entitled An act relating to designation of state buildings; designating the conservatory on the University Park Campus of Florida International University as the Herbert and Nicole Wertheim Conservatory; designating the student center on the North Miami Campus as the Gregory B. Wolfe Building; designating the South Manatee Community College Campus as the Kingsbury Curtis Community College Campus; authorizing Florida International University to erect appropriate markers; providing an effective date.

—passed March 24.

Senator McKay moved the following amendment which was adopted by two thirds vote:

Amendment 1—On page 2, strike all of lines 10 and 11

On motion by Senator McKay, **HB 1037** as amended was read by title, passed and certified to the House. The vote on passage was:

Yeas—36 Nays—None

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate Amendments 1, 3, 4 and 5; refused to concur in Senate Amendment 2 and requests the Senate to recede; has passed CS for HB 2197, as further amended and requests the Senate to concur.

John B. Phelps, Clerk

CS for HB 2197—A bill to be entitled An act relating to adult congregate living facilities; amending s. 400.401, F.S.; providing legislative findings; amending s. 400.402, F.S.; revising definitions; amending s. 400.404, F.S.; revising exemptions; amending s. 400.407, F.S.; providing penalties for neglect; providing for care of residents designated as being mentally ill; revising requirements for existing facilities requesting to provide extended congregate care services; requiring annual monitoring of facilities with substantiated complaints; revising a restriction on facilities providing limited mental health services; providing for biennial license fees; providing a duplicate license fee; amending s. 400.408, F.S.; providing penalties for referral to an unlicensed facility, a facility whose license is under denial or has been suspended or revoked, or a facility that has a moratorium on admissions; amending s. 400.411, F.S.; providing an additional license application requirement; amending s. 400.412, F.S.; requiring a corrective action plan prior to transfer of ownership; amending s. 400.414, F.S.; providing additional grounds for license suspension, denial, or revocation, or administrative fine; providing for hearing; requiring provision of specified information to the Division of Hotels and Restaurants of the Department of Business Regulation; amending s. 400.415, F.S.; providing for moratorium on admissions after license denial, suspension, or revocation; amending s. 400.4174, F.S.; requiring certain notice of confirmed reports of child abuse or neglect by a facility owner or employee; amending s. 400.4176, F.S.; increasing time period for notice of change of facility administrator; amending s. 400.418, F.S.; providing use of fees and fines; amending s. 400.419, F.S.; providing penalties for certain action by an administrator; providing an additional classification of violations; providing a penalty; providing for dissemination of information on facilities with violations; providing a fee; amending s. 400.42, F.S.; authorizing acceptance of third-party supplementation under specified circumstances; amending s. 400.422, F.S.; providing certain notice of receivership proceedings; revising provisions relating to

SB 1830

Yeas—36

Bankhead	Dudley	Jenne	Scott
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kiser	Thomas
Casas	Grogan	Kurth	Turner
Crist	Gutman	McKay	Weinstein
Dantzler	Harden	Meadows	Wexler
Diaz-Balart	Holzendorf	Myers	Williams

Nays—None

CS for CS for CS for SB 1858

Yeas—39

Mr. President	Diaz-Balart	Holzendorf	Myers
Bankhead	Dudley	Jenne	Siegel
Beard	Dyer	Jennings	Silver
Boczar	Foley	Johnson	Sullivan
Brown-Waite	Forman	Jones	Thomas
Burt	Grant	Kirkpatrick	Turner
Casas	Grogan	Kiser	Weinstein
Childers	Gutman	Kurth	Wexler
Crist	Harden	McKay	Williams
Dantzler	Hargrett	Meadows	

Nays—None

SB 1906

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Casas	Gutman	McKay	Wexler
Crist	Harden	Meadows	Williams
Dantzler	Hargrett	Myers	
Diaz-Balart	Holzendorf	Scott	
Dudley	Jennings	Siegel	

Nays—None

CS for SB's 1914, 2006, 1784 and 406 Amendment 28

Yeas—16

Diaz-Balart	Grant	Jenne	Scott
Dudley	Gutman	Johnson	Siegel
Dyer	Hargrett	McKay	Sullivan
Forman	Holzendorf	Meadows	Turner

Nays—20

Mr. President	Burt	Harden	Kurth
Bankhead	Childers	Jennings	Myers
Beard	Crist	Jones	Thomas
Boczar	Dantzler	Kirkpatrick	Wexler
Brown-Waite	Foley	Kiser	Williams

CS for SB's 1914, 2006, 1784 and 406 Amendment 57

Yeas—22

Mr. President	Beard	Burt	Crist
Bankhead	Brown-Waite	Casas	Dantzler
Diaz-Balart	Gutman	McKay	Sullivan
Dudley	Harden	Myers	Williams
Foley	Jennings	Scott	
Grant	Kiser	Siegel	

Nays—14

Boczar	Jenne	Meadows	Weinstein
Dyer	Johnson	Silver	Wexler
Forman	Jones	Thomas	
Hargrett	Kurth	Turner	

ROLL CALLS ON HOUSE BILLS

CS for HB 105

Yeas—37

Bankhead	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	
Dyer	Jennings	Siegel	

Nays—None

HB 111

Yeas—38

Mr. President	Dudley	Jennings	Siegel
Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Burt	Grant	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Childers	Harden	McKay	Wexler
Crist	Hargrett	Meadows	Williams
Dantzler	Holzendorf	Myers	
Diaz-Balart	Jenne	Scott	

Nays—None

CS for HB 215

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Casas	Gutman	McKay	Wexler
Crist	Harden	Meadows	Williams
Dantzler	Hargrett	Myers	
Diaz-Balart	Jenne	Scott	
Dudley	Jennings	Siegel	

Nays—None

CS for HB 279

Yeas—40

Mr. President	Diaz-Balart	Holzendorf	Myers
Bankhead	Dudley	Jenne	Scott
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Grogan	Kiser	Turner
Childers	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams

Nays—None

CS for HB 281

Yeas—38

Mr. President	Dudley	Jennings	Siegel
Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Casas	Harden	McKay	Wexler
Childers	Hargrett	Meadows	Williams
Crist	Holzendorf	Myers	
Diaz-Balart	Jenne	Scott	

Nays—None

CS for HB 401

Yeas—40

Mr. President	Diaz-Balart	Holzendorf	Myers
Bankhead	Dudley	Jenne	Scott
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Grogan	Kiser	Turner
Childers	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams

Nays—None

HB 403

Yeas—36

Mr. President	Dudley	Jenne	Scott
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Burt	Forman	Jones	Sullivan
Casas	Grant	Kirkpatrick	Thomas
Childers	Gutman	Kiser	Turner
Crist	Harden	Kurth	Weinstein
Dantzler	Hargrett	McKay	Wexler
Diaz-Balart	Holzendorf	Meadows	Williams

Nays—None

CS for HB 411

Yeas—37

Mr. President	Dudley	Jennings	Silver
Bankhead	Dyer	Johnson	Sullivan
Beard	Foley	Jones	Thomas
Boczar	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kurth	Weinstein
Burt	Gutman	McKay	Wexler
Casas	Harden	Meadows	Williams
Childers	Hargrett	Myers	
Crist	Holzendorf	Scott	
Diaz-Balart	Jenne	Siegel	

Nays—None

CS for HB 647

Yeas—35

Bankhead	Dudley	Jenne	Scott
Beard	Dyer	Johnson	Siegel
Boczar	Foley	Jones	Silver
Brown-Waite	Forman	Kirkpatrick	Sullivan
Burt	Grant	Kiser	Thomas
Casas	Grogan	Kurth	Weinstein
Crist	Gutman	McKay	Wexler
Dantzler	Harden	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	

Nays—None

HB 703

Yeas—39

Mr. President	Dudley	Jenne	Scott
Bankhead	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Childers	Harden	McKay	Wexler
Crist	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	

Nays—None

CS for HB 729

Yeas—31

Bankhead	Forman	Johnson	Silver
Boczar	Grant	Jones	Sullivan
Brown-Waite	Gutman	Kirkpatrick	Thomas
Casas	Harden	Kiser	Turner
Dantzler	Hargrett	Kurth	Weinstein
Diaz-Balart	Holzendorf	McKay	Wexler
Dyer	Jenne	Scott	Williams
Foley	Jennings	Siegel	

Nays—6

Beard	Crist	Grogan
Burt	Dudley	Meadows

CS for HB 749

Yeas—34

Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kurth	Turner
Burt	Gutman	McKay	Weinstein
Casas	Hargrett	Meadows	Wexler
Crist	Holzendorf	Myers	Williams
Diaz-Balart	Jenne	Scott	
Dudley	Jennings	Siegel	

Nays—None

HB 785

Yeas—36

Bankhead	Brown-Waite	Crist	Dudley
Beard	Burt	Dantzler	Foley
Boczar	Casas	Diaz-Balart	Forman

Grant	Jenne	Kurth	Sullivan
Grogan	Jennings	McKay	Thomas
Gutman	Johnson	Meadows	Turner
Harden	Jones	Myers	Weinstein
Hargrett	Kirkpatrick	Scott	Wexler
Holzendorf	Kiser	Silver	Williams

Nays—None

CS for HB 881

Yeas—36

Mr. President	Dyer	Jennings	Scott
Beard	Foley	Johnson	Siegel
Boczar	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Grogan	Kiser	Thomas
Casas	Gutman	Kurth	Turner
Crist	Harden	McKay	Weinstein
Diaz-Balart	Hargrett	Meadows	Wexler
Dudley	Holzendorf	Myers	Williams

Nays—None

CS for HB 891

Yeas—36

Bankhead	Dudley	Jenne	Scott
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Grogan	Kiser	Turner
Crist	Gutman	Kurth	Weinstein
Dantzler	Hargrett	McKay	Wexler
Diaz-Balart	Holzendorf	Meadows	Williams

Nays—1

Harden

CS for CS for HB 911

Yeas—39

Mr. President	Diaz-Balart	Jenne	Scott
Bankhead	Dudley	Jennings	Siegel
Beard	Dyer	Johnson	Silver
Boczar	Foley	Jones	Sullivan
Brown-Waite	Forman	Kirkpatrick	Thomas
Burt	Grant	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Childers	Harden	McKay	Wexler
Crist	Hargrett	Meadows	Williams
Dantzler	Holzendorf	Myers	

Nays—None

CS for HB 989

Yeas—37

Mr. President	Diaz-Balart	Jennings	Silver
Bankhead	Dudley	Johnson	Sullivan
Beard	Foley	Jones	Thomas
Boczar	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kiser	Weinstein
Burt	Grogan	Kurth	Wexler
Casas	Gutman	McKay	Williams
Childers	Harden	Meadows	
Crist	Hargrett	Myers	
Dantzler	Holzendorf	Scott	

Nays—None

HB 1037

Yeas—36

Mr. President	Dudley	Holzendorf	Myers
Beard	Dyer	Jennings	Siegel
Boczar	Foley	Johnson	Silver
Brown-Waite	Forman	Jones	Sullivan
Burt	Grant	Kirkpatrick	Thomas
Casas	Grogan	Kiser	Turner
Crist	Gutman	Kurth	Weinstein
Dantzler	Harden	McKay	Wexler
Diaz-Balart	Hargrett	Meadows	Williams

Nays—None

CS for HB 1159

Yeas—33

Mr. President	Diaz-Balart	Holzendorf	Silver
Bankhead	Dudley	Jennings	Sullivan
Beard	Dyer	Kirkpatrick	Thomas
Boczar	Foley	Kiser	Turner
Brown-Waite	Grant	Kurth	Weinstein
Burt	Grogan	McKay	Williams
Casas	Gutman	Myers	
Childers	Harden	Scott	
Crist	Hargrett	Siegel	

Nays—7

Dantzler	Jenne	Jones	Wexler
Forman	Johnson	Meadows	

Vote after roll call:

Nay to Yea—Jones

CS for HB 1259

Yeas—36

Bankhead	Dudley	Jennings	Scott
Beard	Dyer	Johnson	Siegel
Boczar	Foley	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Grogan	Kiser	Thomas
Casas	Harden	Kurth	Turner
Crist	Hargrett	McKay	Weinstein
Dantzler	Holzendorf	Meadows	Wexler
Diaz-Balart	Jenne	Myers	Williams

Nays—None

CS for HB 1269

Yeas—38

Bankhead	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

Nays—None

HB 1805

Yeas—36

Bankhead	Dyer	Jennings	Scott
Beard	Foley	Johnson	Siegel
Boczar	Forman	Jones	Silver
Brown-Waite	Grant	Kirkpatrick	Sullivan
Burt	Grogan	Kiser	Thomas
Casas	Harden	Kurth	Turner
Dantzler	Hargrett	McKay	Weinstein
Diaz-Balart	Holzendorf	Meadows	Wexler
Dudley	Jenne	Myers	Williams

Nays—None

Vote after roll call:

Yea—Crist

HB 1825

Yeas—37

Mr. President	Dudley	Jennings	Silver
Bankhead	Dyer	Johnson	Sullivan
Beard	Foley	Jones	Thomas
Boczar	Forman	Kirkpatrick	Turner
Brown-Waite	Grant	Kiser	Weinstein
Burt	Grogan	Kurth	Wexler
Casas	Gutman	McKay	Williams
Childers	Harden	Meadows	
Crist	Hargrett	Myers	
Diaz-Balart	Holzendorf	Siegel	

Nays—None

HB 1835

Yeas—29

Mr. President	Dudley	Jennings	Sullivan
Beard	Dyer	Jones	Thomas
Brown-Waite	Foley	Kiser	Turner
Burt	Grant	McKay	Weinstein
Casas	Harden	Myers	Williams
Crist	Hargrett	Scott	
Dantzler	Holzendorf	Siegel	
Diaz-Balart	Jenne	Silver	

Nays—7

Boczar	Grogan	Kurth	Wexler
Forman	Johnson	Meadows	

Vote after roll call:

Yea—Bankhead, Kirkpatrick

Yea to Nay—Foley, Jenne

HB 1943

Yeas—35

Mr. President	Diaz-Balart	Holzendorf	Myers
Bankhead	Dudley	Jennings	Silver
Beard	Dyer	Johnson	Sullivan
Boczar	Foley	Jones	Thomas
Brown-Waite	Forman	Kirkpatrick	Turner
Burt	Grant	Kiser	Weinstein
Casas	Grogan	Kurth	Wexler
Childers	Gutman	McKay	Williams
Crist	Hargrett	Meadows	

Nays—None

HB 1977

Yeas—38

Bankhead	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

Nays—None

HB 2041

Yeas—37

Bankhead	Dyer	Johnson	Silver
Beard	Foley	Jones	Sullivan
Boczar	Forman	Kirkpatrick	Thomas
Brown-Waite	Grant	Kiser	Turner
Burt	Grogan	Kurth	Weinstein
Casas	Gutman	McKay	Wexler
Crist	Harden	Meadows	Williams
Dantzler	Hargrett	Myers	
Diaz-Balart	Holzendorf	Scott	
Dudley	Jenne	Siegel	

Nays—None

ROLL CALL ON LOCAL BILLS

The following roll call was taken on **Senate Bills 2376, 2392** and **2394; House Bills 861, 867, CS for HB 1007, House Bills 1067, 1791, 747, 869, 991, 993, 1061, 1339, 1465** and **1929** which passed this day:

Yeas—38

Mr. President	Dyer	Jennings	Siegel
Beard	Foley	Johnson	Silver
Boczar	Forman	Jones	Sullivan
Brown-Waite	Grant	Kirkpatrick	Thomas
Burt	Grogan	Kiser	Turner
Casas	Gutman	Kurth	Weinstein
Crist	Harden	McKay	Wexler
Dantzler	Hargrett	Meadows	Williams
Diaz-Balart	Holzendorf	Myers	
Dudley	Jenne	Scott	

Nays—None

VOTES RECORDED AFTER ROLL CALL

On motion by Senator Jenne, by unanimous consent of the Senate, he was recorded as changing his vote from "yea" to "nay" on **HB 1835**.

On motion by Senator Foley, by unanimous consent of the Senate, he was recorded as changing his vote from "yea" to "nay" on **HB 1835**.

On motion by Senator Crist, by unanimous consent of the Senate, he was recorded as voting "yea" on **HB 1805**.

On motion by Senator Kirkpatrick, by unanimous consent of the Senate, he was recorded as voting "yea" on **HB 1835**.

On motion by Senator Bankhead, by unanimous consent of the Senate, he was recorded as voting "yea" on **HB 1835**.

On motion by Senator Jones, by unanimous consent of the Senate, he was recorded as changing his vote from "nay" to "yea" on **CS for HB 1159**.

CORRECTION AND APPROVAL OF JOURNAL

The Journal of March 31 was corrected and approved.

RECESS

On motion by Senator Jennings, the Senate recessed at 11:22 p.m. to reconvene at 8:30 a.m., Friday, April 2.