



Journal of the Senate

Number 3—Special Session A

Friday, December 11, 1992

CALL TO ORDER

The Senate was called to order by the President at 9:17 a.m. A quorum present—36:

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

Excused: Senator Wexler; Senator Foley at 2:30 p.m.

PRAYER

The following prayer was offered by Senator Grant:

Let us pray. Thank you Lord, for bringing us to the beginning of another day, hopefully to the end of the first special session of a new Legislature. Thank you for the spirit of camaraderie and development of working in friendly relationships that in this week has marked a movement from good luck to productivity.

Bless our leadership and give us wisdom to act responsibly for the betterment of those who trusted us with governing their welfare. As we turn from our legislative duties and return to our neighborhoods, may we become infected with the spirit of giving; not only of material gifts, but especially of ourselves.

May we share together the blessings we enjoy. Help us in this holiday season to see the rainbow that ultimately comes from every storm cloud. May this holiday season be a time of enjoyment as well as a time of thanksgiving for the blessings that you and your infinite grace has so mercifully granted to us. Bless us this day in all we do. In your name we pray. Amen.

CONSIDERATION OF RESOLUTIONS

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

On motion by Senator Dantzler, by unanimous consent—

By Senator Dantzler—

SR 32-A—A resolution expressing sorrow at the passing of former Representative Lawrence F. “Larry” Shackelford.

WHEREAS, Lawrence F. “Larry” Shackelford was elected to the Florida House of Representatives in 1978 and served with great distinction for four terms, stepping down in 1986 to assume a position on the staff of the Commissioner of Agriculture, and

WHEREAS, Representative Shackelford, a United States Army veteran and graduate of the University of Florida, distinguished himself during a period of over 30 years’ experience in business management, public policymaking, and service to his community in many and diverse capacities, and

WHEREAS, Representative Shackelford’s service in the Florida House of Representatives included responsible leadership positions on committees relating to Agriculture, Governmental Operations, and House Administration, among others, as well as serving as the Chairman of his local delegation, and

WHEREAS, following his legislative service, Representative Shackelford became a valued assistant to the Commissioner of Agriculture, Bob Crawford, whose high regard for Larry Shackelford was recently expressed as follows:

“Larry Shackelford was an outstanding public servant and a good man. Florida’s farming community benefited from his uncommon commitment and his years of service to agriculture. Throughout his career in the Legislature and the Department, Larry was always the first to say, ‘But how will it affect the farmer?’ He never left the table until he knew the answer to that question. We will surely miss him.” and

WHEREAS, Representative Shackelford recently passed away, taken from his loving friends and family at the early age of 59, NOW, THEREFORE,

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

That the Florida Senate express its sorrow over the death of former Representative Lawrence F. “Larry” Shackelford, a valued colleague, whose ready smile and worthy accomplishments will long be remembered by the many friends who had the good fortune to serve in the Legislature with him.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the family of former Representative Shackelford as a tangible token of the sentiments of this body and of the respect that this body has held for him.

—was introduced out of order and read by title. On motion by Senator Dantzler, **SR 32-A** was read the second time in full and adopted.

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

On motion by Senator Beard, by unanimous consent—

By Senators Beard, Grant and Hargrett—

SR 34-A—A resolution expressing sorrow over the demise of Cesar Gonzmart, one of America’s most imaginative and best known restaurateurs and lifelong resident of Tampa.

WHEREAS, Cesar Gonzmart was a classic violinist, showman, and owner of the famous Columbia Restaurant of Ybor City, as well as 12 affiliates in five cities outside of Tampa, and employed 1,500 people in the state of Florida, and

WHEREAS, the Columbia Restaurant was opened by Cesar’s father-in-law in 1905, was taken over by Cesar in 1953, and became the center of his restaurant empire, and

WHEREAS, the Columbia Restaurant is known throughout the nation as a trademark of Tampa and is the only true supper club in Tampa with authentic Spanish dancing, and

WHEREAS, Cesar Gonzmart was known for his many innovations in the restaurant business, for his continental charm, and for the innate graciousness which he displayed to his customers and employees alike, and

WHEREAS, each year Cesar Gonzmart donated vast quantities of his well-loved bean soup for the annual Ybor City Day held during each regular session of the Legislature, and

WHEREAS, the City of Tampa and the state of Florida will mourn the passage of Cesar Gonzmart and will long remember his contributions to his community and state, NOW, THEREFORE,

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

That the Senate of the State of Florida joins the citizens of Tampa in mourning the passage of Cesar Gonzmart, a great man with a kind and giving spirit who built a restaurant empire known throughout the world.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Adela Gonzmart, his wife, and to his children, Richard and Casey Gonzmart, as a tangible token of the sentiments of the Florida Senate.

—was introduced out of order and read by title. On motion by Senator Beard, **SR 34-A** was read the second time in full and adopted.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Dantzler, by two-thirds vote **HB 17-A** was withdrawn from the Committee on Agriculture.

On motion by Senator Scott, by two-thirds vote **CS for SB 10-A** was withdrawn from the Committee on Appropriations.

On motion by Senator Kiser, by two-thirds vote **CS for HB 33-A** was withdrawn from the Committee on Finance, Taxation and Claims.

MOTION

On motion by Senator Jennings, provisions of Rule 13.3 relating to committee meeting notices and provisions of Rule 2.39 relating to two-hour notice of amendments to be considered by a committee were waived; and the Committee on Commerce was granted permission to meet from 9:30 a.m. until 11:30 a.m. this day.

RECESS

On motion by Senator Jennings, the Senate recessed at 9:28 a.m. to reconvene at 2:00 p.m.

CALL TO ORDER

The Senate was called to order by the President at 2:30 p.m. A quorum present—38:

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

CONSIDERATION OF BILL OUT OF ORDER

On motion by Senator Dantzler, by unanimous consent—

HB 17-A—A bill to be entitled An act relating to the Department of Citrus; amending s. 601.111, F.S.; authorizing the department to lower by a certain amount the minimum requirement of anhydrous citric acid for oranges; providing an effective date.

—was taken up out of order and by two-thirds vote read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 17-A** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37 Nays—None

SPECIAL ORDER

SB 12-A—A bill to be entitled An act relating to crimes; creating s. 810.081, F.S.; defining the offenses of “trespass in structure or conveyance during a declared emergency” and “burglary during a declared emergency”; providing penalties therefor; amending s. 810.07, F.S.; providing for prima facie evidence of burglary during a declared emergency; providing an effective date.

—was read the second time by title.

Senator Silver moved the following amendment which was adopted:

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

Section 1. Subsections (1), (2), and (3) of section 810.011, Florida Statutes, are amended to read:

810.011 Definitions.—As used in this chapter:

(1) “Structure” means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. *However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.*

(2) “Dwelling” means a building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. *However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term includes such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.*

(3) “Conveyance” means any motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance. *However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term “conveyance” means a motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car or such portions thereof as exist.*

Section 2. This act shall take effect June 1, 1993.

And the title is amended as follows:

Strike everything before the enacting clause and insert:

A bill to be entitled An act relating to burglary and trespass; amending s. 810.011, F.S.; redefining the terms “structure,” “dwelling,” and “conveyance,” for purposes of the offenses of burglary and trespass when those offenses are committed during the duration of, and within the area covered by, a declared state of emergency; providing penalties; providing an effective date.

On motion by Senator Silver, by two-thirds vote **SB 12-A** 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

SB 30-A—A bill to be entitled An act relating to saltwater fishing licenses; amending s. 370.0605, F.S.; deleting requirements for increased fees for residents of states contiguous to Florida; providing an effective date.

—was read the second time by title. On motion by Senator Thomas, by two-thirds vote **SB 30-A** 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 10-A** was deferred.

CS for HB 5-A—A bill to be entitled An act relating to unconscionable pricing practices; creating ss. 501.160 and 501.164, F.S.; defining “commodity”; providing for prima facie evidence that a price is unconscionable; making it unlawful and an unfair practice in violation of the Florida Deceptive and Unfair Trade Practices Act for any person or his agent or employee to rent, sell, or offer to rent or sell in this state during a declared state of emergency a commodity at an unconscionable price; making it unlawful and an unfair practice to rent or lease a dwelling unit or self-service storage facility at an unconscionable price during a declared state of emergency; providing exemption for growers and processors of food products; providing that the act shall not preempt the powers of local government; providing for evidentiary standards and defenses; providing for civil penalties; providing an effective date.

—was read the second time by title.

The Committee on Judiciary recommended the following amendment which was moved by Senator Jenne:

Amendment 1—On page 4, line 28, after the period (.) insert: Nothing herein creates a private cause of action.

Senator Dudley moved the following substitute amendment which was adopted:

Amendment 2—On page 4, between lines 18 and 19, insert:

(7) *Section 501.211, Florida Statutes, notwithstanding, nothing in this section creates a private cause of action in favor of any person damaged by a violation of this section.*

On motion by Senator Diaz-Balart, by two-thirds vote **CS for HB 5-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34 Nays—4

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

CS for HB 33-A—A bill to be entitled An act relating to insurance; authorizing certain actions of the Department of Insurance, retroactively; providing for temporary residential coverage in the Florida Property and Casualty Joint Underwriting Association; providing an exclusion from liability for certain entities; amending s. 166.111, F.S.; providing findings and declarations; authorizing municipalities to issue bonds in conjunction with the Florida Insurance Guaranty Association for payment of claims of insolvent insurers resulting from Hurricane Andrew; requiring a municipality issuing such bonds to include minority firm participation in providing professional services; providing requirements for minority firms; amending s. 627.351, F.S.; authorizing creation of a residential property and casualty joint underwriting association; requiring participation by specified insurers; specifying content of the joint underwriting plan; requiring notice to policyholders; providing for rate review and approval; providing an exclusion from liability for certain entities; exempting such joint underwriting association from certain taxes; amending s. 631.57, F.S.; specifying duties of the Florida Insurance Guaranty Association; providing for additional assessments and specifying purposes thereof; authorizing waiver of certain time limits and deductibles; amending s. 631.60, F.S.; clarifying the assignment of certain claims under certain circumstances; prohibiting the repeal of certain provisions relating to repayment of bonds under certain circumstances; providing severability; providing an effective date.

—a companion measure, was substituted for **CS for SB 10-A** and by two-thirds vote read the second time by title.

Senator Kiser moved the following amendment:

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

Section 1. Temporary residential coverage in the Florida Property and Casualty Joint Underwriting Association.—

(1) The Legislature finds that:

(a) Hurricane Andrew has damaged or destroyed thousands of homes in South Florida which were insured by insurance companies that have become insolvent as a result of losses incurred due to Hurricane Andrew.

(b) Residents who have lost their coverage due to liquidation of insolvent insurers and whose homes are damaged are experiencing great difficulty, and in some cases are absolutely unable to find insurance coverage in the voluntary insurance market for their damaged residences.

(c) There is great and imminent danger that such victims of Hurricane Andrew will sustain additional uninsured damage or will lose their residences due to default of mortgage conditions relating to insurance required by law and such losses and ensuing economic disruption would constitute an additional public disaster.

(d) The Department of Insurance has issued emergency rules activating the Florida Property and Casualty Joint Underwriting Association for the purpose of making coverage available to such persons.

(e) There is a great and overwhelming public need for clarifying that such emergency rules are lawful and that residents and lenders can rely upon coverage issued pursuant to such emergency rules.

(2) It is the intent of the Legislature to retroactively authorize and ratify certain emergency action taken by the Department of Insurance in response to unavailability of insurance for certain residential property which was damaged by Hurricane Andrew and which was previously insured by insurers which have become insolvent as a result of Hurricane Andrew, and to clarify the meaning and legislative intent of certain language within s. 627.351(5), Florida Statutes, as such statute applies to these actions. Therefore, this section shall take effect upon becoming a law and shall apply retroactively to August 24, 1992.

(3) In response to Hurricane Andrew, the Department of Insurance may adopt rules activating the Florida Property and Casualty Joint Underwriting Association created under s. 627.351(5), Florida Statutes, on a temporary basis and amending its plan of operation to provide coverage of residential premises, subject to all of the following conditions:

(a) A risk may be eligible for coverage under the amended plan if it meets all of the following criteria:

1. The risk is unrepaired residential property damaged by Hurricane Andrew.

2. The insured is in the process of making repairs or has demonstrated an intent to effect repairs.

3. Coverage is unavailable in the voluntary market.

4. The risk was covered by a policy canceled by order of court as a result of an order of liquidation related to Hurricane Andrew.

(b) Coverages in effect upon liquidation may be assumed with agreement of the insured for a period not to exceed 30 days.

(c) A policy may be issued only for a 6-month period, and may be renewed only if the joint underwriting association determines that repairs could not be completed due to circumstances beyond the insured's control. Such policy shall be based upon policy forms commonly in use in the insurance industry that the department finds to be adequate to meet the needs of insureds for basic coverages that are necessary to comply with requirements of law pertaining to insurance of mortgage property or other requirements of law normally applying to mortgaged residential property, but shall not include increased limits of liability insurance or of property insurance, or coverages normally offered only as options as to such basic policies, except where required as a condition of financing as to real property. Such policies shall also contain such limitations and exclusions as the board determines to be reasonably necessary to reflect risks of insuring damaged property and other circumstances peculiar to this emergency.

(d) The rate for policies issued by the joint underwriting association shall be calculated using loss cost factors at 25 percent above the Insurance Services Office loss cost factors or other such data and factors relevant to establishing actuarially sound rates for the risks covered.

(e) The board shall levy interim assessments as to a particular calendar year as necessary to sustain cash flow and operations through projected receipt of annual assessments related to that year.

(f) The authorization contained in this section includes authorization for Rule 4ER 92-15 to the extent that such rule does not conflict with this section.

(4) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Florida Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their duties under this section. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance or any other willful tort.

Section 2. Section 166.111, Florida Statutes, is amended to read:

166.111 Authority to borrow.—

(1) The governing body of every municipality may borrow money, contract loans, and issue bonds as defined in s. 166.101 from time to time to finance the undertaking of any capital or other project for the purposes permitted by the State Constitution and may pledge the funds, credit, property, and taxing power of the municipality for the payment of such debts and bonds.

(2)(a) *The Legislature finds:*

1. The widespread and massive damage to persons and property caused by the August 24, 1992, storm known as Hurricane Andrew has generated insurance claims of such a nature as to render numerous insurers operating within this state insolvent, and therefore unable to satisfy covered claims.

2. The inability of insureds within this state to receive payment of covered claims or to receive such payment on a timely basis creates financial and other hardships for such insureds and places undue burdens on the state, the affected units of local government, and the community at large.

3. In addition, the failure of insurers to pay covered claims or to pay such claims on a timely basis due to the insolvency of such insurers can undermine the public's confidence in insurers operating within this state, thereby adversely affecting the stability of the insurance industry in this state.

4. The state has previously taken action to address these problems by adopting the Florida Insurance Guaranty Association Act, which, among other things, provides a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer.

5. In the wake of the unprecedented destruction caused by Hurricane Andrew, the resultant covered claims, and the number of insurers rendered insolvent thereby, it is evident that alternative programs must be developed to allow the Florida Insurance Guaranty Association to more expeditiously and effectively provide for the payment of covered claims.

6. It is therefore determined to be in the best interests of, and necessary for, the protection of the public health, safety, and general welfare of the residents of this state, and for the protection and preservation of the economic stability of insurers operating in this state, and it is hereby declared to be an essential public purpose, to permit certain municipalities to take such actions as will provide relief to claimants and policyholders having covered claims against insolvent insurers operating in this state, by expediting the handling and payment of covered claims.

7. To achieve the foregoing purposes, it is proper to authorize municipalities of this state substantially affected by Hurricane Andrew to issue bonds to assist the Florida Insurance Guaranty Association in expediting the handling and payment of covered claims against insolvent insurers operating in this state.

8. In order to avoid the needless and indiscriminate proliferation, duplication, and fragmentation of such assistance programs, it is proper to authorize a municipality severely affected by Hurricane Andrew to provide for the payment of covered claims beyond its territorial limits in the implementation of such programs.

(b) The governing body of any municipality the residents of which have been substantially affected by the August 24, 1992, storm known as Hurricane Andrew, or any county as defined in s. 125.011(1), may issue no more than \$500 million, in aggregate principal amount, of bonds as defined in s. 166.101 from time to time to fund an assistance program, in conjunction with the Florida Insurance Guaranty Association, for the purpose of paying to claimants or policyholders covered claims, as such term is defined in s. 631.54(3), arising through the insolvency of an insurer occurring on or before March 31, 1993, which insolvency is determined by the Florida Insurance Guaranty Association to have been a result of Hurricane Andrew, regardless of whether such claimants or policyholders are residents of such municipality or the property to which such claim relates is located within or outside of the territorial jurisdiction of such municipality. A municipality issuing bonds for this purpose shall enter into such contracts with the Florida Insurance Guaranty Association or any entity acting on behalf of the Florida Insurance Guaranty Association as are necessary to implement the assistance program. Any bonds issued by a municipality under this subsection shall be payable from and secured by moneys received by or on behalf of the municipality from assessments levied under s. 631.57(3)(e), and assigned and pledged under s. 631.57(3)(e) to or on behalf of the municipality for the benefit of the holders of such bonds in connection with such assistance program. The funds, credit, property, and taxing power of the municipality shall not be pledged for the payment of such bonds.

(c) The governing body of the municipality issuing bonds authorized by paragraph (b) shall require all firms, including, but not limited to, the financial advisors, legal counsel, and underwriters, providing professional services in the issuance of such bonds to include minority firms in the provision of such services. To meet such participation requirement, the minority firm must have full-time employees located in this state and a permanent place of business located in this state, and must be a firm which is at least 51 percent owned by minority persons as defined by s. 288.703(3), or any combination thereof, and whose management and daily operations are controlled by such persons. Minority firms must be offered participation in not less than 20 percent of the respective contracts for professional services.

Section 3. Subsection (2) of section 627.351, Florida Statutes, 1992 Supplement, is amended and subsection (6) is added to that section to read:

627.351 Insurance risk apportionment plans.—

(2) WINDSTORM INSURANCE RISK APPORTIONMENT.—

(a) Agreements may be made among property insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to, but are unable to procure, such insurance through ordinary methods; and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance. Such agreements and rate modifications shall be subject to the applicable provisions of this chapter.

(b) The department shall require all insurers licensed to transact property insurance on a direct basis in this state to provide windstorm coverage to applicants from areas determined to be eligible pursuant to paragraph (e) who in good faith are entitled to, but are unable to procure, such coverage through ordinary means; or it shall adopt a reasonable plan or plans for the equitable apportionment or sharing among such insurers of windstorm coverage. The commissioner shall promulgate rules which provide a formula for the recovery and repayment of any deferred assessments.

1. For the purpose of this section, properties eligible for such windstorm coverage are defined as dwellings, buildings, and other structures, including mobile homes which are used as dwellings and which are tied down in compliance with mobile home tie-down requirements prescribed by the Department of Highway Safety and Motor Vehicles pursuant to s. 320.8325, and the contents of all such properties.

2. All insurers required to be members of such plan shall participate in its writings, expenses, profits, and losses. Such gross participation shall be in the proportion that the net direct premiums of each member written on property in this state during the preceding calendar year bears to the aggregate net direct premiums of all members of the plan written on property in this state during the preceding calendar year. The commissioner, after review of annual statements, other reports, and any other statistics which he deems necessary, shall certify to the plan the aggregate net direct premiums written on property in this state by all members. The plan of operation shall provide that one additional domestic member of the board of directors be elected by the domestic companies of this state on the basis of cumulative weighted voting based on the net written premiums of domestic companies in this state. Any such plan shall provide a formula whereby a company voluntarily providing windstorm coverage in affected areas will be relieved wholly or partially from apportionment. A company which is a member of a group of companies under common management may elect to have its credits applied on a group basis, and any company or group may elect to have its credits applied to any other company or group.

3. The plan shall also provide that any member with a surplus as to policyholders of \$20,000,000 or less writing 25 percent of its total country-wide property insurance premiums in this state may petition the department, within 90 days of the effective date of chapter 76-96, Laws of Florida, and thereafter within the first 90 days of each calendar year, to qualify as a limited apportionment company. The apportionment of such a company in any calendar year for which it is qualified shall not exceed its gross participation, which shall not be affected by the formula for voluntary writings. In no event shall a limited apportionment company be required to participate in any apportionment of losses in the aggregate which exceeds \$50,000,000 after payment of available plan funds in any calendar year. The plan shall provide that, if the department determines that any assessment will result in an impairment of the surplus of a limited apportionment company, the department may direct that all or part of such assessment be deferred.

4. The plan shall provide for the deferment, in whole or in part, of the assessment of a member insurer if, in the opinion of the commissioner, payment of the assessment would endanger or impair the solvency of the member insurer. In the event an assessment against a member insurer is deferred in whole or in part, the amount by which such assessment is deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in subparagraph 2.

5. The plan may include deductibles and rules for classification of risks and rate modifications consistent with the objective of providing and maintaining funds sufficient to pay catastrophe losses.

6. The plan may authorize the formation of a private nonprofit corporation, a private nonprofit unincorporated association, or a nonprofit mutual company which may be empowered, among other things, to borrow money and to accumulate reserves or funds to be used for the payment of insured catastrophe losses. The plan shall incorporate and continue the plan of operation and articles of agreement in effect on the effective date of chapter 76-96, Laws of Florida, to the extent that it is not inconsistent with chapter 76-96, Laws of Florida, and as subsequently modified consistent with chapter 76-96, Laws of Florida. The board of directors and officers currently serving shall continue to serve until their successors are duly qualified as provided under the plan. The assets and obligations of the plan in effect immediately prior to the effective date of chapter 76-96, Laws of Florida, shall be construed to be the assets and obligations of the successor plan created herein.

7. On such coverage, an agent's remuneration shall be that amount of money payable to him by the terms of his contract with the company with which the business is placed. However, no commission will be paid on that portion of the premium which is in excess of the standard premium of that company.

~~(e) The provisions of paragraph (b) are applicable only with respect to any county or area which the department has heretofore designated or as to which the department, after public hearing, finds that the following criteria exist:~~

~~1. Due to the lack of windstorm insurance coverage in the county or area so affected, economic growth and development is being deterred or otherwise stifled in such county or area, mortgages are in default, and financial institutions are unable to make loans;~~

~~2. The county or area so affected has adopted and is enforcing the structural requirements of the Southern Standard Building Code, or its equivalent, for new construction and has included adequate minimum floor elevation requirements for structures in areas subject to inundation; and~~

~~3. Extending windstorm insurance coverage to such county or area is consistent with and will implement and further the policies and objectives set forth in applicable state laws, rules, and regulations governing coastal management, coastal construction, comprehensive planning, beach and shore preservation, barrier island preservation, coastal zone protection, and the Coastal Zone Protection Act of 1985.~~

~~Any time after the department has determined that the criteria referred to in this section do not exist with respect to any county or area of the state, it may, after a subsequent public hearing, declare that such county or area is no longer eligible for windstorm coverage through the plan.~~

(6) RESIDENTIAL PROPERTY AND CASUALTY JOINT UNDERWRITING ASSOCIATION.—

(a) *There is created a joint underwriting association for equitable apportionment or sharing among insurers of property and casualty insurance covering residential property, for applicants who are in good faith entitled, but are unable, to procure insurance through the admitted voluntary market. The association shall operate pursuant to a plan of operation approved by order of the department. The association shall submit a proposed plan of operation to the department no later than January 15, 1993. The plan is subject to continuous review by the department. The department may withdraw approval of all or part of a plan if the department determines that conditions have changed since approval was granted and that the purposes of the plan require changes in the plan.*

(b) *All insurers authorized to write such insurance in this state must participate in and be members of the Residential Property and Casualty Joint Underwriting Association. Each member's portion of losses and expenses incurred must be in the proportion that the direct premiums*

of the member written on residential property in this state during the preceding calendar year bears to the aggregate direct premiums of all members of the association written on residential property in this state during the preceding calendar year. After review of annual statements, other reports, and any other statistics that it deems necessary, the department must certify to the association the aggregate direct premiums written on residential property in this state by all members.

(c) *The plan of operation of the association:*

1. *May provide for one or more designated insurers, able and willing to provide policy and claims service, to act on behalf of the association to provide such service. If more than one insurer is designated, each licensed agent shall be entitled to select the insurer who will service the business placed by the agent.*

2. *Must provide for adoption of residential property and casualty insurance policy forms, which forms must be approved by the department prior to use. For the purpose of this section, residential property and casualty insurance includes:*

a. *As to homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure with losses to be adjusted on the basis of costs of repair or replacement not to exceed a stated amount, with liability coverage up to \$100,000 per claim and \$300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.*

b. *As to mobile homeowners' insurance, a policy that provides coverage for accidental loss or damage to a structure consistent with s. 627.702, with liability coverage in amounts up to \$100,000 per claim and \$300,000 per occurrence, and with coverages for personal property and contents as are customarily provided without additional premium charge in connection with such policy forms. Other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.*

c. *As to condominium unit owners' insurance, coverage for accidental loss or damage to portions of the structure and fixtures of the unit owner that are not the responsibility of the condominium association as provided by Florida law, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents as is normally included in such policy forms without additional premium charge; and liability coverages not to exceed limits of \$100,000 per claim and \$300,000 aggregate per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.*

d. *As to rental dwelling insurance, coverage for accidental loss or damage to a structure with coverage to be based on costs of repair or replacement not to exceed a stated amount, and with liability coverage in amounts up to \$100,000 per claim and \$300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.*

e. *As to tenants' insurance, coverage for accidental loss or damage to betterments and improvements in the rented dwelling unit, with losses to be adjusted on the basis of costs of repair or replacement not to exceed stated amounts; coverage for personal property and contents in such limits as may be selected by the board; and liability coverages in amounts up to \$100,000 per claim and \$300,000 per occurrence; provided that such coverage and other terms, conditions, limitations, and exclusions of such policy shall be as would be considered standard within the insurance industry.*

All of such coverages shall be issued exclusive of windstorm coverage in those areas that have been declared eligible for coverage by the Windstorm Insurance Risk Apportionment Plan authorized by subsection (2). Any policy under this subparagraph must provide deductibles for residential property and casualty insurance in a minimum of \$500 per occurrence, or such higher limits as may be selected by the insured. Policies issued under this subparagraph shall not cover loss or damage caused by the enforcement of any ordinance or law regulating the construction, use, or repair of any property, or requiring the tearing down of any property, including the cost of removing its debris.

3. May provide that the association may employ or otherwise contract with individuals or other entities to provide administrative or professional services that may be appropriate to effectuate the plan, and shall have the power to borrow funds and other powers reasonably necessary to effectuate the requirements of this subsection.

4. Must require that the association operate subject to the supervision and approval of a board of governors consisting of 11 individuals, including one who is elected as chairman. The board shall consist of the insurance consumer advocate appointed under s. 627.0613, five members designated by the insurance industry, one consumer representative appointed by the Insurance Commissioner, and four representatives of the insurance industry appointed by the Insurance Commissioner. Of the four insurance industry representatives appointed by the Insurance Commissioner, at least two must be individuals who are minority persons as defined in s. 288.703(3). Any board member may be disapproved or removed and replaced by the commissioner at any time for cause. All board members, including the chairman, must be appointed to serve for 3-year terms beginning annually on a date designated by the plan.

5. Must provide that a risk is eligible to be insured under the plan only after coverage is activated pursuant to paragraph (e) and an attempt has been made to place the risk with an admitted insurer through the market assistance plan under s. 627.3515, which attempt was not successful, and only if the risk is determined to be insurable by the risk underwriting committee. A risk shall cease to be eligible if it receives a premium quotation from an admitted carrier at that carrier's filed rate.

6. Must include rules for classifications of risks and rates therefor.

7. Must provide that if premium and investment income attributable to a particular plan year are in excess of projected losses and expenses of the plan attributable to that year, such excess shall be held in surplus. Such surplus shall be available to defray deficits as to future years and shall be used for that purpose prior to assessing member insurers as to any plan year.

8. Must provide for a Risk Underwriting Committee of the association composed of three members experienced in evaluating insurance risks, to review and determine insurability of risks rejected by the voluntary market for which application is made for insurance through the association. The committee shall consist of a representative of the market assistance plan created under s. 627.3515 and two members named by the board. The Risk Underwriting Committee shall appoint such advisory committees as are provided for in the plan and are necessary to conduct its functions. The salaries and expenses of the members of the Risk Underwriting Committee and its advisory committees shall be paid by the association. The plan approved by the department shall establish objective criteria and procedures for use by the Risk Underwriting Committee to be uniformly applied for all applicants in determining whether an individual risk is so hazardous as to be uninsurable. In making this determination and in establishing the criteria and procedures, the following shall be considered:

a. Whether the likelihood of a loss for the individual risk is substantially higher than for other risks of the same class; and

b. Whether the uncertainty associated with the individual risk is such that an appropriate premium cannot be determined.

The acceptance or rejection of a risk by the underwriting committee shall be construed as the private placement of insurance and the provisions of chapter 120 shall not apply.

(d)1. Rates of the plan shall be based on average loss costs of the five largest residential insurers, by premium volume in this state, plus appropriate factors for catastrophe loading, projected expenses of the plan, and a 25-percent increment for presumed adverse selection.

2. No later than 9 months after the end of each calendar year, the board must review and file with the department the loss and expense experience of the association. Such filing shall include a rate filing based on the loss and expense experience and other relevant factors if the board determines that such a filing is appropriate. Any such rate filing shall contain sufficient detail to enable the department to determine that the proposed rates are not inadequate, excessive, or unfairly discriminatory pursuant to the standards provided herein and in s. 627.062.

(e) Coverage through the association is hereby activated effective upon approval of the plan, and shall remain activated until coverage is deactivated pursuant to paragraph (f). Thereafter, coverage through the association shall be reactivated by order of the department only under one of the following circumstances:

1. If the Market Assistance Plan receives a minimum of 100 applications for coverage within a 3-month period, or 200 applications for coverage within a 1-year period or less for residential coverage, unless the Market Assistance Plan provides a quotation from admitted carriers at their filed rates for at least 90 percent of such applicants. Any Market Assistance Plan application that is rejected because an individual risk is so hazardous as to be uninsurable using the criteria specified in subparagraph (c)8. shall not be included in the minimum percentage calculation provided herein. In the event that there is a legal or administrative challenge to a determination by the department that the conditions of this subparagraph have been met for eligibility for coverage in the association, any eligible risk may obtain coverage during the pendency of such challenge.

2. In response to a state of emergency declared by the Governor under s. 252.36, the department may activate coverage by order for the period of the emergency upon a finding by the department that the emergency significantly affects the availability of residential property insurance.

(f) The activities of the association shall be reviewed at least annually by the board and, upon recommendation by the board or petition of any interested party, coverage shall be deactivated if the department finds that the conditions giving rise to its activation no longer exist.

(g) The board shall certify to the department its needs for annual assessments as to a particular calendar year, and any startup or interim assessments that it deems to be necessary to sustain operations as to a particular year pending the receipt of annual assessments. After the department approves such certification, the board shall levy such annual, startup, or interim assessments. Such assessments shall be prorated as provided in paragraph (b). The board shall take all reasonable and prudent steps necessary to collect the amount of assessment due from each participating insurer, including, if prudent, filing suit to collect such assessment. If the board is unable to collect an assessment from any insurer, the uncollected assessments shall be levied as an additional assessment against the participating insurers and any participating insurer required to pay an additional assessment as a result of such failure to pay shall have a cause of action against such nonpaying insurer.

(h) Nothing in this subsection shall be construed to preclude the issuance of residential property insurance coverage pursuant to part VIII of chapter 626.

(i) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any member insurer or its agents or employees, the Residential Property and Casualty Joint Underwriting Association or its agents or employees, members of the board of governors, or the department or its representatives for any action taken by them in the performance of their duties under this subsection. Such immunity does not apply to actions for breach of any contract or agreement pertaining to insurance, or any other willful tort.

(j) The Residential Property and Casualty Joint Underwriting Association is not a state agency, board, or commission. However, for the purposes of s. 199.183(1), the Residential Property and Casualty Joint Underwriting Association shall be considered a political subdivision of the state and shall be exempt from the corporate income tax and the insurance premium tax.

Section 4. Subsection (2) of section 631.55, Florida Statutes, is amended to read:

631.55 Creation of the association.—

(2) For the purposes of administration and assessment, the association shall be divided into four separate accounts:

(a) The workers' compensation insurance account, which includes excess workers' compensation insurance;

(b) The auto liability account;

(c) The auto physical damage account; and

(d) The account for all other insurance to which this part applies.

Section 5. Paragraph (a) of subsection (1) and paragraph (d) of subsection (2) of section 631.57, Florida Statutes, are amended, paragraph (e) is added to subsection (3) of said section, and subsection (6) is added to said section, to read:

631.57 Powers and duties of the association.—

(1) The association shall:

(a)1. Be obligated to the extent of the covered claims existing:

a.1. Prior to adjudication of insolvency and arising within 30 days after the determination of insolvency;

b.2. Before the policy expiration date if less than 30 days after the determination; or

c.3. Before the insured replaces the policy or causes its cancellation, if he does so within 30 days of the determination.;

2. ~~The obligation under subparagraph 1. but such obligation~~ shall include only that amount of each covered claim which is in excess of \$100 and is less than \$300,000, except that:

a. The association shall pay the full amount of any covered claim arising out of a workers' compensation policy.

b. *With respect to policies covering condominium associations, the obligation shall include that amount of each covered property insurance claim which is less than \$100,000 multiplied by the number of condominium units. This sub-subparagraph is repealed upon the adjournment sine die of the 1993 Regular Session of the Legislature.*

3. In no event shall the association be obligated to a policyholder or claimant in an amount in excess of the obligation of the insolvent insurer under the policy from which the claim arises.

The foregoing notwithstanding, the association shall have no obligation to pay covered claims to be paid from the proceeds of bonds issued under s. 166.111(2). However, the association shall cause assessments to be made under s. 631.57(3)(e) for such covered claims, and such assessments shall be assigned and pledged under s. 631.57(3)(e) to or on behalf of the issuer of such bonds for the benefit of the holders of such bonds. The association shall administer any such covered claims and present valid covered claims for payment in accordance with the provisions of the assistance program in connection with which such bonds have been issued.

(2) The association may:

(d) Negotiate and become a party to such contracts as are necessary to carry out the purpose of this part. *Without limiting the generality of the foregoing, the association may enter into such contracts with a municipality as are necessary in order for the municipality to issue bonds under s. 166.111(2). In connection with the issuance of such bonds and the entering into of the necessary contracts, the association may agree to such terms and conditions as it deems necessary and proper.*

(3)

(e)1.a. *In addition to assessments otherwise authorized in paragraph (a), as a temporary measure related to insolvencies caused by Hurricane Andrew, and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(d), or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 166.111(2), and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the department, upon certification of the board of directors, shall levy assessments upon insurers holding a certificate of authority as follows:*

(I) *Except as provided in sub-sub-subparagraph (II), the assessments payable under this paragraph by any insurer shall not exceed in any 1 year more than 2 percent of that insurer's direct written premiums, net of refunds, in this state during the preceding calendar year for the kinds of insurance within the account specified in s. 631.55(2)(d).*

(II) *If the amount levied under sub-sub-subparagraph (I) is less than 2 percent of the insurer's direct written premiums, net of refunds, in this state during calendar year 1991 for the kinds of insurance within*

the account specified in s. 631.55(2)(d), in addition to and separate from such assessment, the assessment shall also include the difference between the amount calculated based on calendar year 1991 and the amount determined under sub-sub-subparagraph (I). If this sub-sub-subparagraph is held invalid, the invalidity shall not affect other provisions of this section, and to this end the provisions of this section are declared severable.

(III) *In addition to any other insurers subject to this subparagraph, this subparagraph also applies to any insurer that held a certificate of authority on August 24, 1992. If this sub-sub-subparagraph is held invalid, the invalidity shall not affect other provisions of this section, and to this end the provisions of this section are declared severable.*

b. *Any assessments authorized under this paragraph shall be levied by the department upon insurers referred to in sub-subparagraph a., upon certification as to the need therefor by the board of directors, in 1992 and in each year that bonds issued under s. 166.111(2) are outstanding, in such amounts up to such 2 percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of, issuance of bonds issued under s. 166.111(2). The assessments provided for in this paragraph are hereby assigned and pledged to a municipality issuing bonds under s. 166.111(2)(b), for the benefit of the holders of such bonds, in order to enable such municipality to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without the necessity of any further action by the association, the department, or any other party. To the extent that bonds are issued under s. 166.111(2), the proceeds of assessments levied under this paragraph shall be remitted directly to and administered by the trustee appointed for such bonds.*

c. *Assessments under this paragraph shall be payable in 12 monthly installments with the first installment being due and payable at the end of the month after an assessment is levied, and subsequent installments being due not later than the end of each succeeding month.*

d. *The association shall issue a monthly report on the status of the use of the bond proceeds as related to insolvencies caused by Hurricane Andrew. The report must contain the number of claims paid and the amount of claims paid. The association shall also include an analysis of the revenue generated from the additional assessment levied under this subsection. The report must be sent to the Legislature and the Insurance Commissioner monthly.*

2. *In order to assure that insurers paying assessments levied under this paragraph continue to charge rates that are neither inadequate nor excessive, within 90 days after being notified of such assessments, each insurer that is to be assessed pursuant to this paragraph shall make a rate filing for coverage included within the account specified in s. 631.55(2)(d) and for which rates are required to be filed under s. 627.062. If the filing reflects a rate change that, as a percentage, is equal to the difference between the rate of such assessment and the rate of the previous year's assessment under this paragraph, the filing shall consist of a certification so stating and shall be deemed approved when made, subject to the department's continuing authority to require actuarial justification as to the adequacy of any rate at any time. Any rate change of a different percentage shall be subject to the standards and procedures of s. 627.062.*

(6) *The association may extend the time limits specified in paragraph (1)(a) by up to an additional 60 days or waive the applicability of the \$100 deductible specified in paragraph (1)(a) if the board determines that either or both such actions are necessary to facilitate the bulk assumption of obligations.*

Section 6. Subsection (1) of section 631.60, Florida Statutes, is amended to read:

631.60 Effect of paid claims.—

(1) Any person recovering under this part shall be deemed to have assigned his rights under the policy to the association to the extent of his recovery from the association, regardless of whether such recovery is received directly from the association or through payments made from the proceeds of bonds issued under s. 166.111(2). Every insured or claimant seeking the protection of this part shall cooperate with the associa-

tion to the same extent as such person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments.

Section 7. No provision of section 631.57 or s. 166.111(2), Florida Statutes, shall be repealed until such time as the principal of, redemption premium, if any, and interest on all bonds issued under s. 166.111(2), Florida Statutes, payable and secured from assessments levied under s. 631.57(3)(e), Florida Statutes, have been paid in full or adequate provision for such payment has been made in accordance with the bond resolution or trust indenture pursuant to which such bonds were issued.

Section 8. Report to the Legislature by the Department of Insurance.—The Department of Insurance shall submit to the Legislature, not later than February 12, 1993, a report addressing the availability of residential property and casualty insurance and developing a comprehensive approach to controlling the exposure of insurers and expanding the pool of risk capital available to insurers writing residential property and casualty insurance. The report must also include analysis and recommendations for legislative changes.

Section 9. The association created under section 631.55, Florida Statutes, must, with respect to processed claims arising from damage caused by Hurricane Andrew to the extent funds are available and to the extent it is feasible to do so, pay such claims by December 25, 1992. For the purpose of this section, a processed claim is a claim that has been adjusted and determined to be proper and appropriate. The association shall submit a report by January 1, 1993, to the President of the Senate and the Speaker of the House of Representatives. The report must include the number of claims paid and the amount of such claims.

Section 10. Notwithstanding any other provision of section 166.111(2)(c), Florida Statutes, an interim financing that is a part of and in anticipation of and to be refinanced from the proceeds of a permanent bond financing is not subject to otherwise required minority participation by underwriters or other professionals. The permanent financing continues to be subject to such requirements, and every reasonable effort must be made to include such participation in any interim financing.

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

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

And the title is amended as follows:

Strike everything before the enacting clause and insert:

A bill to be entitled An act relating to insurance; authorizing certain actions of the Department of Insurance, retroactively; providing for temporary residential coverage in the Florida Property and Casualty Joint Underwriting Association; providing an exclusion from liability for certain entities; amending s. 166.111, F.S.; providing findings and declarations; authorizing municipalities and specified counties to issue bonds in conjunction with the Florida Insurance Guaranty Association for payment of claims of insolvent insurers resulting from Hurricane Andrew; requiring a municipality issuing such bonds to include minority firm participation in providing professional services; providing requirements for minority firms; amending s. 627.351, F.S.; expanding the applicability of coverage of windstorm insurance risk apportionment plan; creating a residential property and casualty joint underwriting association; requiring participation by specified insurers; specifying content of the joint underwriting plan; requiring notice to policyholders; providing for rate review and approval; providing an exclusion from liability for certain entities; exempting such joint underwriting association from certain taxes; amending s. 631.55, F.S.; including excess workers' compensation insurance in the workers' compensation insurance account; amending s. 631.57, F.S.; specifying duties of the Florida Insurance Guaranty Association; providing for additional assessments and specifying purposes thereof; authorizing waiver of certain time limits and deductibles; amending s. 631.60, F.S.; clarifying the assignment of certain claims under certain circum-

stances; prohibiting the repeal of certain provisions relating to repayment of bonds under certain circumstances; requiring the Department of Insurance to provide a report to the Legislature; providing for payment of certain processed claims arising from Hurricane Andrew by the Florida Insurance Guaranty Association within a certain time if funds are available and payment is feasible; requiring reports; providing exceptions from minority participation requirements for certain interim financing; providing severability; providing an effective date.

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

Amendment 1A—On page 9, line 14, after the word "amended" insert: effective April 10, 1993

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

Amendment 1B—On page 16, lines 25-28, strike all of said lines and insert: *Any policy under this*

Amendment 1 as amended was adopted.

On motion by Senator Burt, by two-thirds vote **CS for HB 33-A** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35 Nays—3

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

HB 37-A—A bill to be entitled An act relating to pari-mutuel wagering; repealing s. 20.16(4), F.S., relating to the Florida Pari-mutuel Commission; eliminating the Florida Pari-mutuel Commission; creating s. 550.001, F.S.; providing a short title; creating s. 550.002, F.S.; providing definitions; creating s. 550.0115, F.S.; providing for permitholder license; creating s. 550.01215, F.S.; providing for license application, periods of operation, and bond; providing that any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities in addition to the conduct of pari-mutuel wagering; validating existing permits; confirming certain actions of the Division of Pari-mutuel Wagering; creating s. 550.0251, F.S.; prescribing powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation; creating s. 550.0235, F.S.; providing a limitation on civil liability; creating s. 550.0351, F.S.; providing for charity racing days; providing for "hound dog derbies" or "mutt derbies"; creating s. 550.0425, F.S.; providing restrictions on minors attending pari-mutuel performances; authorizing minors to attend and be employed at pari-mutuel performances under specified conditions; creating s. 550.054, F.S.; providing procedures for obtaining pari-mutuel operation permits; providing for contents of a permit application; providing duties of the Division of Pari-mutuel Wagering; creating s. 550.0555, F.S.; providing for relocation of dog racing permits; creating s. 550.0651, F.S.; providing for elections for ratification of permits; creating s. 550.0745, F.S.; providing for pari-mutuel permit conversion to summer jai alai permit; creating s. 550.0951, F.S.; providing for fees and taxes; creating s. 550.105, F.S.; providing for the issuance of occupational licenses; specifying criteria for denial or cancellation of such licenses; providing for taxes in lieu of certain other taxes; authorizing the division to obtain certain information; creating s. 550.1155, F.S.; providing for the authority of stewards, judges, panels of judges, or player's managers to impose penalties against occupational licensees; providing for disposition of funds collected; creating s. 550.125, F.S.; providing a uniform reporting system and bond requirements; providing for annual review of permitholders' records; creating s. 550.135, F.S.; providing for the division of moneys derived from the law; creating s. 550.155, F.S.; authorizing pools within track enclosure; providing for withholdings; providing a penalty; providing limitation on takeout; creating s. 550.1625, F.S.; providing for operating dog tracks; providing taxes; creating s. 550.1645, F.S.; providing for escheat to state of abandoned interest or contribution to pari-mutuel pools; creating s. 550.175, F.S.; providing for elections to revoke licenses; creating s. 550.1815, F.S.; prohibiting certain persons from holding pari-mutuel permits; creating s. 550.235, F.S.; providing penalty for and prohibiting conniving to prearrange the results of races or jai alai; providing penalty for using medication on horses or dogs; creating s. 550.24055, F.S.; prohibiting the use of controlled substances or alcohol by officials or participants; providing for inadmissibility in criminal proceedings of certain evidence of tests or actions taken by stewards, judges, or the division; creating s. 550.2415, F.S.; specifying circumstances under which racing animal drug test results are to be disclosed; providing limited confidenti-

ality for test results; providing for future review and repeal of related public records law exemptions; regulating the medication of racing animals and prohibiting the use of drugs in racing animals under certain circumstances; providing penalties; providing procedures for obtaining and testing split samples of blood or urine; providing legislative intent that greyhound racing animals be treated humanely; providing for procedures for euthanizing greyhounds; providing for the establishment of adoption facilities under certain circumstances; authorizing adoption of rules by the division; creating s. 550.2425, F.S.; authorizing the leasing or building of a racing laboratory; creating s. 550.255, F.S.; providing a penalty for conducting unauthorized race meetings; creating s. 550.2614, F.S.; requiring thoroughbred horseracing permitholders to deduct a certain percentage of purses to be paid to a horsemen's association representing the majority of thoroughbred racehorse owners and trainers; authorizing the division to adopt rules; creating s. 550.26165, F.S.; providing for breeders' awards; creating s. 550.2625, F.S.; providing horseracing purse requirements; providing for certain funds to be withheld from purse pools; specifying the purposes for which such funds are to be used; providing for payment of breeders' and owners' awards under certain circumstances; creating s. 550.2633, F.S.; providing for escheat to state of certain abandoned interests in horse racing pools; creating s. 550.26353, F.S.; providing for tax credits and tax exemptions for certain permitholders; providing for the effect of certain exemptions; creating s. 550.285, F.S.; prohibiting fraudulently obtaining feed for race horses and greyhounds; providing a penalty; creating s. 550.334, F.S.; providing for conducting quarter horse races; creating s. 550.3355, F.S.; providing for harness track licenses for summer quarter horse racing; creating s. 550.3551, F.S.; providing for transmission of pari-mutuel information; providing that wagers accepted by out-of-state pari-mutuel permitholders on a broadcasted race may be included in the track's pari-mutuel pool; authorizing the division to facilitate commingling of pari-mutuel pools; creating s. 550.3605, F.S.; providing for use of electronic transmitting equipment; creating s. 550.3615, F.S.; providing penalty for bookmaking on the grounds of a permitholder; providing duties of track employees; creating s. 550.375, F.S.; providing legislative findings; providing for operation of certain harness tracks; creating s. 550.475, F.S.; providing for lease of pari-mutuel facilities; creating s. 550.495, F.S.; providing for totalisator licensing; creating s. 550.505, F.S.; providing for nonwagering permits; creating s. 550.5251, F.S.; providing operating days for thoroughbred racing; creating s. 550.615, F.S.; providing for intertrack wagering; specifying times during which specified facilities may conduct intertrack wagering; restricting the conduct of intertrack wagering in certain counties; creating s. 550.625, F.S.; providing for purses; providing for breeder's awards; providing for optional payments to the Florida owners' awards program; creating s. 550.6305, F.S.; providing for guest track payments; providing accounting rules; providing a formula for distribution of intertrack wagering proceeds from out-of-state simulcast races; providing for thoroughbred purse money to be paid to certain permitholders under certain circumstances; creating s. 550.6315, F.S.; providing for applicability of liquor license requirements to guest tracks; creating s. 550.6325, F.S.; providing an uncashed tickets and breakage tax; creating s. 550.6335, F.S.; providing a surcharge; creating s. 550.6345, F.S.; providing for purses when host track is harness racetrack; creating s. 550.655, F.S.; providing for backside medical and health benefits; specifying amount of total handle that may be paid to a corporation to provide such benefits and specifying corporations eligible to provide such benefits; creating s. 550.70, F.S.; requiring chief court judges at certain jai alai games; providing time for ratifying jai alai permits; allowing amateur jai alai contests; amending s. 120.633, F.S., relating to partial exemption from hearing and notice requirements, to conform cross-references; amending s. 212.031, F.S., relating to sales tax on lease or rental of license in real property, to conform a cross-reference; amending s. 212.04, F.S., relating to the admissions tax, to conform cross-references; amending s. 267.0617, F.S., relating to the Historic Preservation Trust Fund, to conform a cross-reference; creating s. 570.381, F.S.; providing for Appaloosa racing and awards; creating s. 570.382, F.S.; providing for Arabian racing and awards; amending s. 717.1401, F.S., relating to disposition of unclaimed property, to delete an obsolete cross-reference to conform; amending s. 772.102, F.S., relating to civil remedies for criminal practices, to conform cross-references; amending s. 849.25, F.S., relating to bookmaking, to conform cross-references; amending s. 895.02, F.S., relating to racketeering to conform cross-references; providing funding for certain research and development programs relating to racing animals; repealing chs. 550, 551, F.S., relating to pari-mutuel wagering and jai alai to delete expired or repealed laws; providing applicability; providing an effective date.

—was read the second time by title.

Senators Myers and Kurth offered the following amendment which was moved by Senator Myers and failed:

Amendment 1—On page 35, line 2, after the period (.) insert:

The tax on jai alai shall be paid on handle in excess of \$25,000 for each performance per day. However, when the handle for the preceding racing season is less than \$30 million and \$15 million or more, the tax shall be paid on the handle in excess of \$40,000 for each performance per day, and when the handle for the preceding racing season is less than \$15 million, the tax shall be paid on the handle in excess of \$50,000 for each performance per day.

Senator Kurth moved the following amendment which failed:

Amendment 2 (with Title Amendment)—On page 63, between lines 18 and 19, insert:

(7) It is a violation of this chapter for a greyhound to race that does not have DHLPP, rabies, and kennel cough vaccinations that are less than 1 year old. A greyhound that arrives at the track facility unvaccinated shall be properly vaccinated by the track veterinarian. Cost of the vaccine only shall be paid by the kennel operator.

(Renumber subsequent subsections.)

And the title is amended as follows:

In title, on page 3, line 31, after the semicolon insert: providing requirements for greyhound vaccinations;

On motion by Senator Grant, by two-thirds vote **HB 37-A** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33 Nays—5

RECESS

On motion by Senator Jennings, the Senate recessed at 3:43 p.m. to reconvene at 4:15 p.m.

CALL TO ORDER

The Senate was called to order by the President at 4:25 p.m. A quorum present—38:

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

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Special Order Calendar for Friday, December 11, 1992: SB 12-A, SB 30-A, CS for SB 10-A, CS for HB 5-A, HB 37-A

Respectfully submitted,
Toni Jennings, Chairman

The Committee on Commerce recommends the following pass: HB 37-A

The Committee on Judiciary recommends the following pass: CS for HB 5-A with 1 amendment

The Committee on Natural Resources and Conservation recommends the following pass: SB 30-A

The bills contained in the foregoing reports were placed on the calendar.

The Committee on Finance, Taxation and Claims recommends a committee substitute for the following: SB 10-A

The bill with committee substitute attached was referred to the Committee on Appropriations under the original reference.

COMMITTEE SUBSTITUTES

FIRST READING

By the Committee on Finance, Taxation and Claims; and Senator Burt—

CS for SB 10-A—A bill to be entitled An act relating to insurance; authorizing certain actions of the Department of Insurance, retroactively; providing for temporary residential coverage in the Florida Property and Casualty Joint Underwriting Association; providing an exclusion from liability for certain entities; amending s. 166.111, F.S.; providing findings and declarations; authorizing municipalities and specified counties to issue bonds in conjunction with the Florida Insurance Guaranty Association for payment of claims of insolvent insurers resulting from Hurricane Andrew; requiring a municipality issuing such bonds to include minority firm participation in providing professional services; providing requirements for minority firms; amending s. 627.351, F.S.; expanding the applicability of coverage of windstorm insurance risk apportionment plan; creating a residential property and casualty joint underwriting association; requiring participation by specified insurers; specifying content of the joint underwriting plan; requiring notice to policyholders; providing for rate review and approval; providing an exclusion from liability for certain entities; exempting such joint underwriting association from certain taxes; amending s. 631.55, F.S.; including excess workers' compensation insurance in the workers' compensation insurance account; amending s. 631.57, F.S.; specifying duties of the Florida Insurance Guaranty Association; providing for additional assessments and specifying purposes thereof; authorizing waiver of certain time limits and deductibles; amending s. 631.60, F.S.; clarifying the assignment of certain claims under certain circumstances; prohibiting the repeal of certain provisions relating to repayment of bonds under certain circumstances; requiring the Department of Insurance to provide a report to the Legislature; providing for payment of certain processed claims arising from Hurricane Andrew by the Florida Insurance Guaranty Association within a certain time if funds are available and payment is feasible; requiring reports; providing exceptions from minority participation requirements for certain interim financing; providing severability; providing an effective date.

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 17-A, HB 25-A, HB 35-A; has passed as amended CS for HB 5-A, CS for HB 33-A, HB 37-A; has adopted HCR 51-A and requests the concurrence of the Senate.

John B. Phelps, Clerk

By Representative Harris and others—

HB 17-A—A bill to be entitled An act relating to the Department of Citrus; amending s. 601.111, F.S.; authorizing the department to lower by a certain amount the minimum requirement of anhydrous citric acid for oranges; providing an effective date.

—was referred to the Committee on Agriculture.

By Representative Davis and others—

HB 25-A—A bill to be entitled An act relating to unemployment compensation; amending s. 443.131, F.S.; revising language with respect to contributions, providing that certain benefits paid to individuals separated from an employer due to certain natural disasters on the basis of wages shall not be charged to the employer's account; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Peeples and others—

HB 35-A—A bill to be entitled An act relating to Miami-Dade Community College; deferring the reversion of funds appropriated for certain projects for the college; providing an effective date.

—was referred to the Committee on Appropriations.

By the Committee on Commerce and Representative King and others—

CS for HB 5-A—A bill to be entitled An act relating to unconscionable pricing practices; creating ss. 501.160 and 501.164, F.S.; defining "commodity"; providing for prima facie evidence that a price is unconscionable; making it unlawful and an unfair practice in violation of the Florida Deceptive and Unfair Trade Practices Act for any person or his agent or employee to rent, sell, or offer to rent or sell in this state during a declared state of emergency a commodity at an unconscionable price; making it unlawful and an unfair practice to rent or lease a dwelling unit or self-service storage facility at an unconscionable price during a declared state of emergency; providing exemption for growers and processors of food products; providing that the act shall not preempt the powers of local government; providing for evidentiary standards and defenses; providing for civil penalties; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committee on Appropriations and Representative Cosgrove and others—

CS for HB 33-A—A bill to be entitled An act relating to insurance; authorizing certain actions of the Department of Insurance, retroactively; providing for temporary residential coverage in the Florida Property and Casualty Joint Underwriting Association; providing an exclusion from liability for certain entities; amending s. 166.111, F.S.; providing findings and declarations; authorizing municipalities to issue bonds in conjunction with the Florida Insurance Guaranty Association for payment of claims of insolvent insurers resulting from Hurricane Andrew; requiring a municipality issuing such bonds to include minority firm participation in providing professional services; providing requirements for minority firms; amending s. 627.351, F.S.; authorizing creation of a residential property and casualty joint underwriting association; requiring participation by specified insurers; specifying content of the joint underwriting plan; requiring notice to policyholders; providing for rate review and approval; providing an exclusion from liability for certain entities; exempting such joint underwriting association from certain taxes; amending s. 631.57, F.S.; specifying duties of the Florida Insurance Guaranty Association; providing for additional assessments and specifying purposes thereof; authorizing waiver of certain time limits and deductibles; amending s. 631.60, F.S.; clarifying the assignment of certain claims under certain circumstances; prohibiting the repeal of certain provisions relating to repayment of bonds under certain circumstances; providing severability; providing an effective date.

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

By Representative Kelly—

HB 37-A—A bill to be entitled An act relating to pari-mutuel wagering; repealing s. 20.16(4), F.S., relating to the Florida Pari-mutuel Commission; eliminating the Florida Pari-mutuel Commission; creating s. 550.001, F.S.; providing a short title; creating s. 550.002, F.S.; providing definitions; creating s. 550.0115, F.S.; providing for permit holder license; creating s. 550.01215, F.S.; providing for license application, periods of operation, and bond; providing that any permitted facility may be used for the conduct of concerts, trade shows, expositions, conventions, flea markets, charitable events, and similar activities in addition to the conduct of pari-mutuel wagering; validating existing permits; confirming certain actions of the Division of Pari-mutuel Wagering; creating s. 550.0251, F.S.; prescribing powers and duties of the Division of Pari-mutuel Wagering of the Department of Business Regulation; creating s. 550.0235, F.S.; providing a limitation on civil liability; creating s. 550.0351, F.S.; providing for charity racing days; providing for "hound dog derbies" or "mutt derbies"; creating s. 550.0425, F.S.; providing restrictions on minors attending pari-mutuel performances; authorizing minors to attend and be employed at pari-mutuel performances under specified conditions; creating s. 550.054, F.S.; providing procedures for obtaining pari-mutuel operation permits; providing for contents of a permit application; providing duties of the Division of Pari-mutuel Wagering; creating s. 550.0555, F.S.; providing for relocation of dog racing permits; creating s. 550.0651, F.S.; providing for elections for ratification of permits; creating s. 550.0745, F.S.; providing for pari-mutuel permit conversion to summer jai alai permit; creating s. 550.0951, F.S.; providing for fees and taxes; creating s. 550.105, F.S.; providing for the issuance of occupational licenses; specifying criteria for denial or cancellation of such licenses; providing for taxes in lieu of certain other taxes; authorizing the division to obtain certain information; creating s. 550.1155, F.S.; providing for the authority of

stewards, judges, panels of judges, or player's managers to impose penalties against occupational licensees; providing for disposition of funds collected; creating s. 550.125, F.S.; providing a uniform reporting system and bond requirements; providing for annual review of permitholders' records; creating s. 550.135, F.S.; providing for the division of moneys derived from the law; creating s. 550.155, F.S.; authorizing pools within track enclosure; providing for withholdings; providing a penalty; providing limitation on takeout; creating s. 550.1625, F.S.; providing for operating dog tracks; providing taxes; creating s. 550.1645, F.S.; providing for escheat to state of abandoned interest or contribution to pari-mutuel pools; creating s. 550.175, F.S.; providing for elections to revoke licenses; creating s. 550.1815, F.S.; prohibiting certain persons from holding pari-mutuel permits; creating s. 550.235, F.S.; providing penalty for and prohibiting conniving to prearrange the results of races or jai alai; providing penalty for using medication on horses or dogs; creating s. 550.24055, F.S.; prohibiting the use of controlled substances or alcohol by officials or participants; providing for inadmissibility in criminal proceedings of certain evidence of tests or actions taken by stewards, judges, or the division; creating s. 550.2415, F.S.; specifying circumstances under which racing animal drug test results are to be disclosed; providing limited confidentiality for test results; providing for future review and repeal of related public records law exemptions; regulating the medication of racing animals and prohibiting the use of drugs in racing animals under certain circumstances; providing penalties; providing procedures for obtaining and testing split samples of blood or urine; providing legislative intent that greyhound racing animals be treated humanely; providing for procedures for euthanizing greyhounds; providing for the establishment of adoption facilities under certain circumstances; authorizing adoption of rules by the division; creating s. 550.2425, F.S.; authorizing the leasing or building of a racing laboratory; creating s. 550.255, F.S.; providing a penalty for conducting unauthorized race meetings; creating s. 550.2614, F.S.; requiring thoroughbred horseracing permitholders to deduct a certain percentage of purses to be paid to a horsemen's association representing the majority of thoroughbred racehorse owners and trainers; authorizing the division to adopt rules; creating s. 550.26165, F.S.; providing for breeders' awards; creating s. 550.2625, F.S.; providing horseracing purse requirements; providing for certain funds to be withheld from purse pools; specifying the purposes for which such funds are to be used; providing for payment of breeders' and owners' awards under certain circumstances; creating s. 550.2633, F.S.; providing for escheat to state of certain abandoned interests in horse racing pools; creating s. 550.26353, F.S.; providing for tax credits and tax exemptions for certain permitholders; providing for the effect of certain exemptions; creating s. 550.285, F.S.; prohibiting fraudulently obtaining feed for race horses and greyhounds; providing a penalty; creating s. 550.334, F.S.; providing for conducting quarter horse races; creating s. 550.3355, F.S.; providing for harness track licenses for summer quarter horse racing; creating s. 550.3551, F.S.; providing for transmission of pari-mutuel information; providing that wagers accepted by out-of-state pari-mutuel permitholders on a broadcasted race may be included in the track's pari-mutuel pool; authorizing the division to facilitate commingling of pari-mutuel pools; creating s. 550.3605, F.S.; providing for use of electronic transmitting equipment; creating s. 550.3615, F.S.; providing penalty for bookmaking on the grounds of a permitholder; providing duties of track employees; creating s. 550.375, F.S.; providing legislative findings; providing for operation of certain harness tracks; creating s. 550.475, F.S.; providing for lease of pari-mutuel facilities; creating s. 550.495, F.S.; providing for totalisator licensing; creating s. 550.505, F.S.; providing for nonwagering permits; creating s. 550.5251, F.S.; providing operating days for thoroughbred racing; creating s. 550.615, F.S.; providing for intertrack wagering; specifying times during which specified facilities may conduct intertrack wagering; restricting the conduct of intertrack wagering in certain counties; creating s. 550.625, F.S.; providing for purses; providing for breeder's awards; providing for optional payments to the Florida owners' awards program; creating s. 550.6305, F.S.; providing for guest track payments; providing accounting rules; providing a formula for distribution of intertrack wagering proceeds from out-of-state simulcast races; providing for thoroughbred purse money to be paid to certain permitholders under certain circumstances; creating s. 550.6315, F.S.; providing for applicability of liquor license requirements to guest tracks; creating s. 550.6325, F.S.; providing an uncashed tickets and breakage tax; creating s. 550.6335, F.S.; providing a surcharge; creating s. 550.6345, F.S.; providing for purses when host track is harness racetrack; creating s. 550.655, F.S.; providing for backside medical and health benefits; specifying amount of total handle that may be paid to a corporation to provide such benefits and specifying corporations eligible to provide such benefits; creating s. 550.70, F.S.; requiring chief court judges at certain jai alai games; provid-

ing time for ratifying jai alai permits; allowing amateur jai alai contests; amending s. 120.633, F.S., relating to partial exemption from hearing and notice requirements, to conform cross-references; amending s. 212.031, F.S., relating to sales tax on lease or rental of license in real property, to conform a cross-reference; amending s. 212.04, F.S., relating to the admissions tax, to conform cross-references; amending s. 267.0617, F.S., relating to the Historic Preservation Trust Fund, to conform a cross-reference; creating s. 570.381, F.S.; providing for Appaloosa racing and awards; creating s. 570.382, F.S.; providing for Arabian racing and awards; amending s. 717.1401, F.S., relating to disposition of unclaimed property, to delete an obsolete cross-reference to conform; amending s. 772.102, F.S., relating to civil remedies for criminal practices, to conform cross-references; amending s. 849.25, F.S., relating to bookmaking, to conform cross-references; amending s. 895.02, F.S., relating to racketeering to conform cross-references; providing funding for certain research and development programs relating to racing animals; repealing chs. 550, 551, F.S., relating to pari-mutuel wagering and jai alai to delete expired or repealed laws; providing applicability; providing an effective date.

—was referred to the Committee on Commerce.

By Representative Ritchie and others—

HCR 51-A—A concurrent resolution supporting the location of a United States Department of Defense Finance and Accounting Service Center within the State of Florida.

On motion by Senator Childers, by the required constitutional two-thirds vote of the Senate **HCR 51-A** was admitted for introduction and referred to the Committee on Rules and Calendar.

On motion by Senator Childers, by two-thirds vote **HCR 51-A** was withdrawn from the Committee on Rules and Calendar.

On motions by Senator Harden, **HCR 51-A** was taken up out of order by unanimous consent and by two-thirds vote read the second time in full, adopted and certified to the House.

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 CS for SB 8-A and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for CS for SB 8-A—A bill to be entitled An act relating to sales tax revenues; providing for deposit of certain increases in sales tax collections resulting from Hurricane Andrew into the Hurricane Andrew Recovery and Rebuilding Trust Fund under the Department of Community Affairs for a specified period; providing for the use of such funds; providing for the Governor to submit certain requests for funding to the Legislature; providing for recovery of funds improperly expended; amending s. 215.22, F.S.; exempting the trust fund from certain service charges; providing an effective date.

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

Section 1. For fiscal years 1992-1993 through 1994-1995, the Comptroller is directed to transfer the sales tax accruing to the General Revenue Fund as a result of Hurricane Andrew from the General Revenue Fund to the Hurricane Andrew Recovery and Rebuilding Trust Fund, which is hereby created, to be administered by the Department of Community Affairs. Transfers to the trust fund shall be made monthly based on the latest official estimates of sales tax accruing to the benefit of the General Revenue Fund as a result of Hurricane Andrew, as determined by the Revenue Estimating Conference. For fiscal years 1992-1993 and 1993-1994, the initial official estimates anticipate transfers of \$198.5 million and \$290.4 million, respectively. If any adjustment to the official estimate is made by the Revenue Estimating Conference, the Comptroller shall adjust future transfers to make total transfers within each fiscal year equal to the official estimate. If, for any fiscal year, actual transfers for the previous fiscal year differ from the official estimate for such year, the Comptroller shall adjust future transfers accordingly. The first monthly transfer shall be made within 10 days after the effective date of this act and shall include the cumulative official monthly estimates for such sales taxes for all previous months.

Section 2. Subject to compliance with the provisions of this section, the Governor is authorized to transfer funds for Hurricane Andrew relief and recovery activities from the Hurricane Andrew Recovery and Rebuilding Trust Fund to fund requests from Dade, Broward, Collier, Monroe, and Palm Beach Counties, political subdivisions therein, state agencies, and the judicial branch in accordance with this act and the procedure for processing budget amendments established by s. 216.181, Florida Statutes, and after notice to and consultation with the Legislature as required therein. Such requests must be made prior to the effective date of legislation adopted in the 1993 Regular Session appropriating funds from the trust fund for hurricane relief. The Governor may authorize such transfer upon his certification that the following criteria have been met:

(1) That funding requested by the local government, state agency, or judicial branch is necessary to maintain services or infrastructure essential to support health, safety, and welfare functions, and to reimburse the local government, state agency, or judicial branch for unanticipated expenses related thereto incurred in responding to Hurricane Andrew or for loss of revenues related thereto due to the impact of Hurricane Andrew, until such time as the Legislature can act.

(2) That, if the request is approved, the trust fund will, by the end of the fiscal year, still have sufficient funds to restore the Medicaid category previously used to match the Federal Individual and Family Grant Program.

(3) That insufficient federal funds, private funds, or insurance proceeds are available for disbursement prior to the effective date of legislation adopted in the 1993 Regular Session appropriating funds from the trust fund for hurricane relief to fund the request, and that, should sufficient funds subsequently become available to meet the need of the original budget amendment:

(a) The local government has agreed to reimburse the state in the amount of such funds subsequently received; or

(b) The state agency or judicial branch may not obligate such subsequently received funds and will notify the Governor and the Legislature of their availability.

(4) That funding requested by a state agency for services provided by nongovernmental entities shall be limited to nonprofit organizations that are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that are in good financial standing.

Transfers authorized by the Governor after his certification that the criteria specified in subsections (1) through (4) have been met may include, but are not limited to, transfers for hazard mitigation; infrastructure and housing repairs and replacement; flood elevation repairs for residential structures required to be elevated to the base flood elevation by flood plain management regulations adopted under federal law and local ordinances enacted in compliance with federal law, except that in no event shall the state's contribution be more than 25 percent of the cost of any structural elevation project; operating deficits; public health, environmental, and business assistance programs; social and rehabilitative service delivery systems; economic development programs; and housing assistance programs.

Section 3. (1) In order to hold harmless school districts from a loss of revenue due to students not attending Dade schools as a result of Hurricane Andrew, the following special one-time calculation and allocation shall be made.

(a) The difference in funding for the Dade County school district based on estimated enrollment used in the 1992-1993 General and Supplemental Appropriations Acts and the estimated enrollment adjusted by the October count of FTE in Dade County shall be calculated.

(b) One-half of the funds calculated in paragraph (a) shall be allocated from the FEFP to match federal funds provided as a result of Hurricane Andrew.

(c) Reimbursement to school districts where expenditures were initiated for students who, due to Hurricane Andrew, have in fact not enrolled is intended to be a one-time expenditure to match federal funds and that sum shall not be used in determining any subsequent year's hold harmless, quality assurance, or funding adjustment.

(d) If, in the final calculation of the FEFP for 1992-1993, funds have to be prorated to the school districts, the Governor is authorized to trans-

fer moneys from the Hurricane Andrew Recovery and Rebuilding Trust Fund to the Department of Education to eliminate or reduce the proration of FEFP funds to districts, in an amount equal to the amount by which the FEFP is prorated or the amount paid to the Dade County school district under the provisions of paragraph (b), whichever is less.

(2) Notwithstanding the provisions of s. 236.081(1)(d), Florida Statutes, any school district that enrolled students from Dade County who were affected by Hurricane Andrew and that, because of enrolling those students, exceeded the district's weighted enrollment ceiling for group 2 or group 3 programs as established by the 1992-1993 General Appropriations Act, shall be held harmless for its group 2 and group 3 enrollments to the extent that the enrollment over either or both of those ceilings is documented to be solely the result of enrolling those students from Dade County who were affected by Hurricane Andrew.

Section 4. By February 15, 1993, the Governor shall examine all other requests for funding relief and recovery activities related to Hurricane Andrew, and requests made pursuant to section 2 that do not result in the transfer of funds, and shall make his recommendations for fiscal years 1992-1993 and 1993-1994 to the Legislature. Such recommendations may include, but are not limited to, issues relating to education, health, public safety, social and rehabilitative service delivery systems, assistance to minority business enterprises, cultural affairs, historic preservation, the environment, natural resources, housing, and economic development.

Section 5. Funds transferred pursuant to this act may not be expended for property lost due to criminal activity or for lost wages incurred by a person other than a public employee.

Section 6. An entity receiving funds as provided in this act may use those funds only for purposes directly associated with relief, recovery, or rebuilding resulting from Hurricane Andrew or as otherwise authorized by this act. All entities receiving funds as provided in this act are subject to audit by the Auditor General upon reasonable notice. If the Auditor General finds that any of the funds were not spent in accordance with this act, the Comptroller shall offset any future disbursements due until the improperly expended funds are fully reimbursed. If funds are not available to offset improper expenditures, the Governor or Attorney General may bring an action to recover improperly expended funds. Jurisdiction for such action is in the circuit court.

Section 7. Any unobligated balance remaining within the Hurricane Andrew Recovery and Rebuilding Trust Fund on June 30, 1995, shall be transferred to the Working Capital Fund.

Section 8. Paragraph (q) is added to subsection (1) of section 215.22, Florida Statutes, 1992 Supplement, to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the deduction required by s. 215.20(1):

(q) *The Hurricane Andrew Recovery and Rebuilding Trust Fund.*

Section 9. This act shall take effect upon becoming a law, except that this act shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.

And the title is amended as follows:

Strike the entire title and insert:

A bill to be entitled An act relating to sales tax revenues; providing for deposit of certain increases in sales tax collections resulting from Hurricane Andrew into the Hurricane Andrew Recovery and Rebuilding Trust Fund under the Department of Community Affairs for a specified period; authorizing the Governor to transfer funds from the trust fund during a specified period to specified counties, political subdivisions therein, state agencies, and the judicial branch, upon application, for Hurricane Andrew relief and recovery activities; providing requirements for such transfers; providing for a one-time match of federal funds with funds from the 1992-1993 FEFP to the Dade County school system; authorizing transfer of certain funds from the trust fund to the Department of Education; holding harmless certain funding to school districts that enrolled students from Dade County as a result of Hurricane Andrew; providing that the Governor shall submit recommendations regarding certain requests for funding to the Legislature; prohibiting expenditure of such funds for certain purposes; providing for audits; providing for recovery of improperly expended funds; providing for transfer of the unobligated bal-

ance in the trust fund to the Working Capital Fund on June 30, 1995; amending s. 215.22, F.S.; exempting the trust fund from the service charge imposed by s. 215.20(1), F.S.; providing an effective date.

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

CS for CS for SB 8-A 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

RETURNING MESSAGES—FINAL ACTION

The Honorable Ander Crenshaw, President

I am directed to inform the Senate that the House of Representatives has passed SB 6-A, SB 12-A and SB 14-A; has admitted for introduction by the required Constitutional two-thirds vote, and passed CS for SB 20-A.

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 Amendment 2 and passed CS for HB 5-A, as amended; has concurred in Senate amendments and passed as amended CS for HB 33-A.

John B. Phelps, Clerk

ROLL CALLS ON SENATE BILLS

CS for CS for SB 8-A

Yeas—38

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

Nays—None

SB 12-A

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Kiser

SB 30-A

Yeas—38

Mr. President	Brown-Waite	Crist	Dyer
Bankhead	Burt	Dantzler	Forman
Beard	Casas	Diaz-Balart	Grant
Boczar	Childers	Dudley	Grogan

Gutman	Johnson	Meadows	Thomas
Harden	Jones	Myers	Turner
Hargrett	Kirkpatrick	Scott	Weinstein
Holzendorf	Kiser	Siegel	Williams
Jenne	Kurth	Silver	
Jennings	McKay	Sullivan	

Nays—None

ROLL CALLS ON HOUSE BILLS

CS for HB 5-A

Yeas—34

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

Nays—4

Beard	Dantzler	Hargrett	Holzendorf
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HB 17-A

Yeas—37

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

Nays—None

Vote after roll call:

Yea—Scott

CS for HB 33-A

Yeas—35

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

Nays—3

Boczar	Holzendorf	Johnson
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HB 37-A

Yeas—33

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

Nays—5

Casas	Kurth	Myers
Hargrett	Meadows	

VOTES RECORDED

Even though I was excused from the session this afternoon, I would like to record my votes on bills taken up by the Senate. Had I been present, I would have voted yea on the following bills: HB 17-A, CS for CS for SB 8-A, SB 12-A, SB 30-A, CS for HB 5-A, CS for HB 33-A and HB 37-A.

Mark Foley, District 35

CORRECTION AND APPROVAL OF JOURNAL

The Journal of December 10 was corrected and approved.

ADJOURNMENT

On motion by Senator Jennings, the Senate adjourned sine die at 4:30 p.m.