



Journal of the Senate

Number 1—Special Session B

Monday, May 24, 1993

At a Special Session of the Florida Legislature convened under Article III, Section 3(c), of the Constitution of the State, as revised in 1968, begun and held at the Capitol, in the City of Tallahassee, in the State of Florida.

CALL TO ORDER

The Senate was called to order by the President at 10:00 a.m. A quorum present—36:

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

Excused: Senators Jenne, Kirkpatrick and Myers

PRAYER

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

O God above all, yet in all; you are holy beyond all imagination. Yet, you are our friend. Your perennial and ubiquitous presence continues to inhabit the realms of unfading light, where your Holy Spirit is leading us through the shadows of this mortal life.

Loving Creator, we humbly ask that you comfort the hearts and strengthen the stamina and prolong the patience of each of these Senators as they reassemble to this place to wrestle with the issues that are germane to the welfare of the citizens of Florida.

May your spirit quicken these Senators with new insights, may they become possessors of the myriad of yesterday's truths, may they become partakers of your thoughts for today, and may they become co-creators with you of a better tomorrow.

In your name we submit. Shalom.

PLEDGE

Senator Dudley led the Senate in the pledge of allegiance to the flag of the United States of America.

By direction of the President, the Secretary read the following proclamation:

PROCLAMATION
State of Florida
Executive Department
Tallahassee

TO THE HONORABLE MEMBERS OF THE FLORIDA SENATE AND THE FLORIDA HOUSE OF REPRESENTATIVES:

WHEREAS, the Thirteenth Legislature of the State of Florida, under the Florida Constitution, 1968 Revision, convened in regular session on Tuesday, February 2, 1993, and adjourned sine die on Sunday, April 4, 1993, and

WHEREAS, continuing escalation in the rate and severity of violent crime in Florida has focused attention on the lack of available prison space to house the most violent criminal offenders, and

WHEREAS, overcrowding within the state prison system has caused Federal courts to order Florida to reduce the prison population, forcing the correctional authorities to release certain inmates before the expiration of their prison terms, and

WHEREAS, overcrowding has become so extreme that during the month of October 1993, violent criminal offenders will have to be released to comply with the mandates of the Federal courts, and

WHEREAS, although the true tragedy of crime in Florida is the loss of life and the injuries caused by criminals who should be behind bars, crime in Florida is estimated to cost Floridians 7 billion dollars a year in economic losses, and

WHEREAS, economic loss is a direct result of criminal activity when Florida's reputation as a safe destination for tourism is diminished, and

WHEREAS, the safety of our citizens demands forthright action designed to insure that inmates serve at least 75% of their sentences, and

WHEREAS, it is in the best interest of the citizens of the State of Florida to call a Special Session of the Florida Legislature so that full and adequate consideration can be given to the items set forth below.

NOW, THEREFORE, I, LAWTON CHILES, Governor of the State of Florida, by virtue of the power and authority vested in me by Article III, Section 3(c)(1), Florida Constitution, do hereby proclaim as follows:

Section 1.

The Legislature of the State of Florida is convened in Special Session commencing at 10:00 a.m. on Monday, May 24, 1993, and ending at 12:00 midnight, Sunday, June 6, 1993.

Section 2.

The Legislature of the State of Florida is convened for the sole and exclusive purpose of considering the following:

(a) Legislation authorizing the construction of additional prison capacity within the state correctional system and legislation appropriating monies sufficient to fund such prison expansion, as well as funding cancer control and research programs, public school health education, and treatment to victims of child abuse.

(b) Amendment to the provisions of Florida law providing sentencing guidelines for the punishment of criminal activity.

(c) Legislation raising revenue sufficient to implement the prison expansion program provided by law, to provide for cancer control and research, to fund public school health education, and to provide treatment to victims of child abuse.

(d) Other related criminal justice issues relevant to incarcerating inmates and protecting the public safety.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 13th day of May, 1993.

Lawton Chiles
GOVERNOR

ATTEST:
Jim Smith
SECRETARY OF STATE

MOTIONS

On motion by Senator Jennings, the rules were waived and the provision of Rule 13.3 requiring announcement of committee meetings during session was suspended.

Senator Jennings moved that all bills presented for introduction outside the call of the Special Session be referred to the Committee on Rules and Calendar for examination and recommendation. The motion was adopted.

On motion by Senator Jennings, the rules were waived and the Committee on Appropriations was granted permission to meet this day from 2:00 p.m. until completion to consider **SB 8-B**.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senator Burt—

SB 2-B—A bill to be entitled An act relating to corrections; amending s. 948.51, F.S.; providing for certain felony offenders to be placed in county correctional facilities as a condition of probation; requiring a contract between the chief county correctional officer and the Department of Corrections before any such offender is placed in the custody of the county; amending s. 775.08, F.S., relating to classes and definitions of offenses; exempting certain felony offenders from commitment to a state correctional facility; amending ss. 944.02, 951.23, F.S., relating to the state correctional system and county and municipal detention facilities; conforming definitions to changes made by the act; providing for construction of laws enacted at the 1993 Regular Session in relation to this act; providing an effective date.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Senator Kirkpatrick—

SM 4-B—A memorial to the Congress of the United States urging Congress to propose an amendment to the Fair Labor Standards Act of 1938 to specify that inmates participating in certain correctional work programs are excluded from the application of that act.

—was referred to the Committee on Corrections, Probation and Parole.

By Senator Burt—

SB 6-B—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 for construction of laws enacted at the 1993 Regular Session in relation to this act; providing effective dates.

—was referred to the Committees on Corrections, Probation and Parole; and Appropriations.

By Senator Scott—

SB 8-B—A bill to be entitled An act making supplemental appropriations; providing or adjusting moneys from the named funds for the annual periods beginning July 1, 1992, and ending June 30, 1993, and beginning July 1, 1993 and ending June 30, 1994, to pay salaries, and other expenses, capital outlay - buildings and other improvements, and for other specified purposes of the various agencies of State government; supplementing or adjusting appropriations as provided in Chapters 92-293 and 93-184, Laws of Florida, providing effective dates.

—was referred to the Committee on Appropriations.

By Senators Forman, Jenne, Turner, Jones, Wexler, Meadows, Weinstein, Foley, Silver and Diaz-Balart—

SB 10-B—A bill to be entitled An act relating to license plates; amending s. 320.06, F.S.; removing the county name from license plates and replacing it with the words "The Sunshine State"; providing that a license plate issued for a for-hire motor vehicle may not contain any distinguishing character or designation that identifies the vehicle as a for-hire motor vehicle; requiring the replacement of certain license plates previously issued with such distinguishing character or designation; prohibiting the display of any indicia of ownership on a rental motor vehicle; providing a penalty; providing an effective date.

—was referred to the Committee on Transportation.

By Senator Jenne—

SB 12-B—A bill to be entitled An act relating to motor vehicle registrations; amending s. 320.06, F.S.; prescribing requirements for registration license plates of for-hire motor vehicles; providing an effective date.

—was referred to the Committee on Transportation.

Motions to Introduce Bills

On motions by Senator Jennings, by the required constitutional two-thirds vote of the Senate, **SB 14-B**, **SB 16-B**, **SB 18-B** and **SB 20-B** were admitted for introduction:

By Senator Jennings—

SB 14-B—A bill to be entitled An act relating to preneed funeral merchandise; abrogating the repeal, under the Regulatory Sunset Act, of ch. 639, F.S., relating to such merchandise; providing for future repeal and legislative review of ch. 639, F.S.; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Jennings—

SB 16-B—A bill to be entitled An act relating to cemeteries; abrogating the repeal under s. 11.61, F.S., the Regulatory Sunset Act, of ch. 497, F.S., relating to cemeteries; providing for future repeal and legislative review of ch. 497, F.S.; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Jennings—

SB 18-B—A bill to be entitled An act relating to funeral directing, embalming, and direct disposition; abrogating the repeal, under the Regulatory Sunset Act, of ch. 470, F.S., relating to funeral directing, embalming, and direct disposition; providing for future repeal and legislative review of ch. 470, F.S.; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Jennings—

SB 20-B—A bill to be entitled An act relating to legislative and public records; creating s. 11.0431, F.S., providing legislative intent, specifying public records of the legislative branch that are exempt from public disclosure, providing that certain records become public after a specified period, and defining public record; amending s. 11.26, F.S., relating to legislative employees, to conform; reenacting ss. 119.012 and 119.083(1)(a), F.S., relating to records associated with payment of dues and membership contributions by agencies and copyright of data processing software created by agencies to incorporate the amendment to s. 119.011, F.S., in references thereto; amending s. 119.07, F.S., providing an exemption from public records requirements for records relating to certain allegations of employment discrimination, and certain medical information relating to agency officers and employees; amending s. 119.011, F.S., to include the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel within the meaning of “agency” for purposes of the public records law; creating s. 14.28, F.S., providing an exemption from public records and public meetings requirements for records relating to Board of Executive Clemency investigations and meetings between board members; amending s. 943.03, F.S., providing an exemption from public records requirements for records relating to certain investigations by the Department of Law Enforcement at the direction of the Governor, and providing for subsequent review and repeal; providing an effective date.

—was referred to the Committee on Rules and Calendar.

Motion to Introduce Bill

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

By Senator Kiser—

SB 22-B—A bill to be entitled An act relating to insurance; amending s. 627.707, F.S.; prohibiting nonrenewal of a property insurance policy because of a claim for loss caused by sinkhole damage or clay shrinkage under certain conditions; repealing minimum standards to be followed by insurers in investigating sinkhole claims; providing an effective date.

—was referred to the Committee on Rules and Calendar.

Motion to Introduce Bill

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

By Senators Dudley, Grant, Dyer and Siegel—

SB 24-B—A bill to be entitled An act relating to county courts; amending s. 34.01, F.S.; removing foreclosures from the jurisdiction of county courts; providing for the validity of certain judgments; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senator Siegel—

SB 26-B—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.; increasing the threshold capacity of the state correctional system above which inmates are released under control release by the Control Release Authority; 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; deleting certain prerequisites for the award of provisional credits by the Secretary of Corrections; 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 emergency release of inmates in the state correctional system; increasing the threshold capacity of the correctional system above which inmates must be granted emergency release; providing for the award of emergency control release to certain inmates who are ineligible for parole; providing for suspension of emergency control release dates; providing for future abrogation of certain amendments to s. 947.146, F.S.; 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; 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; creating s. 921.0017, F.S.; requiring the court to order credit for time served without considering gain-time earned for certain recommitment offenders; providing effective dates.

—was referred to the Committee on Corrections, Probation and Parole.

By Senator Forman—

SB 28-B—A bill to be entitled An act relating to weapons and firearms; amending s. 790.23, F.S.; prohibiting juveniles found to have committed a delinquent act that would be a felony if committed by an adult from owning or possessing a weapon or firearm during the period of the court’s continuing jurisdiction under ch. 39, F.S.; amending ss. 790.06 and 790.065, F.S., relating to concealed weapons permits and sale and purchase of handguns, to conform; providing an effective date.

—was referred to the Committee on Rules and Calendar.

By Senators Silver and Turner—

SB 30-B—A bill to be entitled An act relating to financing an anti-crime program through an increase in state sales taxes; amending ss. 212.03, 212.031, 212.04, 212.05, 212.0506, 212.06, 212.08, 212.12, F.S.; increasing, for a limited period, state taxes on transient rentals, on leases or rentals of or licenses in real property, on admissions, on sales, rental, storage, and use of tangible personal property, on telecommunication services and systems, and on service warranties; revising exemptions and credits to conform to that increase; creating the Public Safety Facilities Construction and Operations Emergency Trust Fund and the Public Safety Educational Outreach Trust Fund for deposit of the revenues derived from the tax increase; providing for the use of moneys in the trust funds; providing a contingent effective date.

—was referred to the Committee on Rules and Calendar.

By Senators Burt, Brown-Waite and Bankhead—

SB 32-B—A bill to be entitled An act relating to corrections; creating chapter 957, F.S., the Correctional Partnership Commission Act; providing legislative findings and intent; providing definitions; creating the commission and providing for its membership, organization, meetings,

and duties; providing requirements for contracts, contractors, cost savings, and inmate capacity; providing powers and duties not delegable to contractors; providing applicability of chapter to other provisions of law; expediting the process for the first two facilities; providing an effective date.

—was referred to the Committee on Corrections, Probation and Parole.

By Senator Wexler—

SB 44-B—A bill to be entitled An act relating to sentencing, excluding capital felonies; creating the "Safe Streets Initiative of 1993"; providing legislative intent; 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, 958.04, F.S., relating to appeal by defendant, appeal by the state, and judicial disposition of youthful offenders, to conform; providing an additional circumstance under which the state may appeal certain orders to dismiss; 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 violations; 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; creating s. 921.0017, F.S.; providing for credit for time served upon recommitment of offender serving split sentence; providing requirements for the Department of Corrections, the Sentencing Commission, and the Supreme Court in adopting and implementing revised sentencing guidelines; amending ss. 775.0875, 784.08, 790.161, 790.165, 790.221, 893.13, 893.135, 893.20, F.S., relating to 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 certain mandatory minimum sentences and certain release, to conform to the sentencing guidelines revision; amending s. 944.275, F.S.; increasing the maximum permissible amount of incentive gain time; prohibiting the granting of basic gain-time for offenses committed after a specified date; amending s. 775.084, F.S.; deleting the exemption from consideration for parole and control release provided for persons sentenced as habitual felony offenders; providing certain exceptions; providing circumstances under which a felony is a prior felony; providing that references to s. 775.084, F.S., are general references for purposes of incorporating that section by reference; amending s. 893.13, F.S.; deleting the exemption from consideration for parole and control release provided for persons convicted of possessing controlled substances in the vicinity of a school; amending s. 947.146, F.S.; 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; increasing the threshold capacity of the correctional system above which inmates will be given control release; prohibiting the award of control release to persons convicted of DUI manslaughter and sentenced as habitual offenders; providing circumstances under which the Control Release Authority may establish emergency control release dates for certain inmates; prohibiting the award of control release to certain persons convicted of offenses involving firearms or destructive devices; providing for future abrogation of certain amendments to s. 947.146, F.S.; providing for certain offenders who are eligible for control release to be released into supervision; providing for critical depletion transfers of certain offenders; providing for the expiration of such provisions; requiring the development of uniform procedures for awarding control release credits to habitual felony offenders; requiring the state attorneys to adopt criterion to be used in determining an

offender's eligibility for sentencing as a habitual offender or a habitual violent felony offender; directing the Inspector General of the Department of Corrections to determine the maximum monthly average of sentenced felony offenders for each county; providing that the sentenced felony offenders incarcerated in each county's jail facilities shall not exceed such average, adjusted for growth; 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 referred to the Committees on Criminal Justice and Appropriations.

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

VETOED BILLS 1993 REGULAR SESSION

Honorable Jim Smith
Secretary of State

April 14, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Senate Bills 256 and 244 enacted during the 25th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1993, and entitled:

An act relating to the exemption of homestead property from ad valorem taxation; amending s. 196.081, F.S.; revising procedures and requirements for qualifying for the homestead exemption for totally and permanently disabled veterans; providing for granting the exemption to the surviving spouse under certain conditions; amending s. 196.101, F.S., which provides an exemption for totally and permanently disabled persons; authorizing osteopathic physicians, chiropractic physicians, and podiatrists to certify total and permanent disability for such purpose; providing an effective date.

Existing law exempts real estate used and owned as a homestead by totally and permanently disabled persons from taxation. Committee Substitute for Senate Bills 256 and 244, authorizes osteopathic physicians, chiropractic physicians or podiatrists to make the determination that a person is totally and permanently disabled to qualify for this tax exemption. It is inappropriate that an osteopathic or chiropractic physician or podiatrist determine and issue certification that a person is legally blind. A professional licensed to perform specific medical procedures should not be authorized to make determinations and issue certifications as to disabilities which are beyond their field of practice.

This Bill contains significant legislation which provides tax relief to surviving spouses of veterans who were totally and permanently disabled. This portion of the Bill would end most doubts about the eligibility of the surviving spouse for such exemption and would remedy inequities in the existing law.

I strongly advocate the passage of legislation which will grant the needed clarification and relief to spouses of totally and permanently disabled veterans, which do not include the provisions which I feel are improper.

For the reasons set forth above, I am withholding my approval of Committee Substitute for Senate Bills 256 and 244 and hereby veto the same.

With kind regards, I am

Sincerely,
Lawton Chiles
Governor

Honorable Jim Smith
Secretary of State

April 30, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Senate Bill 662, enacted during the 95th Session of the Legislature since Statehood in 1845, during the Regular Session of 1993, and entitled:

An act relating to the removal of organic and detrital matter from soil; amending s. 253.03, F.S.; prohibiting the Board of Trustees of the Internal Improvement Trust Fund and other state agencies from imposing a charge or lien on any such matter removed from state lands authorized by an aquatic plant control permit; amending s. 403.813, F.S.; exempting limited dredging of plant material and sediment for aquatic plant management purposes; exempting certain docks and piers from dredge and fill permitting requirements; allowing construction of structures above dock areas in certain circumstances; amending s. 403.913, F.S.; prohibiting the Department of Environmental Regulation from requiring a dredge and fill permit for removing such matter from the surface of natural mineral soil material; providing an effective date.

Although the original intent of this legislation may have been to avoid duplication of regulation for certain restricted activities, the bill, as amended, may increase the endangerment of manatees.

This bill includes provisions which exempt local government recreational docks and courtesy docks at public boat ramps from permit requirements.

Florida has a long-standing policy of protecting manatees from activities which endanger their existence. Boating activities pose a substantial threat to the well-being of manatees. Because public docks encourage boating activities, the construction of these docks should also be carefully regulated to ensure that they are built in a manner and at locations which will minimize the danger to manatees. Additionally, there are no provisions in this bill to exclude waters which are known manatee habitats from the permit exemptions. I cannot approve legislation which weakens Florida's efforts to protect these magnificent creatures.

For these reasons, I am withholding my approval of Senate Bill 662 and hereby veto the same.

With kind regards, I am

Sincerely,
Lawton Chiles
Governor

Honorable Jim Smith
Secretary of State

May 4, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Senate Bill 1212 enacted during the 25th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1993, and entitled:

An act relating to the Uniform Commercial Code; amending s. 679.402, F.S.; requiring certain financial statements to be printed in certain type; providing for certain notice requirements; amending s. 679.501, F.S.; providing for discharge of certain security interests under certain circumstances; providing an effective date.

Committee Substitute for Senate Bill 1212 proceeds upon the premise that the filing of a Uniform Commercial Code Article 9 (Chapter 679, Florida Statutes) financing statement covering a fixture somehow creates a lien or security interest not only in the specified fixture, but also in the real property to which the fixture is affixed. An Article 9 security interest in a fixture does not constitute a lien on the real estate.

The Bill requires a statement that the financing statement "may affect the title of [sic] the real estate". The Bill also states that, "Notwithstanding any provision of Chapter 679, any debtor or other person holding an interest in real property, upon which a fixture filing under s. 679.313 exists, is entitled to a discharge of any such security interest created in, existing against, or otherwise encumbering such real property, if the debtor or interest holder. . . [enumerated steps to discharge security interest]" (emphasis added). These sections are misleading since I am advised that filings under Chapter 679, Florida Statutes, do not constitute liens on real estate.

My concern is that the Bill does not limit its benefits to those who are misled or otherwise wronged, and does not limit its application to sellers or financiers who act in bad faith. The Bill operates without regard to

whether the unpaid secured seller or the unpaid secured financier is guilty of anything. Moreover, I am concerned that these changes, while well motivated, are not consistent with one of the stated goals of the Uniform Commercial Code, namely to make uniform the law among the various jurisdictions.

Additionally, were I to allow this Bill to become law today, arguably Article 9 filings filed tomorrow which did not comply with the notice requirements contained in Committee Substitute for Senate Bill 1212 would not be properly perfected. There should be some time provided to educate Floridians about the type of change to the Uniform Commercial Code proposed in this bill.

I believe that the Bill has good motives and that its purpose is to combat deplorable rip-offs and deceptions of innocents. However, an analysis of the Bill shows that it creates unintended and inappropriate consequences. A careful redrafting of the Bill can accomplish its intended purpose.

For these reasons, I am withholding my approval of Committee Substitute for Senate Bill 1212 and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

Honorable Jim Smith
Secretary of State

May 4, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Senate Bill 1654 enacted during the 25th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1993, and entitled:

An act relating to public records; amending s. 119.011, F.S.; redefining the term "criminal justice agency" to include the Department of Corrections for purposes of ch. 119, F.S., relating to public records; amending s. 119.07, F.S.; providing for inspection of records; providing an effective date.

Senate Bill 1654 is an amendment to one of the provisions of Florida law which provides an exemption from public records for information identifying victims of crime. The Attorney General interpreted the present statutory language in 1990. In that opinion he relied on the definition of public records found in Section 119.011(1), Florida Statutes, which provides that any document *generated or received* by a public agency is a public record. Current statutory language provides an exemption for public records *received* by an agency that regularly acquires information regarding victims of crime. Senate Bill 1654 strikes the qualification that the document must have been received by the agency. The result is that, according to the definition of a public record, documents *received or generated* by public agencies relating to victims of crime would now be exempt. This is too broad an exemption and was not the intention of the sponsor of this legislation.

For these reasons, I am withholding my approval of Senate Bill 1654 and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

Honorable Jim Smith
Secretary of State

May 4, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Senate Bill 1692 enacted during the 25th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1993, and 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; revising the requirements 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; providing an effective date.

In November 1992, the citizens of this state amended their constitution in many substantial ways. A series of amendments was placed on the ballot by the Taxation and Budget Reform Commission. Some of the amendments were specifically designed to reverse the effects of a judicial decision which threw into chaos the system developed and long-employed to handle the constant maintenance of a balanced state budget. Another amendment clearly recognized the chief executive as the chief planning and budgeting officer for the state.

Provisions of Committee Substitute for Senate Bill 1692 fly in the face of the organic law adopted by the people. Article IV, section 1(a) of the Florida Constitution now states that "[t]he governor shall be the chief administrative officer of the state responsible for the planning and budgeting for the state." (e.s.). Yet, this bill emasculates any participation by the governor in planning and budgeting for the branches of government other than the executive branch.

Strategic planning for the judicial branch is a worthy and needed goal. However, the governor, as the chief administrative and planning officer for the state, should be afforded the opportunity of having all proposed strategic plans submitted to him or her for review, including that of the judiciary. This bill prohibits a role for the governor.

Section 7 of the bill provides that the legislative appropriations committees may revise strategic plans and legislative budget requests. It is very troublesome that in the absence of constitutional authority the legislature would act through other than the passage of legislation by both of its houses. Further, even were there a constitutional method for a committee to alter the product of an executive or judicial officer, the procedure set out is unclear and unwieldy. Must both the House and Senate committees adopt the identical changes, or can the House committee make changes and then the Senate committee have its go? There is little point, and it is elsewhere in the bill prohibited, for a strategic plan to conflict with statutory directives of the legislature. The appropriate manner for the legislature to address issues in a strategic plan is through its power to pass laws.

Section 10 of the bill, with certain amendments, reenacts the 1992 changes made to Chapter 216 after the Florida Supreme Court held the prior scheme for deficit reduction unconstitutional, but before the recent constitutional changes. The new provisions of Article IV, section 13 of the Florida Constitution require substantial revisions to Chapter 216 that have not been made, in order to reflect that the governor and cabinet are granted the authority to establish any reductions made necessary by revenue shortfalls - the reductions then are to be implemented by the appropriate officer.

Each branch of government must retain its independence in order to exercise its unique powers and duties. Indeed, it is the duty of an officer to retain the full powers of office for his or her successors. Committee Substitute for Senate Bill 1692 represents a substantial and serious intrusion into the executive powers long recognized in this state and recently recovered for the executive by the citizens of this state.

For these reasons, I am withholding my approval of Committee Substitute for Senate Bill 1692 and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

Honorable Jim Smith
Secretary of State

May 4, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of portions of Senate Bill 1800, enacted during the 95th Session of the Legislature since Statehood in 1845, during the Regular Session of 1993, and entitled:

An act making appropriations; providing moneys for the annual period beginning July 1, 1993, and ending June 30, 1994, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government; providing an effective date.

I have reviewed Senate Bill 1800, the General Appropriations Act, and it accomplishes a great deal for the people of Florida. Most of the fiscal priorities I outlined for the 1993-94 budget have been met, with the obvious exception of a long term prison funding package.

Public schools for Kindergarten through 12th grade were sufficiently funded, and per pupil expenditures were increased by over \$100. Funds were provided for economic development, for Surface Water Improvement and Management (SWIM) and for Preservation 2000 bonding to purchase \$300 million of recreational and environmentally endangered lands. Library funding was increased. The State employee pay package was funded effective October 1, and the six month retroactive payment was provided. Additional money was added at the last moment for public assistance workers and for some lawsuits in the Department of Health and Rehabilitative Services.

Nevertheless, there are other items in this budget that were purposely designed to mislead the public, promising results that cannot be accomplished within the means provided.

I am exercising my constitutional right to line-item veto those portions.

The most serious of these frauds on the public is the blatant misrepresentation to the people of Florida regarding prison funding and construction. The Legislature's plan puts political expediency ahead of public safety, and the result is a legislative sleight-of-hand that creates the illusion of something for nothing.

Their plan depends on bonding an existing source of the General Revenue Fund to pay for new construction, without addressing the ongoing need to fund the operation of additional beds beyond Fiscal Year 1993-94. Instead of proposing a long-term strategy that addresses our future need for prison beds — or the costs of operating the facilities — the Legislature is silent.

Claims that the funding package will be sufficient to build 7,000 beds are more optimistic than even the most generous policy analysis can substantiate. A realistic number is 3,700, with planning money included for another 2,000. That is far short of the number the state needs to begin to solve its capacity problems.

By bonding all of the new beds in this proposal, the Legislature virtually has ensured that none will be on line this year. Consequently, none of the new beds will help us avoid "gridlock," which will occur in October 1993 without substantial changes.

In short, this plan offers too little, too late.

That's why I will call the Florida Legislature back to Tallahassee to address this problem in a special session. Without the distractions of the regular session, I am confident that the Legislature will be able to produce a better criminal justice proposal than the one presented here.

Considering the above deficiencies, I have decided to take the following actions:

Specific Appropriation 37A and the associated proviso language on page 7 appropriating \$250,000 from the General Revenue Fund for International Market Ornamental Horticulture is hereby vetoed. The Department of Agriculture and Consumer Services was directed by the 1991 Legislature to establish a European Marketing Assessment to eliminate the need for General Revenue funding for this item. Legislative intent stated that the 1991 appropriations was the last year for General Revenue

funding for this item.

"37A SPECIAL CATEGORIES
GRANTS AND AIDS - INTERNATIONAL MARKET
ORNAMENTAL HORTICULTURE
FROM GENERAL REVENUE FUND 250,000

Funds in Specific Appropriation 37A may be advanced in part or in total."

Specific Appropriation 54 on page 9 appropriating \$175,000 from the Contracts and Grants Trust Fund and \$683,227 from the Citrus Canker Eradication Trust Fund for Citrus Canker Eradication is hereby vetoed. This item duplicates an appropriation in House Bill 1977.

"54 SPECIAL CATEGORIES
CITRUS CANKER ERADICATION
FROM CONTRACTS AND GRANTS TRUST FUND 175,000
FROM CITRUS CANKER ERADICATION TRUST FUND 683,227"

I hereby veto portions of proviso language following Specific Appropriation 422 on page 80 appropriating \$718,082 from General Revenue Fund for the University of Florida Satellite Dental Clinic located at Miami-Dade Community College. This program has deviated from the original plan for the first year of being housed at the University of Florida. The move to Miami-Dade Community College creates space, equipment, and staffing problems not addressed in the General Appropriations Act. As a result of this move a new budget must be developed for this program. At this time, the ultimate cost per participant (FTE) is not known.

"From the funds in Specific Appropriation 422, no more than \$718,082 shall be expended for the University of Florida Satellite Dental Clinic in Miami. No funds shall be expended for the clinic until the Board of Regents determines the appropriate level of funding for the clinic. The clinic is to be located at Miami-Dade Community College."

I hereby veto proviso language following Specific Appropriation 481 on page 94 appropriating \$2,000,000 from the Solid Waste Management Trust Fund to provide matching funding to a private company for waste tire collection and processing to utilize waste tire rubber in highway construction. The proviso language was not requested in the agency's legislative budget request and the need to provide a matching grant to stimulate this technology and industry has not been demonstrated.

"From funds in Specific Appropriation 481, the sum of \$2,000,000 shall be made available by the Department of Environmental Regulation on a 50%/50% match basis with private industry. Utilizing these funds, the department shall request requests for proposals for waste tire collection and processing to provide for and meet the requirements of the Solid Waste Management Act and the legislative requirement of the Department of Transportation to utilize waste tire rubber in highway construction."

Specific Appropriation 521C on page 100 appropriating -\$252,499 from the Planning and Evaluation Trust Fund is hereby vetoed. This is a technical error which creates a negative appropriation to an obsolete budget entity.

"521C SPECIAL CATEGORIES
MEDICAID SURVEILLANCE
FROM PLANNING AND
EVALUATION TRUST FUND -252,499"

I hereby veto proviso language following appropriation 732 on page 143 appropriating \$435,825 from the General Revenue Fund to increase the annual uniform and shoe maintenance allowance for eligible employees of the Florida Highway Patrol. These funds are specifically for the purpose of providing an increase in the annual uniform and shoe allowance, from \$275 to \$500, for Florida Highway Patrol troopers. While I am generally supportive of increasing the uniform and shoe allowance, such an increase is an employee benefit which should be collectively bargained. Additionally, this item did not go through the normal legislative budget process and is not applied equally to other law enforcement agencies. Approval of this item would set a precedent for employees of all other state law enforcement agencies to receive the same allowance and has a total potential fiscal impact of millions of dollars.

"Specific Appropriation 732 includes \$435,825 from the General Revenue Fund to increase the annual uniform and shoe maintenance allowance for eligible employees of the Florida Highway Patrol from \$275 to \$500."

Specific Appropriation 1889 and accompanying proviso language on page 273 appropriating \$3,100,000 from the Grants and Donations Trust Fund to build correctional mental health facilities, and Specific Appropriation 1894 on page 274 appropriating \$4,900,000 from the Grants and Donations Trust Fund for additional dormitories at Avon Park Correctional Institution, and Specific Appropriation 1895 and accompanying proviso language on page 274 appropriating \$47,548,310 from the Grants and Donations Trust Fund for the construction of two combination institutions (938 beds each) and three work camps (256 beds each), and Specific Appropriation 2022A on page 309 appropriating \$6.4 million from General Revenue Fund for the debt service for correctional facilities are hereby vetoed. The construction cost of these beds is bonded with Cost of Supervision (COS) payments. This funding source is not appropriate because revenues are insufficient to support a long-term commitment to prison construction.

"1889 FIXED CAPITAL OUTLAY
MENTAL HEALTH FACILITIES
FROM GRANTS AND DONATIONS
TRUST FUND 3,100,000"

"Funds provided in Specific Appropriation 1889 from the Grants and Donations Trust Fund consist of bond proceeds received as a result of authorization to bond for corrections facilities contained in HB 1999 and are to be used as rental payments pursuant to the provisions of HB 1999. These funds are contingent upon passage of HB 1999 or similar legislation."

"1894 FIXED CAPITAL OUTLAY
REPLACEMENT OF AVON PARK
CORRECTIONAL INSTITUTION
FROM GRANTS AND DONATIONS
TRUST FUND 4,900,000

1895 FIXED CAPITAL OUTLAY
FACILITIES PROVIDING
ADDITIONAL CAPACITY
FROM GRANTS AND DONATIONS
TRUST FUND 47,548,310

Funds are provided in Specific Appropriations 1894 and 1895 to construct the following: two combination institutions (938 beds each); additional dormitories at Avon Park Correctional Institution (384 beds) and three work camps (256 beds each). Sites for facilities in Escambia County, Taylor County, Washington County, Holmes County, and Liberty County shall be given first priority for the above undesignated facilities unless the Department determines and documents that no site meeting the established siting criteria of the Department is available in the above listed counties."

"2022A FIXED CAPITAL OUTLAY
DEBT SERVICE FOR
CORRECTIONAL FACILITIES
FROM GENERAL REVENUE FUND 6,400,000

Funds provided in Specific Appropriation 2022A are contingent upon passage of HB 1999 or other substantive legislation authorizing bonding for correctional facilities. The Division of Bond Finance is hereby authorized to issue revenue bonds in an amount sufficient to provide \$58,415,631 in bond proceeds for construction of those facilities contained in Specific Appropriations 1889, 1894, 1895, and 1896A, and associated costs of issuance and/or any necessary reserves."

I hereby veto portions of proviso language following Specific Appropriation 1940 on page 288 appropriating \$2,200,000 from the Public Education Capital Outlay and Debt Service Trust Fund for Palm Beach Community College Data Processing Building Addition and Equipment. A portion of the project did not go through the normal legislative budget process. The \$2,200,000 appropriation includes \$600,000 for a State Board of Community College approved fixed capital outlay request for an addition to the Data Processing Building. However, this appropriation also includes \$1,600,000 for data processing equipment which was not approved by the State Board of Community Colleges in accordance with Section 240.311(5)(a) and (b), Florida Statutes thereby preempting the authority of the board. This equipment, which has a relatively short useful life, should be paid for in the operating budget, rather than by 30 year bonds which are intended to finance fixed capital outlay.

"PALM BEACH - DATA PROCESSING
BLDG ADDITION AND
EQUIPMENT - CENTRAL (P,C,E) 2,200,000"

I hereby veto portions of proviso language following Specific Appropriation 1941 on page 290 appropriating \$1,652,650 from the Public Education Capital Outlay and Debt Service Trust Fund for Florida State University Business Technology Center. The appropriation did not go through the normal legislative budget process. The Board of Regents requested funding for the project in the second year (1994-95) of the three year project priority list. Although it was represented to the Legislature that private matching funds were available for this project, we have not been able to confirm this. We have not been provided with adequate justification for moving the project up a year.

"BUSINESS TECHNOLOGY
CENTER (P,C) 1,652,650"

Specific Appropriation 2010A and accompanying proviso language on page 305 appropriating \$1,200,000 from the General Revenue Fund for Public Broadcasting Station equipment is hereby vetoed. The appropriation did not go through the normal legislative budget process thus circumventing any process for needs analysis. In addition, the General Appropriations Act includes funds for public broadcasting under the Community Service Grants and Federal Equipment Matching Grants appropriation category. This funding is for a single public television station which creates an inequitable statewide distribution of funding for public broadcasting.

"2010A GRANTS AND AIDS TO LOCAL
GOVERNMENTS AND NONPROFIT
ORGANIZATIONS
PUBLIC BROADCASTING
STATION EQUIPMENT
FROM GENERAL REVENUE FUND 1,200,000"

Funds in Specific Appropriation 2010A are for completion of the purchase of equipment for a public television station which trains university students in an off-campus studio that produces daily news programs for national broadcast that began with funds in the 1992-93 General Appropriations Act."

Specific Appropriation 2018A on page 307 appropriating \$1,660,390 from the Port Trust Fund for Grants and Aids - Port and Soil Mitigation is hereby vetoed. This appropriation is duplicated in Specific Appropriation 1710A on page 239.

"2018A GRANTS AND AIDS TO
LOCAL GOVERNMENTS AND
NONPROFIT ORGANIZATIONS
GRANTS AND AIDS - PORT AND
SOIL MITIGATION PROJECTS
FROM PORT TRUST FUND 1,660,390"

The portions of Senate Bill 1800 which are set forth herein with my objections are hereby vetoed, and all other portions of Senate Bill 1800 are hereby approved.

Sincerely,
Lawton Chiles
Governor

Honorable Jim Smith
Secretary of State

May 4, 1993

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Senate Bill 1810 enacted during the 25th Session of the Legislature

since the Constitution of 1968, during the Regular Session of 1993, and entitled:

An act relating to the executive branch of government; amending s. 20.02, F.S.; limiting the number of departments that may be established by law; amending s. 20.03, F.S.; modifying definitions of terms relating to the structure of the executive branch; amending ss. 20.04, 20.05, F.S.; adding definitions; removing obsolete provisions; requiring the Executive Office of the Governor to keep certain organizational charts; transferring provisions pertaining to the Governor's appointment of the Lieutenant Governor as the head of a department; revising provisions regarding the powers and duties of department heads; requiring that executive directors of departments headed by the Governor and Cabinet be confirmed by the Senate; specifying that secretaries appointed by the Governor to serve as heads of departments be confirmed by the Senate; creating s. 20.051, F.S.; providing criteria for reviews of programs, functions, and entities of the executive branch; creating s. 20.052, F.S.; providing procedures regarding the creation of advisory bodies, commissions, and boards of trustees; providing for senate confirmation of members of commissions and boards of trustees; amending s. 20.06, F.S.; revising provisions pertaining to transfer types for reorganization of agencies; amending s. 20.21, F.S.; providing for the appointment of an executive director; providing for senate confirmation; amending s. 20.24, F.S.; providing for the appointment of an executive director; providing for senate confirmation; amending s. 20.25, F.S.; providing for the appointment of an executive director; providing for senate confirmation; amending s. 20.41, F.S.; providing that the Secretary of the Department of Elderly Affairs be confirmed by the Senate; providing an effective date.

Senate Bill 1810 reflects a studied analysis for several positive changes to or clarification of statutes relating to the executive branch. However, I must take exception with two of the revisions.

First, it does not appear necessary or practical to require that the executive directors of cabinet agencies be confirmed by the Senate. Because the six members of the cabinet join with me in the selection of executive directors, there is a very active search for, and review of the qualifications of these officers. With the large number of appointments currently subject to consent by the Senate, these additional appointments add to the already overwhelming task of confirmation.

Second, I cannot support the provision in Senate Bill 1810 which specifically allows for appointments to commissions which exercise governmental powers by officers other than the governor. While I recognize that some such offices do now exist, I would characterize each example as a further erosion of the governor's executive power, which I am duty-bound to preserve. I cannot approve of this statement of policy.

For these reasons, I am withholding my approval of Senate Bill 1810 and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

The bills, together with the Governor's objections thereto, were referred to the Committee on Rules and Calendar.

RECESS

On motion by Senator Jennings, the Senate recessed at 11:06 a.m. for the purpose of holding committee meetings and conducting other Senate business until 2:00 p.m., Tuesday, May 25.