



Journal of the Senate

Number 1—Special Session D

Tuesday, June 7, 1994

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

CALL TO ORDER

The Senate was called to order by the President at 2:00 p.m. A quorum present—40:

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

PRAYER

The following prayer was offered by Rev. James Vaughn, Pastor, Providence Missionary Baptist Church, Thomasville, Georgia:

In the beneficent, the merciful name of Allah, we humbly pause on the first day of the Special Session of the Florida Legislature, asking you, Lord God, to permit your light of prevenient grace to shine continually upon the path of these noble servants of the Florida Senate. As each one of these Senators prepare to struggle, strategize and solve the issues before them, I ask that your imperturbable and indomitable Holy Spirit guide their every action to always seek your way, your will and your wisdom.

Then, Lord, we ask that you possess us with your passion, lighten our burdens with your love, sanctify us with your spirit and comfort us with your care. In your name, we ask. Amen.

PLEDGE

The President led the Senate in the pledge of allegiance to the flag of the United States of America.

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

PROCLAMATION
State of Florida
Executive Department
Tallahassee

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

WHEREAS, the Thirteenth Legislature of the State of Florida, under the Florida Constitution, 1968 Revision, convened in regular session on Tuesday, February 8, 1994, and adjourned sine die on April 15, 1994, and

WHEREAS, the Thirteenth Legislature adjourned sine die without passing legislation which is critical to the welfare of the citizens of the State of Florida, and

WHEREAS, legislation, excluding tort reform and medicaid third party liability, is needed to provide assurance to all Floridians that they will have access to adequate health care, and

WHEREAS, legislative changes are needed to insure that the law adequately protects children from child abuse while allowing parents the discretion to discipline their children in a non-abusive way without state intervention, and

WHEREAS, the Legislature of Florida, meeting in its Regular Session, did not fully consider or pass legislation designed to protect the elderly population of this state from exploitation and abuse, and

WHEREAS, amendments to the reform of the juvenile justice system are necessary concerning the use of Public Education Capital Outlay funds for residential juvenile education facilities, and

WHEREAS, it is further necessary to provide for authorization regarding the use of appropriated funds for prison operations, and

WHEREAS, it is necessary to call the Legislature of the State of Florida into Special Session to address these critical issues that cannot be left unresolved until the next Regular Session of the Legislature of this State.

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

Section 1.

The Legislature of the State of Florida is convened in Special Session commencing at 2:00 p.m., Tuesday, June 7, 1994 and ending at 5:00 p.m., Monday, June 13, 1994.

Section 2.

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

- a) Amendments to Florida law relating to health care services and to the health care system, excluding tort reform and liability for and related standards of proof for, recovery of medicaid payments by the state.
- b) Amendments to Florida law insuring that the law adequately protects children from child abuse while allowing parents the discretion to discipline their children in a non-abusive way without state intervention.
- c) Amendments to Florida law respecting the protection of this state's elderly population from exploitation and abuse, including any necessary reorganization of related agency functions.
- d) Legislation regarding the use of Public Education Capital Outlay monies to fund residential juvenile education facilities.
- e) Legislation regarding the use of appropriated funds for prison construction and operations.



IN TESTIMONY WHEREOF, I have hereunto set my hand and have caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 2nd day of June, 1994.

Lawton Chiles
GOVERNOR

ATTEST:
Jim Smith
SECRETARY OF STATE

MOTIONS

Senator Kirkpatrick moved that all bills not within the purview of the Governor's call be referred to the Committee on Rules and Calendar for determination as to whether sufficient emergency exists to warrant introduction by the required constitutional two-thirds vote of the membership. The motion was adopted.

INTRODUCTION AND REFERENCE OF BILLS

FIRST READING

By Senator Forman—

SB 2-D—A bill to be entitled An act related to trust funds; creating the Florida Health Security Trust Fund, to be administered by the Agency for Health Care Administration; providing for source of moneys and purposes; providing for future review and termination or re-creation of the fund; providing a contingent effective date.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

By Senator Myers—

SB 4-D—A bill to be entitled An act relating to health care; creating the "Public Health and Health Care Administration Act"; providing legislative intent that the Department of Health Care Services serve as the single agency responsible for state health matters; amending s. 20.04, F.S.; providing an exemption for the internal structure of the department; creating s. 20.43, F.S.; establishing organizational structure of the department; transferring powers, duties and functions, records, personnel, property, appropriations, and rules of the Agency for Health Care Administration from the Department of Business and Professional Regulation to the department; repealing s. 20.42, F.S., relating to creation of the agency; transferring powers, duties and functions, records, personnel, property, appropriations, and rules relating to public health matters, children's medical services, and alcohol, drug abuse, and mental health services from the Department of Health and Rehabilitative Services to the Agency for Public Health Services of the department; establishing purpose and duties of the department; amending s. 408.033, F.S.; renaming the Statewide Health Council as the State Health Council; providing for a report to the Secretary of Health Care Services; expanding council membership; establishing respective advisory councils for the Agency for Health Care Administration and the Agency for Public Health Services; repealing s. 33 of ch. 92-33, Laws of Florida, and s. 4 of ch. 93-129, Laws of Florida; abrogating transfer to the Agency for Health Care Administration of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation; repealing ss. 455.2141, 455.2173, and 455.220, F.S., repealing ss. 37, 38, 39, 40, 41, 42, 43, 47, 48, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, and 65 of ch. 92-33, Laws of Florida, and amending s. 455.221, F.S.; deleting references to the Agency for Health Care Administration from provisions governing the licensure and regulation of professionals; amending s. 455.2205, F.S.; transferring the Health Care Trust Fund from the agency to the department; amending s. 20.19, F.S.; renaming the Department of Health and Rehabilitative Services as the Department of Social and Economic Services; deleting references to health matters and responsibilities transferred to the Department of Health Care Services; renaming the health and human services boards as human services boards; amending s. 154.02, F.S.; renaming the public health units as public health departments; renaming the Public Health Unit Trust Fund and transferring administration thereof to the Department of Health Care Services; amending s. 154.04, F.S.; revising procedure for appointment of public health department directors or administrators; providing for the continuation of rules; providing for the effect of the act on pending judicial and administrative proceedings; providing severability; requesting the statute editors to prepare a reviser's bill; providing effective dates.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

By Senator Myers—

SB 6-D—A bill to be entitled An act relating to adult protective services; creating s. 415.1005, F.S.; providing a short title for part I of ch. 415, F.S.; amending s. 415.101, F.S.; revising legislative intent with respect to adult protective services; providing for care and protection of all vulnerable adults; amending s. 415.102, F.S.; revising definitions; amending s. 415.103, F.S.; revising operation of the central abuse registry and tracking system; creating s. 415.1034, F.S.; prescribing requirements for mandatory reporting of abuse, neglect, exploitation, or death; creating ss. 415.1035, 415.1036, F.S.; prescribing provisions relating to a facility's duty to inform residents of the right to make reports and to immunity for reporters; creating s. 415.1045, F.S.; providing requirements for protective services investigations and transmittal of records to state attorneys; providing for use of photographs and video tapes; providing for abrogation of privileged communications; providing for confidential records and documents; providing for access to persons; providing for classification or closure of records; amending s. 415.105, F.S.; revising requirements for provision of protective services with consent or when consent is withdrawn; deleting provisions relating to protective services for vulnerable adults who lack capacity to consent, or whose caregivers refuse services, or in an emergency; creating s. 415.1051, F.S.; prescribing requirements for provision of protective services when capacity to consent is lacking; providing for nonemergency and emergency interventions; providing for notice and hearings; providing for protective services orders; specifying limitations; creating s. 415.1052, F.S.; prescribing procedures relating to interference with an investigation or the provision of protective services; creating s. 415.1055, F.S.; providing for notification of reports to administrative entities and other persons and notification by law enforcement and state attorneys; amending s. 415.106, F.S.; revising requirements for cooperation between the Department of Health and Rehabilitative Services and criminal justice and other agencies; creating s. 415.1065, F.S.; requiring certain records management; amending s. 415.107, F.S.; revising provisions relating to confidentiality of reports and records; creating s. 415.1075, F.S.; providing for administrative remedies; providing for amendment or expunction of reports; providing for appeals; providing for request to set aside a report due to excusable neglect or fraud; creating s. 415.1099, F.S.; providing for waiver of certain filing fees; amending s. 415.1102, F.S.; revising provisions relating to adult protection teams and services provided thereby; creating s. 415.1105, F.S.; providing for training programs for adult protective services staff and persons required to report abuse, neglect, or exploitation; amending s. 415.111, F.S.; revising and expanding criminal penalties; creating s. 415.1111, F.S.; providing civil penalties; providing for a private right of action for abuse, neglect, or exploitation of a vulnerable adult; creating s. 415.1113, F.S.; providing for administrative fines for false reporting; providing for allegations; providing for notice and hearing; amending s. 415.113, F.S., relating to statutory construction; transferring and renumbering s. 415.114, F.S., relating to a motion for a speedy trial for persons over a specified age; amending ss. 39.001, 39.045, 39.076, 39.411, 110.1127, 119.07, 242.335, 393.0655, 394.457, 395.3025, 397.451, 400.414, 400.619, 402.305, 409.175, 415.504, 447.208, 447.401, 464.018, 509.032, 744.474, 775.15, 943.0585, F.S.; revising standards for screening to conform to the act; conforming terminology and correcting cross-references; providing for screening of personnel of certain programs of the Department of Elderly Affairs; amending s. 400.211, F.S.; expanding provisions relating to screening of certified nursing assistants; providing penalties; amending s. 400.512, F.S.; revising provisions relating to screening of home health agency personnel, nurse registry personnel, sitters, companions, and homemakers; providing procedure for exemption from disqualification; repealing ss. 415.104, 415.1085, 415.109, F.S., relating to protective services investigations, use of photographs, medical examinations, and X rays, and abrogation of privileged communications in cases of abuse, neglect, or exploitation of vulnerable adults; providing for construction and effect of the act; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senators McKay, Williams, Kirkpatrick and Burt—

SB 8-D—A bill to be entitled An act relating to health insurance requirements with respect to state contracts; repealing s. 115, ch. 92-33, Laws of Florida, which appears as s. 287.088, F.S., and which requires that certain state contractors and their subcontractors provide to their

respective employees access to hospitalization and medical insurance benefits during their employment on certain contracts for state agencies; providing for retrospective operation; providing an effective date.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

By Senator Forman—

SB 10-D—A bill to be entitled An act relating to patient brokering; specifying unlawful acts; providing exemptions; providing criminal and civil penalties; providing for injunctive relief; providing for actions by the Attorney General or state attorneys; providing for recovery of reasonable expenses; providing that the provisions of the act are supplemental; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Kirkpatrick—

SB 12-D—A bill to be entitled An act relating to employee health insurance requirements for state contracts; creating s. 255.0516, F.S.; requiring certain state contracts for the construction, renovation, or repair of a building or public work to require the contractors to ensure, to certain of their employees, access to group health benefit plans; amending s. 287.088, F.S.; requiring a person or entity that contracts with a state agency for the sale of commodities or contractual services or for the construction, renovation, or repair of a building or public work to ensure, to certain of its employees, access to a group health benefit plan; providing exceptions; authorizing a state agency to terminate a contract with a noncomplying contractor under certain circumstances and subject to certain notice and procedure; prohibiting certain contractors from bidding on or otherwise participating in state contracts for a specified period; authorizing the Agency for Health Care Administration to adopt certain rules and procedures; establishing a task force to study health insurance requirements for state contractors and to submit a report; providing administrative and staff support for the task force; providing an effective date.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

By Senator Myers—

SB 14-D—A bill to be entitled An act relating to the regulation of drugs; amending s. 499.033, F.S.; providing for products that contain ephedrine to be regulated by the Department of Health and Rehabilitative Services as prescription drugs; authorizing the department to exempt certain products from classification as prescription drugs; providing rule-making authority; requiring manufacturers to register products that contain ephedrine with the department; prohibiting the registration of certain products labeled as stimulants; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Myers—

SB 16-D—A bill to be entitled An act relating to care of the elderly; transferring certain powers, duties, and functions of the Department of Health and Rehabilitative Services related to nursing home preadmission screening and home care for the elderly to the Department of Elderly Affairs; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, 410.037, F.S., relating to home care for disabled adults and the elderly, to delete references to home care for the elderly and references to elderly persons; creating s. 430.601, F.S.; declaring legislative intent with respect to home care for elderly persons; creating s. 430.602, F.S.; providing definitions; creating s. 430.603, F.S.; providing for the Department of Elderly Affairs to adopt rules containing standards and procedures for home care for the elderly; creating s. 430.604, F.S.; providing for that department to determine the ability of a person to provide home care to an unrelated elderly person and providing for judicial review of that determination; creating s. 430.605, F.S.; providing for subsidy payments to persons who provide

home care for elderly persons; creating s. 430.606, F.S.; prescribing criteria for eligibility for services; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Burt—

SB 18-D—A bill to be entitled An act making supplemental appropriations; amending appropriations in Fiscal Year 1994-95; providing moneys for the annual period beginning July 1, 1994, and ending June 30, 1995, to pay salaries, and other expenses, capital outlay buildings, and other improvements, and for other specified purposes of the Department of Corrections; providing an effective date.

—was referred to the Committee on Appropriations.

By Senator Hargrett—

SB 20-D—A bill to be entitled An act relating to the protection of children from abuse, neglect, and exploitation; amending s. 39.01, F.S., redefining the term “abuse”; amending s. 415.503, F.S.; redefining the term “harm”; requiring the Department of Health and Rehabilitative Services and the Department of Business and Professional Regulation to recommend standards and procedures for the training and licensing of child protective investigators; requiring a report; directing the Department of Health and Rehabilitative Services to implement training of persons receiving reports of child abuse or neglect; requiring a report; forbidding a governmental body from establishing policies that prohibit a parent from administering corporal punishment on a child; providing an effective date.

—was referred to the Committee on Health and Rehabilitative Services.

By Senator Beard—

SB 22-D—A bill to be entitled An act relating to the Inmate Welfare Trust Fund; amending s. 945.215, F.S.; eliminating a provision relating to deposit of certain moneys in the Department of Corrections Grants and Donations Trust Fund; specifying an additional purpose for which moneys in the Inmate Welfare Trust Fund may be used; providing for proceeds of contraband possessed by inmates to be deposited in the Crimes Compensation Trust Fund in lieu of the Inmate Welfare Trust Fund; prescribing duties of the Treasurer with respect to investment of moneys in the Inmate Welfare Trust Fund; providing an effective date.

—was referred to the Committee on Appropriations.

By Senator Forman—

SB 24-D—A bill to be entitled An act relating to care of the elderly; transferring certain powers, duties, and functions of the Department of Health and Rehabilitative Services related to nursing home preadmission screening and home care for the elderly to the Department of Elderly Affairs; amending ss. 410.031, 410.032, 410.033, 410.034, 410.035, 410.037, F.S., relating to home care for disabled adults and the elderly, to delete references to home care for the elderly and references to elderly persons; creating s. 415.1005, F.S.; providing a short title for part I of ch. 415, F.S.; amending s. 415.101, F.S.; revising legislative intent with respect to adult protective services; providing for care and protection of all vulnerable adults; amending s. 415.102, F.S.; revising definitions; amending s. 415.103, F.S.; revising operation of the central abuse registry and tracking system; creating s. 415.1034, F.S.; prescribing requirements for mandatory reporting of abuse, neglect, exploitation, or death; creating ss. 415.1035, 415.1036, F.S.; prescribing provisions relating to a facility's duty to inform residents of the right to make reports and to immunity for reporters; creating s. 415.1045, F.S.; providing requirements for protective services investigations and transmittal of records to state attorneys; providing for use of photographs and video tapes; providing for abrogation of privileged communications; providing for confidential records and documents; providing for access to persons; providing for classification or closure of records; amending s. 415.105, F.S.; revising requirements for provision of protective services with consent or when consent is with-

drawn; deleting provisions relating to protective services for vulnerable adults who lack capacity to consent, or whose caregivers refuse services, or in an emergency; creating s. 415.1051, F.S.; prescribing requirements for provision of protective services when capacity to consent is lacking; providing for nonemergency and emergency interventions; providing for notice and hearings; providing for protective services orders; specifying limitations; creating s. 415.1052, F.S.; prescribing procedures relating to interference with an investigation or the provision of protective services; creating s. 415.1055, F.S.; providing for notification of reports to administrative entities and other persons and notification by law enforcement and state attorneys; amending s. 415.106, F.S.; revising requirements for cooperation between the Department of Health and Rehabilitative Services and criminal justice and other agencies; creating s. 415.1065, F.S.; requiring certain records management; amending s. 415.107, F.S.; revising provisions relating to confidentiality of reports and records; creating s. 415.1075, F.S.; providing for administrative remedies; providing for amendment or expunction of reports; providing for appeals; providing for request to set aside a report due to excusable neglect or fraud; creating s. 415.1099, F.S.; providing for waiver of certain filing fees; amending s. 415.1102, F.S.; revising provisions relating to adult protection teams and services provided thereby; creating s. 415.1105, F.S.; providing for training programs for adult protective services staff and persons required to report abuse, neglect, or exploitation; amending s. 415.111, F.S.; revising and expanding criminal penalties; creating s. 415.1111, F.S.; providing civil penalties; providing for a private right of action for abuse, neglect, or exploitation of a vulnerable adult; creating s. 415.1113, F.S.; providing for administrative fines for false reporting; providing for allegations; providing for notice and hearing; amending s. 415.113, F.S., relating to statutory construction; transferring and renumbering s. 415.114, F.S., relating to a motion for a speedy trial for persons over a specified age; creating s. 430.601, F.S.; declaring legislative intent with respect to home care for elderly persons; creating s. 430.602, F.S.; providing definitions; creating s. 430.603, F.S.; providing for the Department of Elderly Affairs to adopt rules containing standards and procedures for home care for the elderly; creating s. 430.604, F.S.; providing for that department to determine the ability of a person to provide home care to an unrelated elderly person and providing for judicial review of that determination; creating s. 430.605, F.S.; providing for subsidy payments to persons who provide home care for elderly persons; creating s. 430.606, F.S.; prescribing criteria for eligibility for services; amending ss. 39.001, 39.045, 39.076, 39.411, 110.1127, 119.07, 242.335, 393.0655, 394.457, 395.3025, 397.451, 400.414, 400.619, 402.305, 409.175, 415.504, 447.208, 447.401, 464.018, 509.032, 744.474, 775.15, 943.0585, F.S.; revising standards for screening to conform to the act; conforming terminology and correcting cross-references; providing for screening of personnel of certain programs of the Department of Elderly Affairs; amending s. 400.211, F.S.; expanding provisions relating to screening of certified nursing assistants; providing penalties; amending s. 400.512, F.S.; revising provisions relating to screening of home health agency personnel, nurse registry personnel, sitters, companions, and homemakers; providing procedure for exemption from disqualification; repealing ss. 415.104, 415.1085, 415.109, F.S., relating to protective services investigations, use of photographs, medical examinations, and X rays, and abrogation of privileged communications in cases of abuse, neglect, or exploitation of vulnerable adults; providing for construction and effect of the act; providing effective dates.

—was referred to the Committee on Health and Rehabilitative Services.

By Senators Silver, Dantzler and Grogan—

SB 26-D—A bill to be entitled An act making supplemental appropriations; amending appropriations in Fiscal Year 1994-95; providing moneys for the annual period beginning July 1, 1994, and ending June 30, 1995, to pay salaries, and other expenses, capital outlay buildings, and other improvements, and for other specified purposes of the various agencies of state government; providing an effective date.

—was referred to the Committee on Appropriations.

By Senators Jenne and Forman—

SB 28-D—A bill to be entitled An act relating to health care; amending s. 61.12, F.S.; providing for garnishment of wages to pay health insurance premiums for dependent children; creating s. 255.0516, F.S., and amending s. 287.088, F.S.; requiring certain state agency contractors,

including construction contractors, to ensure employee access to a group health benefit plan; creating a task force to study health insurance requirements for state contractors; requiring a report; creating s. 409.810, F.S.; creating the Florida Health Security Act; creating s. 409.811, F.S.; providing legislative findings and intent; creating s. 409.812, F.S.; providing definitions; creating s. 409.813, F.S.; establishing Florida Health Security, subject to approval of financing by the Federal Government; requiring the Director of the Agency for Health Care Administration to appoint a director of Florida Health Security; creating s. 409.8131, F.S.; creating the Security Health Benefit Plan Committee; providing for membership; providing duties; providing for the committee to receive staff support from, and to submit its recommendations to, the agency; creating s. 409.814, F.S.; providing eligibility criteria for membership in Florida Health Security; providing application requirements for individuals; providing application requirements for employers who apply on behalf of employees; requiring the agency to verify a member's continued eligibility; providing circumstances under which a community health purchasing alliance may disenroll a member; providing penalties for a member or employer who provides erroneous information or who fails to provide certain information; providing for an open enrollment period during which coverage is offered on a guarantee-issue basis; creating s. 409.815, F.S.; providing for certain exclusions for preexisting conditions and benefits available under workers' compensation insurance; providing for coverage under Florida Health Security to be provided by community health purchasing alliances or community health partnerships; providing for the provision of emergency services; requiring that members be offered at least one benefit plan with a premium equal to or less than a benchmark premium established by the agency; providing certain limitations on changing accountable health partnerships or community health partnerships; providing certain limitations on membership eligibility following termination of coverage; exempting health care providers and health facilities from providing an item or service contrary to a religious or moral conviction; creating s. 409.816, F.S.; providing contribution requirements for premiums; providing a benchmark premium; providing for a member's premium discount to be based on gross family income; limiting the annual expenditures for Florida Health Security based on the General Appropriations Act; creating s. 409.817, F.S.; providing duties of the agency in administering Florida Health Security; creating s. 409.818, F.S.; providing duties of each community health purchasing alliance, or its contract administrator, in providing services under Florida Health Security; creating s. 409.819, F.S.; providing for an amount equal to the savings generated in the Medicaid program to be transferred to the Florida Health Security Trust Fund; requiring the agency to make certain reports to the Social Services Estimating Conference; providing for certain limitations in membership in Florida Health Security; creating s. 409.8191, F.S.; providing for establishing an average monthly enrollment ceiling and reserve; requiring the agency to collect and analyze data and to report to the Social Services Estimating Conference; creating s. 409.8192, F.S.; authorizing a county, political subdivision, or tax district to create a community health partnership; providing enrollment criteria; providing requirements for qualification as a community health partnership; requiring that a community health partnership have adequate sources of revenue; providing disclosure requirements; providing requirements for coverage of a newborn or adopted child; providing for certain limitations on benefits; providing for liability for certain fees; providing for application of the Florida Insurance Code to certain services provided by a community health partnership; requiring actuarial certification of a community health partnership; providing requirements for a community health partnership that terminates its participation in Florida Health Security; providing for subcontracts for health care services with accountable health partnerships; requiring the Department of Health and Rehabilitative Services to establish pilot programs; requiring a report; creating s. 409.8193, F.S.; establishing a quality assurance program for community health partnerships; requiring that a community health partnership give its members the right to a second medical opinion; providing for grievance procedures; requiring the verification of the credentials of providers; requiring each community health partnership to establish a medical records system; creating s. 409.8194, F.S.; providing for external quality assurance for community health partnerships; providing requirements for an assessment process; requiring reports; creating s. 409.8195, F.S.; providing disclosure requirements for hospitals and physicians used by community health partnerships; creating s. 409.8196, F.S.; requiring community health partnerships to establish an internal risk management program; providing circumstances under which the agency may make certain program modifications in implementing Florida Health Security; amending s. 408.301, F.S.; providing legislative findings with respect to the need for specialized services for chronically ill children and persons

with mental illnesses; amending s. 408.302, F.S.; deleting a requirement that the Secretary of Health and Rehabilitative Services approve certain proposed rules of the Agency for Health Care Administration prior to adoption; amending s. 408.702, F.S.; including members of Florida Health Security within the coverage of a community health purchasing alliance; amending s. 408.7042, F.S.; deleting references to MedAccess and the Medicaid buy-in program to conform to changes made by the act; creating s. 408.7043, F.S.; providing certain limitations on the commingling of claims experience, rates, and charges for members of Florida Health Security by an accountable health partnership or a community health partnership; creating the Health Care Network Negotiations and Antitrust Investigation Act; providing legislative findings; directing the presidents of specified public and private universities to designate law faculty members to serve on an advisory council to determine whether guidance provided by the federal antitrust agencies effectively meets the needs of providers in this state while protecting the interests of consumers; providing for a report; providing an appropriation to the advisory council; amending s. 408.706, F.S.; providing additional requirements for accountable health partnerships that participate in Florida Health Security; authorizing the United States Department of Veterans Affairs to create an accountable health partnership for the purpose of providing health care services to veterans; providing for the benchmark premium for veterans to be reduced; providing for coordination of coverages; amending s. 408.902, F.S.; delaying the date and providing a contingency for creating the MedAccess program; creating s. 627.6552, F.S.; providing for members of Florida Health Security to be considered a group for purposes of purchasing health insurance; amending s. 627.652, F.S.; defining the term "community health purchasing alliance" for purposes of part VII of ch. 627, F.S.; creating s. 627.6691, F.S.; creating the "Florida Health Insurance Coverage Continuation Act"; providing for continuation of coverage under group health benefit plans; providing definitions; requiring administrators to have a certificate of authority; providing for notice; amending s. 627.6699, F.S.; amending the definition of the term "modified community rating"; providing that the Employee Health Care Access Act does not apply to health benefit plans issued under Florida Health Security; amending certain restrictions relating to premium rates; amending s. 216.136, F.S.; providing additional duties of the Social Services Estimating Conference with respect to estimates and forecasts for Florida Health Security; providing for the principals of the conference to include staff from the Agency for Health Care Administration; amending s. 409.901, F.S.; providing definitions; amending s. 409.904, F.S.; providing limitation on enrollments under the Medicaid medically needy program; requiring the Agency for Health Care Administration to study the impact of transferring certain Medicaid recipients to Florida Health Security; requiring a report; amending s. 409.908, F.S.; requiring the agency to limit the increases in the rates paid for certain medical services under the Medicaid program; creating s. 409.9119, F.S.; providing for the reallocation of funds for the disproportionate share program to Florida Health Security; requiring reports; providing circumstances under which the Executive Office of the Governor may adjust the disproportionate share payments and the payments to Florida Health Security; amending s. 409.9122, F.S.; revising requirements for enrolling Medicaid recipients in managed care plans; requiring the agency to select providers of services for MediPass recipients; requiring the agency to develop patient care standards; providing for the enrollment of Medicaid recipients in a managed care plan or MediPass; authorizing the Agency for Health Care Administration to establish a Medicaid mental health and substance abuse program pursuant to a federal waiver; requiring the agency to appoint an advisory panel; creating s. 409.9123, F.S.; requiring the agency to establish a health care quality-improvement system for certain Medicaid prepaid plan providers; specifying the elements of the system; requiring Medicaid prepaid plan providers to provide certain member services; specifying certain care, and documentation of care, provided to Medicaid prepaid plan enrollee infants and pregnant women; amending s. 409.913, F.S., relating to Medicaid program integrity; conforming provisions to the transfer of responsibilities from the Department of Health and Rehabilitative Services to the Agency for Health Care Administration; providing definitions; authorizing agency investigation of violations; authorizing the use of applicable peer review organization findings as evidence; providing additional requirements for claims; specifying conditions, limitations, and procedures for withholding provider Medicaid payments; providing for notice; providing for in-camera inspection of evidence; amending s. 409.915, F.S.; providing that services provided under Florida Health Security are not subject to certain requirements for matching funds from the counties; creating s. 381.0408, F.S.; providing legislative intent with respect to creating a rural comprehensive primary care program; providing for programs to be established within service

areas; providing for boards of directors to administer the programs; specifying the health care providers that are eligible to participate in a program; specifying the services to be offered; providing for the Agency for Health Care Administration to administer the rural comprehensive primary care program; providing for a program to cease to exist upon establishment of a rural health network; providing rulemaking authority; creating s. 409.9118, F.S.; establishing the rural health care access disproportionate share program; providing for payments under the program to hospitals that provide services to indigent persons in rural areas; providing a distribution formula; providing requirements for hospitals to receive payments under the program; providing for certain increases in the allocation; creating s. 381.0407, F.S.; providing legislative intent with respect to the establishment of urban, community-based primary care centers; authorizing the Agency for Health Care Administration to provide financial assistance grants to primary care networks located in urban areas; providing eligibility requirements for receiving a grant; requiring the agency to evaluate the programs that receive a grant; requiring a report; providing for the Agency for Health Care Administration to expand the eligibility for Medicaid if federal approval to implement Florida Health Security is delayed or not received; amending s. 409.903, F.S.; providing for eligibility for Medicaid for pregnant women and certain children if the agency fails to obtain certain federal waivers; allowing the transfer of certain funds; amending s. 409.9117, F.S.; providing for funds to be allocated under the disproportionate share program to hospitals that provide health services to indigent persons; providing a formula; providing requirements for hospitals that participate in the program; amending s. 409.2557, F.S.; requiring the Department of Health and Rehabilitative Services to adopt rules to implement certain provisions of federal law; requiring the department to enter into a cooperative agreement with certain agencies for such implementation; creating s. 624.3103, F.S.; specifying compliance by certain insurance providers with certain provisions of federal law; requiring a study on health care provider participation in health maintenance organizations; creating s. 641.217, F.S.; requiring applicants for and holders of health maintenance organization certificates of authority to submit minority recruitment and retention plans to the Agency for Health Care Administration; requiring approval before issuance of a certificate of authority; requiring current certificate holders to implement approved plans by a specified date; amending s. 627.6472, F.S.; requiring exclusive provider organizations to offer point-of-service plans; creating s. 641.351, F.S.; requiring health maintenance organizations to make point-of-service plans available, upon request; providing for underwriting contracts; providing for deductibles, copayments, coinsurance payments, and premiums; authorizing HMO's to offer a preferred provider network plan; amending s. 641.495, F.S., which provides certain requirements applicable to the issuance and maintenance of a health care provider certificate; providing guidelines for grievance procedures; providing requirements pertaining to emergency services; providing for reimbursement to persons who provide emergency services; establishing the advisory committee on the recruitment and retention of minority physicians; providing for membership and duties; repealing s. 16, ch. 92-178, Laws of Florida, relating to imposition of a fee schedule on providers of designated health care services; amending s. 33, ch. 92-33, Laws of Florida, as amended; delaying the transfer of the Division of Medical Quality assurance from the Department of Business and Professional Regulation to the Agency for Health Care Administration; repealing s. 408.001, F.S., relating to the Florida Health Care Purchasing Cooperative; providing for funding; amending s. 407.61, F.S.; substituting the Agency for Health Care Administration for the Health Care Cost Containment Board, to conform to the abolishment of that board under ch. 92-33, Laws of Florida; providing for the confidentiality of certain information relating to health care providers which is to be collected for a report to the Legislature; providing for the effect of this act upon certain other amendments to statutes amended by this act; providing for severability; providing effective dates.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

By Senators Dyer and Sullivan—

SB 30-D—A bill to be entitled An act relating to the regulation of health care professionals; creating s. 455.2142, F.S.; revising continuing education requirements for health care practitioners serving in the Legislature; amending s. 455.2226, F.S.; requiring persons licensed or certified under ch. 490, F.S., relating to psychological services, or ch. 491, F.S., relating to clinical, counseling, and psychotherapy services, to complete

a continuing education course on human immunodeficiency virus and acquired immune deficiency syndrome as part of biennial relicensure or recertification; amending s. 455.261, F.S.; providing that certain information obtained by impaired practitioner consultants and the department is immune from discovery in civil actions; amending s. 458.307, F.S., relating to the Board of Medicine; deleting a provision relating to probable cause panels; amending s. 455.206, F.S.; correcting a cross reference; amending s. 458.311, F.S.; revising requirements for licensure of physicians by examination; revising an educational and postgraduate training requirement; allowing certain applicants to complete a fellowship to partially satisfy the licensing requirements; requiring applicants to provide sufficient information and fingerprints; revising a restriction on the number of times an applicant may fail the examination to include remediation after a certain number; eliminating a provision relating to restricted licensure of certain foreign-trained physicians, which provision was repealed on October 1, 1993; authorizing such foreign-trained physicians to pursue licensure notwithstanding the repeal of such provision; reenacting ss. 458.310(2)(a) and 458.345(1)(c), F.S., relating to restricted licenses and registration of resident physicians, interns, and fellows, to incorporate the amendment to s. 458.311, F.S., in references thereto; amending s. 458.313, F.S.; revising requirements for licensure of physicians by endorsement; eliminating a provision authorizing oral examinations; providing for additional remedial education or training upon failure to pass the licensing examination after a certain number of attempts; correcting a cross reference; amending s. 458.3145, F.S., relating to medical faculty certificates; revising renewal requirements; removing provisions relating to extent of practice; revising a provision relating to the maximum number of certificateholders authorized at specified institutions and facilities; amending ss. 458.316 and 458.3165, F.S.; correcting cross references and terminology; amending s. 458.319, F.S.; clarifying requirements for renewal of license to practice medicine; creating ss. 458.3312 and 459.0152, F.S.; prohibiting physicians and osteopathic physicians from falsely representing that they are board-certified specialists; providing for the adoption of rules; amending ss. 458.331 and 459.015, F.S.; revising and providing grounds for disciplinary action; reenacting ss. 458.313(7) and 458.345(1)(b), F.S., relating to licensure by endorsement and registration of resident physicians, interns, and fellows, to incorporate the amendment to s. 458.331, F.S., in references thereto; amending s. 458.347, F.S.; providing for certification under ch. 458, F.S., of physician assistants certified under ch. 459, F.S.; defining the term "continuing medical education"; allowing physician assistants to show by affidavit evidence of compliance with statutory academic requirements; revising certain other requirements for certification; deleting provisions relating to reactivation of an inactive certificate as a physician assistant and to automatic expiration of the certificate; amending s. 459.022, F.S.; providing for certification under ch. 459, F.S., of physician assistants certified under ch. 458, F.S.; defining the term "continuing medical education"; allowing physician assistants to show by affidavit evidence of compliance with statutory academic requirements; amending s. 766.1115, F.S., to conform; expanding the definition of "health care provider" under the Access to Health Care Act; reenacting s. 768.28(9)(b), F.S., relating to sovereign immunity, to incorporate the amendment to s. 766.1115, F.S., in a reference thereto; amending s. 459.007, F.S.; revising requirements for licensure as an osteopathic physician by endorsement; amending s. 459.011, F.S.; providing that it is state policy that physicians licensed under ch. 458, F.S., and osteopathic physicians licensed under ch. 459, F.S., be accorded equal professional status and privileges and providing requirements with respect thereto; amending s. 460.408, F.S.; revising provisions relating to approval of continuing education courses for chiropractors; creating s. 461.0055, F.S.; providing for investigation of the qualifications of applicants for licensure as a podiatrist; creating s. 461.011, F.S.; prohibiting sexual misconduct in the practice of podiatric medicine, for which there are disciplinary actions; amending s. 461.013, F.S.; revising and providing grounds for disciplinary action; revising penalties, including increasing the administrative fine; reenacting ss. 320.0848(7), 455.236(4)(g), 461.006(2)(c), and 766.111(2), F.S., relating to disabled person parking permits, financial arrangements between referring health care providers and providers of health care services, applicants for licensure to practice podiatric medicine, and unnecessary diagnostic testing, to incorporate the amendments to ss. 461.013 and 466.028, F.S., in references thereto; creating s. 461.018, F.S.; providing for limited scope of practice of podiatric medicine within a specified area of need; creating s. 461.019, F.S.; providing for a podiatric medical faculty certificate; amending s. 464.004, F.S.; increasing the membership of the Board of Nursing; amending s. 464.005, F.S.; requiring the board's executive director to be a registered nurse; amending s. 464.008, F.S.; providing that applicants for licensure as a registered or licensed practical nurse are responsible for

the fee required by the Department of Law Enforcement for background checks; amending s. 464.015, F.S.; revising the period during which the terms "Graduate Nurse" and "Graduate Practical Nurse" and their corresponding abbreviations may be used; amending s. 464.022, F.S.; revising and providing exemptions from regulation under ch. 464, F.S., relating to nursing; reenacting s. 468.505(1)(l), F.S., relating to exemptions from regulation of dietetics and nutrition practice, to incorporate the amendment to s. 464.022, F.S., in a reference thereto; amending s. 465.003, F.S.; revising the definition of "practice of the profession of pharmacy"; providing the definition of "kidney dialysis home health care system"; amending ss. 465.015 and 499.003, F.S.; correcting cross references; creating s. 465.0075, F.S.; providing for licensure of certain foreign-trained pharmacists; providing for future repeal of the section; creating s. 465.0105, F.S.; providing for a pharmacy specialist certificate; amending s. 465.0125, F.S.; providing responsibilities of consultant pharmacists and Doctors of Pharmacy; amending s. 465.0156, F.S.; revising information required for registration of nonresident pharmacies; amending s. 465.0196, F.S.; providing requirements for issuance of special pharmacy permits to operators of kidney dialysis home health care systems; providing for the operation of certain nonprofit pharmacies; correcting a cross reference; amending s. 465.186, F.S.; increasing the membership of the committee responsible for establishing the formulary of medicinal drug products and dispensing procedures; amending s. 831.30, F.S., relating to the offense of fraudulently obtaining medicinal drugs; revising a cross reference; amending s. 466.004, F.S.; revising purpose of the Council on Dental Hygiene; amending s. 466.006, F.S.; adding a qualification for taking the examination for licensure as a dentist; reenacting s. 466.011, F.S., relating to licensure, to incorporate the amendment to s. 466.006, F.S., in a reference thereto; amending s. 466.028, F.S.; increasing the administrative fine; creating s. 466.045, F.S.; providing for annual accountings of various licensure fees collected under ch. 466, F.S., relating to dentistry, dental hygiene, and dental laboratories; amending s. 467.009, F.S.; revising and providing education and training requirements for midwifery programs; reenacting s. 467.205(1), (3), and (4), F.S., relating to approval of midwifery programs, to incorporate the amendment to s. 467.009, F.S., in references thereto; amending s. 468.1115, F.S.; providing an exemption from regulation as a speech-language pathologist or audiologist; amending s. 468.1145, F.S.; increasing certain licensure, certification, and inactive status fees; amending s. 468.1155, F.S.; revising provisional licensure requirements; providing that applicants for dual licensure in speech-language pathology and audiology are not required to hold a second master's degree; amending s. 468.1295, F.S.; prohibiting failing to notify the Board of Speech-Language Pathology and Audiology of a change in mailing address within a specified time, for which there are disciplinary actions; amending s. 468.1695, F.S.; reducing the number of times a year the examination for licensure as a nursing home administrator must be given; amending s. 468.209, F.S.; revising licensure requirements for licensure as an occupational therapist or occupational therapist assistant; providing for certain temporary permits; amending s. 468.213, F.S.; revising requirements for licensure by endorsement; amending s. 468.225, F.S.; providing exemptions from regulation of occupational therapy, amending s. 468.301, F.S.; defining "mammographer" for purposes of the Radiologic Technologist Certification Act; amending s. 468.302, F.S.; adding the certification category of mammographer; specifying which certificateholders may perform mammography and brachytherapy; revising the supervision required for hospital residents and students; amending s. 468.304, F.S.; modifying qualifications for certification; specifying qualifications for certification as a mammographer; amending s. 468.306, F.S.; modifying examination qualifications; amending s. 468.3065, F.S.; specifying a non-refundable fee; amending s. 468.307, F.S.; conforming qualifications for temporary certification; modifying requirements for the issuance and display of certificates; creating s. 468.3071, F.S.; providing for mammographer certification based on prior experience; providing for future repeal; amending s. 468.309, F.S.; revising the expiration date of certificates; amending s. 468.3095, F.S.; specifying nonrefundable fees; amending s. 468.311, F.S.; revising an offense relating to practice of radiologic technology by a student, for which a penalty is provided; amending s. 468.314, F.S.; increasing the membership of the Advisory Council on Radiation Protection by adding a certified radiologic technologist-mammography and a representative of the Department of Education; deleting obsolete provisions relating to staggered terms; providing for appointment of replacement members under specified circumstances; specifying source of reimbursement for travel expenses; redefining the scope of the advisory council; deleting obsolete Sundown provisions; amending s. 468.511, F.S.; revising procedures for temporary permits for certain dietitian/nutritionist applicants; amending s. 478.42, F.S.; revising the definition of "electrolysis or electrology"; amending s. 478.44, F.S.;

increasing membership of the Electrolysis Council; revising the manner of filling vacancies on and calling meetings of the council; amending s. 478.45, F.S.; revising requirements for licensure as an electrologist; providing for the approval and conduct of an electrology licensure examination; amending ss. 478.46 and 478.47, F.S., relating to temporary permits and licensure by endorsement; correcting cross references; creating s. 478.475, F.S.; providing for licensure without examination; amending s. 483.035, F.S.; providing responsibility of the Agency for Health Care Administration for personnel standards for exclusive use laboratories; amending s. 483.041, F.S.; including licensed optometrists within the definition of "licensed practitioner" for purposes of laws regulating clinical laboratories; amending s. 483.051, F.S.; revising provisions relating to alternate-site testing; providing responsibility of the agency; providing certain responsibilities of clinical laboratory directors; deleting requirement for consultation with the Board of Clinical Laboratory Personnel; directing the agency to solicit certain comments; specifying a testing protocol; specifying minimum training and education for those who perform testing; amending ss. 483.23, 483.800, 483.801, 483.803, and 483.813, F.S.; providing that provisions governing the regulation and licensure of clinical laboratory personnel do not apply to persons engaged in alternate-site testing or in testing performed at practitioners' exclusive use laboratories or laboratories that perform only waived tests; revising the definition of "clinical laboratory personnel"; revising requirements for temporary licensure of clinical laboratory personnel; reenacting s. 483.106, F.S., relating to application for a certificate of exemption, to incorporate the amendments to ss. 483.041 and 483.23, F.S., in references thereto; amending s. 483.26, F.S.; requiring establishment of a technical advisory panel; providing composition; amending s. 483.811, F.S.; deleting reference to board responsibility for regulation of personnel in laboratories operated under s. 483.035, F.S.; amending s. 483.825, F.S.; revising and providing grounds for disciplinary action; amending s. 483.827, F.S.; revising administrative penalties; creating s. 483.828, F.S.; providing criminal penalties for specified violations; amending s. 484.007, F.S.; revising requirements for licensure as an optician; amending ss. 486.031, 486.041, and 486.103, F.S.; eliminating temporary permits for physical therapists and physical therapist assistants and providing for graduate status for each under certain circumstances; providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist; amending ss. 486.021, 486.081, 486.102, and 486.107, F.S.; revising a definition and eliminating provisions relating to temporary permits, to conform: providing an alternative licensure examination; revising accreditation provisions relating to licensure as a physical therapist assistant; creating s. 486.123, F.S.; prohibiting sexual misconduct in the practice of physical therapy, for which there are disciplinary actions; amending s. 490.005, F.S., relating to licensure of psychologists and school psychologists; increasing application fees; revising accreditation and other educational requirements; amending s. 490.006, F.S.; revising psychology licensure by endorsement requirements; reenacting s. 490.003(3) and (5), F.S., relating to definitions, to incorporate the amendments to ss. 409.005 and 490.006, F.S., in references thereto; amending s. 456.32, F.S.; including other licensed professionals within the definition of "practitioner of the healing arts" for purposes of provisions regulating hypnosis; amending s. 491.005, F.S.; revising fees and costs applicable to applicants for licensure as marriage and family therapists; revising accreditation provisions relating to licensure as a marriage and family therapist or as a mental health counselor; creating s. 491.0055, F.S.; providing for licensure of certain persons as mental health counselors under special conditions involving a district court order; providing for future repeal of the section; amending s. 468.1245, F.S.; revising language relating to certain complaints concerning hearing aids; amending s. 400.211, F.S.; revising certification requirements for nursing assistants; authorizing the Department of Business and Professional Regulation to perform, provide, contract for, or grant approval for others to perform or provide nursing assistant certification services and commodities; providing an appropriation to implement the regulation of athletic trainers; creating s. 455.2222, F.S.; requiring persons licensed or certified to provide certain medical, dental, social, or counseling services to take a course on domestic violence as part of their continuing education requirements; requiring applicants for initial licensure to take such a course; providing duties of the affected professional boards relating to such requirements and granting rulemaking authority therefor; requiring each affected professional board to submit an annual report to the Legislature; amending s. 455.227, F.S.; making failure to comply with such educational course requirements a ground for disciplinary action; providing penalties; reenacting ss. 468.1755(1)(a), 470.036(1)(a), 471.033(1)(a), 472.033(1)(a), 473.323(1)(a), 475.25(1)(a), 475.624(1), 476.204(1)(h), 477.029(1)(h), 481.225(1)(a), 481.325(1)(a), and 484.056(1)(a), F.S., relating to various disciplinary pro-

ceedings and penalties, to incorporate the amendment to s. 455.227, F.S., in references thereto; requiring the Department of Business and Professional Regulation to provide recommendations to the Legislature for a uniform licensing system for foreign-trained and foreign-licensed professionals; providing for issuance of restricted medical licenses without examination to a specified group; providing guidelines for issuance of such restricted licenses; amending s. 404.051, F.S.; directing the Department of Health and Rehabilitative Services to develop certain healing arts self-referral programs for mammography and bone densitometry; amending ss. 455.214 and 458.317, F.S.; allowing limited licensees to work for certain agencies or institutions; providing for fees if a person receives monetary compensation for the practice of medicine; providing that an applicant need not provide a copy of medical degree; correcting cross references; amending s. 465.014, F.S.; revising tasks and duties delegated to a pharmacy technician; correcting a cross reference; amending s. 455.25, F.S., relating to disclosure of financial interest; requiring physicians or other health care providers to disclose their financial interest in certain entities, including pharmacies as provided in ch. 465, F.S.; amending s. 490.014, F.S.; revising an exemption from licensure under chapter 490, F.S., relating to school psychologists; repealing s. 33, ch. 92-33, Laws of Florida, as amended, relating to the transfer of certain regulatory functions from the Department of Business and Professional Regulation to the Agency for Health Care Administration; providing for conditional retroactive application of the repeal; providing effective dates.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

By Senator Gutman—

SB 32-D—A bill to be entitled An act relating to health care; providing legislative findings and intent; providing for the Agency for Health Care Administration to establish a program to provide financial assistance grants to urban community health centers for certain purposes; providing for the director to publicize the grants; providing for requests for proposals; providing selection criteria; providing for an evaluation of centers that receive grants; requiring a report; providing an appropriation; providing an effective date.

—was referred to the Select Committee on Health Care Reform and the Committees on Health Care and Appropriations.

MOTION TO INTRODUCE BILL

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

By Senators Crist, Brown-Waite, Siegel and Williams—

SJR 34-D—A joint resolution proposing an amendment to Section 16 of Article I of the State Constitution to restrict the early release of state prisoners.

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

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

VETOED BILLS 1994 REGULAR SESSION

The Honorable Jim Smith
Secretary of State

May 24, 1994

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Senate Bill 330, enacted during the 26th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1994, and entitled:

An act relating to barbering and cosmetology; amending s. 476.014, F.S.; revising terminology in the short title to the "Barbers' Act"; amending s. 476.034, F.S.; revising and providing definitions; creating s. 476.039, F.S.; providing a registration requirement for hair

braiding; amending s. 476.054, F.S.; replacing the Barbers' Board with the Board of Barbering and Cosmetology; providing for membership, organization, headquarters, meetings, and personnel; providing terms, compensation, and requirements of members; amending s. 476.064, F.S.; providing rulemaking authority; amending s. 476.074, F.S.; revising terminology relating to legal, investigative, and inspection services; creating s. 476.138, F.S., providing continuing education requirements; amending s. 476.154, F.S.; revising terminology related to biennial renewal of licenses; amending s. 476.184, F.S.; providing booth renter responsibilities and requirements; providing for regulation of mobile barbershops; amending s. 476.192, F.S.; providing for applicable fees; amending s. 476.194, F.S.; prohibiting unlicensed barbering in booths; revising terminology; amending ss. 476.214 and 476.234, F.S.; revising terminology in provisions relating to certain disciplinary grounds and civil proceedings; amending ss. 477.011 and 477.012, F.S.; revising terminology in the short title to the "Florida Cosmetology Act" and in the purpose statement; amending s. 477.013, F.S.; revising and providing definitions; creating s. 477.0132, F.S.; providing a registration requirement for hair braiding; amending s. 477.015, F.S.; replacing the Board of Cosmetology with the Board of Barbering and Cosmetology; providing for membership, organization, headquarters, meetings, and personnel; providing terms, compensation, and requirements of members; amending s. 477.016, F.S.; providing rulemaking authority; amending s. 477.017, F.S.; providing for legal and investigative services and adding a provision relating to inspection services; repealing s. 477.018, F.S., relating to investigative services required by the board or department; amending s. 477.0201, F.S.; conforming a cross-reference; creating s. 477.0227, F.S.; providing continuing education requirements; amending s. 477.025, F.S.; providing license display requirements; providing booth renter responsibilities and requirements; providing for regulation of mobile salons; amending s. 477.026, F.S.; providing for applicable fees; amending s. 477.0265, F.S.; prohibiting unlicensed or unregistered cosmetology or specialty services in booths; providing penalties; amending s. 477.028, F.S.; providing grounds for disciplinary proceedings against the renter of a booth; requiring the preparation of proposed legislation on the merger of chapters 476 and 477, F.S., relating to barbering and cosmetology, and the provision of copies to certain individuals by a specified date; providing an effective date.

Committee Substitute for Senate Bill 330 attempts to merge the Barbers' Board and the Board of Cosmetology without specifically abolishing the public offices which had been created under those boards. Since the number of professional members would be reduced under the merged boards, we would be placed in the untenable position of either removing public officers during their term of office, or operating the board with more members than legally permitted. The problems in merging the boards is compounded by the failure of the legislation to have merged the laws regarding regulation of these professions.

It may be in the public interest to merge the regulation of barbering and cosmetology. If that is the case, the necessary changes should be enacted as one, complete package.

For these reasons, I am withholding my approval of Committee Substitute for Senate Bill 330, and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

The Honorable Jim Smith
Secretary of State

May 19, 1994

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Senate Bill 1324, enacted during the 26th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1994, and entitled:

An act for the relief of Michael Whaley and David Whaley; providing an appropriation to provide them with interest upon the amount of damages awarded to them for damages sustained as a result of a sexual assault upon Michael Whaley which occurred on account of

the negligence of the Department of Health and Rehabilitative Services; providing an effective date.

Senate Bill 1324 represents a claim for interest on a judgment against the Department of Health and Rehabilitative Services. The claim itself fell within the limits of the waiver of sovereign immunity and therefore did not require legislative approval.

Payment of the claim was not made by the Division of Risk Management for over 5 years after the judgment was rendered, due to appeals in the district court and the Supreme Court. While the Department appealed to the district court, it was the district court that pursued the appeal to the Supreme Court on a question the district court certified regarding sovereign immunity.

Ordinarily, post-judgment interest is not awarded in claim bills because an agency is precluded from paying the judgment until the Legislature acts. Here, the agency was precluded from paying the claim, and at least for the thirty-one months of the appeal not initiated by the agency, nonpayment was not a matter within the agency's control.

For these reasons, I am withholding my approval of Senate Bill 1324 and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

The Honorable Jim Smith
Secretary of State

May 24, 1994

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Senate Bill 2208, enacted during the 26th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1994, and entitled:

An act relating to secondhand dealers; amending s. 538.03, F.S.; defining the term "physical possession" as that term is used with respect to property to which ch. 538, F.S., applies; providing an exemption from regulation for auction businesses; providing an exemption from regulation for registered antique dealers, who purchase secondhand goods, rather than for any person who purchases household furnishings, under specific circumstances; amending s. 538.06, F.S.; providing that a secondhand dealer may accept title in lieu of physical possession of a motor vehicle; amending s. 538.09, F.S.; revising provisions that require secondhand dealers to retain possession of secondhand goods; providing an effective date.

Senate Bill 2208, as originally filed, was designed to reinstate an exemption for auction houses and antique dealers from the laws that regulate secondhand dealers. Since the exemption was removed in 1993, antique dealers and auctioneers have been required to complete a "Secondhand Dealer's Property Form" each time they acquire property.

"Unfriendly" amendments to the bill were designed to give secondhand dealers greater flexibility from regulation and are not in the best interest of the public. Secondhand dealers would no longer be required to store or maintain pawned property on the licensed premises and, would need only provide "reasonable" access to law enforcement officers. Therefore, law enforcement could not immediately verify whether the pawnbroker has possession of the pawned property; and the time frame in which access must be allowed is vague and subject to many interpretations.

Further, the bill was amended to permit a secondhand dealer to lease a pawned vehicle back to the former owner and to repossess the vehicle upon default of payment. This procedure allows for the contravention of established procedures and guidelines for repossessions. Part IV of Chapter 493, Florida Statutes, requires training and licensing by those authorized to repossess.

For the above reasons, I am withholding my approval of Senate Bill 2208, and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

The Honorable Jim Smith
Secretary of State

May 24, 1994

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Senate Bill 2536, enacted during the 96th Session of the Legislature since the Constitution of 1845, during the Regular Session of 1994, and entitled:

An act relating to the protection of children and vulnerable adults from abuse, neglect, and exploitation; amending s. 39.01, F.S., relating to the definition of "abuse"; amending s. 415.503, F.S.; defining "false report" and redefining "harm"; amending s. 415.504, F.S.; providing for report and investigation of child-on-child sexual abuse; requiring certain notice to the subject to an investigation of child abuse or neglect, regarding obligation to pay child support and fees; clarifying responsibility of a professional providing treatment or counseling pursuant to reported child abuse or neglect; directing the Department of Health and Rehabilitative Services to develop a report on child-on-child sexual abuse; amending s. 415.512, F.S.; clarifying provisions relating to abrogation of privileged communication; creating s. 415.5131, F.S.; providing an administrative fine for false report; providing for notice and hearing; amending s. 415.515, F.S.; authorizing family preservation services to adoptive families, under the Family Builders Program; amending ss. 415.50165, 415.505, 415.5087, and 415.511, F.S.; correcting cross references; requiring the department and the Department of Business and Professional Regulation to recommend standards and procedures for the training and licensing of child protective investigators; requiring a report; directing the department to implement training of persons receiving reports of child abuse or neglect; requiring a report; amending s. 119.07, F.S.; revising provisions which provide requirements for disclosure of records of the department pertaining to investigations of abuse, neglect, abandonment, or exploitation; revising terminology with respect to application of such provisions to vulnerable adults; authorizing the department to petition the court for an order for immediate public release of such records when the child or vulnerable adult suffers serious injury or dies; authorizing the department to release summary information if the court does not make a determination within a specified period; providing requirements and conditions; forbidding a governmental body from establishing policies that prohibit a parent from administering corporal punishment on a child; providing an effective date.

Committee Substitute for Senate Bill 2536 is a good-faith attempt to balance the protection of children against abuse with the responsibility of parents to decide about appropriate discipline within their families. It is perceived that, under the existing law, parents cannot discipline their children without intervention or interference by the Department of Health and Rehabilitative Services. This is not the law and I certainly oppose government's interference with parents' reasonable discipline of their children. It is understandable in some disciplinary situations for parents to spank a child. I believe we need to clarify that Florida law allows this to be done. However, the discipline of a child should never be abusive.

Florida's state attorneys have reported that specific provisions in Committee Substitute for Senate Bill 2536 would make it difficult for them to prosecute many cases of true child abuse. This could mean that a child's serious injury—or even death—might go unpunished.

For example, the inclusion of the term "willful or intentional acts" could be construed to make the crime of child abuse a crime of specific intent, thereby allowing the absolute defense of intoxication. Use of the term "significant bruises or welts" as the test to determine whether corporal punishment is excessive or abusive is too subjective for the imposition of criminal liability.

The changes to the bill which have been advocated by the state attorneys will satisfy that balance between parental responsibility for discipline and child abuse. I believe these suggested changes can be incorporated into a new bill that accommodates the intended goals. Therefore, I am placing this issue on the call for the upcoming special session.

For the reasons set forth above, I am withholding my approval of Committee Substitute for Senate Bill 2536 and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

The Honorable Jim Smith
Secretary of State

May 25, 1994

Dear Secretary Smith:

By the authority vested in me as Governor of Florida, under the provisions of Article III, Section 8, of the Constitution of the State of Florida, I do hereby withhold my approval of and transmit to you with my objections, Committee Substitute for Senate Bill 2998, enacted during the 26th Session of the Legislature since the Constitution of 1968, during the Regular Session of 1994, and entitled:

An act relating to state planning and budgeting; amending s. 186.002, F.S.; providing legislative findings and intent; amending s. 186.003, F.S.; amending definitions relating to ss. 186.001-186.031 and 186.801-186.911, F.S.; including the judicial branch in state planning; amending s. 186.004, F.S.; revising duties of the Governor as chief planning officer of the state; amending s. 186.007, F.S.; changing the term "state comprehensive plan" to "state plan" and revising duties of the Executive Office of the Governor with respect to that plan; amending s. 186.008, F.S.; providing for revision of the state plan; amending s. 186.009, F.S.; providing for the growth management portion of the state plan; amending s. 186.021, F.S.; prescribing intent for the content and consequence of state agency and judicial branch strategic plans; amending s. 186.022, F.S.; providing for preparation, form, and review of strategic plans; amending s. 186.031, F.S.; revising requirements for the Governor's annual report; amending s. 187.101, F.S.; providing that the state plan does not confer any right, service, or privilege to which a person or entity is not otherwise entitled; amending s. 216.052, F.S.; requiring legislative budget requests to be submitted to appropriations committees along with strategic plans; amending s. 215.32, F.S.; revising the fund into which all moneys received by the state must be deposited and within which they must be accounted for; specifying the manner of dividing these moneys into these funds; specifying the use and investment of moneys in these funds; repealing ss. 212.081(4) and 420.5094, F.S., relating to legislative intent on certain moneys available in excess of general revenue needs and to the single-family mortgage revenue bond program, and amending ss. 216.221 and 252.37, F.S., relating to the financing of deficits and disasters, to conform; amending ss. 265.51 and 265.55, F.S.; restricting authority of the Department of State to make agreements to indemnify for certain losses, and of the Comptroller to pay such claims, to specific appropriations for that purpose; providing an effective date.

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

Committee Substitute for Senate Bill 2998 deletes provisions which state that the Governor as the chief planning officer of this state, shall oversee the state comprehensive plan implementation process. This weakens the Governor's authority with respect to state, regional, and local planning. The Governor, as the chief administrative and planning officer for the state, should be afforded the opportunity of having all proposed strategic plans submitted to him or her for review, including that of the judiciary.

While the language regarding the State Comprehensive Plan was intended to merely identify that plan as the state plan required by the Constitution, the substantive effects of the language may fundamentally alter and weaken the role of the State Comprehensive Plan and the legal force and effect of the plan's policies. The language may open the door to claims that policies regarding such matters as wetlands, mining,

affordable housing, transportation and urban sprawl in other statutes override corresponding policies in the State Comprehensive Plan.

Finally, the bill fails to implement the process of the submission of agency plans to the legislature, and leaves unclear how the plans are to be reviewed and revised by the legislature, as required by constitutional amendment.

Last year, I vetoed Committee Substitute for Senate Bill 1692. That bill would have had the same effect upon the Governor's planning authority as this bill. I feel as strongly now about the planning authority and the role of the Governor in that process, as I did last year.

For these reasons, I am withholding my approval of Committee Substitute for Senate Bill 2998, and hereby veto the same.

Sincerely,
Lawton Chiles
Governor

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

APPOINTMENT OF SELECT COMMITTEE

The President announced the appointment of the following members to the Select Committee on Health Care Reform: Senator Forman, Chairman; Senator Gutman, Vice Chairman; Senators Childers, Holzen-dorf, Jenne, Kirkpatrick, McKay, Myers, Scott, Siegel, Silver and Sullivan.

RECESS

On motion by Senator Kirkpatrick, the Senate recessed at 2:59 p.m. for the purpose of holding committee meetings and conducting other Senate business until 9:00 a.m., Thursday, June 9 or upon call of the President.